



## **Liberty Township Zoning Amendment**

**As amended September 16, 2019  
effective October 16, 2019**

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Adopted by the Liberty Township Trustees / November 8, 1955

Amended by the Liberty Township Zoning Commission / June 25, 1977

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## **ARTICLE 1 – TITLE**

### **Section 1.01**

This Resolution shall be known and may be cited and referred to as Liberty Township Zoning Resolution, Zoning Resolution, Resolution, Liberty Township Zoning Code, Zoning Code, or Code. Liberty Township shall also be referred to as “the Township”.

## **ARTICLE 2 – PURPOSE**

### **Section 2.01**

This Zoning Resolution is enacted for the purpose of promoting the public health, safety, convenience, comfort, prosperity, and general welfare that are directly and significantly affected by the use of land within Liberty Township. It is the intention of this Resolution to protect the Township’s natural resources, scenic areas, and natural beauty; to protect the property rights of all individuals by assuring the compatibility of uses and practices within established districts; to provide for adequate public services and the orderly development of land all in accordance with the Comprehensive Plan, as it may be amended from time to time, and in accordance with the provisions of Chapter 519 of the Ohio Revised Code (hereinafter, “ORC”).

## **ARTICLE 3 – INTERPRETATIONS OF STANDARDS**

### **Section 3.01**

In their interpretation and application, the provisions of this Resolution shall be held to be minimum requirements. Where this Resolution imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations, resolutions, or restrictions, the provisions of this Resolution shall control; however, where the provisions of this Resolution are less restrictive, the more restrictive provision of other laws, rules, regulations, or restrictions shall control. Where a particular use is not specifically provided for in this Resolution or permitted by the approval of a variance or an amendment to this Resolution or an approved Development Plan governing in a planned zoning district, the particular use shall not be permitted.

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## ARTICLE 4 – DEFINITIONS

### Section 4.01

All words used in this Zoning Resolution shall, unless otherwise defined herein, be given the meaning or significance as that which is normally attributed to such word or as the same is defined in *Webster's Dictionary*. The words shall be liberally construed to achieve the salutary effect or objectives of this Resolution:

**Accessory Use:** Any activities which are incidental subordinate and customarily carried on in addition to a primary and permitted use of the premises.

**Adjacent Land:** See *Adjoining Lot or Land*.

**Adjoining Lot or Land:** A lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land. Also known as abutting or contiguous.

**Adult:** An individual eighteen (18) years of age or older.

**Adult Business, Low Impact:** Mainstream media stores, and mixed adult media stores.

**Adult Business, Medium Impact:** Adult media stores and sex stores.

**Adult Business, High Impact:** Private video or arcade booths for viewing adult videos, nude dancing, private non-therapeutic massage, adult motion picture theater, adult cabaret, lingerie modeling studio, escort service, and adult primary live entertainment.

**Adult Entertainment Establishment:** 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.

**Adult Media:** Magazines, books, videotapes, movies, or slides depicting, describing, or related to Hard Core Material (see definition); CD-ROMs, DVDs, or other devices used to record computer images depicting, describing, or related to Hard Core Material; or any other media that are distinguished or characterized by their emphasis on matter depicting, describing or related to Hard Core Material.

**Adult Motion Picture Theater:** An establishment emphasizing or predominantly showing sexually oriented movies.

**Affidavit:** A sworn and notarized statement of fact.

**Agriculture:** Agriculture includes farming; ranching; aquaculture; algaculture meaning the farming of algae; 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; and 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. Agriculture does not include cultivation, processing, or dispensing of medical marijuana, except as otherwise required by the Ohio Revised Code.

**Advertising (Sign):** Any sign which directs public attention to a commercially or publically offered use, event, commodity, item, or service.

**Animation or Video Display (Sign):** Any sign that uses any type of mechanical system, animatronic system, artificial and/or mechanized lighting system or uses any actual intended movement or the illusion of movement, smell, noise, or any type of electronic or projected video display to convey a message, graphic, picture, or image, whether operated electronically, manually, or otherwise powered.

**Assisted Living Facility:** A residence for (1) the elderly and other persons who are unable to fully care for themselves and/or (2) the elderly and other persons who do not desire to live independently that provide room, board, supervision, and assistance in daily living, such as housekeeping services. They may provide other services, such as nursing care, recreational activities, financial services, and transportation.

**Awning (Sign):** Any sign that is permanently affixed to the visible surface(s) of an awning.

**Banner:** A flat piece of cloth, fabric, paper, plastic, or any other such material with or without characters, illustrations, letters, numbers, or ornamentation that is hung from or displayed from a building, structure, or portion thereof, or tethered, or otherwise anchored, to the ground; which may or may not be intended to move in the wind and which may or may not be affixed to one or more poles, posts, or other similar type of support structure. Banner does not include a flag.

**Basin, Bioretention (or Rain Garden):** A shallow planted depression designed to retain or detain storm water before it is infiltrated or discharged downstream. While the terms “rain garden” and “bioretention basin” may be used interchangeably, they can be considered along a continuum of size, where the term “rain garden” is typically used to describe a planted depression on an individual homeowner’s lot, where the lot comprises the extent of the catchment area. Bioretention basins serve the same purpose but typically involve larger projects in community common areas as well as non-residential applications.

**Basin, Detention (Pond):** A facility for the temporary storage of storm water runoff. Detention basins or ponds differ from retention basins in that the water storage is only temporary, often released by mechanical means at such time as downstream facilities can handle the flow. Basins are generally designed to regulate the rate of flow to pre-development conditions. Usually, the basins are planted with grass and, if large enough, can be used for open space or recreation in periods of dry weather. Basins also serve to recharge groundwater.

**Basin, Retention:** A pond, pool, or basin used for the permanent storage of water runoff. Retention basins differ from detention basins in that the latter are temporary storage areas. Retention basins have the potential for water recreation and water-oriented landscaping since the water remains. Both types of basins provide for controlled release of stored water and groundwater recharge.

**Borrow Pit:** An excavation area dug to provide fill material at another location.

**Buffer, Buffering:** Open Spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

**Building:** Any roofed structure designed, intended for use, or used for the complete or partial enclosure, shelter, occupancy, support, or protection of persons, animals, chattels, property, or areas.

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

**Building Area:** The square foot area of a building or structure at ground level measured by outside dimensions.

**Building Frontage:** That building elevation that fronts on a public or private street where customer access to the building is available.

**Building Line:** A line parallel to the street touching that part of a building closest to the street.

**Building, Principal:** A building in or under which the principal use of the lot or parcel on which it is situated is conducted. For all residential zoning districts, the principal building shall be the dwelling.

**Bulletin Board:** A surface to post messages or notices, or to announce events or activities generally intended to be seen or read by the public.

**Cemetery:** Property used for the interment or burial of human remains.

**Changeable Copy, Manual:** Any sign or portion thereof, with characters, illustrations, letters, numbers, graphics, or shapes that are changed or rearranged by manual means, such as an individual making such changes or rearrangements by hand or by any non-mechanized means, other than by the use of a non-electronic handheld tool, without altering the face or surface of the sign.

**Changeable Copy, Electronic or Mechanical:** Any sign or portion thereof, with characters, illustrations, letters, numbers, graphics, or shapes that can only be changed or rearranged by any electronic or mechanical means, other than a non-electronic handheld tool, such as utilizing machines, computers, or other non-manual components, without altering the face or surface of the sign.

**Common Open Space:** See *Open Space*.

**Conditional Use:** A use which, if permitted by this Zoning Resolution and approved at the discretion of the Board of Zoning Appeals, is permitted in a particular zoning district upon a showing of an applicant that such use at a specified location will conform with all of the standards and conditions specified by this Zoning Resolution and required as additional conditions imposed by the Board of Zoning Appeals.

**Continuing Care Retirement Community:** An age-restricted development that provides a continuum of accommodations and care, from independent living to long-term skilled care, and enters into contracts to provide lifelong care in exchange for the payment of monthly fees and/or an entrance fee in excess of one year of monthly fees. All units are age-restricted.

**Corner Lot:** A lot located at the intersection of two roadways that has frontage on each roadway. On a corner lot, the front of the property shall be determined by the location of the main architectural features/front door of the structure.

**Density (Residential):** The number of dwelling units in a development that may be permitted. Such number shall be determined by the calculation(s) defined within each applicable district.

**Design Standards:** A set of guidelines defining parameters to be followed in site and/or building design and development.

**Development:** The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of the use of land.

**Display Publicly:** The act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others, or from any portion of the premises where items and material other than adult media are on display to the public.

**Driveway:** A private or designated area providing access for vehicles to a parking space, garage, dwelling, or other structure.

**Dwelling:** Any building which is wholly or partially used or intended to be used for human habitation.

**Dwelling, Attached:** A single-family dwelling unit attached to one or more single-family dwelling units.

**Dwelling, Cluster Housing:** A development design technique that concentrates dwellings on a part of the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features. Cluster housing does not permit any increase in the permitted densities of the District in which it is located.

**Dwelling, Common Wall Housing:** Housing configuration in which two or more dwelling units share a common wall.

**Dwelling, Detached:** A dwelling that is not attached to any other dwelling by any means. The detached dwelling does not have any roof, wall, or floor in common with any other dwelling unit.

**Dwelling, Multi-family:** A building containing more than one dwelling unit, including units that may be situated to cross parcel lines.

**Dwelling, Patio Housing:** A one-family dwelling on a separate lot with open space setbacks on three sides and with a court.

**Dwelling, Single-family:** A building containing a single dwelling unit.

**Dwelling Unit:** One or more rooms designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

**Dwelling, Zero Lot Line:** A single-family dwelling where the exterior walls conform to the lot lines.

**Easement:** A non-possessory interest in another's land that entitles the holder only to the right to use such land in a specified manner.

**Equipment:** Any machinery, tool or apparatus, whether or not motorized.

**Electronic Message Center (EMC):** Any permanently affixed sign, or portion thereof, that displays electronic images, graphics, text, pictures, or video, with or without textural information using LEDs, fiber-optics, light bulbs, picture tubes, flat screens, or other illumination devices, or combination thereof within the display area and where a static message change sequence is accomplished immediately or by means of fade, re-pixilation, dissolve, or other such modes, devices, processes, products, applications, or technologies from a proximate or remote location. Such signs include: television screens, plasma screens, flat screens, digital screens, LED screens, video boards, holographic displays, monitors, and computer-programmable and microprocessor-controlled electronic displays.

**Entry Features** (private residential properties): An area near the intersection of a public road and a driveway or roadway that is constructed with landscaping, lighting, pillars, or any other constructed materials or combination of materials in such a manner or position so as to aesthetically enhance, enclose, partially enclose, screen, divide, gate or separate areas.

**Establishment:** Any business regulated by this Zoning Resolution.

**Eaves:** The part of the roof that meets or overhangs the walls of the building.

**Explicit Sexually Oriented Material:** Any Hard Core Material.

**Façade:** The exterior walls of a building exposed to public view.

**Family:** Either (a.) An individual or two (2) or more persons related by blood, marriage or adoption, living together as a single housekeeping unit; or, (b.) a group of not more than five (5) persons, who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit.

**Fence:** An artificially constructed barrier of any material or combination of materials, erected in such a manner or position so as to enclose, partially enclose, screen, divide, or separate areas.

**Final Course:** The top course of an asphalt pavement, sometimes called asphalt wearing course.

**Flag:** A piece of cloth or fabric, varying in size, shape, color, and design, usually attached at one edge to a pole, staff, cord, or structure and used non-commercially as the symbol of a nation, state, movement, or organization or as a means of signaling.

**Flashing (Sign):** Any sign or portion thereof that changes light intensity, switches on and off in a pattern, or contains moving parts, or the optical illusion of motion caused by use of electrical energy or illumination, with a display that appears for less than fifteen (15) consecutive seconds; a sign or a portion thereof, where there is a pattern of changing light illumination where the sign illumination alternates suddenly between fully illuminated and fully non-illuminated or alternates between various levels of illumination for the purpose of drawing attention; or illumination that is intermittently on and off so as to flash or blink or the intensity varies so as to appear to flash or blink or where there is a pattern of changing light illumination.

**Fleet Parking:** Parking on the same lot and designated specifically for vehicles operated by a business owner or used during the normal course of business operations for a specific purpose of the business.

**Floor Area:**

1. 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.
2. 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.

**Footcandle:** A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one candle. Measurement of footcandle units shall be taken with the meter or measuring device pointed perpendicular to the property line or grade plane.

**Front Building Line:** A line parallel (or most nearly parallel) to an adjacent street or road, touching the façade of a building at the point closest to the adjacent street or road. In a common access drive subdivision, a line parallel (or most nearly parallel) to the road or street to which the common access drive is connected and touching the closest point of a building's façade shall also be the front building line even if the road or street is not adjacent to the lot or parcel.

**Graffiti:** Markings, as initials, slogans, or drawings, written or sketched on a sidewalk, wall, or the like.

**Gross Acreage:** Total acreage of a site.

**Gross Public Floor Area:** The total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled public), stage areas, aisles, hallways, and entryways.

**Hard Core Material:** Media characterized by sexual activity that includes one or more of the following: erect male sex organ; contact of the mouth of one person with the genitals of another; penetration with a finger or male organ into any orifice in another person; open female labia; penetration of a sex toy into an orifice; male ejaculation; or the aftermath of male ejaculation; bestiality.

**Height Measurement (Measurement of vertical distance):** The vertical distance shall be measured from the proposed finished grade to the highest point of the **structure**.

**High Water Mark:** The point on a stream bank to which the presence and action of surface water is so continuous as to leave a district marked by erosion. High Water Marks are delineated by the Delaware Soil and Water Conservation District and the Ohio Department of Natural Resources.

**Hospital:** An institution providing primary health services and medical or surgical care to persons, primarily inpatients suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

**Illumination, External (Sign):** A constant (non-flashing) artificial source of light directed towards signs so that the beam of light falls upon the exterior surface of the sign and is arranged so that no direct rays of light project from the artificial source of light onto other properties or streets.

*Illumination, Internal (Sign):* A source of illumination enclosed entirely within the sign and not directly visible from outside the sign.

*Inflatable (Sign or Device):* Any sign or device in which all or part of the sign or device is set in motion or inflated by any gas. This includes both hot and cold-air balloons, and windsocks, tethered, or otherwise anchored, to the ground.

*Impervious:* Not permitting penetration or passage.

*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.

*Improvement:* Any building, structure, item, component, change, addition, or other physical alteration constituting a physical addition to or change or betterment of real property, or any part of such addition, change, or betterment.

*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.

*Independent Living Facility:* A housing facility that predominantly consists of independent living units and maximizes independence, especially for disabled persons living in a community rather than a medical facility. The facility can include multi-unit buildings or several single-family buildings arranged in a community.

*Industrial Unit:* Factory-built housing certified as meeting the Ohio Building Code as applicable to industrial units. Once certified by the State, industrial units shall be subject to the same standards as site-built homes. Industrial units are also known as modular homes.

*Junk:* Includes, but is not limited to, the following: scrap metals and wood; reclaimable materials and debris; used bottles and cans; wrecked or disassembled motor vehicles or parts or components thereof; old and used or discarded machinery, equipment, household furniture, and appliances; construction or demolition materials not in current use; and all sorts of trash or debris.

*Junkyards:* Any premises, whether inside or outside any building or structure, where junk is bought, sold, exchanged, baled, packaged, packed, compacted, disassembled, stored, or handled, including, but not limited to, scrap metals and wood, used bottles and cans, wrecked or disassembled motor vehicles or parts thereof, old and used machinery, and used construction materials.

*Kennels and Catteries, Commercial:* Any lot or premises on which three (3) or more dogs, cats, or other household pets are either permanently or temporarily commercially boarded. A commercial kennel or cattery shall not be considered an agricultural use.

*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.

*LED:* Light emitting diode

**Licensed Professional Massage Studio:** An establishment offering massage therapy and/or body work by a massage therapist licensed under the ORC or under the direct supervision of a licensed physician.

**Lingerie Modeling Studio:** An establishment or business that provides the services of live models modeling lingerie to individuals, couples, or small groups in rooms smaller than six hundred (600) square feet.

**Lot:** A unit of real estate designated as a "lot" by a plat of record, a subdivision of record, or as otherwise created or existing by law. A lot is a parcel and is a tract.

**Lot Coverage:** The ratio of the quantity of horizontal space (area) occupied by impervious structures or surfaces of any type on a lot or parcel, not including sidewalks, driveways, and/or patios to the total area of the lot or parcel, expressed as a percentage.

**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. 5401, 5403 and that has a permanent label or tag permanently affixed to it as specified in 42 U.S.C. 5415, certifying compliance with all applicable federal construction and safety standards (ORC 3781.06(C)(4)). A manufactured home is transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) 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. Measurements 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. 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.

**Media:** Anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is used or may be used as a means of communication. Media includes, but shall not necessarily be limited to, books, newspapers, magazines, movies, videos, sound recordings, CD-ROMs, DVDs, other magnetic or digital media, and undeveloped pictures.

**Media Store, Adult:** An establishment that rents and/or sells media, and that meets any of the following three tests:

1. Forty percent (40%) or more of the gross public floor area is devoted to Adult Media.
2. Forty percent (40%) or more of the stock in trade consists of Adult Media.
3. It advertises or holds itself out in any forum as "XXX", "adult", "sex", "hard core" or otherwise as a sexually-oriented business.

**Media Store, Mainstream:** A general term, identifying a category of business that publicly sells and displays various forms of media, at least ninety percent (90%) of which is not Adult Media. A maximum of ten percent (10%) of the products sold may constitute Adult Media, provided that any Hard Core Materials are placed within an enclosed space, where entrance is limited to adult patrons only and where the display of Adult Media cannot be seen by the general public from the main portion of the store.

**Media Store, Mixed Adult:** A general term, identifying a category of business that sells and displays publicly various forms of media, at least sixty percent (60%) of which is not Adult Media. A maximum of forty percent (40%) of the products sold may constitute Adult Media, provided that any Hard Core materials are placed within an enclosed space, where entrance is limited to adult patrons only and where the display of Adult Media cannot be seen by the general public from the main portion of the store.

**Menu Board:** A sign located adjacent to a drive-through lane, or walk-up window, which contains a menu of items or identifies food and/or beverages offered for sale at the associated business.

**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 that is transportable in one or more sections and which does not qualify as a Manufactured Home or Industrialized Unit.

**Modular Home:** See Industrial Unit.

**Monument Sign:** A two-sided sign attached to a permanent foundation or decorative base and not attached or dependent on support from any building, pole, posts or similar uprights.

**Natural Green Space:** See Open Space.

**Net Developable Area:** Determined by deducting the following from the Gross Acreage:

1. Fifteen percent (15%) of the Gross Acreage for streets and utilities;
2. Jurisdictional wetlands, as defined in the US Army 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 fifty percent (50%) wetland vegetation, and are poorly drained soils which are periodically inundated or saturated);
3. Areas within the FEMA designated one hundred (100)-year floodplain;
4. All areas of land containing slopes greater than twenty percent (20%) including all ravines shown to be critical resource areas on the Delaware County Regional Planning Commission Comprehensive Land Use Plan;
5. Utility rights-of-way and easements for above-ground and currently existing utility structures such as above ground pipelines and existing overhead electric transmission (not local service) wires;
6. Existing bodies of water.

**Non-residential Use:** any use of land that is permitted by the Liberty Township Zoning Resolution and does not include the human inhabitation of a structure or any use incidental or accessory to such inhabitation.

**North American Industrial Classification System (NAICS):** A system of classification of economic activities jointly developed by the governments of the USA, Mexico, and Canada. The system places establishments into industrial groupings based upon the activities in which they are primarily engaged. The structure is hierarchical. The first two digits designate the entire sector, and the subsequent digits define more specifically the type of industry or establishment, with definitions given for each number. Code numbers used in this text or in any Development Plan shall have the meaning that existed at a specified time, or if no date is specified, at the time of insertion in this Zoning Resolution.

**Nuisance:** A substantial and unreasonable interference with the enjoyment and use of property.

**Open Space:** Land that shall not be built upon and 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. Open space land shall be owned by a Homeowner Association, or if owned by a third party, the open space shall be protected by an open space easement which permanently and irrevocably transfers the development rights from the open space land to the owner's association.

1. **Common Open Space:** Land set aside for passive or active recreational purposes. These areas may contain accessory buildings and improvements necessary and appropriate for recreational uses. If deemed appropriate by the Zoning Commission, common area may incorporate land for on-site wastewater or stormwater disposal.
2. **Natural Green Space:** Any parcel of land set aside by its legal owner by deed, plat, deed restriction or other legal means using a permanent public record wherein said parcel is permanently and perpetually set aside, not for the purposes of recreation, but for the purposes of protecting and preserving the natural, scenic, open, or wooded condition of land, 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.

3. **Permanent Green Space:** Any lot or parcel(s) of land set aside by its owner by deed, plat, deed restriction or other legal means using a permanent public record wherein said lot or parcel(s) is permanently and perpetually set aside for recreational, conservation or park purposes and where the construction of any building other than for a recreation, conservation or park purpose is prohibited.

**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.

**Parcel:** A discrete unit of real estate separately identified by the auditor of the county where located.

**Parking Aisle:** The traveled path through an off-street parking lot or facility between one (1) or two (2) rows of parked vehicles.

**Parking Area:** Any public or private area designed and used for parking motor vehicles, including parking lots, garages, and legally designated parking areas of public streets.

**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 designed for surface parking.

**Parking Garage:** A building designed for vehicle parking, where there are one or more floors or levels on which parking takes place; essentially an indoor, stacked parking lot, which may or may not charge a fee to park vehicles.

**Parking Lot:** An off-street, ground-level open or fenced or enclosed area, usually improved, for the temporary storage of motor vehicles.

**Parking Space:** A space for the parking of a motor vehicle within a public or private parking area.

**Pennant:** A piece of or pieces of lightweight plastic, cloth, fabric, or other similar materials that are designed to move in the wind, typically but not always, rectangular or triangular in shape, individually supported or attached to each other by means of string, rope or other such material; and meant to be stretched across or fastened to buildings, or between poles, posts, structures, or other such features.

**Permanent Open Space:** See *Open Space*.

**Perennial Stream Channel:** A stream that flows in a well-defined channel throughout most of the year under normal climatic conditions.

**Pervious Surface:** Any material that permits full or partial absorption of storm water to percolate into the previously unimproved land.

**Pond:** See Water Impoundment

**Portable Storage Units (PSU):** A non-permanent, non-habitable, self-contained unit, including open-top dumpsters and Bagster bags®, designed for placement on and subsequent removal from a property, which can be transported by vehicle and left on-site for the purpose of facilitating the storage of personal property, and that meets the requirements of Section 7.18.A of this Zoning Resolution.

**Preview Board:** A sign located adjacent to a drive-through lane which contains a select menu or select items or identifies specific food and/or beverages offered for sale at the associated business to be viewed by customers prior to reaching the menu board or ordering kiosk.

**Primary Live Entertainment:** On-site entertainment by live entertainers that characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.

**Principal Use:** The primary or predominant use of any lot or parcel. For all residential zoning districts, the principal use shall be the dwelling.

**Private Road:** A road 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.

**Recycling:** The processing of used or waste material so that it can be used again.

**Refacing (Sign):** To renew, restore, or repair the face or surface of a sign. Refacing does not refer to replacing the entire sign structure or the removal of the sign.

**Residential Facility:** Defined as either:

ORC 5123.19(A)(5)(a) (“...a home or facility, including an ICF/IID, in which an individual with mental retardation or a developmental disability resides”);

ORC 5119.34(A)(9)(a) (“[A] publicly or privately operated home or facility that provides...accommodations, supervision, personal care services, and community mental health services for one or more unrelated adults with mental illness or severe mental disabilities or to one or more unrelated children and adolescents with a serious emotional disturbance or who are in need of mental health services...”);

ORC 5119.34(A)(9)(b) (“Accommodations, supervision, and personal care services to any of the following  
(i) One or two unrelated persons with mental illness or persons with severe mental disabilities...;  
(ii) One or two unrelated adults who are receiving residential state supplement payments...;  
(iii) Three to sixteen unrelated adults”);

ORC 5119.34(A)(9)(c) (“Room and board for five or more unrelated adults with mental illness or severe mental disability who are referred by or are receiving community mental health services from a community mental health services provider, hospital, or practitioner.”).

**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 single-family, two-family, or multi-family and also include mobile homes and modular homes. Residential uses also include all uses that are incidental to or accessory to the human inhabitation of a structure.

**Retaining Wall:** A structure constructed and erected between lands of different elevations to protect structures and/or to prevent erosion.

**Retirement Community:** Any age-restricted development, which may be in any housing form, including detached and attached dwelling units, apartments, and residences, offering private and semiprivate rooms.

**Right-of-Way:** (R.O.W.) 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.

**Road or Roadway:** Each road is defined by its classification as those classifications are delineated in Section 7.09 of this Zoning Resolution.

**Road Frontage:** The lineal amount of land adjacent to a public or private road.

**Sadomasochistic Practices:** Flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one clothed or naked.

**Satellite Dish:** A satellite-signal-receiving earth station.

**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.

**Service Drive:** A local road that runs parallel, or nearly parallel, to a main road to provide access to businesses or residences.

**Setback:** A defined distance from a lot line to establish a building envelope for structures and other improvements which establish the required front, rear, and side yard area.

**Setback Line:** A line that is a specified required minimum distance away from and parallel to any lot line and that establishes the area within which a structure or other improvement may be erected or placed.

**Sex Store:** An establishment offering goods for sale or rent which meets any of the following criteria:

1. The establishment offers for sale items from any two of the following categories: (a) adult media; (b) lingerie; or (c) leather goods; any of which are marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items constitutes more than ten percent (10%) of its stock in trade or occupies more than ten percent (10%) of its floor area.
2. More than five percent (5%) of its stock in trade consists of sexually oriented toys or novelties.
3. More than five percent (5%) of its gross public floor area is devoted to the display of sexually-oriented toys or novelties.

**Sexually-Oriented Business:** An inclusive term used to describe collectively: adult cabaret; adult motion picture theater; video arcade; bathhouse; massage store (not including a Licensed Professional Massage Studio); and/or sex store. See also *Adult Entertainment Establishment*.

**Sexually-Oriented Toys or Novelties:** Instruments, devices, or paraphernalia either designed as representatives of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.

**Sign:** Any object that by or through a name, number, symbol, identification, description, display, illustration, thing, graphic, depiction, structure, or part thereof, whether electronic or non-electronic, which is intended to display or to convey a message and/or direct attention to any object, product, place, activity, person, institution, organization, or business, which is affixed to, placed, represented directly or indirectly upon, or projected onto a building, structure, lot, parcel, land, or other device, whether mobile or affixed to the ground or whether permanent or temporary.

**Site Improvements:** Site excavating, cutting, filling, or grading; street grading and surfacing with or without curbs or gutters; installation of sidewalks, crosswalks, water mains, sanitary and storm sewers, culverts, bridges, streets,

and all other work needed to develop property and prepare for the construction of buildings and structures or for a permanent use.

**Skilled Care Facility:** An institution which is primarily engaged in providing skilled nursing care and related services for residents who require medical or nursing care, or rehabilitation services.

**Spa:** A large tub full of water used for hydrotherapy, relaxation, or pleasure. A spa may contain powerful jets and may also be known as a hot tub.

**Stockade Fence:** Any fence, or section of fence, regardless of its composition, that has less than fifty percent (50%) free and open area and/or is higher than forty-eight (48) inches.

**Streamer (Sign):** Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, usually suspended in series. A streamer may have pennants and/or banners attached.

**Structure:** Anything which is built, constructed, or erected, and the use of which requires more or less permanent location on the ground or attachment to something having permanent location on the ground, not, however, including wheels; an edifice or building of any kind; any production or piece of work, artificially built up or composed of parts, and joined together in some definite manner.

By way of example, and not limitation, the term "structure" shall include buildings, window wells/egress wells with foundations, patios, porches, decks, concrete pads, gazebos, pergolas, satellite dish, retaining walls, swing sets, play sets, play houses, swimming pools, tennis courts, signs, storage tanks and partially or fully enclosed storage boxes, units, or containers, provided, however, that the term shall not include driveways, landscape mounds, earthen mounds, fences, trees, shrubs or other plantings.

1. **Structure, Accessory:** A subordinate structure, the use of which is incidental and subordinate to that of a principal structure on the same lot.
2. **Structure, Principal:** A structure in or on which is conducted the principal use of the lot or parcel on which it is situated. In residential zoning districts, the principal structure shall be the dwelling.

**Swimming Pool:** A man made impoundment (body) of water constructed, created, or placed in or on a lot or parcel for recreational purposes which is capable of holding water in excess of eighteen (18) inches deep and exceeds eight (8) feet in diameter. "Kiddie pools" which would not exceed eighteen (18) inches in depth when filled, and are not more than eight (8) feet in diameter at their widest point are not "Swimming Pools." Hot tubs and spas with covers that are in place when the hot tub or spa is not in use are also not Swimming Pools.

**Telecommunications Antenna or Antenna:** The actual directional antenna, panel, dish, or satellite dish, and omnidirectional antennas such as whips and other equipment utilized for personal communication services, to receive or transmit electromagnetic waves between cellular pagers, commercial mobile services, wireless services, and ground-wired communications systems.

**Telecommunications Carrier:** An entity engaged in the provision of telecommunications services.

**Telecommunications Tower:** Any structure as defined in ORC 519.211(B)(1).

**Tract:** An area, parcel, site, or piece of land or property.

**Trail:** An unimproved walkway.

**Tree Lawn:** That strip of land lying between sidewalk and curb or, where no sidewalks exist, between the property line and the curb or, where no curb exists, between the property line and the pavement on all streets within Liberty Township.

**Tributary:** Any stream or waterway that flows to a larger stream or other body of water.

**Variance:** Permission to depart from the strict rule or literal requirements, enforcement, and/or interpretation of this Zoning Resolution.

**Video-Viewing Booth or Arcade Booth:** Any booth, cubicle, stall, or compartment that is designed, constructed, or used to hold or seat patrons and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or media (including, but not limited to, film, video or magnetic tape, laser disc, DVD, CD-ROM, books, magazines, or periodicals) for observation by patrons therein. A video-viewing booth shall not mean a movie theater, movie house, playhouse, or a room or enclosure or portion thereof that contains more than six hundred (600) square feet.

**Vinyl (exterior siding material):** Plastic exterior siding used for surfacing the outside walls of a frame building, imitating wood clapboard, board and batten or shakes, and used instead of other materials such as aluminum or fiber cement siding. It is an engineered product, manufactured primarily from polyvinyl chloride (PVC) resin.

**Walkway:** An improved path.

**Wall:** An artificially constructed solid barrier of any material or combination of materials, erected in such a manner or position so as to enclose, partially enclose, screen, divide, or separate areas. This definition is for the purpose of Section 7.15 when a wall is used in lieu of a fence.

**Water Impoundment:** A body of water such as a pond, or retention or detention basin exceeding eighteen (18) inches in depth. This definition includes both natural and artificially created bodies of water and areas designated for the collection and/or storage of water.

**Zoning Permit:** A “Zoning Certificate” as required pursuant to ORC 519.17.

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## ARTICLE 5 – DISTRICTS AND BOUNDARIES

### Section 5.01 – ZONING DISTRICTS

For the purposes of this Resolution, the following districts are hereby created in order that the unincorporated area of Liberty Township, Delaware County, Ohio, may be divided into one (1) or more such districts:

FR-1	Farm Residence District
R-3	Neighborhood Apartment District
PR	Planned Residence District
PMFR	Planned Multi-Family Residence District
PERRC	Planned Elderly or Retirement Residential Community District
PRC	Planned Residence Conservation District
C-2	Neighborhood Retail District
PC	Planned Commercial District
I	Industrial District
PI	Planned Industrial District
POD	Planned Overlay Districts

The regulations shall be uniform for each class or kind of building or other structure or use throughout each standard district or zone, but the regulations in one (1) district or zone shall differ from those in other districts or zones, as hereinafter set forth.

### Section 5.02 – DISTRICT BOUNDARIES

The location of each of the zoning districts provided for in this Resolution is shown upon the Official Zoning District Map which is incorporated by reference and made part of this Resolution. Said Official Zoning District Map is identified by a Certificate signed by the Township Trustees and Zoning Inspector in the following form:

*This is the Official Zoning District Map of Liberty Township, Delaware County, Ohio, duly adopted by the Trustees of Liberty Township in Resolution \_\_\_\_\_ on \_\_\_\_\_, \_\_\_\_\_.*

### Section 5.03 – NEW TERRITORY

All territory which may hereafter become a part of Liberty Township, Delaware County, Ohio, by any method, and all territory in an “R-1” Farm Residence District as of December 10, 1986, shall automatically be classified as lying in and being in an “FR-1” Farm Residence District until such classification is changed by an Amendment to this Zoning Resolution as provided by law.

### 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:

- 5.04.A** Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
- 5.04.B** Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

- 5.04.C** Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom, as indicated on the Official Zoning District Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Official Zoning District Map.
- 5.04.D** Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.
- 5.04.E** Where the boundary of a district follows a stream, or other body of water, the center line of the body of water shall be deemed to be the boundary of the zoning district unless otherwise indicated.
- 5.04.F** Where the boundary of a district follows a metes and bounds description approved as a part of rezoning of any territory, said metes and bounds description shall control over all of the foregoing.

## **Section 5.05 – ZONING MAP**

The Official Zoning District Map shall be maintained by the Zoning Inspector at the Liberty Township Zoning Office, located at 10104 Brewster Lane, Suite 125, Powell, Ohio, 43065, or at any future relocation of the Township Zoning Office, and the same shall be accessible to the public at all reasonable times.

## **Section 5.06 – NATURE AND CLASSIFICATION OF ZONING DISTRICTS**

Each of the zoning districts include land so zoned or classified in Liberty Township and differs from others by reason of the uses that are permitted or by reasons of the standards of development that are applicable in the zoning districts. The purpose of each zoning district can be found in the applicable article for each district. There are three (3) general classifications of the Zoning Districts: Residential, Commercial and Industrial.

The residential zoning districts consist of the Farm Residence District, Neighborhood Apartment District, Planned Residence District, Planned Multi-Family Residence District, Planned Elderly or Retirement Residential Community District, and Planned Residence Conservation District. The residential zoning districts are intended to define and protect residential areas from the intrusion of uses not performing a function appropriate to the principal use of the land for residential dwellings and related facilities desirable for a residential environment. The nature of all land included within these residential zoning districts is for residential use.

The commercial zoning districts consist of the Neighborhood Retail District and the Planned Commercial District. The commercial zoning districts are intended to promote a convenient and efficient distribution of a broad range of commercial and retail goods and services in order to meet consumer demands, satisfy commercial land use space requirements, achieve a stable and compatible land use pattern, and encourage a visually satisfying environment. The proper development of commercial areas is not only a right under this Zoning Resolution, but a responsibility to the entire Township. Because these commercial areas are subject to public use which is an important matter of concern to the whole community, they should provide an appropriate appearance, ample parking, controlled traffic movement, and suitable relationship to adjacent areas.

The industrial zoning districts consist of the Industrial District and the Planned Industrial District. The industrial zoning districts are intended to define and protect areas suitable to the development of a variety of industrial activities, and to set forth standards for the mutual protection of industrial development and areas for other land use activity in the vicinity. Industry should be protected from the intrusion of other land uses which neither perform a function appropriate to an industrial environment nor provide an essential service to the establishments or the employees of the industrial area. The industrial zoning districts are intended to encourage

the appropriate development and maintenance of industrial areas. Important in determining the type, location, and size of these industrial areas is the accessibility of the location to regional transportation facilities, the availability of public utilities, suitability to adjacent uses, and the adequacy of fire and police protection.

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## ARTICLE 6 – APPLICATION OF ZONING RESOLUTION

### Section 6.01 – CONFORMANCE REQUIRED

Except as otherwise provided herein, no building (temporary or permanent) or part thereof shall be moved, erected, converted, enlarged, reconstructed or structurally altered, nor shall any land be developed nor building or land be used or occupied, other than in strict conformance with all the use and development regulations established by this Zoning Resolution for the district in which the structure or land is located.

No structure or improvement shall be placed above ground level within the right-of-way of any adjoining roadway, EXCEPT for a mailbox placed in accordance with Postal Department Regulations. The type, mass, size, or design of the mailbox support shall not be of a type which creates unreasonable risk to persons using the public roadway.

### Section 6.02 – AGRICULTURE

Except as otherwise provided herein, nothing contained in this Zoning Resolution shall prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, and no zoning permit shall be required for any such use, building, or structure. In accordance with Section 519.21(D) of the Ohio Revised Code (effective September 8, 2016) Liberty Township prohibits the cultivation, processing, or retail dispensing of medical marijuana in all zoning districts within the unincorporated areas of the Township. Notwithstanding the foregoing, in any platted subdivision approved under Section 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, agricultural uses and structures are subject to the terms and conditions of this Zoning Resolution in the following manner:

#### 6.02.A

- 6.02.A.1** Agricultural uses, except for well-maintained gardens for personal consumption, are prohibited on lots of one (1) acre or less.
- 6.02.A.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 all setbacks, size, and height requirements that apply in the underlying zoning district.
- 6.02.A.3** Dairying and animal and poultry husbandry are permitted on lots greater than one (1) acre but not greater than five (5) acres only until thirty-five percent (35%) of the lots in a platted subdivision are developed with at least one (1) building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured and mobile homes under ORC Section 4503.06. After thirty-five percent (35%) of the lots in the subdivision are so developed, ongoing dairying and animal and poultry husbandry shall be considered a nonconforming use pursuant to ORC Section 519.19 and Article 21 of this Zoning Resolution. Dairying and animal and poultry husbandry shall be prohibited on such lots after thirty-five percent (35%) of the lots are so developed.

This section confers no power on any Township Zoning Commission, Board of Township Trustees, or Board of Zoning Appeals to regulate agriculture, buildings or structures, or dairying and animal and poultry husbandry on lots greater than five acres.

- 6.02.B** For any farm market located in any agricultural, residential, or commercial zoned district wherein more than fifty percent (50%) of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year, said farm market shall conform with those zoning requirements applicable to the district in which it is located, insofar as such regulations pertain to such factors as the size of the structure, size of parking areas that may be required, building setback lines and egress or ingress, and where such regulations are necessary to protect the public health and safety, in accordance with ORC 519.21(C)(1).

To maintain safe roadways, no part of a farm market (as that term is defined by ORC 519.21(C)(1)) may be placed in the public right-of-way. Similarly, to reduce any restriction of motorists' views, no farm market may exceed a covered or contained area larger than one hundred (100) square feet when placed with zero (0) setback from the public road right-of-way. The size of the farm market may be increased by two (2) square feet for every one (1) foot increase in setback from the right of way to a maximum of six hundred (600) square feet. No part of the farm market shall exceed fifteen (15) feet in height. Setbacks described in Article 7 of the Township Zoning Resolution apply to any farm market where the structure remains in operation for more than six (6) months during the year.

To prevent objects from relocating into the right-of-way, building materials not typically used in the construction of permanent structures must be removed seasonally. Parking shall be provided out of the right-of-way. Only existing points of ingress/egress may be considered for parking access. Additional ingress/egress points may be established upon approval by the State, County or Township for roads under their respective jurisdictions.

- 6.02.C** This section confers no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for biodiesel production, biomass energy production, or electric or heat energy production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under ORC Sections 5713.30 to 5713.37 for real property tax purposes. As used in this section and in division (C)(2) of ORC Section 519.21, "biodiesel," "biomass energy," and "electric or heat energy" have the same meanings as in ORC Section 5713.30.
- 6.02.D** This section confers no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for biologically derived methane gas production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under ORC Sections 5713.30 to 5713.37 for real property tax purposes and if the facility that produces the biologically derived methane gas does not produce more than seventeen million sixty thousand seven hundred ten British thermal units, five megawatts, or both. As used in this section and in division (C)(3) of ORC Section 519.21, "biologically derived methane gas" has the same meaning as in ORC Section 5713.30.

## **Section 6.03 – BUILDINGS UNDER CONSTRUCTION AND NEW CONSTRUCTION**

Nothing contained in this Resolution shall require any change to the plans, construction, size, or designated use of a building upon which construction had commenced prior to the effective date of this Resolution or any

applicable amendments hereof. The ground story framework of such a building, including structural parts of any second floor thereof, shall be completed within one (1) year, and the entire building completed within eighteen (18) months, following the effective date of this Resolution or applicable amendments hereto, in order for the Zoning Resolution to require any change to the plans, construction, size, or designated use of such a building.

The Zoning Inspector shall require proof of new structure placement in the form of a foundation location survey. The foundation location survey shall be submitted prior to any further construction.

The Zoning Inspector may also require proof in the form of an Affidavit or other similar documents that the original intended use of the building has not been changed.

#### **Section 6.04 – ISSUED ZONING PERMITS**

Any new proposed construction of a building for which a Zoning Permit is issued shall be started within six (6) months of the issuance of said Permit and the ground story framework of such building, including structural parts of any second floor thereof, shall be completed within eighteen (18) months following the issuance of the Zoning Permit; provided, however, that any project or building originally contemplated to be constructed in phases or over a period exceeding eighteen (18) months, may be completed in phases or during a period of time corresponding to a timetable on file with the Township Zoning Inspector, together with the original request for the Permit. Extensions in 18-month increments may be granted if the Zoning Inspector determines that reasonable progress has been made.

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

#### **Section 6.05 – TOWNSHIP ZONING NOT TO AFFECT PUBLIC UTILITIES OR RAILROADS, LIQUOR SALES, OR OIL AND GAS PRODUCTION**

Except as otherwise provided in Sections 6.06 and 6.07, of this Zoning Resolution, this Resolution confers no power on the Board of Township Trustees or Board of Zoning Appeals with respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of any public utility or railroad, whether publicly or privately owned, or the use of land by any public utility or railroad, for the operation of its business. The phrase “operation of its business” shall not be deemed to include general offices or other uses not related directly to provision of utility services. As used in this section and in division (A) of ORC Section 519.211, “public utility” does not include a person that owns or operates a solid waste facility or a solid waste transfer facility, other than a publicly owned solid waste facility or a publicly owned solid waste transfer facility, that has been issued a permit under Chapter 3734 of the ORC or a construction and demolition debris facility that has been issued a permit under Chapter 3714 of the ORC.

Notwithstanding the foregoing: (a) all applicable regulations contained within this Resolution shall apply where authority is granted by the ORC; (b) Telecommunications towers may be regulated as defined and provided in ORC 519.211; and (c) small wind farms may be regulated as defined and provided in ORC Section 519.213.

#### **Section 6.06 – EXCEPTION FOR REVIEW OF TELECOMMUNICATIONS TOWERS**

No blanket zoning authority exists over telecommunications towers in residential districts, except to enforce the notice and objection procedures provided below, unless and until a written notice of objection has been timely filed. Standards referencing Telecommunications Towers are located under General Development Standards, Section 7.16 of this Zoning Resolution.

**Section 6.07 – REGULATION OF PUBLIC UTILITIES ENGAGED IN CERTAIN TYPES OF TRUCKING, BUSES AND TAXIS**

Pursuant to ORC 519.211(C), ORC Sections 519.02 to 519.25 confer power on a board of township trustees to regulate the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of a public utility engaged in the business of transporting persons or property, or both, or providing or furnishing such transportation service, over any public street, road, or highway in the state of Ohio, and with respect to the use of land by any such public utility for the operation of its business to the extent that any exercise of such power is reasonable and not inconsistent with Chapters 4901, 4903, 4905, 4921, and 4923 of the ORC. For the purposes of this Zoning Resolution, all such uses shall be considered commercial uses and shall be located in commercial or industrial districts if approved by the Board of Township Trustees. The Board of Trustees has no power with respect to a building or structure of, or the use of land by, a person engaged in the transportation of farm supplies to the farm or farm products from farm to market or to food processing plants.

Any company engaged in the transport of persons or property that is lawfully established at the time of the adoption of this Zoning Resolution shall be permitted to continue, but any expansion of such existing use shall conform to the regulations of this Zoning Resolution.

## ARTICLE 7 – GENERAL DEVELOPMENT STANDARDS

### Section 7.01 – 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 Liberty Township is protected and enhanced by means of an appropriate appearance, ample parking, controlled traffic movement, and suitable relationship to adjacent areas. 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 Zoning Resolution or prescribed or agreed to by the landowner in any rezoning, Variance, or Conditional Use.

### Section 7.02 – PARKING

All parking spaces/areas shall adhere to the following requirements under this Zoning Resolution:

- 7.02.A** Dimensions: All parking spaces shall be not less than ten (10) feet wide and twenty (20) feet long. Such spaces shall be measured as a rectangle and shall be served by aisles of at least twenty (20) feet between rows of spaces to permit easy, smooth, and safe access by motor vehicles to all parking spaces, and shall be constructed in accordance with Section 7.11.C of this Zoning Resolution.
- 7.02.B** Paving: EXCEPT in the Farm Residence District (FR-1), all parking areas and adjacent aisles or driveways shall be paved with asphaltic material or cement within six (6) months of occupancy or change of use.
- 7.02.C** Parking Area Location: Except for provisions under Section 7.11.A.9, 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. All parking spaces required herein shall be located on the same lot as the building or use served.

Parking Area Locations are further restricted as referenced in the following sections:

<b>Zoning District</b>	<b>Minimum setback for parking area(s)</b>
FR-1	Section 8.07.I
R-3	Section 9.07.P
PR	Section 10.07.Q
PMFR	Section 11.06.R
PERRC	Section 12.06.R
PRC	N/A
C-2	Section 14.07.Q
PC	Section 15.07.Q
I	Section 16.07.N
PI	Section 17.07.P
POD	Section 18.07.K Section 18.B.08.J Section 18.C.08.L

**7.02.D** Tree Islands: Unless otherwise utilized for stormwater mitigation, 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 ten (10) parking spaces or fractions thereof. The minimum soil area per tree shall be sixteen (16) square feet. Tree islands shall be constructed with suitable curbing materials and arranged so as to minimize the risk of damage to tree trunks and roots from vehicles, pedestrians and parking lot maintenance. All trees shall be maintained in a healthy condition and be trimmed and replaced as needed.

**7.02.E** Required Number of Off-Street Parking Spaces: Off-street parking shall be provided incident to any use in any district in this Township according to the following table, which specifies minimum standards:

Use	Required Parking Spaces
1. Single-family Residential (FR-1)	Two and one-fourth (2 ¼) spaces per dwelling unit.
2. All Other Residential	Two and one-fourth (2 ¼) spaces per dwelling unit.
3. Hotels, Motels, Lodges	1 space per rental unit, plus 1 additional space per employee on the most populous shift.
4. Churches or Places of Public Assembly	1 space for each 3 seats or 1 space for each 45 sq. ft. of assembly area, whichever is greater.
5. Hospitals	1 space for each bed, plus 1 additional space for each employee and/or doctor on the most populous shift.
6. Skilled Care Facility and Assisted Care Facility	1 space for each 2 beds, plus 1 additional space for each employee on the most populous shift.
7. Independent Living Facility	1 space for each unit, plus 1 for each employee.
8. Museums, Libraries, etc.	1 space for each 400 sq. ft. of area open to public, plus 1 additional space for each employee on the most populous shift.
9. Primary or Elementary Schools	4 spaces for each classroom.
10. Secondary Schools	4 spaces for each classroom, plus 1 space for each 4 students.
11. Colleges, Trade Schools, etc.	1 space for each Employee, plus 1 additional space for every 2 students.
12. Restaurants (except drive-through or fast food)	1 space for each 4 seats, plus 1 additional space for each employee on the most populous shift. In no event shall less than 25 spaces be provided.
13. Offices	1 space for each 400 sq. ft. of floor area, plus 1 additional space for each employee.
14. Funeral Homes	1 space for each 25 sq. ft. of public area.
15. Retail Stores	5 spaces, plus 1 additional space for every 400 sq. ft. of floor area.
16. All Industrial, Warehousing or Distribution Facilities	20 spaces, plus 1 additional space for each 2 employees and 1 additional space for each vehicle parked on the premises.

17. Day Care Facilities	1 space for each employee on the most populous shift, plus 1 additional space for every 5 children.
18. Gyms/Health Clubs	1 space for each employee, plus 1 additional space for each 200 sq. ft. of floor area.
19. Fast Food/Drive-Thru Restaurants	1 space for each 6 seats, plus 1 for each employee on the most populous shift.
20. Banquet and Meeting Facilities	1 space for each 3 seats or 1 space for each 45 sq. ft. of assembly area, whichever is greater.

## Section 7.03 – 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.

## Section 7.04 – LIGHTING REGULATIONS

**7.04.A** General Requirements: All lighting shall be controlled in such a way as to not shine up into the sky or onto any neighboring properties. Ways in which this shall be accomplished are:

- 7.04.A.1** Use of fully shielded, cut-off fixtures.
- 7.04.A.2** Directing light fixtures downward rather than upward.
- 7.04.A.3** Shielding the light in such a way that the light-emitting portion of the fixture cannot be seen from adjacent property or roads.
- 7.04.A.4** Use of lower wattage bulbs.

**7.04.B** Specific Requirements:

- 7.04.B.1** Where used for security purposes or to illuminate walkways, roadways, equipment yards, and parking lots, only fully shielded, cut-off style outdoor light fixtures shall be utilized.
- 7.04.B.2** Where used for signs or for decorative effects or recreational facilities, such as for building, landscape, or ball field illumination, the outdoor light fixtures shall be equipped with automatic timing devices and shall be shielded and focused to minimize light pollution.
- 7.04.B.3** All outdoor light fixtures installed and maintained upon private property within all zoning districts shall be turned off between 11:00 p.m. and sunrise, EXCEPT when used for security purposes or to illuminate walkways, roadways, equipment yards and parking lots.
- 7.04.B.4** All illuminated signs for commercial purposes, including digital signs displaying gasoline prices, shall be turned off between 11:00 P.M. and sunrise, EXCEPT that signs

may be illuminated while the business facility is open to the public. All forms of exposed neon, flashing, rotating, moving, or digital lights (except for those specifically approved for displaying gas prices) shall be prohibited.

**7.04.B.5** All outdoor light pole fixtures shall not exceed a maximum height of twenty (20) feet and shall be exempt from all otherwise applicable setback requirements, EXCEPT that no outdoor light poles and fixtures shall be located in any road right-of-way.

**7.04.B.6** In addition to the provisions of this Section, all outdoor light fixtures shall be installed in conformity with all other applicable provisions of this Zoning Resolution.

**7.04.C** Exemptions:

**7.04.C.1** All outdoor light fixtures producing light directly by the combustion of fossil fuels, such as kerosene lanterns or gas lamps, are exempt from the requirements of this Section.

**7.04.C.2** All low-voltage lighting rated twenty-four (24) volts or less and holiday lighting shall be exempt from the requirements of this Section.

**7.04.C.3** Outdoor light fixtures required by governmental and/or public safety regulations are exempt from the requirements of this Section.

## **Section 7.05 – WATER IMPOUNDMENTS**

All water impoundments including, but not limited to, bio-retention, detention and retention basins, ponds, lakes and swimming pools shall be constructed and developed in conformance with the following standards EXCEPT that additional setback requirements for swimming pools shall be developed in conformance with Section 7.14 of this Zoning Resolution:

**7.05.A** No Water Impoundments shall be located less than twenty-five (25) feet from the right-of-way line nor less than fifty-five (55) feet from the centerline of any adjacent road right-of-way, nor shall any impoundment be located less than ten (10) feet from any adjacent property.

**7.05.B** No impoundment shall be located in the front yard in any zoning district, EXCEPT the FR-1 District, and EXCEPT upon issuance of a Conditional Use Permit pursuant to Article 25 of this Zoning Resolution or as approved in a Development Plan in any planned zoning district. If a front yard water impoundment is located in an FR-1 District, is located on a 5 acre parcel or greater, and is at least fifty-five (55) feet from any boundary of the property upon which it is proposed to be located, it is a permitted use.

**7.05.C** All swimming pools and accompanying concrete, patios, and decking shall be surrounded by a fence developed in conformance with Section 7.14 of this Zoning Resolution.

**7.05.D** No pond or lake shall exceed two (2) acres in surface area.

## **Section 7.06 – LANDSCAPING**

Landscaping associated with all uses and improvements in the Township shall be maintained in good condition, including all existing landscaping and landscaping added as part of the Development Plan. Maintenance of ground

cover at all times is encouraged to prevent erosion. Replacement of trees that are removed during clearing of land in preparation for site work and construction shall be accomplished prior to issuance of a permanent Zoning Certificate of Compliance. All property owners within the Olentangy River Corridor should be aware of the "Scenic River" designation and should avoid disturbing the natural conditions existing.

Street Trees shall be placed a minimum of five (5) feet from the road right-of-ways. Tree canopies must be maintained so that no part of the tree blocks any regulatory traffic sign or street name.

### **Section 7.07 – ENTRY FEATURES TO PRIVATE RESIDENTIAL PROPERTIES**

Elements, including hardscape (i.e. brick, stone, rocks, walls) and softscape (i.e. plants, trees, shrubs) features, located near the entrance to a private residential property must comply with the following:

- 7.19.A.1** Entry features shall not be placed within the intersection sight distance triangle as defined by the current edition of the ODOT Location and Design Manual, Volume 1.
- 7.19.A.2** Entry features with fixed objects, such as rocks, walls, pillars, poles, trees, and other objects not prone to giving way upon impact, which protrude more than six (6) inches above the adjacent ground, shall not be located within fifteen (15) feet of the right-of-way.
- 7.19.A.3** Entry features with a gate shall locate the gate in such a manner so that the gate is located a minimum of fifty (50) feet from the edge of the paved roadway or face of curb.

### **Section 7.08 – FLOODPLAIN REGULATIONS**

Certain limited areas of Liberty Township lie within the Floodplain of the Olentangy and Scioto Rivers. Inundation of those areas during periods of high water can impose great loss of property value unless controls are imposed to ensure that land uses within those areas consider such risks and minimize the impact of such flooding. Further, the addition of fill material to or the dredging of the Olentangy and Scioto Rivers and bordering wetlands imposes additional risks of flooding and threatens their loss as irreplaceable Township natural resources and as areas of scenic and natural beauty. In the best interests of the Township, the following regulations shall be imposed:

- 7.08.A** The Township Zoning Inspector shall maintain on file for public inspection:
  - 7.08.A.1** The current Flood Insurance Rate Map of the Delaware County Floodplain as applicable to Liberty Township.
  - 7.08.A.2** Information on the Federal Control of the Discharge of fill materials.
  - 7.08.A.3** Ohio Administrative Code Chapter 3745-32, Section 401 Water Quality Certification.
- 7.08.B** No dwelling shall be erected or altered within the one-hundred-year (100-year) floodplain.
- 7.08.C** No land lying within the Floodplain shall be filled or excavated EXCEPT in compliance with the Delaware County Flood Damage Prevention Regulations and in compliance with Section 404 of the Clean Water Act and Ohio's Section 401 Water Quality Certifications.

## Section 7.09 – SETBACK REGULATIONS

No building or structure, except parking areas, shall be located closer to the center line of adjoining streets, roads, highways, or approved private roadways than the distances in the table in 7.09.D below, unless otherwise defined in an approved Development Plan. 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 (1) of the three (3) following classes:

- 7.09.A** Class A: Roadways designated by Functional Classification in Delaware County's Thoroughfare Plan as Major Arterials, Minor Arterials, and Major Collectors: State Route 315, State Route 750 (Powell Road), Home Road (County Road 124), Liberty Road (County Road 9), Sawmill Parkway (County Road 609), Steitz Road (County Road 125 north of Home Road), Bean-Oller Road (Township Road 140), West Orange Road (Township Road 114), Hyatts Road (County Road 123), and State Route 257 and/or any other roads as later so designated in the Thoroughfare Plan.
- 7.09.B** Class B: Roadways designated by Functional Classification as Minor Collectors: Ford Road (Township Road 142), Clark-Shaw Road (Township Road 139), Winter Road (Township Road 98), Carriage Road (Township Road 334), Rutherford Road (Township Road 122), Seldom Seen Road (Township Road 121), Steitz Road (Township Road 125 south of Home Road), Jewett Road (Township Road 127), Churchill Drive (Township Road 476), Loch Lomond Drive (Township Road 1355), and Manning Parkway (Township Road 657) or any other through public street or road or any private roadway approved by the Delaware County Engineer connecting two (2) or more public roads.
- 7.09.C** Class C: Other Local Roads or dead-end roads ending at a cul-de-sac or approved turn around when the lot configuration or approved plan precludes future extension of said roadway or any branch therefrom to create a connecting street between two (2) or more existing or future streets or roads.
- 7.09.D** Minimum Setback Distances

All distances are measured from the centerline of the existing or proposed roadway to the building or structure, EXCEPT parking areas or signs which may be located within the setback area as regulated by Article 20 of this Resolution.

USE CLASSIFICATION	ROAD CLASSIFICATION		
	Class A	Class B	Class C
FR-1 – Farm Residence	130	60	60
R-3 – Residential	130	60	60
PR – Planned Residence	130	60	60
PMFR – Planned Multi-Family Residence	130	60	60
PRC – Planned Residence Conservation	130	60	60
PERRC – Planned Elderly or Retirement Residence District	130	60	60
C-2 – Neighborhood Commercial	130	60	60
PC – Planned Commercial	130	80	60
I – Industrial	130	130	100
PI – Planned Industrial	130	130	100

## **Section 7.10 – INSTALLATION OF SATELLITE-SIGNAL-RECEIVING EARTH STATIONS**

Satellite dish antennas are allowed in all districts subject to the following requirements and shall be considered both an accessory use and an accessory structure. The objective of this regulation is to preserve the residential character of the Township by ensuring that the locations and dimensions of such antennas are aesthetically complimentary to the Township's residential-rural character and to prevent the congestion of properties so as to hinder their accessibility by fire safety and/or other emergency response apparatus and/or personnel. Satellite dish antennae one (1) meter (39.37 inches) or smaller are not subject to township zoning regulations.

The following provisions shall apply to satellite dish antennas:

- 7.10.A** Maximum diameter - Ground mount: Twelve (12) feet; Structure mount: One (1) meter (39.37 inches).
- 7.10.B** Maximum height - Ground mount: Fifteen (15) feet; Roof mount: Four (4) feet.
- 7.10.C** All satellite dish antennas shall be located behind the front building line of the principal building situated on the lot or parcel.
- 7.10.D** The satellite dish apparatus shall be a color which complements its environment.
- 7.10.E** Every antenna shall be contained within the building envelope/setback of the district in which it is located.

If it is determined that any of the foregoing restrictions prevent normal reception of the antennas, then a Variance may be requested. For any Variance requested, the Board of Zoning Appeals shall grant the minimum Variance required to achieve proper reception, provided it does not conflict with the objective of these regulations. Any requested height Variance shall be justified in writing by the installer/manufacturer of the antenna.

This regulation shall not be interpreted and applied to regulate station antenna structures used for amateur service communications, such as ham radio operators.

## **Section 7.11 – DRIVEWAY CONSTRUCTION**

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

- 7.11.A** All Driveways (Any Use): In addition to the conditions or specifications imposed in subsections 7.11.B or 7.11.C of this Zoning Resolution, the following specifications shall apply to all driveways regardless of the use served:
  - 7.11.A.1** No driveway shall have a grade, up or down, from the public or private road pavement level exceeding ten percent (10%).
  - 7.11.A.2** No driveway shall, at any point over its entire length, contain a grade exceeding ten percent (10%).

- 7.11.A.3** At the point the driveway intersects the public road, the same shall have such radii and drain pipe as specified or required by the governmental agency (State, County or Township) which controls the public roadway.
- 7.11.A.4** If the driveway leaves the public road on an up-grade, the design and construction shall include a vertical curve or saddle to prevent the flow of surface drainage from said driveway onto the traveled portion of the public road.
- 7.11.A.5** If any driveway crosses a drainage swale, stream or ditch, located outside of a public right-of-way, the same shall be bridged by a bridge, pipe, or other similar structure, and such shall comply with standards contained in the Delaware County Engineer's *Design, Construction and Surveying Standards*.
- 7.11.A.6** If a fill is placed over any drainage structure or placed to alter the grade of any driveway, the vertical slopes on said fill shall be no steeper than a two to one (2:1) slope. All fill areas shall be scalped of vegetation and excavated to load bearing soil before fill material is placed over it. Such fill shall be free of all humus and organic material and shall be compacted to a density of ninety-five percent (95%) proctor. The fill shall be of sufficient width to include a compacted shoulder beside the graveled or paved area of reasonable width to facilitate safe passage of vehicles. Guardrails or barriers shall be installed when necessary to create safe conditions.
- 7.11.A.7** Drainage ditches shall be constructed parallel to any driveway as needed, and shall be graded to a good and sufficient outlet. Siltation control shall be placed in any ditch and such siltation shall not flow to roadside ditches along public roads.
- 7.11.A.8** All curves in the driveway shall be of sufficient radius (not less than fifty (50) feet) to permit unhindered passage of public safety vehicles, including fire vehicles and all other vehicles reasonably expected to utilize the same.
- 7.11.A.9** Residential driveways that exceed one-hundred fifty (150) feet in length shall require an additional six (6) foot by forty (40) foot pull-off every four hundred (400) feet that will support the imposed load of fire apparatus weighing at least eighty thousand (80,000) pounds. Minimum width of a driveway exceeding one-hundred fifty (150) feet in length shall be fourteen (14) feet.
- Driveways less than one-hundred fifty (150) feet in length serving individual residential structures shall be a minimum width of twelve (12) feet and shall be located a minimum of five (5) feet from side or rear property lines.
- 7.11.A.10** All trees, overhanging branches or other obstructions to the free passage of public safety vehicles shall be removed.
- 7.11.A.11** Obstructions on the prevailing windward side of the driveway which contribute to drifting of snow shall be removed.
- 7.11.B** Driveway Location: All measurements will be made from the edge of the public right-of-way to the center of the private driveway. No driveway shall be located so that it enters a public road within

forty (40) feet of the intersection of any two (2) public roads. 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.

- 7.11.C** All common access driveways must comply with Delaware County Engineer standards.
- 7.11.D** Commercial, Industrial, Public Facility, Churches, and Multi-Family Driveways: In addition to the conditions imposed by Section 7.11.A of this Zoning Resolution, the following standards shall apply to driveways serving all commercial, industrial, and multi-family uses, and any other driveway not restricted to use by only a single family:
  - 7.11.D.1** Driveways shall be not less than twenty (20) feet in width and shall be constructed over an aggregate base of no less than ten (10) inches.
  - 7.11.D.2** Driveway base and surface shall be designed by a professional engineer to sufficient depth for anticipated use and access by public safety vehicles.
  - 7.11.D.3** The finished surface of the driveway shall be hard surfaced and may be composed of any Ohio Department of Transportation approved materials.
  - 7.11.D .4** The driveway must be certified by a professional engineer and the certification shall be presented to the Township Zoning Inspector prior to the issuance of a Certificate of Compliance by the Township Zoning Inspector.

### **Section 7.12 – TRAILERS & TEMPORARY UNITS OF ANY TYPE**

No storage units or trailers, whether operable or not, shall be used for the on-site storage of goods in any use district. A trailer may, however, be used as a temporary construction office or tool shed during the period of construction or remodeling of any structure.

Notwithstanding the foregoing, Portable Storage Units, including trailers or temporary units of any design, may be placed in any zoning district on a temporary basis only, for the sole purposes of loading and unloading the unit for off-site storage, provided that such placement shall not exceed seven (7) days in any six (6) month period, and provided further that the placement of the unit shall not compromise the flow of traffic, obstruct line-of-sight visibility, or present a nuisance to the community or to the general public.

### **Section 7.13 – GENERAL BUILDING DESIGN**

All principal structures shall have a roof pitch not less than 6/12 for the primary roofs. This does not include garages, porches, dormers, or other accent features. The eaves may encroach up to a maximum of sixteen (16) inches into the side and rear minimum setbacks for any land which is zoned FR-1, PR, PMFR, and PRC.

The use of vinyl as an exterior siding material is not permitted except for any land which is zoned FR-1.

### **Section 7.14 – SWIMMING POOLS**

All swimming pools and accompanying concrete, patios, and decking shall be surrounded on all sides by a minimum of a four and one-half (4 ½) foot high fence with self-closing gate(s). One or more sides of the fence may be comprised by a building, including the dwelling. Such fence shall be constructed in a manner that prevents

unauthorized entry. Any swimming pool, both in-ground and above ground, including related accessory structures shall conform with the same setback requirements as applicable in the district in which it is located.

No swimming pool shall be constructed until a swimming pool permit has been issued. The application for this permit shall be accompanied by plans or drawings including a plot plan or property survey showing the proposed location of the swimming pool, pool decking, and pool fencing. The signature of the property owner(s) must be shown on the plans or drawings submitted for the required swimming pool zoning permit. The Certificate of Compliance must be issued by the Zoning Inspector prior to use and must be obtained prior to the expiration date of the zoning permit.

### **Section 7.15 – FENCES AND WALLS**

All fencing and walls (including stockade fences and chain link fences) shall conform to all of the following: (Please note that homeowners' associations may have more restrictive regulations):

- 7.15.A** No fence or wall shall be erected or constructed until a Fence permit has been issued. The application for this permit shall be accompanied by plans or drawings including a plot plan or property survey showing the actual shape and dimension of the lot on which the fence or wall is to be erected, architectural rendering of the fence or wall to include the exact height, style and type of material, location, length of the fencing, and the location of all existing buildings on the lot. Accurate distance measurements from all property lines must be shown.

The signature of the property owner(s) must be shown on the plans or drawings submitted for the required zoning permit for the fence.

- 7.15.B** The smooth finished side of the fence or wall shall be the side that faces outward from the yard being fenced, and any horizontal, diagonal, or supporting members shall be on the interior side of the fence.

- 7.15.C** No fence or wall shall be located closer to any lot line than the minimum setbacks as shown on the table below:

ZONING DISTRICT	MINIMUM SIDE YARD	MINIMUM REAR YARD
FR-1	Five (5) feet	Five (5) feet
PR, PMFR, PRC	Three (3) feet	Three (3) feet

When erected near a property or lot line, the entire fence and any of its supporting structures or appurtenances shall be contained within the lot or property of the person erecting said fence.

- 7.15.D** Fences and walls shall be built at or behind the rear line of the principal structure on the lot, not to exceed six (6) feet in height, measured from the finished grade to the top of the highest point of the fence or wall.

- 7.15.E** Fences and walls shall not be built within one hundred and fifty (150) feet of the right-of-way of a Class A or Class B road.

- 7.15.F** A fence or wall may be built without regard to the building lines if it is more than one hundred and fifty (150) feet from any property line or any road right-of-way.

- 7.15.G** No fence or wall shall be located within the public right-of-way of any road within the Township.
- 7.15.H** Any and all masonry walls over thirty-six (36) inches in height shall be designed by a licensed professional engineer and, after construction, shall be certified by same as having been built according to the plan.
- 7.15.I** Fences and walls shall be kept in proper repair and maintained.
- 7.15.J** Decorative landscaping walls or timbers having a height of less than thirty-six (36) inches from finished level of grade are excluded from Section 7.15.D.

## **Section 7.16 – STANDARDS FOR TELECOMMUNICATIONS TOWERS**

The provisions of this Section are not intended to replace or modify ORC 519.211, but instead are intended only to incorporate ORC 519.211 and its terms into this Zoning Resolution.

- 7.16.A** **Towers Permitted: Limitations** - Public utilities or other functionally equivalent telecommunications providers may site a telecommunications tower as a permitted use in any zoning district except those expressly zoned for residential use. The areas expressly zoned for residential use shall be deemed to be all land located within the following districts: Farm Residence (FR-1), Neighborhood Apartment (R-3), Planned Residence (PR), Planned Multi-Family Residence (PMFR), Planned Elderly or Retirement Residential Community (PERRC), and Planned Residence Conservation (PRC).
  - 7.16.A.1** Local zoning authority shall not extend to the regulation of maintenance or use of such a tower or to any change or alteration that would not substantially increase the tower's height. A substantial increase in height shall mean the proposed addition of more than forty (40) feet to the existing tower.
  - 7.16.A.2** The local zoning authority over proposed telecommunications towers shall apply only to a particular tower, only upon provision of a notice of objection and/or objection made by a member of the Board of Township Trustees provided in conformance with Section 7.16 of this Resolution and ORC Section 519.211(B), to the person proposing to construct that particular tower. No blanket zoning authority exists over telecommunications towers in residential districts unless and until a written notice of objection has been timely filed.
  - 7.16.A.3** Objections: For purposes of this Section, Objections will be defined as written notice by an owner of property as set forth in Section 7.16B.1 of this Resolution addressed to the Township Trustees requesting that the zoning regulations be applied to the proposed location of a telecommunications tower pursuant to ORC Sections 519.02 to 519.25, and/or a timely objection by any member of the Board of Township Trustees to the proposed location of a telecommunications tower pursuant to ORC Section 519.211(B)(4)(a).
- 7.16.B** **Towers Proposed within Areas Zoned for Residential Use** - towers may be regulated in areas zoned for residential use upon receipt of an Objection.

**7.16.B.1** **Notice:** Notice shall comply with ORC 519.211(B)(3)(a). Any person who plans to construct a telecommunications tower in an area subject to township zoning shall provide both of the following by certified mail:

- 1.) Written notice to each property owner, as shown on the Delaware County Auditor's current tax list, whose land is contiguous to or directly across a street or roadway from the property on which the tower is proposed to be constructed, stating all of the following in clear and concise language:
  - a.) The person's intent to construct the tower;
  - b.) A description of the property sufficient to identify the proposed location;
  - c.) That, no later than fifteen (15) days after the date of mailing of the notice, any such property owner may file a written notice/Objection with the Township Trustees requesting that ORC Sections 519.02 to 519.25 apply to the proposed location of the tower. If the notice to a property owner is returned unclaimed or refused, the person shall mail the notice by regular mail. The failure of delivery of the notice does not invalidate the notice. Copies of such a notice shall be contemporaneously sent by the person planning the tower, by certified and regular first-class US Mail, to the Trustees and the Zoning Inspector.

And,

- 2.) Written notice to the Board of Township Trustees of the information specified above in Section 7.16.B.1(1)(a) and (b) of this Resolution and in ORC 519.211(B)(3)(a)(i) and (ii). The notice to the Board also shall include verification that the person has complied with ORC 519.211(B)(3)(a).

**7.16.B.2** **Procedure if Objections Are Filed:** Upon the timely receipt by the Township Board of Trustees of an Objection to a proposed tower, or if a member of the Board of Township Trustees makes a timely Objection to the proposed location of the tower, the Trustees shall proceed as provided in ORC 519.211(B)(4)(a).

**7.16.B.3** **Procedure if No Objections Are Filed:** Telecommunications towers shall be permitted as a use exempt from any local zoning authority in residential zoned areas, if no Objections are timely filed, as provided in ORC Section 519.211(B)(4)(a and b).

**7.16.C** **Local Zoning Authority** - If Objections are timely filed consistent with ORC 519.211(B) for a proposed tower in a district zoned for residential use then the telecommunications tower shall only be permitted as a conditional use by the Board of Zoning Appeals, provided that all of the following conditions of this Section are met.

**7.16.C.1** **Conditional Use - Application and Requirements** – Consistent with the procedures set forth in Article 25 of this Resolution, an application for conditional use shall be filed with the Board of Zoning Appeals. The application shall include:

- a.)** A locator map which shall contain: the location of all the applicant's existing facilities within a radius of one (1) mile of the proposed location of the tower; the general location of planned future facilities within a radius of one (1) mile of the proposed location of the tower; and for each location of the applicant's existing facilities within a radius of one (1) mile of the proposed location of the tower, including the type and size of tower at each location, the type of equipment located or proposed on each tower, the space available on the tower for additional equipment, and a site plan depicting any parcels on which any existing or proposed tower(s), antenna(s), or equipment is currently located or is proposed to be located.
- b.)** A scaled and dimensioned site plan for the facility that is being proposed, containing: the location, type, and size of existing and proposed towers, antennas, and equipment located or to be located at the site; the location of existing and proposed buildings and structures, access drives, circulation, and parking areas; detailed drawings of the landscape screening plan and related design standards; on-site land uses, structures and zoning district, and adjacent land uses, structures, and zoning districts; setbacks from property lines and dwellings within six hundred feet (600') of the proposed tower; legal description of the lot on which the tower is to be sited; any other information necessary to assess conformance with this Section; and any illumination required by the FAA or FCC.
- c.)** A written certification from a Professional Engineer stipulating that the tower's design is structurally sound and in compliance with all applicable federal, state, and local building codes; that the equipment placed on the tower and at the site complies with all current FCC regulations; 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; and height and fall zone drawing.

**7.16.C.2**

**Conditional Use Procedure by Board of Zoning Appeals on Receipt of Application -** Consistent with the procedures set forth in Article 25 of this Zoning Resolution the Board of Zoning Appeals shall provide notice of the application for conditional use, conduct a public hearing and render a decision on the conditional use requested in the application filed pursuant to Section 7.16(B) of this Zoning Resolution.

**7.16.C.3****General Requirements for all Telecommunications Towers in Residential Districts**

- a.)** The applicant or tower provider shall demonstrate that the proposed tower location in a residential area is essential to service the applicant's service area. If another tower or tall structure is technically suitable, the applicant must show that a reasonable request to co-locate was made. "Tall structures" shall include smoke stacks, water towers, electric transmission towers, existing antenna

support structures or other towers, utility buildings and structures over forty-eight (48) feet in height.

- b.)** Maintenance: Towers and related structures must be maintained in good working order. The owner shall, within thirty (30) days of permanently ceasing operation of a tower, provide written notice of abandonment to the Zoning Inspector.
- c.)** The owner/operator shall remove a tower within one hundred eighty (180) days after the tower's use is discontinued. Removal includes removal of all apparatuses, supports, and/or other hardware associated with the tower including, but not limited to, cement footers. All costs associated with the demolition of the tower and associated equipment shall be borne by the property owner.

**7.16.C.4 Development Standards for all Telecommunications Towers in Residential Districts**

- a.)** No telecommunications tower shall be permitted to be located in any platted subdivision approved under Sections 711.05, 711.09 or 711.10 of the ORC, or in any area consisting of fifteen (15) or more lots approved under Section 711.131 of the ORC that are contiguous to one another or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road, when at least thirty-five percent (35%) of the lots within such subdivision or area are developed with at least one (1) dwelling unit.
- b.)** The maximum height of a tower proposed for one (1) antenna facility for use by a single telecommunications provider shall be one hundred (100) feet. The maximum height of a tower proposed for multiple antenna facilities for shared use by multiple telecommunications providers shall be as follows:
  - i.)** Towers proposed for and designed to support the co-location of a total of two (2) antenna facilities – one hundred fifteen (115) feet;
  - ii.)** Towers proposed for and designed to support the co-location of a total of three (3) antenna facilities – one hundred thirty (130) feet; and
  - iii.)** Towers proposed for and designed to support the co-location of four (4) or more antenna facilities – one hundred forty-five (145) feet.
- c.)** Clear Fall Zone: Tower height shall be the distance measured from the base of the tower, at grade, to the highest point on the tower, including any antenna. Grade shall be determined as the elevation of the natural or existing topography of the ground level prior to construction of the tower.
  - i.)** The tower base shall not be placed closer than the sum of the height of the tower plus forty (40) 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.

- ii.) A tower base shall be located no closer to any lot line than the distance equal to the height of the proposed tower. Any stabilization structures or guide wires shall be located no closer to any lot line than fifty (50) feet.
- iii.) The tower base shall be located no closer to a street right-of-way than permitted in Article 7 of this Zoning Resolution.

**d.) Ancillary Requirements:**

- i.) 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.
- ii.) Security fencing shall be provided to prevent uncontrolled access to the tower site. The tower shall be screened by an eight (8)-foot high 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 shall be placed outside of and along the fence or barrier. Any solid fence or barrier shall contain no advertising, but may contain one small identification sign not to exceed three (3) square feet in size. The storage of any equipment must be contained inside the screened area and screened from view.
- iii.) The tower and related screening shall, to the extent practicable, be designed to be aesthetically and architecturally compatible with the surrounding environment. The tower shall not contain, or be illuminated by, artificial lights, beacons, or strobes, unless otherwise required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC). Any required illumination shall be fully disclosed on the site plan.
- iv.) Unless otherwise approved by the Board of Zoning Appeals, the tower shall be of a monopole design.
- v.) No advertising is permitted anywhere on the tower.
- vi.) 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.
- vii.) The applicant shall provide a signed statement indicating that he/she agrees to allow for the potential co-location of other antenna facilities to the extent possible, until said tower has reached full antenna capacity.

- viii.) A telecommunications antenna may be attached to a nonresidential building or structure that is permitted 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.
- ix.) 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 conformance with the accessory building regulations of the district in which it is to be located.

**7.16.C.5**

**Towers on Township Property** - With the prior consent of the Township Trustees obtained through resolution, a telecommunications carrier may site a tower on Township-owned property not zoned for residential use. Additionally, with the prior consent of the Township Trustees obtained through resolution, a carrier may site a tower on Township-owned property zoned for residential use, but only after obtaining a conditional use permit pursuant to the procedures and subject to the requirements and development standards provided in this Section 7.16 and Article 25 of this Zoning Resolution.

**7.16.C.6**

**Co-location on an Existing Tower or Concealed Inside an Existing Structure** - If a telecommunications carrier desires to co-locate a telecommunications antenna on an existing tower or concealed inside an existing structure in an area zoned residential and such a co-location will result in a substantial change in the height of the tower, a Zoning Permit must first be obtained. A Zoning Permit may be obtained in such circumstance provided that the requirements found in the following provisions are met in Section 7.16.C.1(c), 7.16.C.3, and 7.16.C.4 of this Zoning Resolution. A substantial change in height shall mean the proposed addition of more than forty (40) feet to the existing tower or structure, or any proposed addition that would cause the tower to be higher than the maximum provided above for towers having the number of co-located antennae that the tower would have after the proposed addition.

**Section 7.17 – SMALL WIND PROJECT FARMS LESS THAN FIVE (5) MEGAWATTS**

As used in this Section and in ORC Section 519.213, "small wind farm" means wind turbines and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of less than five megawatts (5MW). Wind Farms of five megawatts (5MW) or more shall be required to submit an application with the Ohio Power Siting Board (OPSB) at the Public Utilities Commission of Ohio (PUCO) and are required to meet OPSB regulations.

Any proposed construction, erection, or siting of a small wind farm including the wind turbine generator or anemometer or any parts thereof shall be a Permitted Use in any zoning district except those expressly zoned for residential use. A Conditional Use Permit shall be required for small wind farms in all districts zoned for residential use. The areas expressly zoned for residential use shall be deemed to be all land located within the following districts: Farm Residence (FR-I), Neighborhood Apartment (R-3), Planned Residence (PR), Planned Multi-Family Residence (PMFR), Planned Elderly or Retirement Residential Community (PERRC), and Planned Residence Conservation (PRC). The following conditions shall be met for both Permitted and Conditional Use Permits:

## **7.17.A General Requirements**

- 7.17.A.1** Height: The maximum height of any turbine shall be one hundred twenty-five (125) feet. For purposes of this Zoning Resolution, maximum height shall be considered the total height of the turbine system including the tower, and the maximum vertical height of the turbine's blades. Maximum height shall be calculated by measuring the length of a prop at maximum vertical rotation to the base of the tower.
- 7.17.A.2** Setbacks: Any turbine erected on a parcel of land shall be setback one and one tenth (1.1) times the height of the tower, or established "clear fall zone," from all road right-of-way lines and neighboring property lines, structures, and any inhabited structures on the parcel intended for the turbine. A turbine shall be erected and placed in such a manner that if it were to fall, whatever direction the fall occurs would be contained solely on the property where the turbine is located and would not strike any structures including the primary dwelling, and any inhabited structures.
- 7.17.A.3** Maintenance: Wind turbines must be maintained in good working order. The owner shall, within thirty (30) days of permanently ceasing operation of a turbine, provide written notice of abandonment to the Zoning Inspector. An unused wind turbine or small wind farm may stand no longer than twelve (12) months following abandonment. All costs associated with the demolition of the wind turbine tower and associated equipment shall be borne by the property owner. A wind turbine tower is considered abandoned when it ceases transmission of electricity for thirty (30) consecutive days. Wind turbines that become inoperable for more than twelve (12) months must be removed by the owner within thirty (30) days of issuance of zoning violation. Removal includes removal of all apparatuses, supports, and/or other hardware associated with the existing wind turbine including, but not limited to, cement footers.
- 7.17.A.4** Decibel Levels: Decibel levels shall not exceed those provided by the manufacturer as requested in Section 7.17.B.4 of this Zoning Resolution. All units collectively shall operate at not more than five (5) decibels above the established ambient decibel levels at property lines. This information shall be included in the engineering report described in Section 7.17.B.4 of this Zoning Resolution. This information shall be obtained from the manufacturer of the turbine, and all decibel readings, if necessary, shall be taken from the nearest neighboring property lines. Those turbines not meeting this requirement will be issued a zoning violation and be required to shut down immediately until the required decibel levels are met.
- 7.17.A.5** Wiring and electrical apparatuses: All wires and electrical apparatuses associated with the operation of a wind turbine unit shall be located underground or in an appropriate enclosed structure and meet all applicable local, state, and federal codes, including the Delaware County Building Code and Ohio Building Code.
- 7.17.A.6** Warning Signs: Appropriate warning signs to address voltage shall be posted.

## **7.17.B Permits**

- 7.17.B.1** A zoning permit shall be required before construction is commenced on an individual wind turbine project system.
- 7.17.B.2** Building Permits: All small wind farms and parts thereof shall obtain all applicable Building Permits from the State of Ohio and Delaware County Code Compliance where required.
- 7.17.B.3** As part of the permit process, the applicant shall inquire with the Delaware County Code Compliance as to whether or not additional height restrictions are applicable due to the unit's location in relation to any local airports.
- 7.17.B.4** Applicant shall then provide the Township Zoning Inspector with the following items and/or information when applying for a zoning permit:
- a.)** Location of all public and private airports in relation to the location of the wind turbine.
  - b.)** An engineering report that shows all of the following:
    - i.)** The total size and height of the unit
    - ii.)** If applicable, the total size and depth of the unit's foundation structure concrete mounting pad, as well as soil and bedrock data.
    - iii.)** A list and/or depiction of all safety measures that will be on the unit including anti-climb devices, grounding devices, and lightning protection, braking systems, guy wiring & anchors.
    - iv.)** Data specifying the kilowatt size and generating capacity in kilowatts of the particular unit.
    - v.)** The maximum decibel level of the particular unit. This information shall be obtained from the manufacturer of the turbine unit.
    - vi.)** Ambient noise levels at property lines.
    - vii.)** Hazardous materials containment and disposal plan.
- 7.17.B.5** A site drawing showing the location of the unit in relation to existing structures on the property, roads and other public right-of-ways, and neighboring property lines.
- 7.17.B.6** Evidence of an established setback of one and one tenth (1.1) times the height of the wind turbine and "clear fall zone" with manufacturer's recommendation must be attached to the engineering report.

- 7.17.B.7** A maintenance schedule as well as a dismantling plan that outlines how the unit will be dismantled.

## Section 7.18 – PORTABLE STORAGE UNITS

- 7.18.A** Portable Storage Units may be permitted as a temporary use in any zoning district only in conjunction with and not to exceed the times listed for the following activities:

- 7.18.A.1** Temporary use, including open top dumpsters and Bagster bags®, for construction sites as accessory to and in association with an ongoing construction project at such site for a period of up to one hundred twenty (120) total days in any three hundred sixty-five (365) consecutive day period or upon the completion of the project, whichever occurs sooner.
- 7.18.A.2** Temporary use, including open top dumpsters and Bagster bags®, when the occupant of the property on which the portable storage unit is located is relocating for a period not to exceed seven (7) consecutive days or for a period of fourteen (14) total days in any one hundred eighty (180) consecutive day period.
- 7.18.A.3** Temporary use, including open top dumpsters and Bagster bags®, to facilitate temporary activities not described elsewhere in this Section, for a period not to exceed seven (7) consecutive days or for a period of fourteen (14) total days in any one hundred eighty (180) consecutive day period.

- 7.18.B** Portable Storage Unit Criteria – Portable Storage Units, including open top dumpsters and Bagster bags®, shall be subject to the following requirements:

- 7.18.B.1** A Portable Storage Unit shall not exceed one hundred sixty-nine (169) square feet in size and eight (8) feet in height.
- 7.18.B.2** Not more than one (1) Portable Storage Unit shall be permitted on any lot at any time.
- 7.18.B.3** No Portable Storage Unit shall be located in a public right-of-way.
- 7.18.B.4** Portable Storage Units shall be located no closer to an adjacent lot than the greater of ten (10) feet or the required minimum side or rear yard setback for accessory buildings in the district in which the Portable Storage Unit is located.
- 7.18.B.5** Portable Storage Units shall only be used for the storage of personal property and for no other purpose whatsoever.
- 7.18.B.6** The placement of Portable Storage Units shall be in such manner as not to create a public nuisance.
- 7.18.B.7** A Portable Storage Unit is not permitted as a permanent accessory storage structure regardless of the proposed location on a lot.

**7.18.B.8** A Temporary Use Permit shall be obtained prior to the placement of a Portable Storage Unit on a property. For the activities listed in Section 7.18.B.1 and 7.18.B.2, no more than two (2) Temporary Use Permits may be issued for the same property during any three hundred sixty-five (365) consecutive day period

## ARTICLE 8 – FARM RESIDENCE DISTRICT (FR-1)

### Section 8.01 – NATURE OF DISTRICT

There is hereby created within Liberty Township a Farm Residence District (FR-1) to provide for the use of land for rural residential development on large lots with adequate green space where the conservation of resources is important or where appropriate suburban use of the land cannot be achieved because of the lack of adequate infrastructure. The principal use of the land is for rural, large lot residences, although certain other uses may occur or be permitted subject to meeting applicable development standards and requirements.

Nothing contained in this Zoning Resolution shall prohibit the use of any land for agricultural purposes. For more detailed information regarding Agriculture, see Article 4 and/or Article 6 of this Resolution.

All lands designated on the Official Liberty Township Zoning Map as Farm Residence District shall be governed by the provisions of this Article.

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

### Section 8.02 – PERMITTED USES

The following uses shall be permitted within a Farm Residence District (FR-1):

- 8.02.A** Single-family dwellings limited to one (1) single-family dwelling per parcel, lot, or tract.
- 8.02.B** Temporary structures such as manufactured/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. The user of said structure shall obtain a Permit for such temporary use, which Permit shall be valid for six (6) months and 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 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 structure shall be occupied as a dwelling.
- 8.02.C** Casual sales of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or for a period of more than three (3) consecutive days.
- 8.02.D** 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 yard sign.

- 8.02.D.1** 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; conducting research; and generating papers, reports or similar work product; but not including the reception of patients, clients, or any other licensees or invitees;
  - 8.02.D.2** Teaching, tutoring, and conducting musical, dance, or similar lessons to no more than three (3) students at any one time;
  - 8.02.D.3** Providing child care to no more than three (3) children unrelated to resident at any one time.
- 8.02.E** Residential Facilities in accordance with ORC 5123.19(A)(5)(a), 5119.34(A)(9)(a), 5119.34(A)(9)(b)(i and ii), 5119.34(A)(9)(c), and 5123.19(O).
- 8.02.F** Churches or Other Places of Worship, provided that the building occupied by the use occupies a lot of not less than five (5) acres plus one (1) acre for each one hundred (100) permanent seats over three hundred (300) in the main assembly area.

### **Section 8.03 – ACCESSORY USES, BUILDINGS, STRUCTURES**

As defined in Article 4 of this Zoning Resolution, accessory uses, buildings, and structures may be permitted when located on the same parcel and only when incidental or subordinate to and in association with a principal permitted use. No accessory building within any zoning district shall be used for human occupancy.

### **Section 8.04 – CONDITIONAL USES**

Within this zoning district, the following uses may be permitted subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 25 of this Zoning Resolution. The Board of Zoning Appeals may require additional conditions necessary to protect the public health, safety, and welfare. No Conditional Use shall be implemented until a Conditional Use Permit is issued by the Zoning Inspector.

- 8.04.A** Expanded Home Occupations: Any professional or business activity, not qualifying as a “Limited Home Occupation” under the provisions of Section 8.02.D of this Zoning Resolution, shall be considered an “Expanded Home Occupation,” and may be conducted in a dwelling and one (1) accessory building or attached garage by a member of the immediate family residing on the premises. In addition, there shall be no display that indicates from the exterior that the building is being used in whole or in part for any purpose other than that of a dwelling provided:
- 8.04.A.1** The Expanded Home Occupation shall be carried on solely within the confines of the dwelling and one (1) architecturally compatible accessory building or attached garage which is compatible with the residential use and character of the neighborhood.
  - 8.04.A.2** The Expanded Home Occupation shall occupy not more than:
    - a.)** Twenty percent (20%) of the total floor area of the dwelling unit, not including the space occupied by any attached garage; and/or,
    - b.)** Fifty percent (50%) of the floor space in any one (1) accessory building or attached garage, not to exceed six hundred (600) square feet.

- 8.04.A.3** Not more than one (1) non-resident employee shall work on said premises.
- 8.04.A.4** Services may be rendered on the premises or elsewhere.
- 8.04.A.5** No traffic or parking shall be generated by such Conditional Home Occupation in greater volumes than would normally be expected in a residential neighborhood.
- 8.04.A.6** Waste materials, solid, liquid, or gaseous, shall not be created on the premises at a level greater than normal to the residential use.
- 8.04.A.7** No activity shall be conducted or permitted which creates a nuisance to neighboring properties.
- 8.04.B** Private Schools and Colleges provided that said institution occupies not less than ten (10) acres. 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 Board of Zoning Appeals and shall provide screening adjacent to residential areas. If applicable, building elevations, a landscape plan, and lighting details shall also be submitted.
- 8.04.C** Private Kindergarten or Child Care Facilities, provided that the building occupied by the use is architecturally compatible with the neighborhood and provisions are made for vehicular access, parking, and fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc. or adjacent yards. A Site Plan shall be submitted for consideration by the Board of Zoning Appeals. If applicable, building elevations, a landscape plan, and lighting details shall also be submitted.
- 8.04.D** Parks, Playgrounds, Playfields, and Picnic Areas, provided that the same are opened to the public without fee or membership requirements, with adequate off-street parking areas. A Site Plan shall be submitted for consideration by the Board of Zoning Appeals. If applicable, building elevations, a landscape plan, and lighting details shall also be submitted.
- 8.04.E** Public or Private Golf Courses, Country Clubs, with all buildings and club houses incident thereto, including restaurants to serve members and/or users of the facility, provided that sufficient land area is available to accommodate the proposed use. A Site Plan shall be prepared and submitted for consideration by the Board of Zoning Appeals and shall provide screening adjacent to residential areas. If applicable, building elevations, a landscape plan, parking plan, and lighting details shall also be submitted.
- 8.04.F** Cemeteries, providing that 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 7.09 of this Zoning 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 a 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 office facility, maintenance building or storage area shall be constructed, EXCEPT as approved by the Board of Zoning Appeals, and parking areas, public accesses, screening, and other improvements shall be furnished as required.

- 8.04.G** Cemeteries for the Burial of Pets and Small Domestic Animals, provided that the same tract contains at least ten (10) acres. No burial may be made nearer than fifty feet (50') 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 a 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 office facility, maintenance building, or storage area shall be constructed, EXCEPT as approved by the Board of Zoning Appeals, and parking areas, public accesses, screening, and other improvements shall be furnished as required.
- 8.04.H** Borrow Pits, provided that the excavation is completed within one (1) year and the contractor posts such bond as required by the Board of Zoning Appeals to conform to the restrictions and conditions imposed to ensure regrading, reseeding, and general restoration of the area.
- 8.04.I** Seasonal Markets that otherwise do not qualify as "Farm Markets" may be operated between May 1<sup>st</sup> to November 1<sup>st</sup> of each year, provided that such markets' sales are limited to fruits, vegetables, straw, hay, flowers, and plants. In addition, the following regulations shall apply:
- 8.04.I.1** The market must be located upon a lot or parcel owned by or at the place of residence of the market owner/operator having a minimum road frontage of three hundred (300) feet. The market may not be located in any platted residential subdivision. The market shall be located no closer than three hundred (300) feet from the nearest residence fronting the same roadway as the market, excluding any residence located on the same lot as the market.
- 8.04.I.2** The market owner/operator may have no more than one (1) non-resident employee.
- 8.04.I.3** The market may only be operated during daylight hours.
- 8.04.I.4** To maintain safe roadways, no part of a seasonal market may be placed in the public right-of-way. Similarly, to reduce any restriction of motorists' views, no seasonal market may have a covered or contained area larger than one hundred (100) square feet when placed with zero (0) setback from the public road right-of-way. The size of the seasonal market may be increased by two (2) square feet for every one (1) foot increase in setback from the right-of-way to a maximum of six hundred (600) square feet. Setbacks described in Section 7.09 of this Resolution apply to any farm market where the structure remains in operation for more than one half (1/2) of the year.
- 8.04.I.5** Parking shall be provided out of the right-of-way. Only existing points of ingress/egress may be considered for parking access. Additional ingress/egress points may be established upon approval by the State, County or Township for roads under their respective jurisdictions.
- 8.04.I.6** No part of the seasonal market shall exceed a height of fifteen (15) feet.
- 8.04.I.7** The market shall be aesthetically compatible with the surrounding properties.

- 8.04.I.8** No storage or sale of goods or equipment shall be permitted EXCEPT within the structure.
- 8.04.I.9** No activity shall be conducted or permitted which creates a nuisance to neighboring properties.
- 8.04.J** Telecommunications Towers as defined in Section 7.16.
- 8.04.K** 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 shall be subject to the following restrictions:
- 8.04.K.1** Hours of operation: All business operations shall cease prior to 9:00 p.m. during the spring, summer, and fall seasons, and prior to 8:00 p.m. during the winter season. No business shall be conducted on any Saturday or Sunday before 10:00 a.m.
- 8.04.K.2.** 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. All lighting, whether interior or exterior, cannot cast onto or into adjoining residential properties.
- 8.04.K.3.** 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.
- 8.04.K.4.** Screening and Trash Receptacles: Landscape plan shall be required and shall show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home lot. The landscape plan shall designate location and type of trash receptacles provided around the model home.
- 8.04.K.5.** Model Home Signs: The Board of Zoning Appeals may approve model home signs, provided that the following conditions are met:
- a.)** The sign shall not exceed twenty (20) square feet per side with forty (40) square feet maximum total display area;
  - b.)** The overall height of the sign shall be no more than four feet (4') above grade;
  - c.)** Model home sign shall be located on the same lot as the model home;
  - d.)** 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.

**8.04.K.6** No building materials or equipment may be stored at the model home.

**8.04.L** Projects specifically designed for watershed protection, conservation of soil or water or for flood control that have prior approval of the Ohio Environmental Protection Agency (OEPA) and Delaware County, Ohio.

## **Section 8.05 – PROHIBITED USES**

Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall be prohibited, in addition to the following:

**8.05.A** Junkyards.

**8.05.B** No trailer of any type, no boats, no campers, and no equipment of any type shall be parked in front of the front building line on any parcel within this district. 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 Resolution or the restrictions of the Plat or Subdivision.

**8.05.C** No motor home or camper of any type may be occupied by a guest of the resident for more than seven (7) days within a thirty (30)-day time period.

**8.05.D** Storage or accumulation of: inoperable, unused, or unlicensed vehicles; equipment or machinery of any type; and vehicle, equipment or machinery parts and other similar debris – unless any of the previously mentioned items remain entirely enclosed within a permitted accessory building so as to not be visible from any adjoining property or road.

**8.05.E** 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 similar materials) shall be deemed a nuisance 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 streets, 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 twenty-four (24) hours before its regularly scheduled pick-up.

**8.05.F** Private landing fields for aircraft, hot air balloons, ultra-light aircraft, and other mechanical flying equipment.

**8.05.G** Commercial Kennels and Catteries.

**8.05.H** Harboring wild, dangerous, or undomesticated animals on lots less than five (5) acres in area, subject to the limitations contained in ORC Section 519.21. For the purposes of this provision, a “wild, dangerous, or undomesticated animal” shall be defined as follows:

**8.05.H.1** An animal whose natural habitat is the wilderness and which, when maintained in human society, is usually confined to a zoological park or exotic animal farm;

- 8.05.H.2** A poisonous or venomous animal, insect, or arachnid;
  - 8.05.H.3** An unrestrained animal (excluding farm animals) which, by reason of its size, strength, or appetite, could cause peril to children, adults, pets or domesticated animals, buildings, landscaping or personal property;
  - 8.05.H.4** An animal which makes noises with sufficient frequency and volume as to constitute a nuisance to persons in the vicinity of such animal; or,
  - 8.05.H.5** An animal which is defined as "vicious" or "dangerous" pursuant to the provisions of ORC Chapter 955, as the same may be amended from time to time, or prohibited by any federal, state, or local law, regulation, or ordinance.
- 8.05.I** 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.
  - 8.05.J** No cultivators, processors, or retail dispensaries of medical marijuana licensed under Ohio Revised Code Chapter 3796, shall be located nor operate in this district.

## **Section 8.06 – PROCESS FOR AMENDMENT**

In addition to any other procedures set forth in this Zoning Resolution, all Applications for Amendments to the Zoning Map to rezone lands to this district shall follow the procedures hereinafter set forth:

- 8.06.A** Application: The owner(s) of lots and lands within the Township may request that the Zoning Map be amended to include such tracts in the FR-1 District in accordance with the provisions of this Resolution.
- 8.06.B** Procedure to Rezone: The procedure outlined in ORC 519.12 shall be followed to consider an Application for a rezone to an FR-1 District. Approval of the Application pursuant to that Section shall constitute a rezone of such land.
- 8.06.C** Plat Required: When new streets are being dedicated or built and new lots created by subdivision plat in the FR-1 District, no use shall be established or changed and no structure shall be constructed or altered until the required Application has been approved and recorded in accordance with the Subdivision Regulations for Delaware County, Ohio.
- 8.06.D** In no event, however, shall any Zoning Permit be issued for any building or use until such time as the facilities for the phase in which the building or use is located are completed.
- 8.06.E** Upon approval of a zoning amendment to rezone property to the FR-1 District, all previous regulations regarding that specific property shall no longer be in effect, and the regulations set forth in this Article shall govern.

## **Section 8.07 – DESIGN STANDARDS**

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

**8.07.A** Access: Frontage on and direct access to, one (1) or more dedicated or improved public roads is required. Provisions for future connections to other public roads may be required by the Township, Delaware County Engineer, and/or the Delaware County Regional Planning Commission.

**8.07.B** Lot Size, Frontage, and Coverage:

**8.07.B.1** Lot Area: No parcel of land in this district shall be used for residential purposes that has an area of less than one (1) acre (43,560 square feet).

**8.07.B.2** Lot Frontage: EXCEPT as hereinafter set forth, all lots or parcels within this zoning district shall have the following minimum lot frontage on a public or private road approved by the appropriate government authority:

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

Lots or parcels having less than the above listed minimum frontages on the right-of-way line of an adjoining public or private road or street must have a lot width fifty (50) feet forward of the building line which is equal to, or greater than, the corresponding 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, nor shall the width of the lot be less than sixty (60) feet in any point forward of the building line. If an irregularly-shaped lot (i.e., pie-shaped) located on a curve or cul-de-sac widens to the minimum lot frontage within seventy-five (75) feet of the right-of-way line, then additional setback shall be required to conform with setback lines for principal structures on adjoining lots.

**8.07.B.3** Maximum Lot Coverage: Buildings shall not cover more than twenty-five percent (25%) of the lot area in this zoning district, nor shall any impervious surfaces be constructed on any lot or parcel which cover more than sixty-five percent (65%) of the total lot or parcel area.

**8.07.C** Setbacks:

**8.07.C.1** Front Yard Setback: No building or other structure shall be located closer to the right-of-way line or center line of the adjacent public or private road than permitted in Section 7.09 herein.

**8.07.C.2** Side Yard Setback: No building or other structure shall be located closer than twenty-five (25) feet to any side lot line, except as provided for under Section 7.13.

**8.07.C.3** Rear Yard Requirement: No principal structure shall be located closer than sixty (60) feet to the rear line of any lot, except as provided for under Section 7.13 and no accessory structure shall be located closer than fifteen (15) feet to said rear lot line.

- 8.07.D** Building Design: Footprints, building orientation, massing, roof shape, pitch, and exterior materials shall blend with other traditional or historic architecture in the community or with the site. Roof pitch on the principal structure shall not be less than 6/12 for the primary roofs. This does not include garages, porches, dormers, or other accent features.
- 8.07.E** Building Height: No building in this district shall exceed forty (40) feet in height. All other freestanding structures including, but not limited to, flagpoles, shall not exceed forty-eight (48) feet in height. All attached structures including, but not limited to, chimneys and church spires, shall not top at a height that is eight (8) feet greater than either the height of the building or structure to which it is attached.
- 8.07.F** Building Size Requirements:
- 8.07.F.1** Dwelling Dimensions (Floor Space Requirements): Each single story dwelling hereafter erected in this district shall have a ground floor living area of not less than one thousand one hundred (1,100) square feet. Any other dwelling constructed in this district shall have a ground floor living area of not less than nine hundred (900) square feet. All such living areas shall be exclusive of basements, porches, or garages.
- 8.07.F.2** Accessory Building Dimensions (Floor Space Limitations): The permissible dimensions of each accessory building hereafter erected on any lot or parcel in this district shall be determined by the following: Twenty-five percent (25%) of the gross square foot area of the dwelling on said lot or parcel to which the accessory building is incidental and subordinate (including any attached facilities, such as a garage, but not including space in basements, decks, porches, or patios), plus five percent (5%) for each acre or portion thereof on said lot or parcel, for a cumulative total for all accessory buildings located on the lot or parcel. The accessory building(s) shall compliment the primary structure in color and exterior materials. No accessory building shall be used for human occupancy.
- 8.07.G** Floodplain: No Principal Structures shall be constructed within the one-hundred-year (100-year) floodplain of any stream or river.
- 8.07.H** Landscaping: All yards, (front, side, and rear) shall be landscaped.
- 8.07.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 7 of this Resolution.
- 8.07.J** Exterior Lighting: All exterior lighting shall meet the lighting requirements of Article 7 of this Zoning Resolution.
- 8.07.K** Platted Subdivisions with FR-1 Zoning: When residential subdivisions are created by plat, the following standards shall apply where applicable.
- 8.07.K.1** Walkways: Walkways with landscaping and trees connecting all dwelling areas and any Open Spaces shall be required. Walkways shall be separated from the paved

street surface in accordance with Delaware County Engineer standards. Trees shall conform to Township standards.

**8.07.K.2** Bikeway/Bike Paths: Bikeways shall be provided in accordance with the Township's adopted Bikeways Plan and shall be built in accordance with the Delaware County Engineer standards. In addition, bikeways within new developments shall be provided in order to connect with existing or planned bikeways external to the proposed new development.

**8.07.K.3** Signs: Signs shall conform to Article 20 of this Zoning Resolution.

## **Section 8.08 – PERFORMANCE STANDARDS**

No use shall be conducted within this district which fails to maintain the following standards:

- 8.08.A** Fire and Explosion Hazards: All activities and storage involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of spill, fire, and/or explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- 8.08.B** Glare, Heat, and Exterior Light: Any operation producing intense light or heat, such as high temperature processing, combustion, welding or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- 8.08.C** 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.
- 8.08.D** 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.
- 8.08.E** Vibrations: 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.

## ARTICLE 9 – NEIGHBORHOOD APARTMENT DISTRICT (R-3)

### Section 9.01 – NATURE OF DISTRICT

There is hereby created within Liberty Township a Neighborhood Apartment District (R-3) to provide for and to permit the construction of low density apartment units in specific areas of the Township. Use of this district shall be limited to those circumstances where large numbers of units are not involved and provisions for recreation are not a prerequisite to the preservation of the quality of life.

All lands designated on the Official Liberty Township Zoning Map as Neighborhood Apartment District shall be governed by the provisions of this Article.

### Section 9.02 – PERMITTED USES

The following uses shall be permitted within the Neighborhood Apartment District (R-3):

- 9.02.A** Structures designed, constructed, and used for residential purposes which are designed to accommodate more than one (1) family in a single structure, provided however, that no more than four (4) dwelling units shall be constructed in any single structure.
- 9.02.B** Permitted Home Occupations: The following professional or business activities shall be considered "Permitted 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, maintain 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:
  - 9.02.B.1** 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; conducting research; and generating papers, reports, or similar work product; but not including the reception of patients, clients, or any other licensees or invitees;
  - 9.02.B.2** Teaching, tutoring, and conducting musical, dance, or similar lessons to no more than three (3) students at any one time;
  - 9.02.B.3** Providing child care to no more than three (3) children unrelated to resident at any one time.
- 9.02.C** Residential Facilities in accordance with ORC 5123.19(A)(5)(a), 5119.34(A)(9)(a), 5119.34(A)(9)(b)(i and ii), 5119.34(A)(9)(c), and 5123.19(O and P).
- 9.02.D** Churches or Other Places of Worship, provided that the building occupied by the use occupies a lot of not less than five (5) acres plus one (1) acre for each one hundred (100) permanent seats over three hundred (300) in the main assembly area.

### Section 9.03 – ACCESSORY USES, BUILDINGS, AND STRUCTURES

Accessory Uses as defined in Article 4 of this Zoning Resolution may be permitted only when incidental or subordinate to and in association with a principal permitted use, and further provided that such accessory uses

are approved as accessory uses by the Township. No accessory building within any zoning district shall be used for human occupancy.

### **Section 9.04 – CONDITIONAL USES**

Within this zoning district the following uses may be permitted subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 25 of this Zoning Resolution. The Board of Zoning Appeals may require additional conditions necessary to protect the public health, safety, and welfare. No Conditional Use shall be implemented until a Zoning Conditional Use Permit is issued by the Zoning Inspector.

- 9.04.A** Telecommunications Towers as defined in Section 7.16.
- 9.04.B** Residential Facilities in accordance with ORC 5119.34(A)(9)(b)(iii).

### **Section 9.05 – PROHIBITED USES**

Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall be prohibited, in addition to the following:

- 9.05.A** Junkyards.
- 9.05.B** No trailer of any type, no boats, no campers, and no equipment of any type shall be parked in front of the front building line on any parcel within this district. 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 Resolution or the restrictions of the Plat or Subdivision.
- 9.05.C** No mobile home shall be placed or occupied in this district.
- 9.05.D** Storage or accumulation of: inoperable, unused, or unlicensed vehicles; equipment or machinery of any type; and vehicle, equipment, or machinery parts and other similar debris – unless any of the previously mentioned items remain entirely enclosed within a permitted accessory building so as to not be visible from any adjoining property or road.
- 9.05.E** 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 similar materials) shall be deemed a nuisance to the neighborhood and general public per se, and shall be prohibited on any parcel or portion thereof, or on any public or private streets, or common access driveway (as defined by the Delaware County Subdivision Regulations) within this zoning district. This excludes trash, garbage, refuse, and debris that is completely enclosed within an appropriate container and placed at an assigned location not more than twenty-four (24) hours before its regularly scheduled pick-up.
- 9.05.F** Private landing fields for aircraft, hot air balloons, ultra-light aircraft, and other mechanical flying equipment for use by the owner of the property or others.
- 9.05.G** Commercial Kennels and Catteries.

- 9.05.H** Harboring wild, dangerous, or undomesticated animals on lots less than five (5) acres in area, subject to the limitations contained in ORC Section 519.21. For the purposes of this provision, a "wild, dangerous, or undomesticated animal" shall be defined as follows:
- 9.05.H.1** An animal whose natural habitat is the wilderness and which, when maintained in human society, is usually confined to a zoological park or exotic animal farm;
- 9.05.H.2** A poisonous or venomous animal, insect, or arachnid;
- 9.05.H.3** An unrestrained animal (excluding farm animals) which, by reason of its size, strength or appetite, could cause peril to children, adults, pets or domesticated animals, buildings, landscaping, or personal property;
- 9.05.H.4** An animal which makes noises with sufficient frequency and volume as to constitute a nuisance to persons in the vicinity of such animal;
- 9.05.H.5** An animal which is defined as "vicious" or "dangerous" pursuant to the provisions of ORC Chapter 955, as the same may be amended from time to time, or prohibited by any federal, state, or local law, regulation, or ordinance.
- 9.05.I** 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.
- 9.05.J** No cultivators, processors, or retail dispensaries of medical marijuana licensed under Ohio Revised Code Chapter 3796, shall be located nor operate in this district.

## **Section 9.06 – PROCESS FOR AMENDMENT**

In addition to any other procedures set forth in this Zoning Resolution, all Applications for Amendments to the Zoning Map to rezone lands to this district shall follow the procedures hereinafter set forth:

- 9.06.A** Application: The owner(s) of lots and lands within the Township may request that the Zoning Map be amended to include such tracts in the R-3 District in accordance with the provisions of this Resolution.
- 9.06.B** Procedure for Rezone: The procedure outlined in ORC 519.12 shall be followed to consider an Application for a rezone to an R-3 District. Approval of the Application pursuant to that Section shall constitute a rezone of such land.
- 9.06.C** Plat Required: In the R-3 District, no use shall be established or changed and no structure shall be constructed or altered until the Subdivision Plat has been prepared and recorded in accordance with the Subdivision Regulations for Delaware County, Ohio.
- 9.06.D** In no event, however, shall any Zoning Permit be issued for any building or use until such time as the facilities for the phase in which the building or use is located are completed.

- 9.06.E** Upon approval of a zoning amendment to rezone property to the R-3 District, all previous regulations regarding that specific property shall no longer be in effect, and the regulations set forth in this Article shall govern.

## **Section 9.07 – DESIGN STANDARDS**

All lands and uses within the Neighborhood Apartment District shall be developed in strict conformance with the standards hereinafter established:

- 9.07.A** Access: Frontage on and direct access to one (1) or more dedicated or improved public roads is required. Provisions for future connections to other public roads may be required by the Township, Delaware County Engineer, and/or the Delaware County Regional Planning Commission.

- 9.07.B** Density:

- 9.07.B.1** Lot Area: Land which is served with an approved central water and sewer system may be developed for such use if it has an area of not less than one-half (1/2) acre. No more than one (1) structure may be constructed on any parcel herein.

- 9.07.B.2** Lot Frontage: All lots or parcels developed within this district having an area of less than one (1) acre shall have a minimum lot width of one hundred (100) feet. All other lots or parcels shall have the minimum lot frontage prescribed in Section 9.06 of this Zoning Resolution.

- 9.07.B.3** Maximum Lot/Parcel Coverage: Buildings shall not cover more than twenty-five percent (25%) of the total lot area, nor shall any impervious surfaces be constructed on any lot or parcel which cover more than sixty-five percent (65%) of the total lot or parcel area.

- 9.07.B.4** Minimum Green Space: Landscaped and maintained green space shall occupy no less than twenty-five percent (25%) of the total area encompassing each lot or parcel located within this zoning district.

- 9.07.C** Setbacks:

- 9.07.C.1** Front Setback: Shall be in accordance with Section 7.09 of this Zoning Resolution.

- 9.07.C.2** Side Setback: No building or structure shall be located closer than twenty-five (25) feet to any side lot line.

- 9.07.C.3** Rear Setback: No principal dwelling shall be located closer than sixty-five (65) feet to the rear line of any lot, and no accessory structure shall be located closer than fifteen (15) feet to said rear lot line.

- 9.07.D** Building Height: No building in this district shall exceed forty (40) feet in height. All other freestanding structures, not attached to any building, including but not limited to flagpoles, shall not exceed forty-eight (48) feet in height. All attached structures, including but not limited to, chimneys, shall not top at a height that is eight (8) feet greater than either the height of the building or structure to which it is attached.

**9.07.E** Building Dimensions & Minimum Unit Sizes: Each single-story dwelling hereafter erected in this district shall have a ground floor living area of not less than one thousand (1,000) square feet. Any other dwelling constructed in this district shall have a ground floor living area of not less than eight hundred (800) square feet. The term "ground floor living area" as used in this Section does not include space in any basements, porches, or garages. All multi-story apartments within this district shall contain the following minimum floor space, to-wit:

One (1) bedroom unit	800 sq. ft.
Two (2)-bedroom unit	900 sq. ft.
Three or more bedroom units	1,000 sq. ft.

**9.07.F** Building design: Building footprints, orientation, massing, roof shape, pitch, and exterior materials shall blend with other traditional or historic architecture in the community or within the site. Roof pitch on the principal structure shall not be less than 6/12 for the primary roofs, or as approved by the development plan. This does not include garages, porches, dormers, or other accent features. The use of vinyl as an exterior siding material is not permitted.

**9.07.G** Walkways: Walkways with landscaping and trees connecting all dwelling areas and any Open Spaces shall be required. Walkways shall be separated from the paved street surface in accordance with Delaware County Engineer standards. Trees shall conform to Township standards.

**9.07.H** Bikeways/Bike Paths: Bikeways shall be provided in accordance with the Township's adopted Bikeways Plan and shall be built in accordance with the Delaware County Engineer standards. In addition, bikeways within new developments shall be provided in order to connect with existing or planned bikeways external to the proposed new development.

**9.07.I** Screening: All service areas shall be screened by shrubbery and/or fencing so as to hide trash collection areas and service areas from the view of adjacent areas. All such shrubbery shall be properly trimmed and all screening shall be maintained in a neat and tidy manner.

**9.07.J** A landscaped buffer area of at least thirty-five (35) feet in depth shall be maintained along the perimeter of any areas of the Neighborhood Apartment District that are contiguous to property located in the Farm Residence (FR-1), Planned Residence (PR), or Planned Residence Conservation (PRC) District(s). Natural foliage shall be retained where practicable. Where adequate foliage does not exist, shrubbery, trees, and/or other plant material shall be installed and continuously maintained and shall achieve, within three (3) years from installation, an opacity of at least seventy percent (70%) and a height of at least six (6) feet.

**9.07.K** Landscaping: All yards (front, side, and rear) shall be landscaped. Trees shall conform to Township standards.

**9.07.L** Preservation areas: Wetlands, steep (over twenty percent (20%)) slopes, forests, one-hundred-year (100-year) floodplains, ravines, and noted wildlife habitat shall be preserved to the greatest extent possible.

**9.07.M** Floodplain: No residential dwelling structures shall be constructed within the one-hundred-year (100-year) floodplain of any stream or river.

- 9.07.N** Signs: All signs shall conform to Article 20 of this Resolution.
- 9.07.O** Utilities: Centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Delaware General Health District, and Ohio Environmental Protection Agency (EPA) approval. All utilities constructed to service the proposed use shall be located underground.
- 9.07.P** 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 7 of this Resolution. In addition to the requirements set forth in said article of this Resolution, if adjacent to residential use district, parking shall be a minimum of thirty-five feet (35') from any adjacent property line. Parking shall be screened and buffered from any and all residential properties.
- 9.07.Q** Exterior Lighting: All exterior lighting shall meet the lighting requirements of Article 7 of this Zoning Resolution.

## **Section 9.08 – PERFORMANCE STANDARDS**

No use shall be conducted within this district which fails to maintain the following standards:

- 9.08.A** Fire and Explosion Hazards: All activities and storage involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of spill, fire, and/or explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency (OEPA).
- 9.08.B** Glare, Heat, and Exterior Light: Any operation producing intense light or heat, such as high temperature processing, combustion, welding or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- 9.08.C** 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.
- 9.08.D** 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.
- 9.08.E** Vibrations: 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.
- 9.08.F** Odors: No use shall be operated so as to produce 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.

## **Section 9.09 – CRITERIA FOR APPROVAL**

When approving an Application for a rezone to the Neighborhood Apartment District, the reviewing authority shall consider:

- 9.09.A** Whether the proposed rezone is consistent in all respects with the purpose, intent, and general standards of this Zoning Resolution.
- 9.09.B** Whether the proposed rezone is in conformity with the Comprehensive Plan or portion thereof as it may apply.
- 9.09.C** Whether the proposed rezone advances the public health, safety, and welfare of the Township and the immediate vicinity.
- 9.09.D** Whether the proposed rezone will be compatible with surrounding existing or proposed land uses.
- 9.09.E** Whether the proposed rezone promotes the efficient use of land and resources, promotes greater efficiency in providing public utility services, and encourages innovation in the planning and building of all types of development.

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## ARTICLE 10 – PLANNED RESIDENCE DISTRICT (PR)

### Section 10.01 – NATURE OF DISTRICT

There is hereby created within Liberty Township a Planned Residence District (PR), recognizing that with increased urbanization and population growth comes increased demand for well-organized residential areas which take into account unique natural features, historic preservation, contemporary land use concepts, and a balanced residential environment. It is intended to promote a variety and flexibility of land development necessary to meet the demands of development while preserving and enhancing the public health, safety and welfare of Township residents.

All lands designated on the Official Liberty Township Zoning Map as Planned Residence District shall be governed by the provisions of this Article 10.

### Section 10.02 – PERMITTED USES

Within the Planned Residence District (PR) the following structures and uses, developed in strict conformance with an approved Development Plan and standards, shall be permitted:

- 10.02.A** Residential Buildings: Dwelling units including single-family detached, Modular, Cluster, Industrial Units, or Manufactured Homes on permanent foundations, but not including Mobile Homes or any type of Manufactured Homes not on a permanent foundation.
- 10.02.B** Non-residential Buildings: Those buildings housing uses of a religious, cultural, educational or recreational nature or character to the extent that such uses are designed and intended to serve the residents of the Planned Residence District, including private and public schools. Said facilities may be designed to serve adjoining neighborhoods or residents if they are located in such proximity to the major thoroughfares so as to provide access without burdening residential streets.
- 10.02.C** Open Space.
- 10.02.D** Casual sales of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or for a period of more than three (3) consecutive days.
- 10.02.E** 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 displaying no sign.
- 10.02.E.1** 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;

- 10.02.E.2** Teaching, tutoring, and conducting musical, dance, or similar lessons to no more than three (3) students at any one time;
- 10.02.E.3** Providing child care to no more than three (3) children unrelated to any resident of the premises at any one time.
- 10.02.F** Residential Facilities in accordance with ORC 5123.19(A)(5)(a), 5119.34(A)(9)(a), 5119.34(A)(9)(b)(i and ii), 5119.34(A)(9)(c), and 5123.19(O).
- 10.02.G** 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 Permit, whichever occurs sooner.
- 10.02.H** Model Homes with and without Sales Offices: Within a platted and recorded subdivision, a limited number of dwelling units may be used as offices by a home builder or by a developer to market and/or to display their models and styles of homes for sale, and/or to serve as a location for their sales office. The interior of same may be furnished in order to display to prospective buyers available features and options for the dwelling units (such as exterior siding treatments, roofing materials, interior trim, moldings, floor coverings, etc.) in the environment of a completed home, and may be staffed by the builder/developer's sales force. Model Homes with and without Sales Offices shall be subject to the following restrictions:
- 10.02.H.1** Hours of operation: All business operations shall cease prior to 9:00 p.m. during the spring, summer, and fall seasons, and prior to 8:00 p.m. during the winter season. No business shall be conducted on any Saturday or Sunday before 10:00 a.m.
- 10.02.H.2** Lighting: All exterior lighting must be "downlighting," so that absolutely no light shall be cast onto adjoining residential properties. All off-street parking areas must be illuminated. All exterior lighting shall be extinguished daily at the close of business, except that lighting which is typical of and in character with surrounding homes within the subdivision. All lighting, whether interior or exterior, cannot cast onto or into adjoining residential properties.
- 10.02.H.3** Parking: A minimum of six (6) paved, off-street parking spaces shall be provided for each Model Home with or without a Sales Office. Such parking shall be located as approved by the appropriate Board. The driveway of the Model Home with or without a Sales Office may be utilized for not more than two (2) of the required parking spaces.
- 10.02.H.4** Screening and Trash Receptacles: Landscape drawings shall be required and such shall show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home/sales office lot. Trash receptacles shall be provided near each model home/sales office for use by the public. The number, style, and locations of such trash receptacles are subject to approval by the appropriate Board.

**10.02.H.5** Termination of Use: The use of Model Homes with and without Sales Offices within a platted and recorded residential subdivision, or within any single platted and recorded phase of a multi-phase subdivision, shall terminate when zoning permits have been issued for ninety percent (90%) of the lots therein.

**10.02.I** Churches or Other Places of Worship, provided that the building occupied by the use occupies a lot of not less than five (5) acres plus one (1) acre for each one hundred (100) permanent seats over three hundred (300) in the main assembly area.

### **Section 10.03 – ACCESSORY USES, BUILDINGS, AND STRUCTURES**

As defined in Article 4 of this Zoning Resolution, Accessory Uses, Buildings, and Structures may be permitted only when incidental or subordinate to and in association with a principal permitted use. No accessory building within any zoning district shall be used for human occupancy.

### **Section 10.04 – CONDITIONAL USES**

Within this zoning district the following uses may be permitted subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 25 of this Resolution. The Board of Zoning Appeals may require additional conditions necessary to protect the public health, safety, and welfare. No Conditional Use shall be implemented until a Conditional Use Permit is issued by the Zoning Inspector.

**10.04.A** Expanded Home Occupations: Any professional or business activity, not qualifying as a "Limited Home Occupation" under the provisions of Section 10.02E of this Zoning Resolution, shall be considered an "Expanded Home Occupation," and may be conducted in a dwelling and one (1) accessory building or attached garage by a member of the immediate family residing on the premises. In addition, there shall be no display that indicates from the exterior that the building is being used in whole or in part for any purpose other than that of a dwelling provided:

**10.04.A.1** The Expanded Home Occupation shall be carried on solely within the confines of the dwelling and one (1) architecturally compatible accessory building or attached garage which is compatible with the residential use and character of the neighborhood.

**10.04.A.2** The Expanded Home Occupation shall occupy not more than:

**a.)** Twenty percent (20%) of the total floor area of the dwelling unit, not including the space occupied by any attached garage; and/or,

**b.)** Fifty percent (50%) of the floor space in any one (1) accessory building or attached garage.

**c.)** The Expanded Home Occupation shall not exceed six hundred (600) square feet.

**10.04.A.3** Not more than one (1) non-resident employee shall work on or from said premises.

**10.04.A.4** Services may be rendered on the premises or elsewhere.

**10.04.A.5** No traffic or parking shall be generated by such Expanded Home Occupation in greater volumes than would normally be expected in a residential neighborhood.

**10.04.A.6** Waste materials, solid or liquid, or gaseous, shall not be created on the premises at a level greater than normal to the residential use.

**10.04.A.7** No activity shall be conducted or permitted which creates a nuisance to neighboring properties.

**10.04.B** Telecommunications Towers, as provided in Section 6.06 of this Zoning Resolution.

## **Section 10.05 – PROHIBITED USES**

Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall be prohibited, in addition to the following:

**10.05.A** Junkyards.

**10.05.B** No trailer of any type, no boats, no campers, and no equipment of any type shall be parked in front of the principal structure line (see Section 8.05.B) on any parcel within this district for more than eight (8) hours in a twenty-four (24)-hour period of time.

**10.05.C** No mobile home or manufactured home shall be placed or occupied in the district. No motor home or camper of any type may be occupied for more than seven (7) days within a thirty (30)-day time period.

**10.05.D** Storage or accumulation of inoperable, or unused, or unlicensed vehicles, equipment or machinery of any type, equipment or machinery parts and other similar items unless entirely enclosed within a permitted structure so as to not be visible from any adjoining property or road.

**10.05.E** 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 similar materials) shall be deemed a nuisance 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 streets, 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 twenty-four (24) hours before its regularly scheduled pick-up.

**10.05.F** Landing fields for aircraft, hot air balloons, ultra-light aircraft, and other mechanical flying equipment on any parcel in this District.

**10.05.G** Commercial Kennels and Catteries.

**10.05.H** Harboring wild, dangerous, or undomesticated animals on lots less than five (5) acres in area, subject to the limitations contained in ORC Section 519.21. For the purposes of this provision, a “wild, dangerous, or undomesticated animal” shall be defined as follows:

**10.05.H.1** An animal whose natural habitat is the wilderness and which, when maintained in human society, is usually confined to a zoological park or exotic animal farm;

- 10.05.H.2** A poisonous or venomous animal, insect, or arachnid;
  - 10.05.H.3** An unrestrained animal (excluding farm animals) which, by reason of its size, strength or appetite, could cause peril to children, adults, pets or domesticated animals, buildings, landscaping, or personal property;
  - 10.05.H.4** An animal which makes noises with sufficient frequency and volume as to constitute a nuisance to persons in the vicinity of such animal; and,
  - 10.05.H.5** An animal which is defined as "vicious" or "dangerous" pursuant to the provisions of ORC Chapter 955, as the same may be amended from time to time, or prohibited by any federal, state, or local law, regulation, or ordinance.
- 10.05.I** 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.
  - 10.05.J** No cultivators, processors, or retail dispensaries of medical marijuana licensed under Ohio Revised Code Chapter 3796, shall be located nor operate in this district.

## **Section 10.06 – PROCESS FOR AMENDMENT**

In addition to any other procedures set forth in this Resolution, all Applications for Amendments to the Zoning Map to rezone lands to the Planned Residence District shall follow one of the two following processes:

- 10.06.A** Option A is a two-step process.
  - 10.06.A.1** In Step 1, the applicant, being the owner of the subject real estate, may apply for designation of the property to the Planned Residence designation. A Preliminary Development Plan which complies with the requirements of Section 10.09.A of this Resolution must be submitted with the application. Consideration and approval of the Preliminary Development Plan is a legislative amendment and is subject to the timelines defined in ORC 519.12 and repeated in Article 24 of this Zoning Resolution.
  - 10.06.A.2** In Step 2, the applicant, being the owner of the subject real estate, may apply for the consideration and approval of a Final Development Plan which must conform with the requirements of Section 10.09.B of this Resolution and, unless otherwise allowed, conform to the approved Preliminary Development Plan. The approval or disapproval of the Final Development Plan is an administrative act by the Zoning Commission.
- 10.06.B** Option B is a one-step process where the applicant, being the owner of the subject real estate, simultaneously submits the requirements of Section 10.09.A and 10.09.B of this Resolution for designation of the property to the Planned Residence designation and approval of the Final Development Plan. The one-step process is a legislative amendment and is subject to the timelines defined in ORC 519.12 and repeated in Article 24 of this Resolution.
- 10.06.C** Plat Required: In the Planned Residential District (PR), no use shall be established or changed and no structure shall be constructed or altered until a Subdivision Plat has been prepared and recorded

in accordance with the approved Development Plan and with the Subdivision Regulations for Delaware County, Ohio.

- 10.06.D** In no event shall any Zoning Permit be issued for any building or use until such time as the roads, water, fire hydrants, sanitary sewer, and storm water facilities for the phase in which the building or use is proposed to be located are completed and accepted by the appropriate authority.
- 10.06.E** Upon approval of a zoning amendment to rezone property to the PR District, all previous regulations regarding that specific property shall no longer be in effect, and the regulations set forth in this Article and in the approved Development Plan shall govern.
- 10.06.F** A fee as established by the Board of Trustees shall accompany an application requesting a zoning amendment to rezone property to the PR District. In addition, the applicant shall also be responsible for all reasonable and necessary expenses incurred by Liberty Township in using professional consulting services to review the application and 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 application and development plan and related application materials. As soon as reasonably practicable following the submission of a rezoning application, 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 10.06.F. 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 10.07 – DESIGN STANDARDS**

The Development Plan shall incorporate the following standards:

- 10.07.A** Access: Frontage on and direct access to, one or more dedicated or improved public roads is required. Provisions for future connections to other public roads may be required by the Township, Delaware County Engineer, and/or the Delaware County Regional Planning Commission.
- 10.07.B** Density:

**10.07.B.1** The maximum overall density for any single-family development within Liberty Township shall be one and one-half (1.5) dwelling units per net developable acre. Note: The Liberty Township Comprehensive Plan recommends densities for most areas within Liberty Township be substantially less than this maximum.

**10.07.B.2** Developments shall have minimum lot sizes, as specified in the Liberty Township Comprehensive Plan as of the date an Application For Zoning is filed; however, to encourage the efficient use of land and resources, to promote greater efficiency in providing public and utility services, and to encourage innovation and preservation of natural resources and features in planning and building, the Township may consider exceptions to the minimum lot sizes prescribed in the Liberty Township Comprehensive Plan to allow clustering of dwelling units where appropriate.

**10.07.C** Setback Requirements: No part of any permitted, building, principal, or accessory structure, or use, except that of a lawn, and as provided for under Section 7.13, shall encroach upon a required setback. The physical relationship of permitted uses and structures and their minimum yard space shall be determined in accordance with the following, EXCEPT that locations of Fences, Driveways, Parking Areas, and Water Impoundments shall be governed by the requirements in Article 7 of this Resolution, and locations of Signs shall be governed by the requirements in Article 20 of this Resolution:

	Front and adjacent roads	Setback from Side lot line	Setback from Rear lot line
<b>Permitted residential buildings</b>	30 feet from ROW*	25 feet**	25 feet
<b>Permitted non-residential buildings</b>	100 feet from ROW*	100 feet	100 feet
<b>Accessory structures</b>	The front building line of the principal structure	10 feet	10 feet

\*or as required by Section 7.09, whichever is greater.

\*\*unless approved as Cluster Housing, Common Wall Housing, or similar variations.

**10.07.D** Building Design: The project architect shall give due regard to building footprints, orientation, massing, roof shape, roof pitch, and exterior materials so as to blend with other traditional or historic architecture in the community or within the proposed development. Roof pitch on the principal structure shall not be less than 6/12 for the primary roofs, or as approved by the development plan. This does not include garages, porches, dormers, or other accent features. The use of vinyl as an exterior siding material is not permitted.

**10.07.E** Building Height: No building shall exceed forty (40) feet in height. All other freestanding structures including, but not limited to, flagpoles shall not exceed forty-eight (48) feet in height. All attached structures including, but not limited to, chimneys and church spires shall not exceed a height that is eight (8) feet greater than either the height of the building or other structure to which it is attached.

**10.07.F** Open Space: At least twenty percent (20%) of the total gross acreage of the Planned Residence District must be devoted to open space. Open Space shall be designated upon the Development Plan as "Common Open Space," "Open Space," and/or "Natural Green Space" upon the basis of the

definitions, purposes, requirements and conditions set forth in Section 4.01 of this Resolution. Such Open Space shall be designed to provide active recreation, passive recreation, the preservation of natural site amenities or any combination thereof. Any buildings, structures, and improvements to the open space must be appropriate to the uses which are authorized for the Open Space, with regard to its topography and unimproved condition. The Open Space shall be of a size, shape, and location which is conducive to use by all residents of property. Right-of-ways for water courses and other similar channels are not acceptable as open space dedication unless such lands or Easement are usable as a Trail or have been approved by the Zoning Commission. Storm water retention or detention facilities and land under high-voltage power line easements are acceptable as Open Space, provided such facilities do not exceed fifteen percent (15%) of the total Open Space required.

The responsibility for the maintenance of all Open Spaces shall be specified by the developer in writing within the Development Plan. The required amount of Common Open Space reserved in a Planned Residence District shall either be held in corporate ownership by owners of the project area, for the use of each person who buys or leases property within the development, or be dedicated to a homeowners' association that shall have title to the land. Such Open Space shall be used only for the purposes for which it is designated within the approved Development Plan, and in accordance with the approved Development Plan. The legal articles relating to the organization of the homeowners' association are subject to review and approval by the Zoning Commission. Such legal articles are required to be submitted as part of the Development Plan and shall provide adequate provisions for the perpetual care and maintenance of all common areas. Such legal articles shall be inserted into the chain of title of the land within the Planned Residence District.

- 10.07.G** Walkways: Walkways with landscaping and trees connecting all dwelling areas and any Open Spaces and any non-residential areas shall be required. Walkways shall be separated from the paved street surfaces in accordance with Delaware County Engineer standards.
- 10.07.H** Street Trees are required and shall conform to adopted Township standards.
- 10.07.I** Bikeways/Bike Paths: Bikeways shall be provided in accordance with the Township's adopted Bikeways Plan and shall be built in accordance with the Delaware County Engineer standards. In addition, bikeways within new developments shall be provided in order to connect with existing or planned bikeways external to the proposed new development.
- 10.07.J** Landscaping: All yards (front, side and rear) shall be landscaped, and all organized Open Spaces or non-residential use areas shall be landscaped. A Landscape Plan showing the caliper, height, numbers, name, and placement of all material, prepared by a licensed landscape architect, shall be submitted and approved as a part of the Final Development Plan.
- 10.07.K** Screening: All ground-mounted utility cabinets shall be screened from view with non deciduous plantings that exceed the height of the cabinet being screened, which shall be maintained in a neat and tidy manner by the owner of the property upon which such utility cabinets are located.
- 10.07.L** Buffering: Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of such tree cover or other foliage as may be necessary to buffer adjacent uses.

**10.07.M** **Preservation Areas:** Wetlands, steep (over twenty percent (20%)) slopes, and ravines shall be preserved to the greatest extent possible and shall be delineated on the Development Plan. No building or structure shall be placed or constructed in any Preservation Area.

Applicants are also encouraged to grant conservation easements to an outside party such as the Delaware County Soil and Water Conservancy District, the Nature Conservancy, Ohio Department of Natural Resources (ODNR) or other non-profit, conservation land trust or governmental agency, rather than to developer or a homeowners association, so that the easement(s) can be appropriately monitored and maintained.

**10.07.N** **Floodplain:** No Principal Structures shall be constructed within the one-hundred-year (100-year) floodplain of any stream or river.

**10.07.O** **Power Lines:** Land underneath overhead high-voltage electric transmission lines may be used for Open Space, parking, driveways, and roads with the permission of the applicable utility company.

**10.07.P** **Utilities:** All utilities constructed to service the proposed use shall be located underground. An approved centralized water supply shall be provided. Wastewater disposal systems shall be provided, subject to Delaware County Sanitary Engineer approval.

**10.07.Q** **Parking:** Off-street parking shall be provided at the time of construction, with adequate provisions for ingress and egress. On-site parking spaces for each Permitted Use shall be provided according to the requirements set forth in Article 7 of this Zoning Resolution. In addition to the requirements set forth in Article 7.02, parking areas designed to serve permitted non-residential uses in this zoning district shall be located no less than thirty-five (35) feet from any adjacent residentially-zoned land and shall be screened and buffered from view.

**10.07.R** **Exterior Lighting:** All lighting shall conform with the Lighting Regulations in Article 7 of this Zoning Resolution.

**10.07.S** **Signs:** Signs shall conform to Article 20, or as approved per Development Plan.

**10.07.T** **Construction and Maintenance of Improvements Within Right-of-Way:** The construction and maintenance of all improvements behind the curb line or the edge of pavement including, but not limited to, drainage improvements, landscaping improvements, sidewalks, bikepaths, and/or driveway approaches shall be the responsibility of the abutting property owner unless otherwise approved in the Development Plan.

**10.07.U** **Supplemental Conditions and Safeguards:** The Zoning Commission and/or Board of Trustees may impose additional conditions relating to the development with regard to the type and extent of the public improvements to be installed, landscaping, improvements and maintenance of Open Space areas, and other development characteristics.

## **Section 10.08 – PERFORMANCE STANDARDS**

No use shall be conducted within this district which fails to maintain the following standards:

**10.08.A** **Fire and Explosion Hazards:** All activities and storage, involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of spill, fire, and/or

explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.

- 10.08.B** Glare, Heat, and Exterior Light: Any operation producing intense light or heat, such as high temperature processing, combustion, welding, or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- 10.08.C** 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.
- 10.08.D** 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.
- 10.08.E** Vibrations: 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.
- 10.08.F** Odors: No use shall be operated so as to produce 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.

## **Section 10.09 – DEVELOPMENT PLAN**

In the Planned Residence District (PR), no use shall be established or changed and no structure shall be constructed or altered until the required Development Plan has been approved in accordance with the provisions of the Liberty Township Zoning Resolution.

- 10.09.A** Preliminary Development Plan: Ten (10) paper copies and one (1) electronic copy of the Preliminary Development Plan shall be submitted to the Zoning Commission with the PR application. The plan shall include in text and map form, the following:
  - 10.09.A.1** A survey plat and legal description of the property signed by a registered surveyor showing the size and location of the proposed project.
  - 10.09.A.2** The proposed size and location of the tract at a scale of at least one inch equals one hundred feet (1"=100') showing topographic contours of at least five (5)-foot intervals.
  - 10.09.A.3** All existing conditions on-site including wooded areas, wetlands, floodplain areas, and existing structures within two hundred (200) feet of property boundaries.
  - 10.09.A.4** The relationship of the proposed development to the existing uses including easements, setbacks, and right-of-way areas.
  - 10.09.A.5** Proposed locations of all structures and uses.

- 10.09.A.6** Proposed density calculations and percentage of lot coverage.
- 10.09.A.7** The general character of the tract, including:
- a.)** The limitations or controls to be placed on operations or location;
  - b.)** Lots, numbered with dimensions, bearings, and distances;
  - c.)** Proposed traffic patterns showing public and private streets and transportation facilities;
  - d.)** Description of other development features, including landscaping and entry features;
  - e.)** Lighting and signage.
- 10.09.A.8** Conceptual architectural design and elevations, roof pitch, and exterior construction materials.
- 10.09.A.9** The intended provisions for utilities including water, fire hydrants, sanitary sewer and adequate storm water drainage outlets. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented by the utility provider or a registered civil engineer, whichever is applicable.
- 10.09.A.10** A design of the open space and proposed description of its use, ownership, and plan for maintenance.
- 10.09.A.11** The purpose, need, and reason for each divergence from the Design Standards in this Article, the General Development Standards or the Sign Regulations of this Zoning Resolution, such as setbacks, parking, landscaping, lighting, signage and so forth, must be specified. All justifications must be based on the subject property.
- 10.09.A.12** Traffic Impact Analysis based upon new trip generation as estimated by the Delaware County Engineer's standards.
- 10.09.A.13** All required design standards in Section 10.07 of this Zoning Resolution.
- 10.09.A.14** The proposed size and location of any alternative energy apparatus including, but not limited to, solar panels and wind generators.
- 10.09.A.15** Emergency service provisions (letter from Fire department regarding access and water supply to the proposed development site).
- 10.09.A.16** Phasing plans, if any.
- 10.09.A.17** The ability of the applicant to carry forth its Development Plan by control of the land and the engineering feasibility of the Development Plan.

- 10.09.A.18** Plan approval period – the approval of a preliminary development plan shall be effective for a period of one (1) year from the date thirty (30) days after the zoning is approved by the Board of Trustees in order to allow for the preparation and submission of the Final Development Plan.
- 10.09.B** Final Development Plan: Ten (10) paper copies and one (1) electronic copy of the Final Development Plan shall be to scale of at least one inch equals one hundred feet (1"=100') and shall show the proposed uses of the site, location of buildings and structures, streets and roadways, parking areas, all required design features, and required findings for approval in this Article, as well as the following items in detail, text and map form, satisfactory to the reviewing bodies. If the Final Development Plan varies in any way from the approved Preliminary Development Plan, a summary of the changes must accompany the Final Development Plan submittal.
- 10.09.B.1** The permitted and accessory uses to be located on the tract including the limitations or controls to be placed on all uses, proposed lot sizes, and minimum setback requirements.
- 10.09.B.2** Environmentally sensitive areas including the one-hundred-year (100-year) floodplain, existing streams and ponds, drainage ways, wetlands, and slopes greater than twenty percent (20%) shall be mapped and all existing conditions identified.
- 10.09.B.3** Architectural design detail, including specification of exterior materials, colors, and elevations for all structures. Proposed architectural control procedures shall be included.
- 10.09.B.4** Building heights and dimensions.
- 10.09.B.5** Size, height, and location of all signs as regulated by Article 20 of this Resolution.
- 10.09.B.6** Lighting Plan - Lighting details shall include, but not be limited to size, height, type, location, degree of illumination, color of fixture, and design detail. Foot candle output must be identified at all lot lines. All lighting shall conform to the provisions of Article 7 of this Zoning Resolution.
- 10.09.B.7** Landscaping plan - All yards, front, side and rear, shall be landscaped, and all organized open spaces shall be landscaped. 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.
- 10.09.B.8** The utility provider-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.
- 10.09.B.9** A grading and drainage plan prepared by a registered engineer.
- 10.09.B.10** A traffic impact analysis by a civil engineer who specializes in traffic evaluations showing the proposed traffic patterns, public and private streets, and transportation

facilities, including their relationship to existing conditions with sight distance and sight triangles defined.

- 10.09.B.11** The relationship of the proposed development to existing and probable uses and zoning classifications of surrounding areas.
- 10.09.B.12** Location of all uses within the site and the location of schools, parks, and other public facility sites within or adjacent to the site.
- 10.09.B.13** The proposed timetable for development of the site, including Open Space, entry features, streets, buildings, structures, utilities, and other facilities.
- 10.09.B.14** If the proposed timetable for development includes developing the land in phases, phasing shall be fully described in textual form in a manner calculated to give the Township a definitive timeline for development of future phases.
- 10.09.B.15** All phases shall be a minimum of five (5) acres.
- 10.09.B.16** The purpose, need, and reason for each divergence, from the Design Standards in this Article, the General Development Standards or the Sign Regulations of this Zoning Resolution, such as setbacks, parking, landscaping, lighting, signage and so forth, must be specified. All justifications must be based on the subject property.
- 10.09.B.17** The drawings that are a part of the Development Plan shall bear the seal and signature of the appropriate licensed professional(s), including the surveyor, architect, landscape architect, and/or engineer licensed to practice in the State of Ohio.
- 10.09.B.18** If the Development Plan fails to include all the information required above, the application will be considered incomplete and may be denied by the Liberty Township Zoning Commission. In the event that an applicant wishes to amend or otherwise change the application in any way, the Zoning Commission may table its consideration of the amended application until such time as all of its members have had an opportunity to review the complete and final application.

## **Section 10.10 – CRITERIA FOR APPROVAL**

When approving an Application for a Planned Residence District, the reviewing authority shall consider:

- 10.10.A** Whether the proposed rezone is consistent in all respects with the purpose, intent and general standards of this Zoning Resolution.
- 10.10.B** Whether the proposed rezone is in conformity with the Comprehensive Plan, or portion thereof, as it may apply.
- 10.10.C** Whether the proposed rezone advances the public health, safety, and general welfare of the Township and the immediate vicinity.
- 10.10.D** Whether the proposed rezone will be compatible in appearance and use with surrounding existing or proposed land uses.

- 10.10.E** Whether the proposed rezone promotes the efficient use of land and resources, promotes greater efficiency in providing public utility services, and encourages innovation in the planning and building of all types of development.

## **Section 10.11 – ADMINISTRATION OF THE DEVELOPMENT PLAN**

After Development Plan approval, all recorded subdivision plats, construction drawings, restrictive covenants, and other necessary documents shall be submitted to the Zoning Inspector for administrative review to ensure conformance with the Development Plan as approved. Any change to an approved Preliminary or Final Development Plan shall be considered as follows:

- 10.11.A** Variations: Following the approval of the Development Plan, proposed variations from the approved Development Plan that involve only one (1) dwelling unit shall be considered by the Board of Zoning Appeals under its hearing process pursuant to Article 25 of the Zoning Resolution. All other modifications to the Preliminary or Final Development Plan shall be presented to the Zoning Commission for its consideration, pursuant to Section 10.11.A.1.
- 10.11.A.1** 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 Planned Residence District. The Zoning Commission shall render a decision on the request within sixty (60) days after the conclusion of the hearing.
- 10.11.B** Default: The approval of the Final Development Plan shall be effective for a period of three (3) years (or for such other time period as may be approved as part of the Final 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 Final Development Plan shall expire.
- 10.11.C** Extension of Time: An extension of the time limit for filing the required subdivision plat, recording the approved subdivision plat, the commencement of construction, or increasing the approval period for a Preliminary or Final Development Plan, may be granted by the Zoning Commission at any public meeting, 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

recording of the plan 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.

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## ARTICLE 11 – PLANNED MULTI-FAMILY RESIDENCE DISTRICT (PMFR)

### Section 11.01 – NATURE OF DISTRICT

There is hereby created within Liberty Township a Planned Multi-Family Residence District (PMFR), recognizing that with increased urbanization and population growth comes increased demands for well-organized residential areas which take into account unique natural features, historic preservation, contemporary land use concepts, and a balanced residential environment. It is intended to promote a variety and flexibility of land development necessary to meet the demands of development while preserving and enhancing the public health, safety and welfare of Township residents.

All lands designated on the Official Liberty Township Zoning Map as Planned Multi-Family Residence District shall be governed by the provisions of this Article.

### Section 11.02 – PERMITTED USES

Within the Planned Multi-Family Residence District (PMFR), the following uses developed in strict conformance with the approved Development Plan and standards may be permitted:

- 11.02.A** Multi-family residential structures having two (2) or more dwelling units per building.
- 11.02.B** Permanent Open Space
- 11.02.C** Multi-Family Cluster Housing: For purposes of this Section, "Cluster Housing" shall mean a residential development wherein the overall density is consistent with the Planned Multi-Family Residence District, but modifications are permitted in lot size and shape to concentrate residential development in a portion of the overall tract, thereby maintaining the remainder of the tract as Permanent, Open Space. Cluster Housing does not permit any increase in the permitted densities of the Planned Multi-Family Residence District.
- 11.02.D** Detached single family condominiums; zero lot line home; cluster housing; patio homes; common wall housing; as well as any reasonable variation on these themes which also has 2 or more dwellings on one lot.
- 11.02.E** Non-residential uses of a religious, cultural, educational, or recreational nature or character to the extent that they are designed and intended to serve the residents of the Planned Multi-Family Residence District. Said facilities may be designed to serve adjoining neighborhoods or residents if they are located in such proximity to the major thoroughfares as to permit access without burdening residential streets.
- 11.02.F** 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 Permit, whichever occurs sooner. In no event shall such temporary structure be utilized for any residential use.

**11.02.G** Conducting of casual sales of goods in what are commonly referred to as garage sales or yard sales, provided that such sales shall not be conducted on more than six (6) days per dwelling unit in any calendar year or more than three (3) consecutive days per dwelling unit.

**11.02.H** Model Homes with and without Sales Offices: Within a platted and recorded subdivision, a limited number of dwelling units may be used as offices by a home builder or by a developer to market and/or to display their models and styles of homes for sale, and/or to serve as a location for their sales office. The interior of same may be furnished in order to display to prospective buyers available features and options for the dwelling units (such as exterior siding treatments, roofing materials, interior trim, moldings, floor coverings, etc.) in the environment of a completed home, and may be staffed by the builder/developer's sales force. Model Homes with and without Sales Offices shall be subject to the following restrictions:

**11.02.H.1** Hours of operation: All business operations shall cease prior to 9:00 p.m. during the spring, summer, and fall seasons, and prior to 8:00 p.m. during the winter season. No business shall be conducted on any Saturday or Sunday before 10:00 a.m.

**11.02.H.2** Lighting: All exterior lighting must be "downlighting," so that absolutely no light shall be cast onto adjoining residential properties. All off-street parking areas must be illuminated. All exterior lighting shall be extinguished daily at the close of business, except that lighting which is typical of and in character with surrounding homes within the subdivision. All lighting, whether interior or exterior, cannot cast onto or into adjoining residential properties.

**11.02.H.3** Parking: A minimum of six (6) paved, off-street parking spaces shall be provided for each Model Home with or without a Sales Office. Such parking shall be located as approved by the appropriate Board. The driveway of the Model Home with or without a Sales Office may be utilized for not more than two (2) of the required parking spaces.

**11.02.H.4** Screening and Trash Receptacles: Landscape drawings shall be required and such shall show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home/sales office lot. Trash receptacles shall be provided near each model home/sales office for use by the public. The number, style, and locations of such trash receptacles are subject to approval by the appropriate Board.

**11.02.H.5** Termination of Use: The use of Model Homes with and without Sales Offices within a platted and recorded residential subdivision, or within any single platted and recorded phase of a multi-phase subdivision, shall terminate when zoning permits have been issued for ninety percent (90%) of the lots therein.

**11.02.I** Rental Complex Offices: One (1) rental office shall be allowed within a dwelling unit in a rental complex. Rental complex offices shall be subject to the following restrictions:

**11.02.I.1** Lighting: All exterior lighting must be "downlighting," so that absolutely 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 rental

complex office, except that lighting which is typical of and in character with surrounding homes within the subdivision.

**11.02.I.2** Parking: A minimum of six (6) off-street parking spaces shall be provided, contiguous to the structure within which the rental complex office is located, in addition to the total number of parking spaces required by Article 7 for the remaining dwelling units.

**11.02.I.3** Screening and Trash Receptacles: Trash receptacles shall be provided near the rental complex office for use by the public.

**11.02.J** 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 total floor area of the dwelling unit; 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.

**11.02.J.1** 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;

**11.02.J.2** Teaching, tutoring, and conducting musical, dance, or similar lessons to no more than three (3) students at any one time;

**11.02.J.3** Providing child care to no more than three (3) children unrelated to any resident of the premises at any one time.

**11.02.K** Residential Facilities in accordance with ORC 5123.19(A)(5)(a), 5119.34(A)(9)(a), 5119.34(A)(9)(b)(i and ii), 5119.34(A)(9)(c), and 5123.19(O).

**11.02.L** Churches or Other Places of Worship, provided that the building occupied by the use occupies a lot of not less than five (5) acres plus one (1) acre for each one hundred (100) permanent seats over three hundred (300) in the main assembly area.

### **Section 11.03 – ACCESSORY USES, BUILDINGS, AND STRUCTURES**

Accessory Uses as defined in Article 4 of this Zoning Resolution may be permitted only when 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. No accessory building within any zoning district shall be used for human occupancy.

### **Section 11.04 – CONDITIONAL USES**

Within this zoning district, the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 25 of this Resolution. The Board of Zoning Appeals may require additional conditions necessary to protect the public health, safety, and welfare. No Conditional Use shall be implemented until a Conditional Use Permit is issued by the Zoning Inspector.

**11.04.A** Expanded Home Occupations: Any professional or business activity, not qualifying as a “Limited Home Occupation” under the provisions of Section 11.02.J of this Zoning Resolution, shall be considered an “Expanded Home Occupation,” and may be conducted in a dwelling and one (1) accessory building or attached garage by a member of the immediate family residing on the premises. In addition, there shall be no exterior displays indicating that the building is being used in whole or in part for any purpose other than that of a dwelling. Expanded Home Occupations located within this district shall be subject to the following provisions:

- 11.04.A.1** The Expanded Home Occupation shall be carried on solely within the confines of the dwelling and one (1) architecturally compatible accessory building or attached garage which is compatible with the residential use and character of the neighborhood.
  - 11.04.A.2** The Expanded Home Occupation shall occupy not more than:
    - a.**) Twenty percent (20%) of the total floor area of the dwelling unit, not including the space occupied by any attached garage; and/or,
    - b.)** Fifty percent (50%) of the floor space in any one (1) accessory building or attached garage.
    - c.)** The Expanded Home Occupation shall not exceed six hundred (600) square feet.
  - 11.04.A.3** Not more than one (1) non-resident employee shall work on or from said premises.
  - 11.04.A.4** Services may be rendered on the premises or elsewhere.
  - 11.04.A.5** No traffic or parking shall be generated by such Expanded Home Occupation in greater volumes than would normally be expected in a residential neighborhood.
  - 11.04.A.6** Waste materials (solid, liquid, or gaseous) shall not be created on the premises at a level greater than normal to the residential use.
  - 11.04.A.7** No activity shall be conducted or permitted which creates a nuisance to neighboring properties.
- 11.04.B** Borrow Pit: Borrow Pits may be permitted within this district, provided the excavation is completed within one (1) year, and the contractor posts such bond as required by the Board of Zoning Appeals to conform to the restrictions and conditions imposed to ensure regrading, reseeding, and general restoration of the area.
- 11.04.C** Telecommunications Towers as defined in Section 7.16 of this Resolution.
- 11.04.D** Residential Facilities in accordance with ORC 5119.34(A)(9)(b)(iii).

## **Section 11.05 – PROHIBITED USES**

Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall be prohibited, in addition to the following:

**11.05.A** Junkyards.

- 11.05.B** No trailer of any type, boats, campers, or equipment of any type shall be parked in front of the principle structure line on any parcel within this district for more than eight (8) hours in a twenty-four (24)-hour 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 Resolution or the restrictions of the Plat or Subdivision.
- 11.05.C** No mobile home, motor home, camper, or manufactured home of any type shall be placed or occupied in the district.
- 11.05.D** Storage or accumulation of: inoperable, unused, or unlicensed vehicles; equipment or machinery of any type; and vehicle, equipment, or machinery parts and other similar debris – unless any of the previously mentioned items remain entirely enclosed within a permitted accessory building so as to not be visible from any adjoining property or road.
- 11.05.E** 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 similar materials) shall be deemed a nuisance 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 streets, 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 twenty-four (24) hours before its regularly scheduled pick-up.
- 11.05.F** Landing fields for aircraft, hot air balloons, ultra-light aircraft and other mechanical flying equipment on any parcel in this District.

**11.05.G** Commercial Kennels and Catteries.

- 11.05.H** Harboring wild, dangerous or undomesticated animals on lots less than five (5) acres in area, subject to the limitations contained in ORC Section 519.21. For the purposes of this provision, a “wild, dangerous or undomesticated animal” shall be defined as follows:

- 11.05.H.1** An animal whose natural habitat is the wilderness and which, when maintained in human society, is usually confined to a zoological park or exotic animal farm;
- 11.05.H.2** A poisonous or venomous animal, insect, or arachnid;
- 11.05.H.3** An unrestrained animal (excluding farm animals) which, by reason of its size, strength, or appetite, could cause peril to children, adults, pets or domesticated animals, buildings, landscaping, or personal property;
- 11.05.H.4** An animal which makes noises with sufficient frequency and volume so as to constitute a nuisance to persons in the vicinity of such animal; or,

- 11.05.H.5** An animal which is defined as “vicious” or “dangerous” pursuant to the provisions of ORC Chapter 955, as the same may be amended from time to time, or prohibited by any federal, state, or local law, regulation, or ordinance.
- 11.05.I** 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.
- 11.05.J** No cultivators, processors, or retail dispensaries of medical marijuana licensed under Ohio Revised Code Chapter 3796, shall be located nor operate in this district.

## Section 11.06 – DESIGN STANDARDS

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

- 11.06.A** Access: Requires frontage on and direct access to one (1) or more dedicated or improved public roads. Provisions for future connections to other public roads may be required by the Township, Delaware County Engineer, and/or the Delaware County Regional Planning Commission.
- 11.06.B** Density: Maximum density shall not exceed six (6) dwelling units per net developable acre within the area proposed to be rezoned.
- 11.06.C** Setback Requirements: No part of any permitted building, principal or accessory structure, or use, except that of a lawn, and as provided for under Section 7.13, shall encroach upon a required setback. The physical relationship of permitted uses and structures and their minimum yard space shall be determined in accordance with the following, EXCEPT that locations of Fences, Driveways, Parking Areas, and Water Impoundments shall be governed by the Requirements in Article 7 of this Zoning Resolution, and locations of Signs shall be governed by the requirements in Article 20 of this Resolution:

	Front and adjacent roads	Setback from Side lot line	Setback from Rear lot line
<b>Permitted residential buildings</b>	30 feet from ROW*	25 feet**	25 feet
<b>Permitted non-residential buildings</b>	100 feet from ROW*	100 feet	100 feet
<b>Accessory structures</b>	The front building line of the principal structure	25 feet	25 feet

\*or as required by Section 7.09, whichever is greater.

\*\*unless approved as Cluster Housing, Common Wall Housing, or similar variations.

- 11.06.D** Building Height Limits: No building in this district shall exceed forty (40) feet in height. All other freestanding structures including, but not limited to, flagpoles shall not exceed forty-eight (48) feet in height. All attached structures including, but not limited to, chimneys and church spires shall not top at a height that is eight (8) feet greater than either the height of the building or other structure to which it is attached.

**11.06.E** Building Size: Each multi-family dwelling hereafter erected in this district shall contain nine hundred (900) square feet minimum floor area.

**11.06.F** Open Space: At least twenty percent (20%) of the total gross acreage of the Planned Multi-Family Residence District must be devoted to Open Space. Open Space shall be designated upon the Development Plan as "Common Open Space," "Open Space," and/or "Natural Green Space" upon the basis of the definitions, purposes, requirements, and conditions set forth in Article 4 of this Zoning Resolution. Such Open Space shall be designed to provide active recreation, passive recreation, the preservation of natural site amenities or any combination thereof. Any buildings, structures, and improvements to the Open Space must be appropriate to the uses which are authorized for the Open Space, with having regard to its topography and unimproved condition. The Open Space shall be of a size, shape, and location which is conducive to use by all residents of property. Easements for water courses and other similar channels are not acceptable as Open Space dedication unless such land or Easements are usable as a Trail or have been approved by the Zoning Commission. Storm water retention or detention facilities and land under high-voltage power line easements are acceptable as Open Space, provided such facilities do not exceed fifteen percent (15%) of the total Open Space required.

The responsibility for the maintenance of all Open Spaces shall be specified by the developer in writing within the Development Plan. The required amount of Common Open Space reserved in a Planned Multi-Family Residence District shall either be held in corporate ownership by owners of the project area, for the use of each person who buys or leases property within the development, or be dedicated to a homeowners' association that shall have title to the land. Such Open Space shall be used only for the purposes for which it is designated within the approved Development Plan, and in accordance with the approved Development Plan. The legal articles relating to the organization of the homeowners' association are subject to review and approval by the Zoning Commission. Such legal articles are required to be submitted as part of the Development Plan and shall provide adequate provisions for the perpetual care and maintenance of all common areas. Such legal articles shall be inserted into the chain of title of the land within the Planned Multi-Family Residence District.

**11.06.G** Walkways: Walkways with landscaping and trees connecting all dwelling areas and any Open Space areas shall be required. Walkways shall be separated from the paved street surface in accordance with Delaware County Engineer standards.

**11.06.H** Street trees are required and shall conform to adopted Township standards.

**11.06.I** Bikeways/Bike Paths: Bikeways shall be provided in accordance with the Township's adopted Bikeways Plan and shall be built in accordance with the Delaware County Engineer standards. In addition, bikeways within new developments shall be provided in order to connect with existing or planned bikeways external to the proposed new development.

**11.06.J** 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. Roof pitch on the principal structure shall not be less than 6/12 for the primary roofs, or as approved by the development plan. This does not include garages, porches, dormers, or other accent features. The use of vinyl as an exterior siding material is not permitted.

- 11.06.K** Landscaping: All yards (front, side, and rear) shall be landscaped and all organized Open Spaces or non-residential use areas shall be landscaped. Such landscape plans shall be submitted with the proposed Development Plan. All such landscaping shall be maintained and kept in accordance with the landscape plan as approved and such maintenance and upkeep shall be the responsibility of the owner of such yard, space, or area. All vacant lots shall be kept seeded or maintained in such manner as to prevent erosion of the property and excess drainage onto adjoining lands.
- 11.06.L** Screening: All industrial areas adjacent to residential areas shall be screened from view with non deciduous plantings and/or fencing so as to hide trash collection areas and service areas from the view of adjacent residential areas. All screening shall be maintained in a neat and tidy manner by the owner of the property on which such screening is located.
- 11.06.M** Buffering: Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of a buffer sufficient to screen the development from adjacent uses.
- 11.06.N** Preservation areas: Wetlands, steep (over twenty percent (20%) inclined) slopes, and ravines shall be preserved to the greatest extent possible and shall be delineated on the Development Plan. No building or structure shall be placed or constructed in any Preservation Area.
- Applicants are also encouraged to grant conservation easements to an outside party such as the Delaware County Soil and Water Conservancy District, the Nature Conservancy, Ohio Department of Natural Resources (ODNR) or other non-profit, conservation land trust or governmental agency, rather than to developer or a homeowners association, so that the easement(s) can be appropriately monitored and maintained.
- 11.06.O** Floodplain: No residential dwelling structures shall be constructed within the one-hundred-year (100-year) floodplain of any stream or river.
- 11.06.P** Power Lines: Land underneath overhead high-voltage electric transmission lines may be used for Open Space, landscaping, parking, driveways, and roads with the permission of the applicable utility company.
- 11.06.Q** Utilities: All utilities constructed to service the proposed use shall be located underground. Centralized water supply and sanitary sewer disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Delaware General Health District, and Ohio Environmental Protection Agency approval. Feasibility of water supply and wastewater disposal systems shall be indicated by the appropriate agencies at the time of the preliminary plan.
- 11.06.R** Parking: Off-street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the Development Plan. In preparing and approving the parking plan the provisions of Article 7 of this Zoning Resolution shall, when appropriate, be incorporated.
- 11.06.S** Exterior Lighting: All exterior lighting shall conform with the lighting requirements of Article 7 of this Zoning Resolution.

- 11.06.T** Freight Loading Area: When any use within this district requires the pickup or delivery of merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such loading area shall be located on any public street or alley. Such loading area, as provided, shall be adequate in size to accommodate tractor-trailer (semi) units with adequate room to permit entry to such loading area without interfering with traffic on adjacent streets or highways. Deliveries of freight shall be prohibited between the hours of 11:00 p.m. and 7:00 a.m.
- 11.06.U** Construction and Maintenance of Improvements Within Right-of-Way: The construction and maintenance of all improvements behind the curb line or the edge of pavement including, but not limited to, drainage improvements, landscaping improvements, sidewalks, and/or driveway approaches shall be the responsibility of the abutting property owner.
- 11.06.V** 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.
- 11.06.W** Site Development: To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of twenty percent (20%) shall be maintained.

## **Section 11.07 – PERFORMANCE STANDARDS**

No use shall be conducted within this district which fails to maintain the following standards:

- 11.07.A** Fire and Explosion Hazards: All activities and storage involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of spill, fire, and/or explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- 11.07.B** Glare, Heat, and Exterior Light: Any operation producing intense light or heat, such as high temperature processing, combustion, welding, or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- 11.07.C** 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.
- 11.07.D** Liquid or Solid Wastes: No discharge at any point into any public sewer, private sewage disposal system, 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.
- 11.07.E** Vibrations: 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.

- 11.07.F** Odors: No use shall be operated so as to produce 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.

## **Section 11.08 – PROCESS FOR AMENDMENT**

In addition to any other procedures set forth in this Zoning Resolution, all Applications for Amendments to the Zoning Map to rezone lands to the Planned Multi-Family Residence District (PMFR) shall follow one of the two following processes:

- 11.08.A** Option A is a two-step process.

**11.08.A.1** In Step 1, the applicant, being the owner of the subject real estate, may apply for designation of the property to the Planned Multi-Family Residence District designation. A Preliminary Development Plan which complies with the requirements of Section 11.09.A of this Zoning Resolution must be submitted with the application. Consideration and approval of the Preliminary Development Plan is a legislative amendment and is subject to the timelines defined in ORC 519.12 and repeated in Article 24 of this Resolution.

**11.08.A.2** In Step 2, the applicant, being the owner of the subject real estate, may apply for the consideration and approval of a Final Development Plan which must conform with the requirements of Section 11.09.B of this Zoning Resolution and, unless otherwise allowed, conform to the approved Preliminary Development Plan. The approval or disapproval of the Final Development Plan is an administrative act by the Zoning Commission.

**11.08.B** Option B is a one-step process where the applicant, being the owner of the subject real estate simultaneously submits the requirements of Sections 11.09.A and 11.09.B of this Zoning Resolution for designation of the property to the Planned Multi-Family Residence District designation and approval of the Final Development Plan. The one-step process is a legislative amendment and is subject to the timelines defined in ORC 519.12 and repeated in Article 24 of this Resolution.

**11.08.C** Plat Required: In the Planned Multi-Family Residence District, no use shall be established or changed and no structure shall be constructed or altered until a Subdivision Plat has been prepared and recorded in accordance with the approved Development Plan and with the Subdivision Regulations for Delaware County, Ohio.

When Condominium subdivisions are not subject to platting, all required Easements and the Declaration of Condominium must be recorded with the Delaware County Recorder's office prior to the release of any zoning certificates.

**11.08.D** In no event shall any Zoning Permit be issued for any building or use until such time as the facilities for the phase in which the building or use is located are completed.

**11.08.E** Upon approval of a zoning amendment to rezone property to the PMFR District, all previous regulations regarding that specific property shall no longer be in effect, and the regulations set forth in this Article and in the approved Development Plan shall govern.

**11.08.F** A fee as established by the Board of Trustees shall accompany an application requesting a zoning amendment to rezone property to the PMFR District. In addition, the applicant shall also be responsible for all reasonable and necessary expenses incurred by Liberty Township in using professional consulting services to review the application and 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 application and development plan and related application materials. As soon as reasonably practicable following the submission of a rezoning application, 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 11.08.F. 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 11.09 – DEVELOPMENT PLAN**

In the Planned Multi-Family Residence District, no use shall be established or changed and no structure shall be constructed or altered until the required Development Plan has been approved in accordance with the provisions of the Liberty Township Zoning Resolution.

**11.09.A** Preliminary Development Plan: Ten (10) paper copies and one (1) electronic copy of the Preliminary Development Plan shall be submitted to the Zoning Commission with the PMFR application. The plan shall include in text and map form, the following:

- 11.09.A.1** A survey plat and legal description of the property signed by a registered surveyor showing the size and location of the proposed project.
- 11.09.A.2** The proposed size and location of the tract at a scale of at least one inch equals one hundred feet, (1"=100'), showing topographic contours of at least five (5) feet intervals.
- 11.09.A.3** All existing conditions including wooded areas, wetlands, floodplain areas, and existing structures within two hundred (200) feet of the property boundaries.

- 11.09.A.4** The relationship of the proposed development to the existing uses, including easements, setbacks, and right-of-way areas.
- 11.09.A.5** Proposed locations of all structures and uses.
- 11.09.A.6** Proposed density calculations and percentage of lot coverage.
- 11.09.A.7** The general character of the tract, including:
- a.)** The limitations or controls to be placed on operations or location.
  - b.)** Lots, numbered with dimensions, bearings, and distances.
  - c.)** Proposed traffic patterns showing public and private streets and other transportation facilities.
  - d.)** Description of other development features, including landscaping and entry features.
  - e.)** Lighting and signage.
- 11.09.A.8** Conceptual architectural design and elevations, roof pitch, and exterior construction materials.
- 11.09.A.9** The intended provisions for utilities including water, fire hydrants, sanitary sewer and adequate storm water drainage outlets. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented by the utility provider or a registered civil engineer, whichever is applicable.
- 11.09.A.10** A design of the Open Space and proposed description of its use, ownership and plan for maintenance.
- 11.09.A.11** The purpose, need, and reason for each divergence, from the Design Standards in this Article, the General Development Standards and/or the Sign Regulations of this Zoning Resolution, such as setbacks, parking, landscaping, lighting, signage and so forth, must be specified. All justifications must be based on the subject property.
- 11.09.A.12** Traffic Impact Analysis based upon new trip generation as estimated by the Delaware County Engineer's standards.
- 11.09.A.13** All required design standards in Section 11.06 of this Zoning Resolution.
- 11.09.A.14** The proposed size and location of any alternative energy apparatus including, but not limited to, solar panels and wind generators.
- 11.09.A.15** Emergency service provisions (letter from Fire Department regarding access and water supply to the proposed development site).

- 11.09.A.16** Phasing plans, if any.
- 11.09.A.17** The ability of the applicant to carry forth its Development Plan by control of the land and the engineering feasibility of the Development Plan.
- 11.09.A.18** Plan approval period – the approval of a Preliminary Development Plan shall be effective for a period of one (1) year from the date thirty (30) days after the zoning is approved by the Board of Trustees, in order to allow for the preparation and submission of the Final Development Plan.
- 11.09.B** Final Development Plan: Ten (10) paper copies and one (1) electronic copy of the Final Development Plan shall be to scale of at least one inch equals one hundred feet (1"=100') and will show the proposed uses of the site, as well as the location of buildings and structures, streets and roadways, and parking areas, all required design features, and required findings for approval found in this Section as well as the following items in detail, text and map form, satisfactory to the reviewing bodies. If the Final Development Plan varies in any way from the approved Preliminary Development Plan, a summary of the changes must accompany the Final Development Plan submittal.
- 11.09.B.1** The permitted and accessory uses to be located on the tract, including the limitations or controls on all uses, lot sizes and dimensions, and minimum setback requirements.
- 11.09.B.2** Environmentally sensitive areas, including the one-hundred-year (100-year) floodplain, existing streams and ponds, drainage ways, wetlands, and slopes greater than twenty percent (20%) inclined shall be mapped and all existing conditions identified.
- 11.09.B.3** Architectural design detail, including specification of exterior materials, colors, and elevations for all structures. Proposed architectural control procedures shall be included.
- 11.09.B.4** Building heights and dimensions.
- 11.09.B.5** Size, height and location of all signs as regulated by Article 20 of this Zoning Resolution.
- 11.09.B.6** Lighting Plan: Lighting details shall include, but not be limited to, size, height, type, location, degree of illumination, color of fixture, and design detail. Foot candle output must be identified at all lot lines. All lighting shall conform to the provisions of Article 7 of this Resolution.
- 11.09.B.7** Landscaping plan: All yards (front, side, and rear) shall be landscaped, and all Open Spaces shall be landscaped. 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.
- 11.09.B.8** The utility provider-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.

- 11.09.B.9** A grading and drainage plan prepared by a registered engineer.
- 11.09.B.10** A traffic impact analysis by a civil engineer who specializes in traffic evaluations showing the proposed traffic patterns, public and private streets, and transportation facilities, including their relationship to existing conditions with sight distance and sight triangles defined.
- 11.09.B.11** The relationship of the proposed development to existing and probable uses and zoning classifications of surrounding areas.
- 11.09.B.12** Location of all uses within the site and the location of schools, parks, and other public facility sites within or adjacent to the site.
- 11.09.B.13** The proposed timetable for development of the site, including entry features, open space, streets, buildings, utilities and other facilities.
- 11.09.B.14** If the proposed timetable for development includes developing the land in phases, phasing shall be fully described in textual form in a manner calculated to give the Township a definitive timeline for development of future phases.
- 11.09.B.15** All phases shall be a minimum of five (5) acres.
- 11.09.B.16** The purpose, need, and reason for each divergence, from the Design Standards in this Article, the General Development Standards and/or the Sign Regulations of this Zoning Resolution, such as setbacks, parking, landscaping, lighting, signage and so forth, must be specified. All justifications must be based on the subject property.
- 11.09.B.17** The drawings that are a part of the Development Plan shall bear the seal and signature of the appropriate licensed professional(s) including the surveyor, architect, landscape architect, and/or engineer licensed to practice in the State of Ohio.
- 11.09.B.18** If the Development Plan fails to include all of the information required above, the application will be considered incomplete and may be denied by the Liberty Township Zoning Commission. In the event that an applicant wishes to amend or otherwise change the application in any way, the Zoning Commission may table its consideration of the amended application until such time as all of its members have had an opportunity to review the complete and final application.

## **Section 11.10 – CRITERIA FOR APPROVAL**

When approving an Application for a rezone to the Planned Multi-Family Residence District, the reviewing authority shall consider:

- 11.10.A** Whether the proposed rezone is consistent in all respects with the purpose, intent and general standards of this Zoning Resolution.

- 11.10.B** Whether the proposed rezone is in conformity with the Comprehensive Plan or portion thereof as it may apply.
- 11.10.C** Whether the proposed rezone advances the public health, safety, and general welfare of the Township and the immediate vicinity.
- 11.10.D** Whether the proposed rezone will be compatible in appearance and use with surrounding existing or proposed land uses.
- 11.10.E** Whether the proposed rezone promotes the efficient use of land and resources, promotes greater efficiency in providing public utility services and encourages innovation in the planning and building of all types of development.

## **Section 11.11 – ADMINISTRATION OF DEVELOPMENT PLAN**

After Development Plan approval, all recorded subdivision plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector for administrative review to ensure conformance with the Development Plan as approved. Any change to an approved Preliminary or Final Development Plan shall be considered as follows:

- 11.11.A** Variations: Following the approval of the Development Plan, proposed variations from the approved Development Plan that involve only one (1) building containing dwelling(s) shall be considered by the Board of Zoning Appeals under its hearing process pursuant to Article 25 of the Zoning Resolution. All other modifications to the Preliminary or Final Development Plan shall be presented to the Zoning Commission for its consideration, pursuant to Section 11.11.A.1.
- 11.11.A.1** 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 Planned Multi-Family Residence District. The Zoning Commission shall render a decision on the request within sixty (60) days after the conclusion of the hearing.
- 11.11.B** Default: The approval of the Final Development Plan shall be effective for a period of three (3) years (or for such other time period as may be approved as part of the Final 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 Final Development Plan shall expire.

**11.11.C** Extension of Time: An extension of the time limit for filing the required subdivision plat, recording the approved subdivision plat, the commencement of construction, or increasing the approval period for a Preliminary or Final Development Plan, may be granted by the Zoning Commission at any public meeting, 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 plan 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.

## **ARTICLE 12 – PLANNED ELDERLY OR RETIREMENT RESIDENTIAL COMMUNITY DISTRICT (PERRC)**

### **Section 12.01 – NATURE OF THE DISTRICT**

There is hereby created within Liberty Township a Planned Elderly or Retirement Residential Community District (PERRC) to provide for a range of residential opportunities specifically planned and developed for persons fifty-five (55) years of age or older in order to afford these persons the benefits of independent living, assisted living, and skilled care at one integrated location within a campus setting. No provisions of this Article shall be interpreted to prohibit independent living, assisted living, and skilled care facilities located within a PERRC from providing care to any individual in need of skilled care, regardless of age.

All lands designated on the Official Liberty Township Zoning Map as PERRC District shall be governed by the provisions of this Article.

General Criteria for the PERRC District:

- 12.01.A** The Independent and Assisted Living housing accommodations to be provided shall be developed, operated, and maintained in compliance with the provisions of the Federal Fair Housing Act pertaining to housing intended and operated for occupancy by persons fifty-five (55) years of age or older (42 U.S.C. Section 3607), as amended, which include, at the time of this writing, the following criteria:
  - 12.01.A.1** Accommodations must be intended and operated for occupancy by persons fifty-five (55) years of age or older;
  - 12.01.A.2** At least eighty percent (80%) of the occupied units must be occupied by at least one person who is fifty-five (55) years of age or older;
  - 12.01.A.3** Policies must be adopted, published, and adhered to concerning these occupancy requirements; and
  - 12.01.A.4** Verification procedures must be in place to verify the eighty percent (80%) occupancy requirement.
- 12.01.B** All Independent and Assisted Living housing accommodations shall conform with the Restrictions on Occupancy set forth in Section 12.01.A of this Article.
- 12.01.C** Independent Living facilities may only be incorporated with state-approved and licensed Assisted Living and/or Skilled Care facilities.
- 12.01.D** The ratio of Independent Living, Assisted Living, and Skilled Care shall be stated in the Development Plan.
- 12.01.E** The owner or operator of the housing accommodations shall be responsible for ensuring and maintaining conformance with all criteria.

## Section 12.02 – PERMITTED USES

The following uses shall be permitted within a PERRC, provided that each such use is specifically set forth in the Development Plan and approved as an appropriate permitted use by the Township. The *North American Industrialized Classification System Code (NAICS)* – is to be used to describe all proposed uses as applicable.

- 12.02.A** Independent dwelling units, for occupancy by persons meeting the General Criteria listed in this Article, when incorporated with state-approved and licensed assisted living and/or skilled care facilities.
- 12.02.B** Such dwelling units may be located in single-family buildings, multi-family buildings, or institutional buildings for lease or rent.
- 12.02.C** Permitted Home Occupations: The following professional or business activities shall be considered "Permitted 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 total floor area of the dwelling unit, maintain 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:
  - 12.02.C.1** 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; conducting research; and generating papers, reports or similar work product; but not including the reception of patients, clients, or any other licensees or invitees;
  - 12.02.C.2** Teaching, tutoring, and conducting musical, dance, or similar lessons to no more than three (3) students at any one time.
- 12.02.D** The following NAICS-coded uses:

62331	Community Care Retirement Communities and Assisted Living Facilities for the Elderly
623311	Continuing Care Retirement Communities
623312	Assisted Living Facilities for the Elderly
- 12.02.E** Residential Facilities in accordance with ORC 5123.19(A)(5)(a), 5119.34(A)(9)(a), 5119.34(A)(9)(b)(i and ii), and 5123.19(O).
- 12.02.F** 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 Permit, whichever occurs sooner.
- 12.02.G** Churches or Other Places of Worship, provided that the building occupied by the use occupies a lot of not less than five (5) acres plus one (1) acre for each one hundred (100) permanent seats over three hundred (300) in the main assembly area.

### **Section 12.03 – ACCESSORY USES, BUILDINGS, AND STRUCTURES**

Accessory Uses as defined in Article 4 of this Zoning Resolution may be permitted only when 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. No accessory building within any zoning district shall be used for human occupancy. For purposes of the PERRC District, the following accessory uses shall be permitted:

- 12.03.A** Signs to identify the community by name, address, and telephone number, provided that only one (sign) is situated at each entrance to the community.
- 12.03.B** Recreational areas for use only by the residents, guests, and employees of the community.
- 12.03.C** Residences occupied by custodians, guards, or resident care providers.
- 12.03.D** Other accessory uses incidental and specifically related to the convenience and care of the community, as approved per the Development Plan.
- 12.03.E** Parking and loading areas.
- 12.03.F** Accessory buildings as defined in Article 4 of this Resolution, under "Building, Accessory".
- 12.03.G** Accessory structures as defined by Article 4 of this Resolution, under "Structure, Accessory".
- 12.03.H** The following NAICS-coded uses:

722514	Cafeterias serving the community
722515	Snack bars (e.g., cookies, popcorn, pretzels), fixed location
722310	Food Service Contractors serving the community
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
813110	Religious Organizations – to serve persons living and/or working within PERRC

### **Section 12.04 – CONDITIONAL USES**

Within this zoning district, the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 25 of this Zoning Resolution. The Board of Zoning Appeals may require additional conditions necessary to protect the public health, safety, and welfare. No Conditional Use shall be implemented until a Conditional Use Permit is issued by the Zoning Inspector.

- 12.04.A** Telecommunications Towers as defined in Section 7.16 of this Zoning Resolution.
- 12.04.B** Residential Facilities in accordance with ORC 5119.34(A)(9)(b)(iii).

### **Section 12.05 – PROHIBITED USES**

Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall be prohibited, in addition to the following:

**12.05.A** Junkyards.

**12.05.B** No trailer of any type, no boats, no campers, and no equipment of any type shall be parked in front of the principal structure line on any parcel within this district for more than eight (8) hours in a twenty-four (24) hour period.

**12.05.C** No mobile home, motor home, camper, or manufactured home of any type shall be placed or occupied in the district.

**12.05.D** Storage or accumulation of: inoperable, unused, or unlicensed vehicles; equipment or machinery of any type; and vehicle, equipment, or machinery parts and other similar debris - unless any of the previously mentioned items remain entirely enclosed within a permitted accessory building so as to not be visible from any adjoining property or road.

**12.05.E** The storage of trash, debris, unused property or discarded materials (including, without limitation, discarded household goods, discarded commercial product, discarded building materials, discarded industrial by-products, discarded brush and other vegetation, and similar materials) shall be deemed a nuisance 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 streets, 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 twenty-four (24) hours before its regularly scheduled pick-up.

**12.05.F** Landing fields for aircraft, hot air balloons, ultra-light aircraft, and other mechanical flying equipment on any parcel in this District.

**12.05.G** Commercial Kennels and Catteries.

**12.05.H** Harboring wild, dangerous, or undomesticated animals on lots less than five (5) acres in area, subject to the limitations contained in ORC Section 519.21. For the purposes of this provision, a "wild, dangerous, or undomesticated animal" shall be defined as follows:

**12.05.H.1** An animal whose natural habitat is the wilderness and which, when maintained in human society, is usually confined to a zoological park or exotic animal farm;

**12.05.H.2** A poisonous or venomous animal, insect, or arachnid;

**12.05.H.3** An unrestrained animal (excluding farm animals) which, by reason of its size, strength or appetite, could cause peril to children, adults, pets or domesticated animals, buildings, landscaping, or personal property;

**12.05.H.4** An animal which makes noises with sufficient frequency and volume as to constitute a nuisance to persons in the vicinity of such animal;

**12.05.H.5** An animal which is defined as "vicious" or "dangerous" pursuant to the provisions of ORC Chapter 955, as the same may be amended from time to time, or prohibited by any federal, state, or local law, regulation, or ordinance.

**12.05.I** 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.

**12.05.J** No cultivators, processors, or retail dispensaries of medical marijuana licensed under Ohio Revised Code Chapter 3796, shall be located nor operate in this district.

## Section 12.06 – DESIGN STANDARDS

The Development Plan shall incorporate the following standards:

**12.06.A** Access: Frontage on and direct access to one (1) or more dedicated or improved public roads is required. Provisions for future connections to other public roads may be required by the Township, Delaware County Engineer, and/or the Delaware County Regional Planning Commission.

**12.06.B** Density:

**12.06.B.1** Permitted (net) density: Maximum density of five (5) dwelling units per acre of net developable area.

**12.06.B.2** Maximum ground coverage by buildings and parking areas (total impervious surfaces): fifty percent (50%) of net developable area.

**12.06.B.3** Maximum capacity:

a.) Independent Living: Any two (2) individuals, whether related or not, living together as a family unit, and one caregiver, or as approved per plan;

b.) Assisted Living: As approved per plan;

c.) Skilled Care: As approved per plan.

**12.06.B.4** Minimum Floor Area Requirements:

a.) Independent Living: Each single-story dwelling unit 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 unit 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, and 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.) Skilled Care: 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.

**12.06.C** Setback Requirements: No building or parking area shall be constructed within one hundred (100) feet of the perimeter property line of the overall PERRC tract.

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

**12.06.C.2** Rear Setback: shall equal one-third (1/3) of the sum of the height and width of the structure, but in no case shall be less than one hundred feet (100') from any Residential Zoning District or Planned Residential District, or as approved per plan.

**12.06.C.3** Parking Setback: no parking area shall be constructed within thirty-five (35) feet of the lot line in the PERRC.

**12.06.D** Building size limits: Retail or mixed use buildings, containing retail uses, shall contain no more than sixty-five thousand (65,000) gross square feet of floor area under one roof.

**12.06.E** 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. Roof pitch on the principal structure shall not be less than 6/12 for the primary roofs, or as approved by the development plan. This does not include garages, porches, dormers, or other accent features. The use of vinyl as an exterior siding material is not permitted.

**12.06.F** Building Height Limits: No building in this district shall exceed forty (40) feet in height. All other freestanding structures including, but not limited to, flagpoles shall not exceed forty-eight (48) feet in height. All attached structures including, but not limited to, chimneys and church spires shall not top at a height that is eight (8) feet greater than either the height of the building or other structure to which it is attached.

**12.06.G** Common Open Space: Common 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 use. Open Spaces may be used for the natural disposal of storm water drainage.

**12.06.H** Walkways: Walkways shall be required to connect all dwelling areas and may be required to connect to and throughout the Open Spaces. Walkways shall be separated from the paved street surface in accordance with Delaware County Engineer standards.

**12.06.I** Street Trees are required and shall conform to adopted Townships standards.

**12.06.J** Bikeways/Bike Paths: Bikeways shall be provided in accordance with the Township's adopted Bikeways Plan and shall be built in accordance with the Delaware County Engineer standards. In addition, bikeways within new developments shall be provided in order to connect with existing or planned bikeways external to the proposed new development.

- 12.06.K** Landscaping: All yards (front, side, and rear) shall be landscaped, and all organized Open Spaces or non-residential use areas shall be landscaped. 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.
- 12.06.L** Screening: All trash collection and service areas adjacent to residential areas shall be screened from view with shrubbery or fencing. Shrubbery shall be properly trimmed and all screening shall be maintained in a neat and tidy manner.
- 12.06.M** Buffering: Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of a buffer sufficient to screen Development from adjacent uses.
- 12.06.N** Preservation areas: Wetlands, steep (over twenty percent (20%) inclined) slopes, and ravines shall be preserved to the greatest extent possible and shall be delineated on the Development Plan. No building or structure shall be placed or constructed in any Preservation Area.

Applicants are also encouraged to grant conservation easements to an outside party such as the Delaware County Soil and Water Conservancy District, the Nature Conservancy, Ohio Department of Natural Resources (ODNR) or other non-profit, conservation land trust or governmental agency, rather than to developer or a homeowners association, so that the easement(s) can be appropriately monitored and maintained.

- 12.06.O** Floodplain: No residential dwelling structures shall be constructed within the one-hundred-year (100-year) floodplain of any stream or river.
- 12.06.P** Power Lines: Land underneath overhead high-voltage electric transmission lines may be used for Open Space, landscaping, parking and roads with the permission of the electric utility company.
- 12.06.Q** Utilities: All utilities constructed to service the proposed use shall be located underground. Centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Delaware General Health District, and Ohio Environmental Protection Agency approval.
- 12.06.R** Parking: Off-street parking shall be provided at the time of construction of the main structure or building. Permanent parking shall be provided outside any road right-of-way as follows:
- 12.06.R.1** Independent living, including residences for guards, security personnel, care providers: two (2) spaces per dwelling unit. See Section 7.02.F.
  - 12.06.R.2** Assisted living: see Section 7.02.F.
  - 12.06.R.3** Skilled care: see Section 7.02.F.
- 12.06.S** Signs: Signs shall conform to Article 20 of this Zoning Resolution, or as approved per Development plan.

- 12.06.T** Exterior Lighting: All exterior lighting shall conform with the lighting requirements of Article 7 of this Zoning Resolution.
- 12.06.U** Freight Loading Area: When any use within this district requires the pickup or delivery of merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such loading area shall be located on any public street or alley. Such loading area, as provided, shall be adequate in size to accommodate tractor-trailer (semi) units with adequate room to permit entry to such loading area without interfering with traffic on adjacent streets or highways. Deliveries of freight shall be prohibited between the hours of 11:00 p.m. and 7:00 a.m.
- 12.06.V** Continued Conformance: The owner or operator of the housing accommodations shall maintain conformance with the general criteria set forth in Section 12.01 of this Zoning Resolution. The Development Plan shall specify the person to be responsible for maintaining such conformance if the application is approved. If the person responsible for maintaining conformance 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 conformance with these criteria.
- 12.06.W** Construction and Maintenance of Improvements Within Right-of-Way: The construction and maintenance of all improvements behind the curb line or the edge of pavement including, but not limited to, drainage improvements, landscaping improvements, sidewalks and/or driveway approaches shall be the responsibility of the abutting property owner.
- 12.06.X** 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.
- 12.06.Y** Restrictions on Occupancy: The owner or operator of the housing accommodations shall maintain conformance with the following restrictions on the occupancy of the independent dwelling units:
- 12.06.Y.1** Each occupied dwelling unit for independent living shall at all times have as a permanent occupant therein at least one person who is fifty-five (55) years of age or older (the "Qualifying Occupant"); provided, in the event of the death of a person who was the sole Qualifying Occupant of a Unit, the spouse of such Qualifying Occupant may continue to occupy the Unit as long as the provisions of the Fair Housing Amendments Act and the regulations adopted thereunder are not violated by such occupancy. For such purposes of this Subsection, an occupant shall not be considered a "permanent occupant" unless such occupant considers the Unit to be his or her legal residence and actually resides in the Unit for at least six (6) months during every calendar year.
- 12.06.Y.2** The Development Plan shall specify the manner and method to be used in order to maintain conformance with the general criteria set forth in Section 12.01 of this Zoning Resolution. This includes providing copies of any and all rules and regulations proposed to be enforced with respect to the independent housing accommodations contained within the Development Plan.

## Section 12.07 – PERFORMANCE STANDARDS

No use shall be conducted within this district which fails to maintain the following standards:

- 12.07.A** Fire and Explosion Hazards: All activities and storage involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of spill, fire, and/or explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- 12.07.B** Glare, Heat, and Exterior Light: Any operation producing intense light or heat, such as high temperature processing, combustion, welding, or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- 12.07.C** 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.
- 12.07.D** 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.
- 12.07.E** Vibrations: 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.
- 12.07.F** Odors: No use shall be operated so as to produce 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.

## Section 12.08 – PROCESS FOR AMENDMENT

In addition to any other procedures set forth in this Resolution, all Applications for Amendments to the Zoning Map to rezone lands to the Planned Elderly or Retirement Residential Community District (PERRC) shall follow one of the two following processes:

- 12.08.A** Option A is a two-step process.

- 12.08.A.1** In Step 1, the applicant, being the owner of the subject real estate may apply for designation of the property to the PERRC designation. A Preliminary Development Plan which complies with the requirements of Section 12.09.A of this Zoning Resolution must be submitted with the application. Consideration and approval of the Preliminary Development Plan is a legislative amendment and is subject to the timelines defined in ORC 519.12 and repeated in Article 24 of this Resolution.
- 12.08.A.2** In Step 2, the applicant, being the owner of the subject real estate may apply for the consideration and approval of a Final Development Plan which must conform with the requirements of Section 12.09.B of this Resolution and, unless otherwise allowed,

conform to the approved Preliminary Development Plan. The approval or disapproval of the Final Development Plan is an administrative act by the Zoning Commission.

- 12.08.B** Option B is a one-step process where the applicant, being the owner of the subject real estate simultaneously submits the requirements of Sections 12.09.A and 12.09.B of this Resolution for designation of the property to the PERRC designation and approval of the Final Development Plan. The one-step process is a legislative amendment and is subject to the timelines defined in ORC 519.12 and repeated in Article 23 of this Resolution.
- 12.08.C** Plat Required: In the PERRC District, no use shall be established or changed and no structure shall be constructed or altered until a Subdivision Plat has been prepared and recorded in accordance with the approved Development Plan and with the Subdivision Regulations for Delaware County, Ohio.
- 12.08.D** In no event, however, shall any Zoning Permit be issued for any building or use until such time as the facilities for the phase in which the building or use is located are complete.
- 12.08.E** Upon approval of a zoning amendment to rezone property to the PERRC District, all previous regulations regarding that specific property shall no longer be in effect, and the regulations set forth in this Article and in the approved Development Plan shall govern.
- 12.08.F** A fee as established by the Board of Trustees shall accompany an application requesting a zoning amendment to rezone property to the PERRC District. In addition, the applicant shall also be responsible for all reasonable and necessary expenses incurred by Liberty Township in using professional consulting services to review the application and 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 application and development plan and related application materials. As soon as reasonably practicable following the submission of a rezoning application, 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 12.08.F. 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 12.09 – DEVELOPMENT PLAN

In the PERRC District, no use shall be established or changed and no structure shall be constructed or altered until the required Subdivision Plat has been prepared and recorded in accordance with the Subdivision Regulations for Delaware County, Ohio, and conformance with the provisions of the Liberty Township Zoning Resolution.

**12.09.A** Preliminary Development Plan: Ten (10) paper copies and one (1) electronic copy 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:

- 12.09.A.1** Survey plat and legal description of the plat signed by a registered surveyor showing the size and location of the proposed project.
- 12.09.A.2** The proposed size and location of the tract at a scale of at least one inch equals one hundred feet (1"=100'), showing topographic contours of at least five (5) foot intervals.
- 12.09.A.3** All existing conditions including wooded areas, wetlands, floodplain areas, and existing structures within two hundred (200') feet of the property boundaries.
- 12.09.A.4** The relationship of the proposed development to the existing uses including easements, setbacks, and right-of-way areas.
- 12.09.A.5** Proposed locations of all structures and uses.
- 12.09.A.6** Proposed density calculations and percentage of lot coverage.
- 12.09.A.7** The general character of the tract including:
  - a.** The limitations or controls to be placed on operations, location, or types of tenants.
  - b.** Lots to be numbered and sized.
  - c.** Proposed traffic patterns showing public and private streets and transportation facilities.
  - d.** Description of other development features including landscaping and entry features.
  - e.** Lighting and signage.
- 12.09.A.8** Conceptual architectural design and elevations, roof pitch, and exterior construction materials.
- 12.09.A.9** The intended provisions for utilities including water, fire hydrants, sanitary sewer and adequate storm water drainage outlets. Information regarding existing pipe sizes,

capacities, committed flows, and potential needed upgrades must be documented by the utility provider or a registered civil engineer, whichever is applicable.

- 12.09.A.10** Design of the open space and proposed description of its use, ownership, and plan for maintenance.
- 12.09.A.11** The purpose, need, and reason for each divergence, from the Design Standards in this Article, the General Development Standards and/or the Sign Regulations of this Zoning Resolution, such as setbacks, parking, landscaping, lighting, signage and so forth, must be specified. All justifications must be based on the subject property.
- 12.09.A.12** Traffic Impact Analysis based upon new trip generation as estimated by the Delaware County Engineer's standards.
- 12.09.A.13** All required design standards in Section 12.06 of this Zoning Resolution.
- 12.09.A.14** The proposed size and location of any alternate energy apparatus including, but not limited to, solar and wind apparatus, in conformance with Section 7.17 of this Zoning Resolution.
- 12.09.A.15** Emergency service provisions (letter from Fire Department regarding access and water supply to the proposed development site).
- 12.09.A.16** Phasing plans, if any.
- 12.09.A.17** The ability of the applicant to carry forth its Development Plan by control of the land and the engineering feasibility of the Development Plan.
- 12.09A.18** Plan approval period – the approval of a Preliminary Development Plan shall be effective for a period of one (1) year from the date thirty (30) days after the zoning is approved by the Board of Trustees in order to allow for the preparation and submission of the final development plan.
- 12.09.B** Final Development Plan: Ten (10) paper copies and one (1) electronic copy of the Final Development Plan shall be to scale of at least one inch equals one hundred feet, (1"=100'). The plan will show the proposed uses of the site, location of buildings and structures, streets and roadways, parking areas, all required design features, in text and map form, and required findings for approval found in this Section as well as the following items in detail satisfactory to the reviewing bodies. If the Final Development Plan varies in any way from the approved Preliminary Development Plan, a summary of the changes must accompany the Final Development Plan submittal.
- 12.09.B.1** The permitted and accessory uses to be located on the tract, including the limitations or controls on all uses, lot sizes and dimensioning, and minimum setback requirements.
- 12.09.B.2** Environmentally sensitive areas including the one-hundred-year (100-year) floodplain, natural water, drainage ways, wetlands, and slopes greater than twenty percent (20%) inclined shall be mapped and all existing conditions identified.

- 12.09.B.3** Architectural design detail, including specification of exterior materials, colors, and elevations for all structures. Proposed architectural control procedures shall be included.
- 12.09.B.4** Building heights and dimensions.
- 12.09.B.5** Size, height, and location of all signs per Article 20 of this Zoning Resolution.
- 12.09.B.6** All Final Development Plans shall include a lighting plan - Lighting details shall include, but not be limited to, size, height, type, location, degree of illumination, color of fixture, and design detail. Foot candle output must be identified at all lot lines. All lighting shall conform to the provisions of this Zoning Resolution.
- 12.09.B.7** Landscaping plan: All yards (front, side, and rear) shall be landscaped, and all organized Open Spaces shall be landscaped. 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.
- 12.09.B.8** The utility provider-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.
- 12.09.B.9** A grading and drainage plan prepared by a registered engineer.
- 12.09.B.10** A traffic impact analysis by a civil engineer who specializes in traffic evaluations showing the proposed traffic patterns, public and private streets, and transportation facilities, including their relationship to existing conditions with sight distance and sight triangles defined.
- 12.09.B.11** The relationship of the proposed development to existing and probable uses and zoning classifications of surrounding areas.
- 12.09.B.12** Location of all uses within the site and the location of schools, parks, and other public facility sites within or adjacent to the site.
- 12.09.B.13** The proposed timetable for development of the site including entry features, open space, streets, buildings, utilities, and other facilities.
- 12.09.B.14** If the proposed timetable for development includes developing the land in phases, phasing shall be fully described in textual form in a manner calculated to give the Township a definitive timeline for development of future phases.
- 12.09.B.15** All phases, developed after the first phase, shall be a minimum of five (5) acres or the remainder of the tract, whichever is smaller.

- 12.09.B.16** The purpose, need, and reason for each divergence, from the Design Standards in this Article, the General Development Standards and/or the Sign Regulations of this Zoning Resolution, such as setbacks, parking, landscaping, lighting, signage and so forth, must be specified. All justifications must be based on the subject property.
- 12.09.B.17** The drawings that are a part of the Development Plan shall bear the seal and signature of the appropriate licensed professional(s), to include surveyor, architect, landscape architect, and/or engineer licensed to practice in the State of Ohio.
- 12.09.B.18** If the Development Plan fails to include all the information required above, the application will be considered incomplete and may be denied by the Liberty Township Zoning Commission. In the event that an applicant wishes to amend or otherwise change the application in any way, the Zoning Commission may table its consideration of the amended application until such time as all of its members have had an opportunity to review the complete and final application.

## **Section 12.10 – CRITERIA FOR APPROVAL**

When approving an Application for a rezoning to the Planned Elderly or Retirement Residential Community District the reviewing authorities shall consider:

- 12.10.A** Whether the proposed rezone is consistent in all respects with the purpose, intent and general standards of this Zoning Resolution.
- 12.10.B** Whether the proposed rezone is in conformity with the Comprehensive Plan or portion thereof as it may apply.
- 12.10.C** Whether the proposed rezone advances the public health, safety, and welfare of the Township and the immediate vicinity.
- 12.10.D** Whether the proposed rezone will be compatible in appearance and use with surrounding existing or proposed land uses.
- 12.10.E** Whether the proposed rezone promotes the efficient use of land and resources, promotes greater efficiency in providing public utility services, and encourages innovation in the planning and building of all types of development.

## **Section 12.11 – ADMINISTRATION OF THE DEVELOPMENT PLAN**

After Development Plan approval, all recorded subdivision plats, construction drawings, restrictive covenants, and other necessary documents shall be submitted to the Zoning Inspector for administrative review to ensure conformance with the Development Plan as approved. Any change to an approved Preliminary or Final Development Plan shall be considered as follows:

- 12.11.A** Variations: Following the approval of the Development Plan, proposed variations from the approved Development Plan that involve only one (1) building containing dwelling(s) shall be considered by the Board of Zoning Appeals under its hearing process pursuant to Article 25 of the Zoning Resolution. All other modifications to the Preliminary or Final Development Plan shall be presented to the Zoning Commission for its consideration, pursuant to Section 12.11.A.1.

**12.11.A.1** 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 Planned Elderly or Retirement Residential Community District. The Zoning Commission shall render a decision on the request within sixty (60) days after the conclusion of the hearing.

**12.11.B** Default: The approval of the Final Development Plan shall be effective for a period of three (3) years (or for such other time period as may be approved as part of the Final 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 Final Development Plan shall expire.

**12.11.C** Extension of Time: An extension of the time limit for filing the required subdivision plat, recording the approved subdivision plat, the commencement of construction, or increasing the approval period for a Preliminary or Final Development Plan, may be granted by the Zoning Commission at any public meeting, 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 plan 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.

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## ARTICLE 13 – PLANNED RESIDENCE CONSERVATION DISTRICT (PRC)

### Section 13.01 – NATURE OF THE DISTRICT

There is hereby created within Liberty Township a Planned Residence Conservation District (PRC) to promote and preserve rural character and the general public welfare, encourage the efficient use of land and resources, promote greater efficiency in public utility services, and encourage innovation in the planning and building of all types of development. PRC zoning may be applied to any land in the township pursuant to a zoning map amendment approved by the township.

All lands designated on the Official Liberty Township Zoning Map as Planned Residence Conservation District (PRC) shall be governed by this Article.

General criteria for the PRC District:

- 13.01.A** Permanently preserve and integrate Open Space within residential developments;
- 13.01.B** Offer landowners alternatives to standard tract development of their land;
- 13.01.C** Establish a less sprawling, more efficient use of land, streets, and utilities;
- 13.01.D** Preserve natural topography in wooded areas;
- 13.01.E** Create usable and accessible open space, recreational areas, and green corridors for wildlife, walking trails, and/or bike paths; and
- 13.01.F** Encourage creativity in design.

### Section 13.02 – PERMITTED USES

The following uses shall be permitted within a Planned Residence Conservation District (PRC):

- 13.02.A** Single-family detached residential dwelling units.
- 13.02.B** Common wall single-family attached dwellings.
- 13.02.C** Multi-family dwellings provided they comprise no more than twenty percent (20%) of the total allowable density.
- 13.02.D** Common Open Space - Upon approval of the Final Development Plan by the Township, the following types of activities are permitted within Open Space, including but not limited to:
  - 13.02.D.1** Bocce, baseball, basketball, softball, football, volleyball, badminton, golf, soccer, swimming, tennis, roller skating, rollerblading, skateboarding, Frisbee, bird watching, horseshoes, canoeing, rowing, jogging, walking, gardening, fishing, and bicycling. The proposed uses for common Open Space shall be described in the Development Plan and approved by the Township. All open space lands shall be permanently owned by

the Homeowners Association or Developer until a Homeowners Association is established.

**13.02.D.2** Natural Green Space.

**13.02.E** Residential Facilities in accordance with ORC 5123.19(A)(5)(a), 5119.34(A)(9)(a), 5119.34(A)(9)(b)(i and ii), 5119.34(A)(9)(c), and 5123.19(O).

**13.02.F** Churches or Other Places of Worship, provided that the building occupied by the use occupies a lot of not less than five (5) acres plus one (1) acre for each one hundred (100) permanent seats over three hundred (300) in the main assembly area.

**Section 13.03 – ACCESSORY USES, BUILDINGS, AND STRUCTURES**

Accessory Uses as defined in Article 4 of this Zoning Resolution may be permitted only when 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. No accessory building within any zoning district shall be used for human occupancy.

**Section 13.04 – CONDITIONAL USES**

Within this zoning district the following may be permitted subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 25 of the Zoning Resolution. The Board of Zoning Appeals may require additional conditions necessary to protect the public health, safety, and welfare. No Conditional Use shall be implemented until a Conditional Use Permit is issued by the Zoning Inspector.

**13.04.A** Telecommunications Towers as defined in Section 7.16.

**Section 13.05 – PROHIBITED USES**

Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall be prohibited, in addition to the following:

**13.05.A** Junkyards.

**13.05.B** No trailer of any type, no boats, no campers, and no equipment of any type shall be parked in front of the front building line on any parcel within this district. 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 Resolution or the restrictions of the Plat or Subdivision.

**13.05.C** No mobile home, motor home, camper, or manufactured home of any type shall be placed or occupied in the district.

**13.05.D** Storage or accumulation of: inoperable, unused, or unlicensed vehicles; equipment or machinery of any type; and vehicle, equipment, or machinery parts and other similar debris - unless any of the previously mentioned items remain entirely enclosed within a permitted accessory building so as to not be visible from any adjoining property or road.

- 13.05.E** 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 similar materials) shall be deemed a nuisance 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 streets, 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 twenty-four (24) hours before its regularly scheduled pick-up.
- 13.05.F** Landing fields for aircraft, hot air balloons, ultra-light aircraft, and other mechanical flying equipment on any portion of the property.
- 13.05.G** Commercial Kennels and Catteries.
- 13.05.H** Harboring wild, dangerous, or undomesticated animals on lots less than five (5) acres in area, subject to the limitations contained in ORC Section 519.21. For the purposes of this provision, a "wild, dangerous, or undomesticated animal" shall be defined as follows:
- 13.05.H.1** An animal whose natural habitat is the wilderness and which, when maintained in human society, is usually confined to a zoological park or exotic animal farm;
  - 13.05.H.2** A poisonous or venomous animal, insect, or arachnid;
  - 13.05.H.3** An unrestrained animal (excluding farm animals) which, by reason of its size, strength, or appetite, could cause peril to children, adults, pets or domesticated animals, buildings, landscaping, or personal property;
  - 13.05.H.4** An animal which makes noises with sufficient frequency and volume as to constitute a nuisance to persons in the vicinity of such animal;
  - 13.05.H.5** An animal which is defined as "vicious" or "dangerous" pursuant to the provisions of ORC Chapter 955, as the same may be amended from time to time, or prohibited by any federal, state, or local law, regulation, or ordinance.
- 13.05.I** 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.
- 13.05.J** No cultivators, processors, or retail dispensaries of medical marijuana licensed under Ohio Revised Code Chapter 3796, shall be located nor operate in this district.

## **Section 13.06 – DESIGN STANDARDS**

A Planned Residence Conservation District subdivision is a compact residential neighborhood with fifty percent (50%) or more Open Space developed and designed in accordance with the following:

**13.06.A** Access: Frontage on and direct access to one (1) or more dedicated or improved public roads is required. Provisions for future connections to other public roads may be required by the Township, Delaware County Engineer, and/or the Delaware County Regional Planning Commission.

**13.06.B** Density:

**13.06.B.1** The maximum overall density for any single-family development within Liberty Township shall be one and one-half (1.5) dwelling units per net developable acre. Note: The Liberty Township Comprehensive Plan recommends densities for most areas within Liberty Township be substantially less than this maximum.

**13.06.B.2** Developments shall have minimum lot sizes, as specified in the Liberty Township Comprehensive Plan, as of the date an Application For Zoning is filed; however, to encourage the efficient use of land and resources, to promote greater efficiency in providing public and utility services, and to encourage innovation and preservation of natural resources and features in planning and building, the Township may consider exceptions to the minimum lot sizes prescribed in the Liberty Township Comprehensive Plan to allow clustering of dwelling units where appropriate.

**13.06.C** Setback Requirements: No part of any permitted, building, principal, or accessory structure, or use, except that of a lawn, and as provided for under Section 7.13, shall encroach upon a required setback. The physical relationship of permitted uses and structures and their minimum yard space shall be determined in accordance with the following, EXCEPT that locations of Fences, Driveways, Parking Areas, and Water Impoundments shall be governed by the Requirements in Article 7 of this Zoning Resolution, and locations of Signs shall be governed by the requirements in Article 20 of this Zoning Resolution:

	<b>Front and adjacent roads</b>	<b>Setback from Side lot line</b>	<b>Setback from Rear lot line</b>
<b>Permitted residential buildings</b>	30 feet from ROW*	10 feet minimum with a 25-foot building separation**	10 feet
<b>Permitted non-residential buildings</b>	100 feet from ROW*	100 feet	100 feet
<b>Accessory structures</b>	The front building line of the principal structure	10 feet	10 feet

\*or as required by Section 7.09, whichever is greater.

\*\*unless approved as Cluster Housing, Common Wall Housing or similar variations.

**13.06.D** Building Design: In order to reduce visual impact, builders shall avoid new construction on prominent hilltops or ridges. Front dwelling units shall be placed on internal roads only, not along external roads. Plan dwelling layouts should uphold the visual scenic view shed. Eighty-five percent (85%) or more of the total number of dwelling units are to have a direct view of common Open Space. Roof pitch on the principal structure shall not be less than 6/12 for the primary roofs, or as approved by the development plan. This does not include garages, porches, dormers, or other accent features. The use of vinyl as an exterior siding material is not permitted.

- 13.06.E** Building Height Limits: No building in this district shall exceed forty (40) feet in height. All other freestanding structures including, but not limited to, flagpoles shall not exceed forty-eight (48) feet in height. All attached structures including, but not limited to, chimneys and church spires shall not top at a height that is eight (8) feet greater than either the height of the building or other structure to which it is attached.
- 13.06.F** Open Space: At least fifty percent (50%) of the total gross acreage of the Planned Residence Conservation District must be devoted to Open Space. Open Space shall be designated upon the Development Plan as "Common Open Space", "Open Space" and/or "Natural Green Space" upon the basis of the definitions, purposes, requirements and conditions set forth in Section 4.01 of this Zoning Resolution. Such Open Space shall be designed to provide active recreation, passive recreation, the preservation of natural site amenities, or any combination thereof. Any buildings, structures, and improvements to the Open Space must be appropriate to the uses which are authorized for the Open Space, with regard to its topography and unimproved condition. The Open Space shall be of a size, shape, and location which is conducive to use by all residents of property. Right-of-ways for water courses and other similar channels are not acceptable as Open Space dedication, unless such land(s) or Easement(s) is usable as a Trail or has been approved by the Zoning Commission. Storm water retention or detention facilities and land under high-voltage power line easements are acceptable as Open Space, provided such facilities do not exceed fifteen percent (15%) of the total Open Space required.

The responsibility for the maintenance of all Open Spaces shall be specified by the developer in writing within the Development Plan. The required amount of Common Open Space reserved in a Planned Residence Conservation District shall either be held in corporate ownership by owners of the project area, for the use of each person who buys or leases property within the development, or be dedicated to a homeowners' association that shall have title to the land. Such Open Space shall be used only for the purposes for which it is designated within the approved Development Plan, and in accordance with the approved Development Plan. The legal articles relating to the organization of the homeowners' association are subject to review and approval by the Zoning Commission. Such legal articles are required to be submitted as part of the Development Plan and shall provide adequate provisions for the perpetual care and maintenance of all common areas. Such legal articles shall be inserted into the chain of title of the land within the Planned Residence District.

- 13.06.G** Walkways: Walkways shall be required to connect all residential and non-residential areas and may be required to connect to and throughout the Open Space. Walkways shall be separated from the paved street surface in accordance with Delaware County Engineer standards.
- 13.06.H** Street Trees are required and shall conform to adopted Township standards.
- 13.06.I** Bikeways/Bike Paths: Bikeways shall be provided in accordance with the Township's adopted Bikeways Plan and shall be built in accordance with the Delaware County Engineer standards. In addition, bikeways within new developments shall be provided in order to connect with existing or planned bikeways external to the proposed new development.
- 13.06.J** Landscaping: Landscaping and/or vegetation shall be permitted in common areas with native trees and shrubs. Shade trees may be placed along internal roads.

- 13.06.K** Screening: All industrial areas adjacent to residential areas shall provide a screening of shrubbery and/or fencing so as to hide trash collection areas and service areas from the view of adjacent residential areas. All such shrubbery shall be properly trimmed and all screening shall be maintained in a neat and tidy manner.
- 13.06.L** Buffering: Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of such tree cover or other foliage as may be necessary to achieve the purpose of the Open Space and the buffer of adjacent uses.
- 13.06.M** Preservation Areas: Wetlands, steep (over twenty percent (20%) inclined) slopes, and ravines shall be preserved to the greatest extent possible and shall be delineated on the Development Plan. Secondary conservation areas including historical, archaeological, and/or cultural features shall also be delineated on the plan and preserved as much as practicable. No building or structure shall be placed or constructed in any Preservation Area. Applicants are encouraged to retain or replant native vegetation adjacent to wetlands and surface waters, preserve scenic views and vistas, and preserve existing hedge and tree lines to the extent practicable.
- Applicants are also encouraged to grant conservation easements to an outside party such as the Delaware County Soil and Water Conservancy District, the Nature Conservancy, Ohio Department of Natural Resources (ODNR) or other non-profit, conservation land trust or governmental agency, rather than to developer or a homeowners association, so that the easement(s) can be appropriately monitored and maintained.
- 13.06.N** Floodplain: No principal Structures shall be constructed within the one-hundred-year (100-year) floodplain of any stream or river.
- 13.06.O** Power Lines: Land underneath overhead high-voltage electric transmission lines may be used for Open Space, landscaping, parking, driveways, and roads with the permission of the applicable utility company.
- 13.06.P** Utilities: All utilities constructed to service the proposed use shall be located underground. Centralized water supply and sanitary sewer disposal systems shall be provided subject to Delaware County Sanitary Engineer, Delaware General Health District, and Ohio Environmental Protection Agency approval.
- 13.06.Q** Exterior Lighting: All exterior lighting shall conform with the lighting requirements of Article 7 of this Zoning Resolution.
- 13.06.R** Signs: See Article 20, Sign Regulations.
- 13.06.S** Construction and Maintenance of Improvements Within Right-of-Way: The construction and maintenance of all improvements behind the curb line or the edge of pavement including, but not limited to, drainage improvements, landscaping improvements, sidewalks, and/or driveway approaches shall be the responsibility of the abutting property owner.
- 13.06.T** Supplemental Conditions & 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 13.07 – PERFORMANCE STANDARDS**

No use shall be conducted within this district which fails to maintain the following standards:

- 13.07.A** Fire and Explosion Hazards: All activities and storage involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of spill, fire and/or explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- 13.07.B** Glare, Heat and Exterior Light: Any operation producing intense light or heat, such as high temperature processing, combustion, welding or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- 13.07.C** 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.
- 13.07.D** 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.
- 13.07.E** Vibrations: 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.
- 13.07.F** Odors: No use shall be operated so as to produce 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.

## **Section 13.08 – PROCESS FOR AMENDMENT**

In addition to any other procedures set forth in this Zoning Resolution, all Applications for Amendments to the Zoning Map to rezone lands to the PRC District shall follow one of the two following processes:

- 13.08.A** Option A is a two-step process.
  - 13.08.A.1** In Step 1, the applicant, being the owner of the subject real estate, may apply for designation of the property to the Planned Residence Conservation designation. A Preliminary Development Plan which complies with the requirements of Section 13.09.A of this Zoning Resolution must be submitted with the application. Consideration and approval of the Preliminary Development Plan is a legislative amendment and is subject to the timelines defined in ORC 519.12 and repeated in Article 23 of this Resolution.
  - 13.08.A.2** In Step 2, the applicant, being the owner of the subject real estate, may apply for the consideration and approval of a Final Development Plan which must conform with

the requirements of Section 13.09.B of this Resolution and, unless otherwise allowed, conform to the approved Preliminary Development Plan. The approval or disapproval of the Final Development Plan is an administrative act by the Zoning Commission.

- 13.08.B** Option B is a one-step process where the applicant, being the owner of the subject real estate, simultaneously submits the requirements of Section 13.09.A and 13.09.B of this Zoning Resolution for designation of the property to the Planned Residence Conservation designation and approval of the Final Development Plan. The one-step process is a legislative amendment and is subject to the timelines defined in ORC 519.12 and repeated in Article 24 herein.
- 13.08.C** Plat Required: In the Planned Residence Conservation District (PRC), no use shall be established or changed and no structure shall be constructed or altered until the required Plat has been prepared and recorded in accordance with the approved Development Plan and with the Subdivision Regulations for Delaware County, Ohio.
- 13.08.D** In no event shall any Zoning Permit be issued for any building or use until such time as the facilities for the phase in which the building or use is located is completed.
- 13.08.E** Upon approval of a zoning amendment to rezone property to the PRC District, all previous regulations regarding that specific property shall no longer be in effect, and the regulations set forth in this Article and in the approved Development Plan shall govern.
- 13.08.F** A fee as established by the Board of Trustees shall accompany an application requesting a zoning amendment to rezone property to the PRC District. In addition, the applicant shall also be responsible for all reasonable and necessary expenses incurred by Liberty Township in using professional consulting services to review the application and 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 application and development plan and related application materials. As soon as reasonably practicable following the submission of a rezoning application, 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 13.08.F. 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 13.09 – DEVELOPMENT PLANS**

In the Planned Residence Conservation District (PRC), no use shall be established or changed and no structure shall be constructed or altered until the Development Plan has been approved in accordance with the provisions of the Liberty Township Zoning Resolution.

**13.09.A** Preliminary Development Plan – Ten (10) paper copies and one (1) electronic copy of the Preliminary Development Plan shall be submitted to the Zoning Commission with the PRC application. The plan shall include in text and map form, the following:

- 13.09.A.1** Survey plat and legal description of the property signed by a registered surveyor showing the size and location of the proposed project.
- 13.09.A.2** The proposed size and location of the tract at a scale of at least one inch equals one hundred feet (1"=100'), showing topographic contours of at least five (5) foot intervals.
- 13.09.A.3** All existing conditions including wooded areas, wetlands, floodplain areas, and existing structures within two hundred (200) feet of the property boundaries. Draw dwelling unit footprints outside the conservation areas. Draw the number of dwelling units based upon the permitted density calculations, with lot lines.
- 13.09.A.4** The relationship of the proposed development to the existing uses including easements, setbacks, and right-of-way areas.
- 13.09.A.5** Proposed locations of all structures and uses.
- 13.09.A.6** Proposed density calculations and percentage of lot coverage.
- 13.09.A.7** The general character of the tract, including:
  - a.** The limitations or controls to be placed on operations or locations;
  - b.** Lots, numbered with dimensions, bearings, and distances;
  - c.** Proposed traffic patterns showing public and private streets and transportation facilities;
  - d.** Description of other development features including landscaping and entry features;
  - e.** Lighting and signage.
- 13.09.A.8** Conceptual architectural design and elevations, roof pitch, and exterior construction materials.

- 13.09.A.9** The intended provisions for utilities including water, fire hydrants, sanitary sewer, and adequate storm water drainage outlets. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented by the utility provider or a registered civil engineer, whichever is applicable.
- 13.09.A.10** A design of the open space and proposed description of its use, ownership, and plan for maintenance.
- 13.09.A.11** The purpose, need, and reason for each divergence, from the Design Standards in this Article, the General Development Standards and/or the Sign Regulations of this Zoning Resolution, such as setbacks, parking, landscaping, lighting, signage and so forth, must be specified. All justifications must be based on the subject property.
- 13.09.A.12** Traffic Impact Analysis based upon new trip generation as estimated by the Delaware County Engineer's standards.
- 13.09.A.13** All required design standards in Section 13.06 of this Zoning Resolution.
- 13.09.A.14** The proposed size and location of any alternative energy apparatus including but not limited to solar panels and wind generators.
- 13.09.A.15** Emergency service provisions (letter from Fire Department regarding access and water supply to the proposed development site).
- 13.09.A.16** Phasing plans, if any.
- 13.09.A.17** The ability of the applicant to carry forth its Development Plan by control of the land and the engineering feasibility of the Development Plan.
- 13.09.A.18** Plan approval period: the approval of a Preliminary Development Plan shall be effective for a period of one (1) year from the date thirty (30) days after the zoning is approved by the Board of Trustees in order to allow for the preparation and submission of the Final Development Plan.
- 13.09.B** Final Development Plan: Ten (10) paper copies and one (1) electronic copy of the Final Development Plan shall be to scale of at least one inch equals one hundred feet (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 required findings for approval found in this Section as well as the following items in detail, text and map form, satisfactory to the reviewing bodies. If the Final Development Plan varies in any way from the approved Preliminary Development Plan, a summary of the changes must accompany the Final Development Plan submittal.
- 13.09.B.1** The permitted and accessory uses to be located on the tract including the limitations or controls on all uses, lot sizes and dimensioning, and minimum setback requirements.
- 13.09.B.2** Environmentally sensitive areas including the one-hundred-year (100-year) floodplain, existing streams and ponds, drainage ways, wetlands, and slopes greater

than twenty percent (20%) inclined shall be mapped and all existing conditions identified.

- 13.09.B.3** Architectural design detail including specification of exterior materials, colors, and elevations for all structures. Proposed architectural control procedures shall be included.
- 13.09.B.4** Building heights and dimensions.
- 13.09.B.5** Size, height, and location of all signs as regulated by Article 20 of this Zoning Resolution.
- 13.09.B.6** Lighting Plan: Lighting details shall include, but not be limited to, size, height, type, location, degree of illumination, color of fixture, and design detail. Foot candle output must be identified at all lot lines. All lighting shall conform to the provisions of Article 7 of this Zoning Resolution.
- 13.09.B.7** Landscaping plan: All yards, front, side and rear, shall be landscaped, and all organized open spaces shall be landscaped. 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.
- 13.09.B.8** The utility provider-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.
- 13.09.B.9** A grading and drainage plan prepared by a registered engineer.
- 13.09.B.10** A traffic impact analysis by a civil engineer who specializes in traffic evaluations showing the proposed traffic patterns, public and private streets, and transportation facilities, including their relationship to existing conditions with sight distance and sight triangles defined.
- 13.09.B.11** The relationship of the proposed development to existing and probable uses and zoning classifications of surrounding areas.
- 13.09.B.12** Location of all uses within the site and the location of schools, parks, and other public facility sites within or adjacent to the site.
- 13.09.B.13** The proposed time table for development of the site including entry features, open space, streets, buildings, utilities, and other facilities.
- 13.09.B.14** If the proposed timetable for development includes developing the land in phases, phasing shall be fully described in textual form in a manner calculated to give the Township a definitive timeline for development of future phases.
- 13.09.B.15** All phases shall be a minimum of five (5) acres.

- 13.09.B.16** The purpose, need, and reason for each divergence, from the Design Standards in this Article, the General Development Standards and/or the Sign Regulations of this Zoning Resolution, such as setbacks, parking, landscaping, lighting, signage and so forth, must be specified. All justifications must be based on the subject property.
- 13.09.B.17** The drawings that are a part of the Development Plan shall bear the seal and signature of the appropriate licensed professional(s), including the surveyor, architect, landscape architect, and/or engineer licensed to practice in the State of Ohio.
- 13.09.B.18** If the Development Plan fails to include all the information required above, the application will be considered incomplete and may be denied by the Liberty Township Zoning Commission. In the event that an applicant wishes to amend or otherwise change the application in any way, the Zoning Commission may table its consideration of the amended application until such time as all of its members have had an opportunity to review the complete and final application.
- 13.09.B.19** Since the Final Development Plan is a rendition of what is intended to be built; all standards for landscaping, parking, and setbacks are per plan.

## **Section 13.10 – CRITERIA FOR APPROVAL**

When approving an Application for rezoning to the Planned Residence Conservation District, the reviewing authorities shall consider:

- 13.10.A** Whether the proposed rezone is consistent in all respects with the purpose, intent and general standards of this Zoning Resolution.
- 13.10.B** Whether the proposed rezone is in conformity with the Comprehensive Plan or portion thereof as it may apply.
- 13.10.C** Whether the proposed rezone advances the public health, safety, and welfare of the Township and the immediate vicinity.
- 13.10.D** Whether the proposed rezone will be compatible in appearance and use with surrounding existing or proposed land uses.
- 13.10.E** Whether the proposed rezone promotes the efficient use of land and resources, promotes greater efficiency in providing public utility services, and encourages innovation in the planning and building of all types of development.

## **Section 13.11 – ADMINISTRATION OF THE DEVELOPMENT PLAN**

After Development Plan approval, all recorded subdivision plats, construction drawings, restrictive covenants, and other necessary documents shall be submitted to the Zoning Inspector for administrative review to ensure conformance with the Development Plan as approved. Any change to an approved Preliminary or Final Development Plan shall be considered as follows:

- 13.11.A** Variations: Following the approval of the Development Plan, proposed variations from the approved Development Plan that involve only one (1) dwelling unit shall be considered by the Board of Zoning

Appeals under its hearing process pursuant to Article 25 of the Zoning Resolution. All other modifications to the Preliminary or Final Development Plan shall be presented to the Zoning Commission for its consideration, pursuant to Section 13.11.A.1.

**13.11.A.1** 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 Planned Residence Conservation District. The Zoning Commission shall render a decision on the request within sixty (60) days after the conclusion of the hearing.

**13.11.B** Default: The approval of the Final Development Plan shall be effective for a period of three (3) years (or for such other time period as may be approved as part of the Final 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 Final Development Plan shall expire.

**13.11.C** Extension of Time: An extension of the time limit for filing the required subdivision plat, recording the approved subdivision plat, the commencement of construction, or increasing the approval period for a Preliminary or Final Development Plan, may be granted by the Zoning Commission at any public meeting, 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 plan 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.

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## ARTICLE 14 – NEIGHBORHOOD RETAIL DISTRICT (C-2)

### Section 14.01 – NATURE OF THE DISTRICT

There is hereby created within Liberty Township a Neighborhood Retail District (C-2) to provide for the variety and flexibility of land development for purposes that are necessary to meet demand while still preserving and enhancing the public health, safety, and welfare of Township residents.

All lands designated on the Official Liberty Township Zoning Map as Neighborhood Retail District shall be governed by the provisions of this Article.

### Section 14.02 – PERMITTED USES

The following uses shall be permitted within a Neighborhood Retail District (C-2):

- 14.02.A** Retail stores primarily engaged in selling of merchandise for personal or household consumption and rendering services incidental to the sale of goods, including hardware stores, restaurants without drive-through windows, grocery stores, meat and seafood markets, fruit stores and vegetable markets, candy stores, nut and confectionery stores, retail bakeries, drug and proprietary stores, florists, nurseries/landscaping, laundromats, laundry and dry cleaning shops, beauty shops, barber shops, shoe repair or shining shops, church, child care, or any other like retail establishment consistent with the above listed uses.
- 14.02.B** Office facilities for the providing of personal service such as insurance agencies, insurance brokers, real estate offices, law offices, offices of physicians, surgeons, dentists, dental surgeons, osteopathic surgeons, chiropractors or podiatrists or other allied medical, dental, or optical fields.
- 14.02.C** Offices of credit agencies, personal credit institutions, or loan offices.
- 14.02.D** Offices of veterinarians, provided that the practice of said veterinarian is limited to small domestic animals, that no animals are boarded on the premises, and that no outside runs or exercise areas are provided.
- 14.02.E** Temporary structures such as manufactured/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 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 structure shall be occupied as a dwelling.

### Section 14.03 – ACCESSORY USES, BUILDINGS, AND STRUCTURES

Accessory Uses as defined in Article 4 of this Zoning Resolution may be permitted only when incidental or subordinate to and in association with a principal permitted use. No accessory building within any zoning district shall be used for human occupancy.

## **Section 14.04 – CONDITIONAL USES**

No Conditional Uses are allowed in the Neighborhood Retail District.

## **Section 14.05 – PROHIBITED USES**

Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall be prohibited, in addition to the following:

- 14.05.A** Adult Businesses of any type, whether Low, Medium, or High Impact.
- 14.05.B** Junkyards.
- 14.05.C** Storage or accumulation of: inoperable, unused, or unlicensed vehicles; equipment or machinery of any type; and vehicle, equipment, or machinery parts and other similar debris - unless any of the previously mentioned items remain entirely enclosed within a permitted accessory building so as to not be visible from any adjoining property or road.
- 14.05.D** 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 similar materials) shall be deemed a nuisance 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 streets, 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 twenty-four (24) hours before its regularly scheduled pick-up.
- 14.05.E** Private landing fields for aircraft, hot air balloons, ultra-light aircraft, and other mechanical flying equipment.
- 14.05.F** Commercial Kennels and Catteries.
- 14.05.G** Harboring wild, dangerous, or undomesticated animals on lots less than five (5) acres in area, subject to the limitations contained in ORC Section 519.21. For the purposes of this provision, a "wild, dangerous, or undomesticated animal" shall be defined as follows:
  - 14.05.G.1** An animal whose natural habitat is the wilderness and which, when maintained in human society, is usually confined to a zoological park or exotic animal farm;
  - 14.05.G.2** A poisonous or venomous animal, insect, or arachnid;
  - 14.05.G.3** An unrestrained animal (excluding farm animals) which, by reason of its size, strength, or appetite, could cause peril to children, adults, pets or domesticated animals, buildings, landscaping, or personal property;
  - 14.05.G.4** An animal which makes noises with sufficient frequency and volume as to constitute a nuisance to persons in the vicinity of such animal;

- 14.05.G.5** An animal which is defined as “vicious” or “dangerous” pursuant to the provisions of ORC Chapter 955, as the same may be amended from time to time, or prohibited by any federal, state, or local law, regulation, or ordinance.
- 14.05.H** 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.
- 14.05.I** No cultivators, processors, or retail dispensaries of medical marijuana licensed under Ohio Revised Code Chapter 3796, shall be located nor operate in this district.

## **Section 14.06 – PROCESS FOR AMENDMENT**

In addition to any other procedures set forth in this Zoning Resolution, all Applications for Amendments to the Zoning Map to rezone lands to this district shall follow the procedures hereinafter set forth:

- 14.06.A** Application: The owner(s) of lots and lands within the Township may request that the Zoning Map be amended to include such tracts in the Neighborhood Retail District (C-2) in accordance with the provisions of this Resolution.
- 14.06.B** Procedure for Rezone: The procedure outlined in ORC 519.12 shall be followed to consider an Application for rezoning to a Neighborhood Retail District. Approval of the Application pursuant to that Section shall constitute a rezone of such land.
- 14.06.C** Plat Required: In the Neighborhood Retail District, no use shall be established or changed and no structure shall be constructed or altered until the required Subdivision Plat has been prepared and recorded.
- 14.06.D** In no event, however, shall any Zoning Permit be issued for any building or use until such time as the facilities for the phase in which the building or use is located are completed.
- 14.06.E** Upon approval of a zoning amendment to rezone property to the C-2 District, all previous regulations regarding that specific property shall no longer be in effect, and the regulations set forth in this Article shall govern.

## **Section 14.07 – DESIGN STANDARDS**

All lands and uses within the Neighborhood Retail District shall be developed in strict conformance with the standards hereinafter established:

- 14.07.A** Access: Requires frontage on and direct access to one or more dedicated and improved public roads. Ideally, three (3) means of ingress/egress are recommended; however, only two (2) means of egress shall be required. There may also be additional provisions for future connections to other public roads as required by the Township, the Delaware County Engineer, and/or the Regional Planning Commission.
- 14.07.B** Lot Configuration:
- 14.07.B.1** Lot Size: No minimum lot size shall be required; however, the lot size shall be adequate to provide the yard spaces and off-street parking as herein required.

**14.07.B.2** Lot Width: No minimum lot width shall be required; however, all commercial tracts shall have access to public streets and shall be of such width as to provide required yard spaces and off-street parking.

**14.07.C** Intensity:

**14.07.C.1** Maximum Lot Coverage: On no lot or parcel in this zoning district shall buildings be constructed which cover more than twenty-five percent (25%) of the lot area.

**14.07.C.2** Building size: Maximum of three thousand (3,000) square feet.

**14.07.D** Setback Requirements:

**14.07.D.1** Front Setback: No building or other structure shall be located closer to the right-of-way line or center line of the adjacent public or private road than permitted in Section 7.09 of this Zoning Resolution.

**14.07.D.2** Side Setback: No building or other structure shall be located closer than twenty-five (25) feet to any side lot line.

**14.07.D.3** Rear Setback: No principal structure shall be located closer than sixty (60) feet to the rear line of any lot and no accessory structure shall be located closer than fifteen (15) feet to said rear lot line.

**14.07.E** Building Height Limits: No building in this district shall exceed forty (40) feet in height. All other freestanding structures including, but not limited to, flagpoles shall not exceed forty-eight (48) feet in height. All attached structures including, but not limited to, chimneys and church spires, shall not top at a height that is eight (8) feet greater than either the height of the building or structure to which it is attached.

**14.07.F** Building Design: Footprints, building orientation, massing, roof shape, pitch, and exterior materials should blend with other traditional or historic architecture in the community or with the site. Roof pitch on the principal structure shall not be less than 6/12 for the primary roofs, or as approved by the development plan. This does not include garages, porches, dormers, or other accent features. The use of vinyl as an exterior siding material is not permitted.

**14.07.G** Street Trees are required and shall conform to adopted Township standards.

**14.07.H** Bikeways/Bike Paths: Bikeways shall be provided in accordance with the Township's adopted Bikeways Plan and shall be built in accordance with the Delaware County Engineer standards. In addition, bikeways within new developments shall be provided in order to connect with existing or planned bikeways external to the proposed new development.

**14.07.I** Walkways: Walkways shall be required and separated from the paved street surface in accordance with Delaware County Engineer standards. Trees shall conform to Township standards.

- 14.07.J** Screening: A use allowed in this district shall be entirely screened from view and its operation placed within a structure or behind screening. Open storage, service areas, and loading docks shall be screened by walls, mounds, or shrubbery at least six (6) feet in height, but not more than twelve (12) feet, in height. Stockade fences may be used in small areas such as enclosed dumpsters. These walls, fences, or shrubbery shall be of a design so as to effectively screen such storage, production, or service areas and loading facilities from adjoining street or other zoning districts. All such shrubbery shall be properly trimmed and all screening shall be maintained.
- 14.07.K** Buffering: Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of such tree cover or other foliage as may be necessary to buffer adjacent uses.
- 14.07.L** Landscaping: All yards (front, side, and rear) shall be landscaped. A Landscape Plan showing the caliper, height, numbers, name, and placement of all material, prepared by a Licensed Landscape Architect, shall be approved.
- 14.07.M** Preservation areas: Wetlands, steep (over twenty percent (20%) inclined) slopes, forests, one-hundred-year (100-year) floodplains, ravines, and noted wildlife habitats shall be preserved to the greatest extent possible.
- 14.07.N** Signs: Shall conform with Article 20 of this Zoning Resolution.
- 14.07.O** Floodplain: No structures shall be constructed within the 100-year floodplain of any stream or river.
- 14.07.P** Utilities: Centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Delaware General Health District, and Ohio Environmental Protection Agency approval. Feasibility of water supply and wastewater disposal systems shall be indicated at the time of application for rezoning. All utilities constructed to service the proposed use shall be located underground.
- 14.07.Q** 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 7 of this Zoning Resolution. In addition to the requirements set forth in said article of this Resolution, if adjacent to residentially zoned property, parking shall be a minimum of thirty-five (35) feet from any adjacent property line. Parking shall be screened and buffered from any and all residential properties.
- 14.07.R** Exterior Lighting: All exterior lighting shall conform with the lighting requirements of Article 7 of this Zoning Resolution.
- 14.07.S** Freight Loading Area: When any use within this district requires the pickup or delivery of merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such loading area shall be located on any public street or alley. Such loading areas, as provided, shall be adequate in size to permit entry to such loading area without interfering with traffic on adjacent streets or highways. Deliveries of freight shall be prohibited between the hours of 11:00 p.m. and 7:00 a.m.

- 14.07.T** Construction and Maintenance of Improvements Within Right-of-Way: The construction and maintenance of all improvements behind the curb line or the edge of pavement including, but not limited to, drainage improvements, landscaping improvements, sidewalks, and/or driveway approaches shall be the responsibility of the abutting property owner.
- 14.07.U** Supplemental Conditions and Safeguards: The Zoning Commission and/or Board of Trustees may impose additional conditions relating to the development with regard to the type and extent of the public improvements to be installed, landscaping improvements, and maintenance of Open Space areas, and other development characteristics.

## **Section 14.08 – PERFORMANCE STANDARDS**

No use shall be conducted within this district which fails to maintain the following standards:

- 14.08.A** Fire and Explosion Hazards: All activities and storage involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of spill, fire, and/or explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- 14.08.B** Glare, Heat and Exterior Light: Any operation producing intense light or heat, such as high temperature processing, combustion, welding or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- 14.08.C** 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.
- 14.08.D** 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.
- 14.08.E** Vibrations: 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.
- 14.08.F** Odors: No use shall be operated so as to produce continuous frequent or repetitive emission of odors or odor-causing substances in such concentrations as to be perceptible at any point at or beyond the lot line of the property on which the used is located.

## **Section 14.09 – CRITERIA FOR APPROVAL**

When approving an Application for a rezoning to the Neighborhood Retail District, the reviewing authorities shall consider:

- 14.09.A** Whether the proposed rezone is consistent in all respects with the purpose, intent, and general standards of this Zoning Resolution.
- 14.09.B** Whether the proposed rezone is in conformity with the Comprehensive Plan or portion thereof as it may apply.

- 14.09.C** Whether the proposed rezone advances the public health, safety, and welfare of the Township and the immediate vicinity.
- 14.09.D** Whether the proposed rezone will be compatible in appearance and use with surrounding existing or proposed land uses.
- 14.09.E** Whether the proposed rezone promotes the efficient use of land and resources, promotes greater efficiency in providing public utility services, and encourages innovation in the planning and building of all types of development.

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## ARTICLE 15 – PLANNED COMMERCIAL DISTRICT (PC)

### Section 15.01 – NATURE OF THE DISTRICT

There is hereby created within Liberty Township a Planned Commercial District (PC) to provide a Planned Unit Development adopted pursuant to ORC 519.021(A) and is intended to provide for unified commercial areas usually under single ownership and control, or clustered together in planned out lots, where the use and layout are known and approved with flexibility per an approved Development Plan.

All lands designated on the Official Liberty Township Zoning Map as Planned Commercial District shall be governed by the provisions of this Article.

### Section 15.02 – PERMITTED USES

**15.02.A** Permitted uses within the Planned Commercial District (PC), according to their North American Industrial Classification System (NAICS) code number, may be permitted when approved by the Development Plan process in strict conformance with the approved Development Plan and standards.

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. For example, NAICS Code 52 means that any use listed under Sector 52 (such as 525990) is permitted. 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 (such as 311811).

2012 U.S. NAICS CODE #	PERMITTED USES
1114	Greenhouse, Nursery and Floriculture Production
311811	Retail Bakeries
31213	Wineries
32311	Printing
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 Supply Dealers
445	Food and Beverage Stores
446	Health and Personal Care Stores
447	Gasoline Stations (except 447190 – Truck Stops)
448	Clothing and Clothing Accessories Stores
451	Sporting Goods, Hobby, Musical Instrument and BookStores
452	General Merchandise Stores
453	Miscellaneous Store Retailers
491	Postal Service
51	Information (except 51213 – Motion Picture Theaters)
52	Finance and Insurance
531	Real Estate
5322	Consumer Goods Rental
5323	General Rental Centers

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
622	Hospitals
623	Nursing and Residential Care Facilities
62412	Services for the elderly and persons with disabilities
6244	Child day care
71111	Theater Companies and Dinner Theaters
71112	Dance Companies
7113	Promoters of Performing Arts, Sports, and Similar Events
71211	Museums
71212	Historical Sites
71391	Golf Courses and Country Clubs
71394	Fitness and Recreational Centers
71395	Bowling Centers
72111	Traveler Accommodation
721191	Bed-and-Breakfast Inns
722	Food Services and Drinking Places
811	Repair and Maintenance (except 8113 – Commercial and Industrial Machinery and Equipment Repair and Maintenance)
812	Personal and Laundry Services (except 812332 – Industrial Launderers)
813	Religious, Grant making, Civil, Professional and Similar Organizations
92	Public Administration (except 92214 – Correctional Institutions and 92215 Parole Offices and Probation Offices)

- 15.02.B** Temporary structures such as manufactured/mobile offices and temporary buildings of a non-residential character may be used incidental to construction work on the premises, on adjacent public projects, or during a period while the permanent structure is being constructed. The user of said structure shall obtain a Zoning Permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector 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 structure shall be occupied as a dwelling.

### **Section 15.03 – ACCESSORY USES, BUILDINGS, AND STRUCTURES**

Accessory Uses as defined in Article 4 of this Zoning Resolution may be permitted only when 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. No accessory building within any zoning district shall be used for human occupancy.

## **Section 15.04 – CONDITIONAL USES**

Within this zoning district, the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 25 of this Resolution. The Board of Zoning Appeals may require additional conditions necessary to protect the public health, safety, and welfare. No Conditional Use shall be implemented until a Conditional Use Permit is issued by the Zoning Inspector.

**15.04.A** Telecommunications Towers as provided in Section 6.06 of this Zoning Resolution.

**15.04.B** Motor Vehicle and Parts Dealers (NAICS Code 441) in accordance with Section 15.07.G of this Zoning Resolution.

## **Section 15.05 – PROHIBITED USES**

Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall be prohibited, in addition to the following:

**15.05.A** Junkyards.

**15.05.B** No trailer of any type, no boats, no campers, and no equipment of any type shall be parked in front of the principal structure line on any parcel within this district for more than eight (8) hours in a twenty-four (24)-hour period.

**15.05.C** No mobile home, recreational vehicle, or camper shall be placed or occupied in this district.

**15.05.D** Storage or accumulation of: inoperable, unused, or unlicensed vehicles; equipment or machinery of any type; and vehicle, equipment, or machinery parts and other similar debris - unless any of the previously mentioned items remain entirely enclosed within a permitted accessory building so as to not be visible from any adjoining property or road.

**15.05.E** 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 similar materials) shall be deemed a nuisance to the neighborhood and general public per se, and shall be prohibited on any parcel or portion thereof, or on any public or private streets, or common access driveway (as defined by the Delaware County Subdivision Regulations) within this zoning district. This excludes trash, garbage, refuse, and debris that is completely enclosed within an appropriate container and placed at an assigned location not more than twenty-four (24) hours before its regularly-scheduled pick-up.

**15.05.F** Landing fields for aircraft, hot air balloons, ultra-light aircraft, and other mechanical flying equipment for use by the owner on any parcel in this district.

**15.05.G** Commercial Kennels and Catteries.

**15.05.H** Harboring wild, dangerous, or undomesticated animals on lots less than five (5) acres in area, subject to the limitations contained in ORC Section 519.21. For the purposes of this provision, a "wild, dangerous, or undomesticated animal" shall be defined as follows:

- 15.05.H.1** An animal whose natural habitat is the wilderness and which, when maintained in human society, is usually confined to a zoological park or exotic animal farm;
  - 15.05.H.2** A poisonous or venomous animal, insect, or arachnid;
  - 15.05.H.3** An unrestrained animal (excluding farm animals) which, by reason of its size, strength, or appetite, could cause peril to children, adults, pets or domesticated animals, buildings, landscaping, or personal property;
  - 15.05.H.4** An animal which makes noises with sufficient frequency and volume as to constitute a nuisance to persons in the vicinity of such animal;
  - 15.05.H.5** An animal which is defined as "vicious" or "dangerous" pursuant to the provisions of ORC Chapter 955, as the same may be amended from time to time, or prohibited by any federal, state, or local law, regulation, or ordinance.
- 15.05.I** 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.
- 15.05.J** Adult Entertainment Establishments, except as regulated under Article 19 of this Zoning Resolution.
- 15.05.K** No cultivators, processors, or retail dispensaries of medical marijuana licensed under Ohio Revised Code Chapter 3796, shall be located nor operate in this district.

## **Section 15.06 – PROCESS FOR AMENDMENT**

In addition to any other procedures set forth in this Resolution, all Applications for Amendments to the Zoning Map to rezone lands to the Planned Commercial District shall follow one of the two following processes:

- 15.06.A** Option A is a two-step process.
- 15.06.A.1** In Step 1, the applicant, being the owner of the subject real estate may apply for designation of the property to the Planned Commercial designation. A Preliminary Development Plan which complies with the requirements of Section 15.09.A of this Zoning Resolution must be submitted with the application. Consideration and approval of the Preliminary Development Plan is a legislative amendment and is subject to the timelines defined in ORC 519.12 and repeated in Article 24 of this Zoning Resolution.
  - 15.06.A.2** In Step 2, the applicant, being the owner of the subject real estate may apply for the consideration and approval of a Final Development Plan which must conform with the requirements of Section 15.09.B of this Zoning Resolution and, unless otherwise allowed, conform to the approved Preliminary Development Plan. The approval or disapproval of the Final Development Plan is an administrative act by the Zoning Commission.
- 15.06.B** Option B is a one-step process where the applicant, being the owner of the subject real estate simultaneously submits the requirements of Sections 15.09.A and 15.09.B of this Zoning Resolution

for designation of the property to the Planned Commercial designation and approval of the Final Development Plan. The one-step process is a legislative amendment and is subject to the timelines defined in ORC 519.12 and repeated in Article 24 of this Zoning Resolution.

- 15.06.C** Plat Required: In the Planned Commercial District (PC), no use shall be established or changed and no structure shall be constructed or altered until a Subdivision Plat has been prepared and recorded in accordance with the approved Development Plan and with the Subdivision Regulations for Delaware County, Ohio.
- 15.06.D** In no event shall any Zoning Permit be issued for any building or use until such time as the facilities for the phase in which the building or use is located are completed.
- 15.06.E** Upon approval of a zoning amendment to rezone property to the PC District, all previous regulations regarding that specific property shall no longer be in effect, and the regulations set forth in this Article and in the approved Development Plan shall govern.
- 15.06.F** A fee as established by the Board of Trustees shall accompany an application requesting a zoning amendment to rezone property to the PC District. In addition, the applicant shall also be responsible for all reasonable and necessary expenses incurred by Liberty Township in using professional consulting services to review the application and 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 application and development plan and related application materials. As soon as reasonably practicable following the submission of a rezoning application, 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 15.06.F. 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 15.07 – DESIGN STANDARDS**

The Development Plan shall incorporate the following standards:

**15.07.A** Access: Requires frontage on or direct access to, one (1) or more dedicated or improved public roads, while provision for future connections to other public roads may be required by the Township, Delaware County Engineer, and/or the Delaware County Regional Planning Commission.

**15.07.B** Intensity:

**15.07.B.1** Maximum ground coverage by all imperious surfaces, including but not limited to, building and parking areas, shall not exceed seventy percent (70%) of the total tract, excluding public road right-of-way.

**15.07.B.2** Minimum Open Space for commercial developments: thirty percent (30%) of the total tract acreage. Open Spaces may be used for the retention, detention, and disposal of storm water drainage.

**15.07.C** Setback Requirements: No part of any structure shall encroach upon any required setback.

**15.07.C.1** Front Setback – as defined in Section 7.09.D of this Zoning Resolution.

**15.07.C.2** A minimum fifteen (15)-foot wide landscaped “green belt” shall be provided between the edge of any parking area and the adjacent public street right of way.

**15.07.C.3** Side Setback: 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 feet (100') from any Residential Zoning District or Planned Residential District, or as approved per plan.

**15.07.C.4** Rear Setback: 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.

**15.07.C.5** Parking Setback: no parking area shall be constructed within thirty-five (35) feet of the lot line in the Planned Commercial Zoning District.

**15.07.D** 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. Roof pitch on the principal structure shall not be less than 6/12 for the primary roofs, or as approved by the development plan. This does not include garages, porches, dormers, or other accent features. The use of vinyl as an exterior siding material is not permitted.

**15.07.E** Building Height Limits: No building shall exceed forty (40) feet in height. All other freestanding structures including, but not limited to, flagpoles shall not exceed forty-eight (48) feet in height. All attached structures including, but not limited to, chimneys and church spires shall not top at a height that is eight (8) feet greater than either the height of the building or other structure to which it is attached.

**15.07.F** Building Size Limits: Retail or mixed-use buildings, containing retail uses, shall contain no more than sixty-five thousand (65,000) gross square feet of floor area under one roof.

- 15.07.G** Exception to retail building size limits: Retail uses permitted in Section 15.02 of this Zoning Resolution, and NAICS Code 441 (Motor Vehicle and Parts Dealers) with an individual commercial use that exceeds sixty-five thousand (65,000) square feet under one roof may be approved at the discretion of the township, provided that they satisfy all other requirements contained in Article 15 of this Zoning Resolution.
- 15.07.H** Screening: All commercial areas adjacent to residential areas shall provide a screening of shrubbery and/or fencing so as to hide trash collection areas and service areas from the view of adjacent residential areas. All such shrubbery shall be properly trimmed and all screening shall be maintained in a neat and tidy manner.
- 15.07.I** Buffering: Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require the establishment of a buffer cover or other foliage as may be necessary to sufficiently screen development from adjacent uses as defined.
- 15.07.J** Bikeways/Bike Paths: Bikeways shall be provided in accordance with the Township's adopted Bikeways Plan and shall be built in accordance with the Delaware County Engineer standards. In addition, bikeways within new developments shall be provided in order to connect with existing or planned bikeways external to the proposed new development.
- 15.07.K** Walkways: Walkways shall be separated from the paved street surface in accordance with Delaware County Engineer standards. Trees shall conform to Township standards.
- 15.07.L** Preservation areas: Wetlands, steep (over twenty percent (20%) inclined) slopes, forests, one-hundred-year (100-year) floodplains, ravines, and noted wildlife habitat shall be preserved. Applicants are also encouraged to grant conservation easements to an outside party such as the Delaware County Soil and Water Conservancy District, the Nature Conservancy, Ohio Department of Natural Resources (ODNR) or other non-profit, conservation land trust or governmental agency, rather than to developer or a homeowners association, so that the easement(s) can be appropriately monitored and maintained.
- 15.07.M** Floodplain: No structures shall be constructed within the one-hundred-year (100-year) floodplain of any stream or river.
- 15.07.N** Landscaping: All yards (front, side, and rear) shall be landscaped, and all Open Space shall have a Landscape Plan. A Landscape Plan showing the calipers, heights, numbers, horticultural names, and placement of all materials, prepared by a Licensed Landscape Architect, shall be approved as a part of the Final Development Plan.
- 15.07.O** Power Lines: Land underneath overhead high-voltage electric transmission lines may be used for open space, landscaping, parking, and roads with the permission of the electric utility company in each case.
- 15.07.P** Utilities: All utilities constructed to service the proposed use shall be located underground. Centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Delaware General Health District, and Ohio Environmental Protection Agency approval.

- 15.07.Q** **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 7 of this Zoning Resolution. In addition to the requirements set forth in said article of this Resolution, if adjacent to residentially zoned property, parking shall be a minimum of thirty-five (35) feet from any adjacent property line. Parking shall be screened and buffered from any and all residential properties.
- 15.07.R** **Signs:** Signs shall conform with the provisions of Article 20 of this Zoning Resolution.
- 15.07.S** **Lighting:** All exterior lighting shall conform with the lighting requirements of Article 7 of this Zoning Resolution and be subject to approval as part of the Final Development Plan.
- 15.07.T** **Freight Loading Area:** When any use within this district requires the pickup or delivery of merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such loading area shall be located on any public street or alley. Such loading area, as provided, shall be adequate in size to permit entry to such loading area without interfering with traffic on adjacent streets or highways. Deliveries of freight shall be prohibited between the hours of 11:00 p.m. and 7:00 a.m.
- 15.07.U** **Construction and Maintenance of Improvements Within Right-of-Way:** The construction and maintenance of all improvements behind the curb line or the edge of pavement including, but not limited to, drainage improvements, landscaping improvements, sidewalks, and/or driveway approaches shall be the responsibility of the abutting property owner.
- 15.07.V** **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 15.08 – PERFORMANCE STANDARDS**

No use shall be conducted within this district which fails to maintain the following standards:

- 15.08.A** **Fire and Explosion Hazards:** All activities and storage involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of spill, fire, and/or explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- 15.08.B** **Glare, Heat and Exterior Light:** Any operation producing intense light or heat, such as high temperature processing, combustion, welding or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- 15.08.C** **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.
- 15.08.D** **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.

- 15.08.E** Vibrations: 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.
- 15.08.F** Odors: No use shall be operated so as to produce 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.

## **Section 15.09 – DEVELOPMENT PLAN**

In the Planned Commercial District (PC), no use shall be established or changed and no structure shall be constructed or altered until the required Plat has been prepared and recorded in accordance with the Subdivision Regulations for Delaware County, Ohio, and in conformance with the provisions of the Liberty Township Zoning Resolution.

- 15.09.A** Preliminary Development Plan: Ten (10) paper copies and one (1) electronic copy of the Preliminary Development Plan shall be submitted to the Zoning Commission with the PC application. The plan shall include in text and map form, the following:

- 15.09.A.1** A survey plat and legal description of the plat signed by a Registered Surveyor showing the size and location of the proposed project.
- 15.09.A.2** The proposed size and location of the tract at a scale of at least one inch equals one hundred feet (1"=100'), showing topographic contours of at least five (5) foot intervals.
- 15.09.A.3** All existing onsite conditions including wooded areas, wetlands, floodplain areas, and existing structures within two hundred (200) feet of property boundaries.
- 15.09.A.4** The relationship of the proposed development to the existing uses including easements, setbacks, and right-of-way areas.
- 15.09.A.5** Proposed locations of all structures and uses, to include any outdoor uses.
- 15.09.A.6** Proposed percentage of lot coverage.
- 15.09.A.7** The general character of the tract including:
- a.** The limitations or controls to be placed on operations, location, or types of tenants.
  - b.** Lots to be numbered and sized.
  - c.** Proposed traffic patterns showing public and private streets and transportation facilities.

- d. Description of other development features, including landscaping and entry features.
  - e. Lighting and signage.
- 15.09.A.8** Conceptual architectural design and elevations, roof pitch, and exterior construction materials.
- 15.09.A.9** The intended provisions for utilities including water, fire hydrants, sanitary sewer and adequate storm water drainage outlets. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented by the utility provider or a registered Civil Engineer, whichever is applicable.
- 15.09.A.10** A design of the Open Space and proposed description of its use, ownership, and plan for maintenance.
- 15.09.A.11** The purpose, need, and reason for each divergence, from the Design Standards in this Article, the General Development Standards and/or the Sign Regulations of this Zoning Resolution, such as setbacks, parking, landscaping, lighting, signage and so forth, must be specified. All justifications must be based on the subject property.
- 15.09.A.12** Traffic Impact Analysis based upon new trip generation as estimated by the Delaware County Engineer's standards.
- 15.09.A.13** All required design standards in Section 15.07 of this Resolution.
- 15.09.A.14** The proposed size and location of any alternate energy apparatus including but not limited to solar and wind energy apparatus, in conformance with Section 7.17 of this Resolution.
- 15.09.A.15** Emergency service provisions (letter from Fire Department regarding access and water supply to the proposed development site).
- 15.09.A.16** Phasing plans, if any.
- 15.09.A.17** The ability of the applicant to carry forth its Development Plan by control of the land and the engineering feasibility of the Development Plan.
- 15.09.A.18** Plan approval period: the approval of a Preliminary Development Plan shall be effective for a period of one (1) year from the date thirty (30) days after the zoning is approved by the Board of Trustees, in order to allow for the preparation and submission of the Final Development Plan.
- 15.09.B** Final Development Plan: Ten (10) paper copies and one (1) electronic copy of the Final Development Plan shall be to scale of at least one inch equals one hundred feet (1"=100'), and will show the proposed uses of the site, location of buildings and structures, streets and roadways, parking areas, all required design features, in text and map form, and required findings for approval found in this section as well as the following items in detail satisfactory to the reviewing bodies. If the Final

Development Plan varies in any way from the approved Preliminary Development Plan, a summary of the changes must accompany the Final Development Plan submittal.

- 15.09.B.1** The permitted and accessory uses, to include any outdoor uses, to be located on the tract, including the limitations or controls on all uses, lot sizes and dimensioning, and minimum setback requirements.
- 15.09.B.2** Environmentally sensitive areas, including the one-hundred-year (100-year) floodplain, natural water, drainage ways, wetlands, and slopes greater than twenty percent (20%) inclined shall be mapped and all existing conditions identified.
- 15.09.B.3** Architectural design detail, including specification of exterior materials, colors, and elevations for all structures. Proposed architectural control procedures shall be included.
- 15.09.B.4** Building heights and dimensions.
- 15.09.B.5** Size, height, and location of all signs per Article 20 of this Zoning Resolution.
- 15.09.B.6** Lighting Plan: Lighting details shall include, but not be limited to, size, height, type, location, degree of illumination, color of fixture, and design detail. Foot candle output must be identified at all lot lines. All lighting shall conform to the provisions of Article 7 of this Zoning Resolution.
- 15.09.B.7** Landscaping plan: All yards (front, side, and rear) shall be landscaped, and all organized Open Spaces shall be landscaped. 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.
- 15.09.B.8** The utility provider-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.
- 15.09.B.9** A grading and drainage plan prepared by a registered engineer.
- 15.09.B.10** A traffic impact analysis by a civil engineer who specializes in traffic evaluations showing the proposed traffic patterns, public and private streets, and transportation facilities, including their relationship to existing conditions with sight distance and sight triangles defined.
- 15.09.B.11** The relationship of the proposed development to existing and probable uses and zoning classifications of surrounding areas.
- 15.09.B.12** Location of all uses within the site and the location of schools, parks, and other public facility sites within or adjacent to the site.

- 15.09.B.13** The proposed time table for development of the site, including entry features, Open Space, streets, buildings, utilities, and other facilities.
- 15.09.B.14** If the proposed timetable for development includes developing the land in phases, phasing shall be fully described in textual form in a manner calculated to give the Township a definitive timeline for development of future phases.
- 15.09.B.15** All phases developed after the first phase shall be a minimum of five (5) acres or the remainder of the tract, whichever is smaller.
- 15.09.B.16** The purpose, need, and reason for each divergence, from the Design Standards in this Article, the General Development Standards and/or the Sign Regulations of this Zoning Resolution, such as setbacks, parking, landscaping, lighting, signage and so forth, must be specified. All justifications must be based on the subject property.
- 15.09.B.17** The drawings that are a part of the Development Plan shall bear the seal and signature of the appropriate licensed professional(s) to include surveyor, architect, landscape architect, and/or engineer licensed to practice in the State of Ohio.
- 15.09.B.18** If the Development Plan fails to include all the information required above, the application will be considered incomplete and may be denied by the Liberty Township Zoning Commission. In the event that an applicant wishes to amend or otherwise change the application in any way, the Zoning Commission may table its consideration of the amended application until such time as all of its members have had an opportunity to review the complete and final application.
- 15.09.B.19** Since the Final Development Plan is a rendition of what is intended to be built, all standards for landscaping, parking and setbacks are per plan.

## **Section 15.10 – CRITERIA FOR APPROVAL**

When approving an Application for a rezoning to the Planned Commercial District, the reviewing authorities shall consider:

- 15.10.A** Whether the proposed rezone is consistent in all respects with the purpose, intent and general standards of this Zoning Resolution.
- 15.10.B** Whether the proposed rezone is in conformity with the Comprehensive Plan or portion thereof as it may apply.
- 15.10.C** Whether the proposed rezone advances the public health, safety, and welfare of the Township and the immediate vicinity.
- 15.10.D** Whether the proposed rezone will be compatible in appearance and use with surrounding existing or proposed land uses.
- 15.10.E** Whether the proposed rezone promotes the efficient use of land and resources, promotes greater efficiency in providing public utility services, and encourages innovation in the planning and building of all types of development.

## Section 15.11 – ADMINISTRATION OF THE DEVELOPMENT PLAN

After Development Plan approval, all recorded subdivision plats, construction drawings, restrictive covenants, and other necessary documents shall be submitted to the Zoning Inspector for administrative review to ensure conformance with the Development Plan as approved. Any change to an approved Preliminary or Final Development Plan shall be considered as follows:

- 15.11.A** Variations: Following the approval of the Development Plan, proposed variations from the approved Development Plan that involve only one (1) lot and has been issued a Certificate of Compliance for all approved buildings shall be considered by the Board of Zoning Appeals under its hearing process pursuant to Article 25 of the Zoning Resolution. All other modifications to the Preliminary or Final Development Plan shall be presented to the Zoning Commission for its consideration, pursuant to Section 15.11.A.1.
- 15.11.A.1** 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 Planned Commercial District. The Zoning Commission shall render a decision on the request within sixty (60) days after the conclusion of the hearing.
- 15.11.B** Default: The approval of the Final Development Plan shall be effective for a period of three (3) years (or for such other time period as may be approved as part of the Final 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 Final Development Plan shall expire.
- 15.11.C** Extension of Time: An extension of the time limit for filing the required subdivision plat, recording the approved subdivision plat, the commencement of construction, or increasing the approval period for a Preliminary or Final Development Plan, may be granted by the Zoning Commission at any public meeting, 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 plan 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.

## ARTICLE 16 – INDUSTRIAL DISTRICT (I)

### Section 16.01 – NATURE OF THE DISTRICT

There is hereby created within Liberty Township an Industrial District (I) to provide for the variety and flexibility of land development for purposes that are necessary to meet demands while still preserving and enhancing the public health, safety, and welfare of the inhabitants of the Township.

All lands designated on the Official Liberty Township Zoning Map as Industrial District (I) shall be governed by the provisions of this Article. Any Industrial District, when developed as an autonomous district or in combination with any Commercial District, shall have a minimum acreage of forty (40) acres.

### Section 16.02 – PERMITTED USES

The following uses shall be permitted within the Industrial District (I):

- 16.02.A** Manufacturing, processing, warehousing, and industrial service activities located and maintained within the limits of the development standards of these Industrial District Regulations.
- 16.02.B** Commercial establishments normally associated with and designed to serve the industrial establishments or their employees and approved as part of the Development Plan, such as financial institutions, restaurants, gasoline service stations, automobile repair establishments, recreation, or other personal enrichment facilities, provided such establishments or facilities are established primarily for employees of industrial establishments or in conjunction with commercially operated recreation establishments developed as part of the approved Plan for the Industrial District.
- 16.02.C** Wholesale business, when all products are stored within a building.
- 16.02.D** Enclosed warehouse or storage activities.
- 16.02.E** Enclosed manufacturing industries.
- 16.02.F** Enclosed service or repair activities.
- 16.02.G** Business offices.
- 16.02.H** Enclosed research facilities.
- 16.02.I** Recycling collections.
- 16.02.J** Commercial Kennels and Catteries.
- 16.02.K** Temporary structures such as manufactured/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 periods 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 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 structure shall be occupied as a dwelling.

- 16.02.L** Distribution plants, wholesale parcel delivery, ice and cold storage plants, bottling plants, and food, commissary, or catering establishments.
- 16.02.M** Foundry casting of lightweight non-ferrous metal and such similar uses as do not cause noxious fumes, noise, or odors.
- 16.02.N** Laboratories – experimental, photo, motion picture, film, or testing.
- 16.02.O** Laundry, cleaning and dyeing works, and carpet and rug cleaning.
- 16.02.P** Lumber yard if saws, planers, and other processing machines are contained within a completely enclosed building.
- 16.02.Q** Craft shops such as plumbing, carpentry, sheet metal, electrical, and other related trades.
- 16.02.R** Veterinary clinics or dog kennels, provided all outside runs are screened in the same manner as outdoor storage areas as hereinafter provided.
- 16.02.S** Stone cutting and monument works.
- 16.02.T** Machine shops (excluding punch presses over twenty (20) tons rated capacity) or drop hammers.

### **Section 16.03 – ACCESSORY USES, BUILDINGS, AND STRUCTURES**

Accessory Uses as defined in Article 4 of this Zoning Resolution may be permitted only when incidental or subordinate to and in association with a principal permitted use. No accessory building within any zoning district shall be used for human occupancy.

### **Section 16.04 – CONDITIONAL USES**

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 25 of this Zoning Resolution. The Board of Zoning Appeals may require additional conditions necessary to protect the public health, safety, and welfare. No Conditional Use shall be implemented until a Conditional Use Permit is issued by the Zoning Inspector.

- 16.04.A** Any use of an industrial nature not already provided for by this Zoning Resolution.
- 16.04.B** Fairs, fundraisers, or similar temporary events, provided such uses can be operated in a safe and sanitary manner pursuant to previously obtained health permits.
- 16.04.C** Any manufacturing process not already provided for nor prohibited by this Zoning Resolution.
- 16.04.D** The outdoor storage, display, processing, repair, or sale of raw materials, supplies, equipment, or products.

## Section 16.05 – PROHIBITED USES

Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall be prohibited, in addition to the following:

- 16.05.A** Junkyards.
- 16.05.B** No trailer of any type, no boats, no campers, and no equipment of any type shall be parked in front of the front building line on any parcel within this district.
- 16.05.C** No mobile home or manufactured home shall be placed or occupied in the district.
- 16.05.D** Storage or accumulation of: inoperable, unused, or unlicensed vehicles; equipment or machinery of any type; and vehicle, equipment, or machinery parts and other similar debris - unless any of the previously mentioned items remain entirely enclosed within a permitted accessory building so as to not be visible from any adjoining property or road.
- 16.05.E** The storage or accumulation of trash, debris, graffiti, unused property, or discarded materials (including, without limitation, discarded commercial products, discarded building materials, discarded industrial by-products, discarded brush, and other vegetation, and similar materials) shall be deemed a nuisance 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 streets, 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 placed at a designated location.
- 16.05.F** Private landing fields for aircraft, hot air balloons, ultra-light aircraft, and other mechanical flying equipment.
- 16.05.G** Harboring wild, dangerous, or undomesticated animals. For the purposes of this provision, a “wild, dangerous, or undomesticated animal” shall be defined as follows:
  - 16.05.G.1** An animal whose natural habitat is the wilderness and which, when maintained in human society, is usually confined to a zoological park or exotic animal farm;
  - 16.05.G.2** A poisonous or venomous animal, insect, or arachnid;
  - 16.05.G.3** An unrestrained animal (excluding farm animals) which, by reason of its size, strength, or appetite, could cause peril to children, adults, pets or domesticated animals, buildings, landscaping, or personal property;
  - 16.05.G.4** An animal which makes noises with sufficient frequency and volume as to constitute a nuisance to persons in the vicinity of such animal;
  - 16.05.G.5** An animal which is defined as “vicious” or “dangerous” pursuant to the provisions of ORC Chapter 955, as the same may be amended from time to time, or prohibited by any federal, state, or local law, regulation, or ordinance.

**16.05.H** 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.

**16.05.I** No cultivators, processors, or retail dispensaries of medical marijuana licensed under Ohio Revised Code Chapter 3796, shall be located nor operate in this district.

### **Section 16.06 – PROCESS FOR AMENDMENT**

In addition to any other procedures set forth in this Zoning Resolution, all Applications for Amendments to the Zoning Map to rezone lands to this district shall follow the procedures hereinafter set forth:

**16.06.A** Application: The owner(s) of lots and lands within the Township may request that the Zoning Map be amended to include such tracts in the Industrial District in accordance with the provisions of this Resolution.

**16.06.B** Procedure for Rezoning: The procedure outlined in ORC 519.12 shall be followed to consider an Application for a rezone to an Industrial District. Approval of the Application pursuant to that Section shall constitute a rezone of such land.

**16.06.C** Plat Required: In the Industrial District (I), 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 approved Development Plan and with the Subdivision Regulations for Delaware County, Ohio.

**16.06.D** In no event, however, shall any Zoning Permit be issued for any building or use until such time as the facilities for the phase in which the building or use is located are completed.

**16.06.E** Upon approval of a zoning amendment to rezone property to the I District, all previous regulations regarding that specific property shall no longer be in effect, and the regulations set forth in this Article shall govern.

### **Section 16.07 – DESIGN STANDARDS**

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

**16.07.A** Access: Requires frontage on or direct access to, one or more dedicated or improved public roads, while provision for future connections to other public roads may be required by the Township, Delaware County Engineer, and/or the Delaware County Regional Planning Commission.

**16.07.B** Density:

**16.07.B.1** Lot Size: No minimum lot size shall be required within a platted Subdivision in this district; however, all lots shall be adequate in size to provide the yard space, landscaping, and off-street parking as herein required.

**16.07.B.2** Lot Width: No minimum lot width shall be required; however, all lands shall be accessible by means of a duly dedicated public roadway constructed in accordance with the

specifications prescribed by the Delaware County Engineer or other Regulations of the County.

**16.07.B.3** Maximum Lot/Parcel Coverage: No buildings shall be constructed on any lot or parcel in this zoning district which cover more than twenty-five percent (25%) of the total lot or parcel, nor shall any impervious surfaces be constructed on any lot parcel which cover more than ninety percent (90%) of the total lot or parcel area.

**16.07.C** Setback Requirements:

**16.07.C.1** Side Setback: For main and accessory structures, including open storage, processing, servicing or loading areas, the side yard shall be not less than one hundred fifty (150) feet when abutting any land which is zoned FR-1, R-3, PR, PMFR, PERRC, or PRC.

**16.07.C.2** Rear Setback: For main and accessory structures, including open storage, processing, servicing, or loading areas, the rear yard shall be equal to not less than one hundred fifty (150) feet when abutting any land which is zoned FR-1, R-2, R-3, PR, PMFR, PERRC, or PRC.

**16.07.C.3** Building Setbacks: Buildings shall be located in conformity with the building Setback Regulations established in Article 7 of this Zoning Resolution.

**16.07.D** Building Height: No building shall exceed two (2) stories or forty (40) feet in height. All other freestanding structures including, but not limited to, flagpoles shall not exceed forty-eight (48) feet in height. All attached structures including, but not limited to, chimneys and church spires, shall not top at a height that is eight (8) feet greater than either the height of the building or structure to which it is attached.

**16.07.E** 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. Roof pitch on the principal structure shall not be less than 6/12 for the primary roofs, or as approved by the development plan. This does not include garages, porches, dormers, or other accent features. The use of vinyl as an exterior siding material is not permitted.

**16.07.F** Building size limits: Retail or mixed use buildings, containing retail uses, shall contain no more than sixty-five thousand (65,000) gross square feet of floor area under one roof.

**16.07.G** Floodplain: No structures shall be constructed within the one-hundred-year (100-year) floodplain of any stream or river.

**16.07.H** 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.

**16.07.I.** Bikeways/Bike Paths: Bikeways shall be provided in accordance with the Township's adopted Bikeways Plan and shall be built in accordance with the Delaware County Engineer standards. In

addition, bikeways within new developments shall be provided in order to connect with existing or planned bikeways external to the proposed new development.

- 16.07.J** Walkways: Walkways shall be separated from the paved street surface in accordance with Delaware County Engineer standards. Trees shall conform to Township standards.
- 16.07.K** Preservation areas: Wetlands, steep (over twenty percent (20%) inclined) slopes, forests, one-hundred-year (100-Year) floodplains, ravines, and noted wildlife habitat shall be preserved to the greatest extent possible.
- 16.07.L** Utilities: Centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Delaware General Health District, and Ohio Environmental Protection Agency approval. Feasibility of water supply and wastewater disposal systems shall be indicated by the appropriate agencies at the time of the preliminary plan. All utilities constructed to service the proposed use shall be located underground.
- 16.07.M** Signs shall comply with the provisions of Article 20 of this Zoning Resolution.
- 16.07.N** 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 7 of this Zoning Resolution. In addition to the requirements set forth in said article of this Resolution, if adjacent to residentially zoned property, parking shall be a minimum of thirty-five (35) feet from any adjacent property line. Parking shall be screened from any and all residential properties.
- 16.07.O** Landscaping: All yards (front, side, and rear) shall be landscaped, and all organized Open Spaces or non-residential use areas shall be landscaped. A Landscape Plan showing the caliper, height, numbers, name, and placement of all material, prepared by a Licensed Landscape Architect, shall be submitted and approved as a part of the application for a zoning permit.
- 16.07.P** Screening: A use allowed in this district shall be entirely screened from view and its operation placed within a structure or behind screening. Open storage, service areas and loading docks shall be screened by walls, mounds, or shrubbery at least six (6) feet, but not more than twelve (12) feet, in height. Stockade fences may be used in small areas, such as enclosed dumpsters. These walls, fences, or shrubbery shall be of a design so as to effectively screen such storage, production, or service areas and loading facilities from adjoining street or other zoning districts. All such shrubbery shall be properly trimmed and all screening shall be maintained.
- 16.07.Q** Exterior Lighting: All exterior lighting shall conform with the lighting requirements of Article 7 of this Zoning Resolution.
- 16.07.R** Freight Loading Area: When any use within this district requires the pickup or delivery of merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such loading area shall be located on any public street or alley. Such loading area, as provided, shall be adequate in size to accommodate tractor-trailer (semi) units with adequate room to permit entry to such loading area without interfering with traffic on adjacent streets or highways. Deliveries of freight shall be prohibited between the hours of 11:00 p.m. and 7:00 a.m.

- 16.07.S** Construction and Maintenance of Improvements Within Right-of-Way: The construction and maintenance of all improvements behind the curb line or the edge of pavement including, but not limited to, drainage improvements, landscaping improvements, sidewalks, and/or driveway approaches shall be the responsibility of the abutting property owner.
- 16.07.T** 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 16.08 – PERFORMANCE STANDARDS**

No use shall be conducted within this district which fails to maintain the following standards:

- 16.08.A** Fire and Explosion Hazards: All activities and storage involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of spill, fire, and/or explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- 16.08.B** Glare, Heat and Exterior Light: Any operation producing intense light or heat, such as high temperature processing, combustion, welding or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- 16.08.C** 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.
- 16.08.D** 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.
- 16.08.E** Vibrations: 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.
- 16.08.F** Odors: No use shall be operated so as to produce continuous frequent or repetitive emission of odors or odor-causing substances in such concentrations as to be perceptible beyond the lot line of the property on which the use is located.

## **Section 16.09 – CRITERIA FOR APPROVAL**

When approving an Application for a rezoning to the Industrial District, the reviewing authorities shall consider:

- 16.09.A** Whether the proposed rezone is consistent in all respects with the purpose, intent and general standards of this Zoning Resolution.
- 16.09.B** Whether the proposed rezone is in conformity with the Comprehensive Plan or portion thereof as it may apply.

- 16.09.C** Whether the proposed rezone advances the health, safety, and morals of the Township and the immediate vicinity.
- 16.09.D** Whether the proposed rezone will be compatible in appearance and use with surrounding existing or proposed land uses.
- 16.09.E** Whether the proposed rezone promotes the efficient use of land and resources, promotes greater efficiency in providing public utility services, and encourages innovation in the planning and building of all types of development.

## ARTICLE 17 – PLANNED INDUSTRIAL DISTRICT (PI)

### Section 17.01 – NATURE OF THE DISTRICT

There is hereby created within Liberty Township a Planned Industrial District (PI) to provide those reasonable conditions under which well-planned industrial areas can develop for the greatest benefit of the entire Township and so that the public health, safety, and welfare of all inhabitants of the Township may be preserved.

All lands designated on the Official Liberty Township Zoning Map as Planned Industrial District shall be governed by the provisions of this Article. Any Planned Industrial District, when developed shall have a minimum acreage of twenty (20) acres.

### Section 17.02 – PERMITTED USES

Within the Planned Industrial District (PI), the following uses developed in strict conformance with the approved Development Plan and standards, shall be permitted:

- 17.02.A** Manufacturing, processing, warehousing, and industrial service activities located and maintained within the limits of the development standards of these Planned Industrial District Regulations.
- 17.02.B** Commercial establishments normally associated with and designed to serve the industrial establishments or their employees and approved as part of the Development Plan, such as financial institutions, restaurants, gasoline service stations, automobile repair establishments, recreation, or other personal enrichment facilities, provided such establishments or facilities are established primarily for employees of industrial establishments or in conjunction with commercially operated recreation establishments developed as part of the approved Plan for the Planned Industrial District.
- 17.02.C** 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 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 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 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 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 conformance with the provisions of Article 25 of this Zoning Resolution.

### Section 17.03 – ACCESSORY USES, BUILDINGS, AND STRUCTURES

Accessory Uses as defined in Article 4 of this Zoning Resolution may be permitted only when 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. No accessory building within any zoning district shall be used for human occupancy.

### Section 17.04 – CONDITIONAL USES

Provisions for Conditional Uses are unnecessary under this article because, in effect, each Application for plan approval is a Conditional Use granted by the Board of Zoning Appeals and/or

the Township Trustees. The Board of Zoning Appeals may require additional conditions necessary to protect the public health, safety, and welfare. No Conditional Use shall be implemented until a Conditional Use Permit is issued by the Zoning Inspector.

## **Section 17.05 – PROHIBITED USES**

Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall be prohibited, in addition to the following:

**17.05.A** Junkyards.

**17.05.B** No trailer of any type, no boats, no campers, and no equipment of any type shall be parked in front of the front building line on any parcel within this district. 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 Resolution or the restrictions of the Plat or Subdivision.

**17.05.C** No mobile home or manufactured home shall be placed or occupied in the district.

**17.05.D** Storage or accumulation of: inoperable, unused, or unlicensed vehicles; equipment or machinery of any type; and vehicle, equipment, or machinery parts and other similar debris - unless any of the previously mentioned items remain entirely enclosed within a permitted accessory building so as to not be visible from any adjoining property or road.

**17.05.E** 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 similar materials) shall be deemed a nuisance 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 streets, 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 twenty-four (24) hours before its regularly scheduled pick-up.

**17.05.F** Private landing fields for aircraft, hot air balloons, ultra-light aircraft, and other mechanical flying equipment for use by the owner of the property.

**17.05.G** Commercial Kennels and Catteries.

**17.05.H** Harboring wild, dangerous, or undomesticated animals on lots less than five (5) acres in area, subject to the limitations contained in ORC Section 519.21. For the purposes of this provision, a "wild, dangerous, or undomesticated animal" shall be defined as follows:

**17.05.H.1** An animal whose natural habitat is the wilderness and which, when maintained in human society, is usually confined to a zoological park or exotic animal farm;

**17.05.H.2** A poisonous or venomous animal, insect, or arachnid;

- 17.05.H.3** An unrestrained animal (excluding farm animals) which, by reason of its size, strength, or appetite, could cause peril to children, adults, pets or domesticated animals, buildings, landscaping, or personal property;
  - 17.05.H.4** An animal which makes noises with sufficient frequency and volume as to constitute a nuisance to persons in the vicinity of such animal;
  - 17.05.H.5** An animal which is defined as "vicious" or "dangerous" pursuant to the provisions of ORC Chapter 955, as the same may be amended from time to time, or prohibited by any federal, state, or local law, regulation, or ordinance.
- 17.05.I** 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.
  - 17.05.J** No cultivators, processors, or retail dispensaries of medical marijuana licensed under Ohio Revised Code Chapter 3796, shall be located nor operate in this district.

## **Section 17.06 – PROCESS FOR AMENDMENT**

In addition to any other procedures set forth in this Zoning Resolution, all Applications for Amendments to the Zoning Map to rezone lands to this district shall follow the procedures hereinafter set forth:

- 17.06.A** Application: The owner(s) of lots and lands within the Township may request that the Zoning Map be amended to include such tracts in the Planned Industrial District in accordance with the provisions of this Resolution.
- 17.06.B** Procedure for Rezone: The procedure outlined in ORC 519.12 shall be followed to consider an Application for a rezone to a Planned Industrial District. Approval of the Application pursuant to that section shall constitute a rezone of such land in accordance with the Applicant's Development Plan.
- 17.06.C** Plat Required: In the Planned Industrial District (PI), no use shall be established or changed and no structure shall be constructed or altered until the required Subdivision Plat has been prepared and recorded in accordance with the approved Development Plan and with the Subdivision Regulations for Delaware County, Ohio.
- 17.06.D** In no event, however, shall any Zoning Permit be issued for any building or use until such time as the facilities for the phase in which the building or use is located are completed.
- 17.06.E** Upon approval of a zoning amendment to rezone property to the PR District, all previous regulations regarding that specific property shall no longer be in effect, and the regulations set forth in this Article and in the approved Development Plan shall govern.
- 17.06.F** A fee as established by the Board of Trustees shall accompany an application requesting a zoning amendment to rezone property to the PI District. In addition, the applicant shall also be responsible for all reasonable and necessary expenses incurred by Liberty 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 application and development plan and related application materials. As soon as reasonably practicable following the submission of a rezoning application, 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 17.06.F. 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 – DESIGN STANDARDS**

The Development Plan shall incorporate the following standards:

- 17.07.A** Access: Requires frontage on and direct access to, one or more dedicated and improved public roads. Ideally, three (3) means of ingress/egress are recommended; however, only two (2) means of egress shall be required. There may also be additional provisions for future connections to other public roads as required by the Township, the Delaware County Engineer, and/or the Regional Planning Commission.
- 17.07.B** Density:
  - 17.07.B.1** Lot Size: No minimum lot width or size shall be required in this district; however, all parcels shall be adequate in size to provide the yard space, landscaping, and off-street parking as herein required.
  - 17.07.B.2** Lot Width: No minimum lot width or size shall be required in this district; however, all lands shall be accessible by means of a duly dedicated public roadway constructed in accordance with the specifications prescribed by the Delaware County Engineer or the Regulations of the County. All parcels shall be adequate in size to provide the yard space, landscaping, and off-street parking as herein required.
  - 17.07.B.3** Maximum Industrial ground coverage by buildings and parking (all impervious surfaces): seventy percent (70%) of the total tract, exclusive of public street right-of-ways. Land underneath overhead high-voltage electric lines may be used for Open

Space, landscaping, parking, and roads, with the permission of the electric utility company in each case.

**17.07.B.4** Minimum Open Space for Planned Industrial Developments: thirty percent (30%) of the total tract acreage. Open Spaces may be used for the retention, detention and disposal of storm water drainage. Features that are likely to cause erosion or flooding shall not be permitted. A fifteen (15)-foot wide landscaped "green belt" shall be provided between the edge of any parking area and the adjacent public street right of way.

**17.07.C** Setback Requirements:

**17.07.C.1** Side Setback: For main and accessory structures, including open storage, processing, servicing, or loading areas, the side yard shall be equal to one-third (1/3) of the sum of the height and depth of the structure, but the side yard shall be not less than one hundred fifty (150) feet when abutting any land which is zoned FR-1, R-3, or Planned Residential, or which is developed for residential uses.

**17.07.C.2** Rear Yard: For main and accessory structures, including open storage, processing, servicing, or loading areas, the rear yard shall be equal to one-third (1/3) of the sum of the height and width of the structure, but the rear yard shall be not less than one hundred fifty (150) feet when abutting any land which is zoned FR-1, R-3, or Planned Residential, or which is developed for residential uses.

**17.07.D** 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. Roof pitch on the principal structure shall not be less than 6/12 for the primary roofs, or as approved by the development plan. This does not include garages, porches, dormers, or other accent features. The use of vinyl as an exterior siding material is not permitted.

**17.07.E** Building Setbacks: Buildings shall be located in conformity with the building Setback Regulations established in Section 7.09 of this Zoning Resolution.

**17.07.F** Building Height Limits: No building in this district shall exceed forty (40) feet in height. All other freestanding structures including, but not limited to, flagpoles shall not exceed forty-eight (48) feet in height. All attached structures including, but not limited to, chimneys and church spires shall not top at a height that is eight (8) feet greater than either the height of the building or other structure to which it is attached.

**17.07.G** Building size limits: Retail or mixed use buildings, containing retail uses, shall contain no more than sixty-five thousand (65,000) gross square feet of floor area under one roof.

**17.07.H** Bikeways/Bike Paths: Bikeways shall be provided in accordance with the Township's adopted Bikeways Plan and shall be built in accordance with the Delaware County Engineer standards. In addition, bikeways within new developments shall be provided in order to connect with existing or planned bikeways external to the proposed new development.

- 17.07.I** Walkways: Walkways shall be separated from the paved street surface in accordance with Delaware County Engineer standards. Trees shall conform to Township standards.
- 17.07.J** Screening: All industrial areas adjacent to residential areas shall provide a screening of shrubbery and/or fencing so as to hide trash collection areas and service areas from the view of adjacent residential areas. All such shrubbery shall be properly trimmed and all screening shall be maintained in a neat and tidy manner.
- 17.07.K** Buffering: Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of such tree cover or other foliage as may be necessary to achieve the purpose of the Open Space and the buffer of adjacent uses.
- 17.07.L** Preservation areas: Wetlands, steep (over twenty percent (20%) inclined) slopes, forests, one-hundred-year (100-year) floodplains, ravines, and noted wildlife habitats shall be preserved to the greatest extent possible.
- Applicants are also encouraged to grant conservation easements to an outside party such as the Delaware County Soil and Water Conservancy District, the Nature Conservancy, Ohio Department of Natural Resources (ODNR) or other non-profit, conservation land trust or governmental agency, rather than to developer or a homeowners association, so that the easement(s) can be appropriately monitored and maintained.
- 17.07.M** Floodplain: No structures shall be constructed within the one-hundred-year (100-year) floodplain of any stream or river.
- 17.07.N** Utilities: Centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Delaware General Health District, and Ohio Environmental Protection Agency approval. Feasibility of water supply and wastewater disposal systems shall be indicated by the appropriate agencies at the time of the preliminary plan. All utilities constructed to service the proposed use shall be located underground.
- 17.07.O** Landscaping: All yards (front, side, and rear) shall be landscaped, and all organized Open Spaces or non-residential use areas shall be landscaped. 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.
- 17.07.P** 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 7 of this Zoning Resolution. In addition to the requirements set forth in said article of this Resolution, if adjacent to residentially zoned property, parking shall be a minimum of thirty-five (35) feet from any adjacent property line. Parking shall be screened and buffered from any and all residential properties.
- 17.07.Q** Exterior Lighting: All exterior lighting shall conform with the lighting requirements of Article 7 of this Zoning Resolution.
- 17.07.R** Signs shall comply with the provisions of Article 20 of this Zoning Resolution.

- 17.07.S** Freight Loading Area: When any use within this district requires the pickup or delivery of merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such loading area shall be located on any public street or alley. Such loading area, as provided, shall be adequate in size to accommodate tractor-trailer (semi) units with adequate room to permit entry to such loading area without interfering with traffic on adjacent streets or highways. Deliveries of freight shall be prohibited between the hours of 11:00 p.m. and 7:00 a.m.
- 17.07.T** Construction and Maintenance of Improvements Within Right-of-Way: The construction and maintenance of all improvements behind the curb line or the edge of pavement including, but not limited to, drainage improvements, landscaping improvements, sidewalks, and/or driveway approaches shall be the responsibility of the abutting property owner.
- 17.07.U** Supplemental Conditions and Safeguards: The Zoning Commission and/or Board of Trustees may impose additional conditions relating to the development with regard to the type and extent of the public improvements to be installed, landscaping, improvements and maintenance of Open Space areas, and other development characteristics.

## **Section 17.08 – PERFORMANCE STANDARDS**

In addition to any other provisions of this Zoning Resolution no use shall be conducted within this district which fails to maintain the following standards:

- 17.08.A** Fire and Explosion Hazards: All activities and storage involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of spill, fire, and/or explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- 17.08.B** Glare, Heat and Exterior Light: Any operation producing intense light or heat, such as high temperature processing, combustion, welding or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- 17.08.C** 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.
- 17.08.D** 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.
- 17.08.E** Vibrations: 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.
- 17.08.F** Odors: No use shall be operated so as to produce continuous, frequent, or repetitive emission of odors or odor-causing substances in such concentrations as perceptible at any point at or beyond the property on which the use is located.

## Section 17.09 – DEVELOPMENT PLAN

In the Planned Industrial District (PI), no use shall be established or changed and no structure shall be constructed or altered until the required Plat has been prepared and recorded in accordance with the Subdivision Regulations for Delaware County, Ohio, and in conformance with the provisions of the Liberty Township Zoning Resolution.

**17.09.A** Preliminary Development Plan: Ten (10) paper copies and one (1) electronic copy of the Preliminary Development Plan shall be submitted to the Zoning Commission with the PI application. The plan shall include in text and map form, the following:

- 17.09.A.1** A survey plat and legal description of the plat signed by a registered surveyor showing the size and location of the proposed project.
- 17.09.A.2** The proposed size and location of the tract at a scale of at least one inch equals one hundred feet (1"=100') showing topographic contours of at least 5' intervals.
- 17.09.A.3** All existing onsite conditions including wooded areas, wetlands, floodplain areas, and existing structures within two hundred feet (200') of property boundaries.
- 17.09.A.4** The relationship of the proposed development to the existing uses including easements, setbacks, and right-of-way areas.
- 17.09.A.5** Proposed locations of all structures and uses, to include any outdoor uses.
- 17.09.A.6** Proposed density calculations and percentage of lot coverage.
- 17.09.A.7** The general character of the tract including:
  - a.** The limitations or controls to be placed on operations, location, or types of tenants.
  - b.** Lots to be numbered and sized.
  - c.** Proposed traffic patterns showing public and private streets and transportation facilities.
  - d.** Description of other development features including landscaping and entry features.
  - e.** Lighting and signage.
- 17.09.A.8** Conceptual architectural design and elevations, roof pitch and exterior construction materials.
- 17.09.A.9** The intended provisions for utilities including water, fire hydrants, sanitary sewer and adequate storm water drainage outlets. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented by the utility provider or a registered civil engineer, whichever is applicable.

- 17.09.A.10** A design of the Open Space and proposed description of its use, ownership, and plan for maintenance.
- 17.09.A.11** The purpose, need, and reason for each divergence, from the Design Standards in this Article, the General Development Standards and/or the Sign Regulations of this Zoning Resolution, such as setbacks, parking, landscaping, lighting, signage and so forth, must be specified. All justifications must be based on the subject property.
- 17.09.A.12** Traffic Impact Analysis based upon new trip generation as estimated by the Delaware County Engineer's standards.
- 17.09.A.13** All required design standards in Article 17.07 of this Zoning Resolution.
- 17.09.A.14** The proposed size and location of any alternate energy apparatus including, but not limited to, solar and wind energy apparatus, in conformance with Section 7.17 of this Zoning Resolution.
- 17.09.A.15** Emergency service provisions (letter from Fire department regarding access and water supply to the proposed development site).
- 17.09.A.16** Phasing plans, if any.
- 17.09.A.17** The ability of the applicant to carry forth its Development Plan by control of the land and the engineering feasibility of the Development Plan.
- 17.09.A.18** Plan approval period: the approval of a Preliminary Development Plan shall be effective for a period of one (1) year from the date thirty (30) days after the zoning is approved by the Board of Trustees in order to allow for the preparation and submission of the final development plan.
- 17.09.B** Final Development Plan: Ten (10) paper copies and one (1) electronic copy of the Final Development Plan shall be to scale of at least one inch equals one hundred feet (1"=100') and will show the proposed uses of the site, location of buildings and structures, streets and roadways, parking areas, all required design features, and required findings for approval found in this Section, in text and map form, as well as the following items in detail satisfactory to the reviewing bodies. If the Final Development Plan varies in any way from the approved Preliminary Development Plan, a summary of the changes must accompany the Final Development Plan submittal.
- 17.09.B.1** The permitted and accessory uses, to include any outdoor uses, to be located on the tract, including the limitations or controls on all uses, lot sizes and dimensioning, and minimum setback requirements.
- 17.09.B.2** Environmentally sensitive areas including the one-hundred-year (100-year) floodplain, natural water, drainage ways, wetlands, and slopes greater than twenty percent (20%) inclined shall be mapped and all existing conditions identified.

- 17.09.B.3** Architectural design detail including specification of exterior materials, colors and elevations for all structures. Proposed architectural control procedures shall be included.
- 17.09.B.4** Building heights and dimensions.
- 17.09.B.5** Size, height, and location of all signs per Article 20 of this Zoning Resolution.
- 17.09.B.6** Lighting Plan: Lighting details shall include, but not be limited to, size, height, type, location, degree of illumination, color of fixture, and design detail. Foot candle output must be identified at all lot lines. All lighting shall conform to the provisions of Article 7 of this Zoning Resolution.
- 17.09.B.7** Landscaping plan: All yards (front, side, and rear) shall be landscaped, and all organized Open Spaces shall be landscaped. 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.
- 17.09.B.8** The utility provider-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.
- 17.09.B.9** A grading and drainage plan prepared by a registered engineer.
- 17.09.B.10** A traffic impact analysis by a civil engineer who specializes in traffic evaluations showing the proposed traffic patterns, public and private streets, and transportation facilities, including their relationship to existing conditions with sight distance and sight triangles defined.
- 17.09.B.11** The relationship of the proposed development to existing and probable uses and zoning classifications of surrounding areas.
- 17.09.B.12** Location of all uses within the site and the location of schools, parks, and other public facility sites within or adjacent to the site.
- 17.09.B.13** The proposed time table for development of the site including entry features, Open Space, streets, buildings, utilities, and other facilities.
- 17.09.B.14** If the proposed timetable for development includes developing the land in phases, phasing shall be fully described in textual form in a manner calculated to give the Township a definitive timeline for development of future phases.
- 17.09.B.15** All phases, developed after the first phase, shall be a minimum of five (5) acres or the remainder of the tract, whichever is smaller.
- 17.09.B.16** The purpose, need, and reason for each divergence, from the Design Standards in this Article, the General Development Standards and/or the Sign Regulations of this

Zoning Resolution, such as setbacks, parking, landscaping, lighting, signage and so forth, must be specified. All justifications must be based on the subject property.

- 17.09.B.17** The drawings that are a part of the Development Plan shall bear the seal and signature of the appropriate licensed professional(s) to include surveyor, architect, landscape architect, and/or engineer licensed to practice in the State of Ohio.
- 17.09.B.18** If the Development Plan fails to include all the information required above, the application will be considered incomplete and may be denied by the Liberty Township Zoning Commission. In the event that an applicant wishes to amend or otherwise change the application in any way, the Zoning Commission may table its consideration of the amended application until such time as all of its members have had an opportunity to review the complete and final application.
- 17.09.B.19** Since the Final Development Plan is a rendition of what is intended to be built, all standards for landscaping, parking, and setbacks are per plan.

## **Section 17.10 – CRITERIA FOR APPROVAL**

When approving an Application for a rezoning to the Planned Industrial District, the reviewing authorities shall consider:

- 17.10.A** Whether the proposed rezone is consistent in all respects with the purpose, intent, and general standards of this Zoning Resolution.
- 17.10.B** Whether the proposed rezone is in conformity with the Comprehensive Plan or portion thereof as it may apply.
- 17.10.C** Whether the proposed rezone advances the health, safety, and general welfare of the Township and the immediate vicinity.
- 17.10.D** Whether the proposed rezone will be compatible in appearance and use with surrounding existing or proposed land uses.
- 17.10.E** Whether the proposed rezone promotes the efficient use of land and resources, promotes greater efficiency in providing public utility services, and encourages innovation in the planning and building of all types of development.

## **Section 17.11 – ADMINISTRATION OF THE DEVELOPMENT PLAN**

After Development Plan approval, all recorded subdivision plats, construction drawings, restrictive covenants, and other necessary documents shall be submitted to the Zoning Inspector for administrative review to ensure conformance with the Development Plan as approved. Any change to an approved Preliminary or Final Development Plan shall be considered as follows:

- 17.11.A** Variations: 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 25 of the Zoning Resolution. All other modifications to the Preliminary or Final Development Plan shall be presented to the Zoning Commission for its consideration, pursuant to Section 17.11.A.1.

- 17.11.A.1** 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 Planned Industrial District. The Zoning Commission shall render a decision on the request within sixty (60) days after the conclusion of the hearing.
- 17.11.B** Default: The approval of the Final Development Plan shall be effective for a period of three (3) years (or for such other time period as may be approved as part of the Final 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 Final Development Plan shall expire.
- 17.11.C** Extension of Time: An extension of the time limit for filing the required subdivision plat, recording the approved subdivision plat, the commencement of construction, or increasing the approval period for a Preliminary or Final Development Plan, may be granted by the Zoning Commission at any public meeting, 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 plan 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.

## ARTICLE 18 – PLANNED OVERLAY DISTRICTS

### Section 18.01 – NATURE OF DISTRICT - POD23

The Planned Overlay District (POD23) 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 POD23 achieve 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:

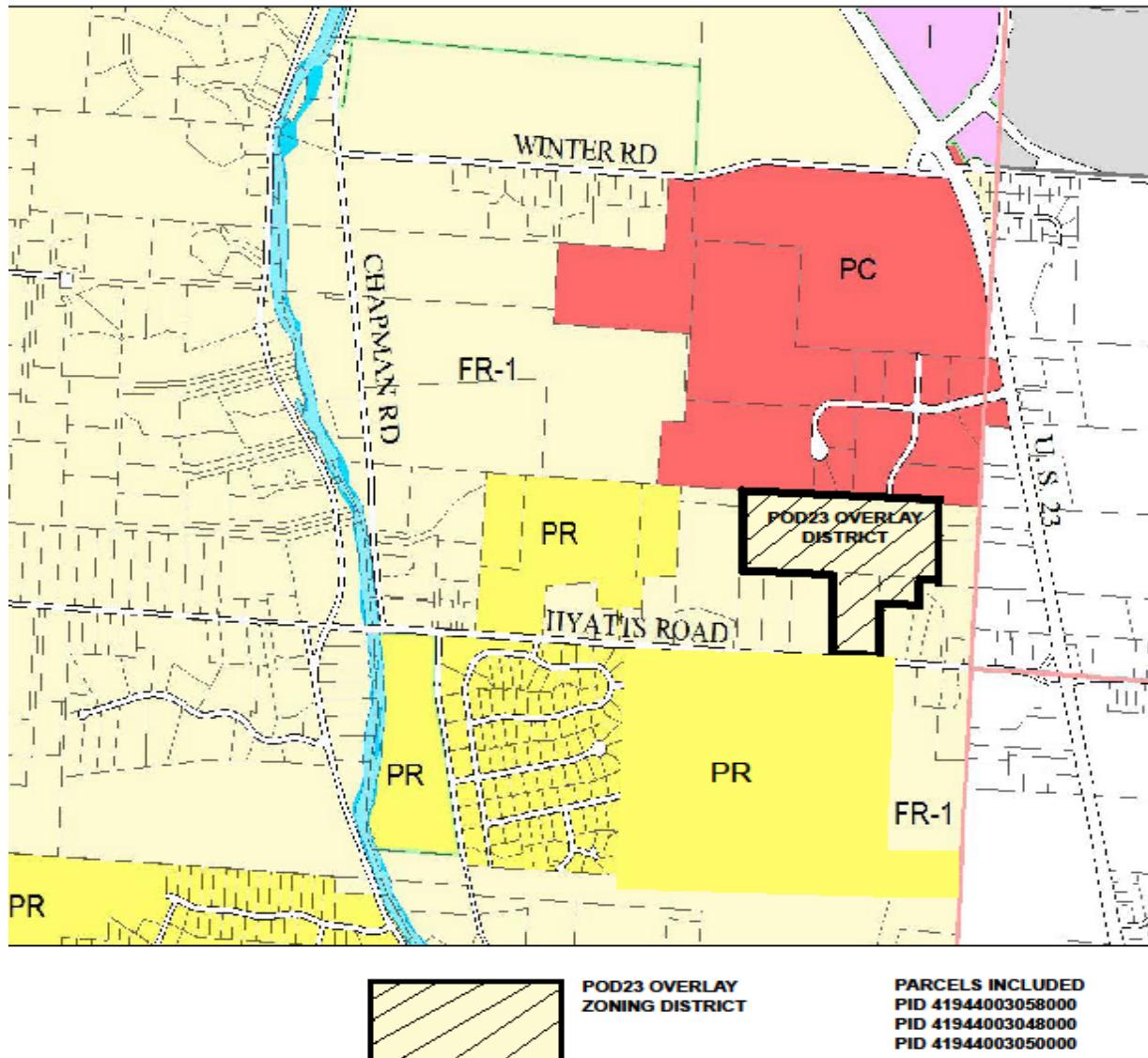
- Permanently preserves unique or sensitive natural resources and integrates Open Space within developments.
- Reduces the amount of infrastructure, including paved surfaces and utility easements, necessary for development.
- Reduces erosion and sedimentation by minimizing land disturbance and removal of vegetation.
- Provides an opportunity for an appropriate mix of Open Space, office, retail, institutional and multi-family 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 POD23 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 18.02 – OVERLAY AREA ESTABLISHED

The POD23 is created pursuant to Section 519.021(C) of the Ohio Revised Code and encompasses, includes, overlays and rezones to the POD23 the area shown on the POD23 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 POD23 as part of this amendment. The existing zoning regulations and districts for such area shall continue to apply to all property within the POD23 unless the Liberty Township Zoning Commission approves an Application of an owner of property to subject the owner's property to the provisions of the POD23. Such an Application shall be made in accordance with the provisions of Section 18.06 of the Liberty Township Zoning Resolution and shall include a Development Plan in compliance with the provisions of Section 18.06.C. Upon receiving such an Application and Development Plan, if the Liberty Township Zoning Commission determines that the Application and Development Plan comply with the provisions of this Article 18 and approves the Application, the Liberty 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 POD23 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 Liberty Township Zoning Resolution.

## ATTACHMENT 1

### POD23 Overlay Zoning District Map



### Section 18.03 – PERMITTED USES

- 18.03.A** Permitted uses within the POD23 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.

2012 U.S. NAICS CODE #	PERMITTED USES
32311	Printing Services
4452	Specialty Food Stores
446	Health and Personal Care Stores
518	Data Processing, Hosting and Related Services
52	Finance and Insurance
5312	Offices of Real Estate Agents and Brokers
5313	Activities Related to Real Estate
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
62412	Services for the Elderly and Person with Disabilities
6244	Child day care services
721110	Hotels (except Casinos) and Motels
722	Food services and drinking places
8112	Electronic and Precision Equipment Repair and Maintenance
8121	Personal Care Services (except Steam and Turkish Baths and Tattoo Parlors)
8123	Dry Cleaning and Laundry Services (except 812332 – Industrial Launderers)
813	Religious, Grant making, Civil, Professional and Similar Organizations
92	Public Administration (except 92214 – Correctional Institutions and 92215 Parole Offices and Probation Offices)
	Multi-family Dwelling Structures

**18.03.B** Hyatts Road Buffer Zone. A buffer zone shall be established where the POD23 abuts the north side of Hyatts Road. The buffer zone shall be no less than one hundred (100) feet in width from the right-of-way of Hyatts Road. Within that buffer zone, all principal and accessory structure(s) (excluding signs) associated with the following permitted uses shall be prohibited:

**18.03.B.1** Printing Services.

**18.03.B.2** Hotels (except Casinos) and Motels.

**18.03.B.3** Food Services and Drinking Places.

**18.03.B.4** Health and Personal Care Stores.

**18.03.B.5** Electronic and Precision Equipment Repair and Maintenance.

**18.03.B.6** Personal Care Services, Dry Cleaning and Laundry Services (except 812332 – Industrial Launderers).

**18.03.C** Use Specific Requirements. The following requirements, in addition to all other applicable development standards, shall apply to the following specific uses:

- 18.03.C.1** Food Services and Drinking Places. Food Services and Drinking Places may be permitted, provided that such use is architecturally integrated on the ground floor and is conducted in conjunction with a separate principal use. Outdoor seating for such establishments shall comply with the following conditions:
- a. The outdoor seating does not interfere with pedestrian movement;
  - b. Secure, enclosed storage is provided for the furniture when it is not in use for a period longer than ten (10) consecutive days; and
  - c. Advertising on furniture is prohibited.
- 18.03.C.2** 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).
- 18.03.C.3** 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 18.03.A of this Zoning Resolution.
- 18.03.C.4** Accessory Multi-Family Dwelling Structure Components. Any Multi-family Dwelling Structures located within the POD23 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. Food Services and Drinking Places. Such establishments must meet the requirements of Section 18.03.C.1 of this Zoning Resolution.
  - b. Exercise and Fitness Facilities.
  - c. Personal and Laundry Services (except 812332 – Industrial Launderers) as defined in Section 18.03.A of this Zoning Resolution.
  - d. Entertainment and Recreation Facilities – Indoor and Outdoor.
  - e. 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 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.

- 18.03.C.5** Hotels (except Casinos) and Motels shall only include hotels and motels containing 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.
- 18.03.C.6** Drive In/Drive Thru Facilities are classified as a conditional use within the POD23 and shall follow the process and meet the requirements for a conditional use as specified in Section 25.07 of the Zoning Resolution.
- 18.03.C.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, and are imperceptible from the exterior of the dwelling and displaying 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.
- 18.03.D** 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 18.04 – ACCESSORY USES, BUILDINGS, AND STRUCTURES**

Accessory uses, as defined in Article IV 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 18.03.C.4 and this Zoning Resolution.

Accessory uses other than those authorized in Section 18.03.C.4 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 18.05 – 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:

- 18.05.A** Uses not specifically approved by the Zoning Commission as part of the Development Plan.
- 18.05.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.
- 18.05.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.
- 18.05.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 18.03.D.
- 18.05.E** Sales trailers of any type.
- 18.05.F** Sexually Oriented Businesses and Adult Entertainment Establishments as defined in Article 4 of this Resolution.
- 18.05.G** Stand-alone car wash facilities, self-service storage facilities, pawn shops, check cashing or short term loan establishments as a primary use, tattoo parlors, and skill game establishments.
- 18.05.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.
- 18.05.I** No cultivators, processors, or retail dispensaries of medical marijuana licensed under Ohio Revised Code Chapter 3796, shall be located nor operate in this district.

## **Section 18.06 – PROCESS FOR APPROVAL**

All Applications to submit property to the POD23 regulations shall follow the procedures hereinafter set forth:

- 18.06.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 (ORC Section 121.22) is required to be observed at pre-Application meetings involving a quorum of members of the Liberty Township Zoning Commission.

**18.06.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 Liberty Township Zoning Commission. The Application shall be signed by the Applicant and all owners of property included in the Application and Development Plan. The Liberty 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:

- 18.06.B.1** A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed development.
- 18.06.B.2** A grading plan drawn to scale, showing all information pertaining to surface drainage.
- 18.06.B.3** A Landscape Plan which depicts and identifies all proposed landscaping features. The Landscape Plan shall identify the caliper, height, and numbers of each plant, shrub or tree, its name, its size at planting and rendering(s) of how that section of the development would look in elevation.
- 18.06.B.4** A detailed Signage and Exterior Lighting Plan.
- 18.06.B.5** A detailed Parking and Loading Plan.
- 18.06.B.6** An explanation of the method/structure and proposed documentation and instruments to be used in order to perpetually own, maintain and preserve at least twenty percent (20%) of the development tract, excluding rights-of-way, as Open Space that is unified and permanently protected. The location, size and proposed use(s) of all Open Space areas shall be detailed.

**18.06.C** Development Plan Contents. The Development Plan shall be drawn to a scale of at least one inch equals one hundred feet (1"= 100') and shall include in text and map form the following:

- 18.06.C.1** Proposed name of the development and its location.
- 18.06.C.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 POD23 approval shall be provided.
- 18.06.C.3** Date, north arrow and Plan scale. Scale shall be one inch equals one hundred feet (1"= 100') or larger scale.

- 18.06.C.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 a proposed Multi-family Dwelling Structure(s) 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.
- 18.06.C.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.
- 18.06.C.6** 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.
- 18.06.C.7** The adjoining lines of adjacent tracts, parcels or lots.
- 18.06.C.8** Existing zoning restrictions and deed restrictions, if any.
- 18.06.C.9** Existing ground configuration, drainage channels, wooded areas, watercourses, wetlands and other significant physical features.
- 18.06.C.10** Layout of proposed streets, private or public, including their names and rights of way, easements, sewers, water lines, culverts and other major improvements.
- 18.06.C.11** Layout, numbering and dimensions of lots if more than one.
- 18.06.C.12** Layout, location, dimensions and architectural features of proposed structures.
- 18.06.C.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.
- 18.06.C.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, and for the dedications.
- 18.06.C.15** Building setback lines with dimensions.
- 18.06.C.16** Proposed street grades, sewer size and slope.
- 18.06.C.17** 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.

- 18.06.C.18** Engineering feasibility studies of any anticipated problems which may arise due to the proposed development as required by the Zoning Commission.
- 18.06.C.19** Preliminary drawings for buildings to be constructed, including floor plans, exterior elevations and sections.
- 18.06.C.20** Color rendering of buildings(s), complete with a listing of all colors, including Pantone 1999-2000 Reference Numbers or, if Pantone is not available, the manufacturer's reference/serial number with samples and materials to be used.
- 18.06.C.21** Building locations depicting the bulk, height and spatial relationships of building masses with adjacent development.
- 18.06.C.22** Projected schedule of site development.
- 18.06.C.23** 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.
- 18.06.C.24** Accommodations and access for emergency and fire-fighting apparatus.
- 18.06.C.25** Location, type, dimensions and features of all signage and exterior lighting through a detailed Signage and Exterior Lighting Plan.
- 18.06.C.26** 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.
- 18.06.C.27** The applicant may request a divergence from the development standards set forth in this Article 18. 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 18 and the General Development Standards applicable to all zoning districts, as set forth in the Liberty Township Zoning Resolution.
- 18.06.C.28** The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
- 18.06.C.29** Other supplemental information, as may be reasonably required by the Liberty Township Zoning Commission, in order to determine compliance with this Zoning Resolution.
- 18.06.C.30** 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.

**18.06.D** **Zoning Commission Action.** After receipt of the completed Application materials and required fees, the Zoning Commission shall schedule a public hearing within a reasonable time 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 sixty (60) days after the conclusion of the hearing.

**18.06.E** **Basis of Approval.** In determining whether or not to approve an Application and Development Plan, the reviewing authorities shall consider the following:

- 18.06.E.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.
- 18.06.E.2** Whether the proposed Application and Development Plan meet all of the design features required in this Zoning Resolution.
- 18.06.E.3** Whether the proposed Application and Development Plan are compatible with the existing land use character, consistent with the intent and purpose of Article 18 of this Resolution, and are in keeping with the Liberty Township, Delaware County, Ohio Comprehensive Plan (the "Comp Plan") and other applicable public plans for the area.
- 18.06.E.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.
- 18.06.E.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.
- 18.06.E.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.
- 18.06.E.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 POD23.

**18.06.F** Effect of Approval.

- 18.06.F.1** The Zoning Commission's determination shall not be considered to be an amendment to the Township Zoning Resolution for purposes of Section 519.18 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 18, 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 or supplement 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.
- 18.06.F.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 POD23, 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.
- 18.06.F.3** No zoning certificate shall be issued for any structure in any portion of a POD23 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.
- 18.06.F.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.

- 18.06.F.5** The approval process for the Development Plan requires a public hearing(s) before the Zoning Commission in accordance with Article 18, hereof. 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 25 of the Zoning Resolution. All other modifications to the Development Plan shall be presented to the Zoning Commission for its consideration pursuant to Section 18.06.F.6, hereof.
- 18.06.F.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 POD23 Planned Overlay District. The Zoning Commission shall render a decision on the request within sixty (60) days after the conclusion of the hearing.
- 18.06.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 Liberty 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 18.06.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 18.07 – 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:

- 18.07.A** Access. Any POD23 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.
- 18.07.B** Setbacks and Yard Areas. The location and arrangements of buildings and structures within the POD23 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.
- 18.07.C** Multi-Family Dwelling Density. The density of all proposed multi-family dwelling units in the POD23 shall be subject to the requirements and limitations of Section 18.08.C.
- 18.07.D** Perimeter Area. When located contiguous to a residential district (FR-1, R-3, PR, PMFR, PERRC, PRC), no building 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.
- 18.07.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 POD23 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.

- 18.07.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.
- 18.07.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.
- 18.07.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. A detailed Exterior Lighting Plan shall accompany and be submitted with the Development Plan and shall be subject to approval as part of the Development Plan.
- 18.07.I** Signage. All signs and graphics within the POD23 shall be compatible in size, location, material, height, shape, color, and illumination. A Signage Plan for the entire POD23 shall set forth the design parameters for the entire project to ensure a constant 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 POD23, but 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.
- 18.07.J** Landscaping. All yards (front, side and rear) and all Open Space not covered by structure, asphalt and the like shall be landscaped. A detailed Landscape Plan shall accompany and be submitted with the Development Plan and shall be subject to approval as part of the Development Plan. 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.

- 18.07.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. A detailed Parking and Loading Plan shall accompany and be submitted with the Development Plan and shall be subject to approval as part of the Development Plan. Parking areas shall be so designed as 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.
- 18.07.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.
- 18.07.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, Board of Health and the Ohio Environmental Protection Agency approval. All utility service lines shall be located underground.
- 18.07.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.
- 18.07.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.
- 18.07.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.
- 18.07.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.

- 18.07.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 discernible without instruments at or beyond the property line of the subject premises. Noise standards of the Ohio Environmental Protection Agency shall be adhered to.
- 18.07.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 18.08 – MINIMUM DEVELOPMENT STANDARDS**

The Development Plan shall comply with the following development standards:

- 18.08.A** Tract Size. The gross area of a tract of land proposed to be developed in the POD23 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.
- 18.08.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.
- 18.08.C** Multi-Family Density. The Liberty Township Comprehensive Plan, 2006 ("Comp Plan") has designated the U.S. 23 Corridor as a subarea within the Township targeted as an economic growth area. Parcels located along the US 23 Corridor provide the ideal location and opportunity for a mix of professional office, commercial, institutional and higher density residential uses within the Township. A higher density residential use is permitted and included in this mix to provide the economic growth area with housing for individuals that will work at the companies and businesses that locate in and around the US 23 Corridor. To promote the goals of this economic growth area, the Township has determined that the POD23 shall provide potential increased density for residential developments which allow for the preservation of net developable acres within the POD23 for those uses that will promote economic growth within the Township and the surrounding area. To achieve this goal, the Township has determined that a density cap shall be placed on the entire area included within the POD23. The total number of dwelling units located within the POD23 shall not exceed a maximum of three hundred (300) dwelling units. These three hundred (300) dwelling units shall be constructed at a minimum density of ten (10) dwelling units per net developable acre, but in no instance shall exceed twenty-five (25) dwelling units per net developable acre. Furthermore, any multi-family residential proposal shall not only comply with this density requirement, but also shall conform to all other applicable requirements of this Article 18.
- 18.08.D** Setbacks and Yard Areas.
- 18.08.D.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 sixty (60) feet.

**18.08.D.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 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.

**18.08.D.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.

**18.08.D.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 located no closer than 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 square (4) 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.
- h. Bike Paths.
- i. Patios not exceeding ground level elevation, plus or minus eight (8) inches.

**18.08.E** Buildings.

**18.08.E.1** Maximum Tract 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.

**18.08.E.2** Building Height.

- a. Multi-Family Dwellings. No building or structure for any permitted use shall exceed four (4) 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 sixty-five (65) feet in height. Chimneys, flagpoles, parapets, cupolas and other similar architectural elements may exceed this height limitation by no more than ten (10) feet.

**18.08.E.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 POD23 shall have a minimum of seven hundred (700) square feet of residential floor area for a one-bedroom unit and a minimum of one thousand (1,000) square feet of residential floor area for a two-bedroom unit.

**18.08.E.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 POD23 district is encouraged by the Township, but not required.

**18.08.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:

**18.08.F.1** Multi-Family Dwellings.

- a. Design Elements. The architectural style and design of multi-family dwellings shall create harmony throughout the site but not limit the creativity of the architect, landscape architect and developer. All materials used to construct buildings within the POD23 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 18.08.F.1.b. Creativity in design is encouraged; however, that creativity shall be consistent with the goals and requirements established for the POD23 by this Article 18.
- b. Materials. The exterior elevations of all proposed buildings shall only consist of any or any combination of all of the following natural materials:
  - i. Wood;
  - ii. Red or earth tone brick;
  - iii. Native or cultured stone;
  - iv. Stucco/Efis;
  - v. Pre-cast concrete where used as an accent;

- vi. Cementitious siding (such as HardiPlank® or similar) and/or composite siding (such as SmartSide® or similar);
  - vii. Any materials deemed by the Zoning Commission to be acceptable substitutions for the above natural materials.
  - viii. The above material requirements shall not be applicable to vinyl soffits, fascia windows, downspouts, gutters, window glazing and reveals, as well as hardware and similar accents.
- c. Façade Appearance. A building wall for all proposed multi-family dwellings within the POD23 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. Such design elements shall include:
- i. 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;
  - ii. 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;
  - iii. A gabled vent of at least four (4) square feet in area;
  - iv. Porches, decks, or similar structures that create the illusion of a porch, deck, or window balcony; or
  - v. A similar significant permanent architectural feature consistent with the style of the building upon approval of the Zoning Commission, as applicable.

**18.08.F.2** All Other Permitted Uses.

- a. Design Elements. The architectural style and design of developments shall create harmony and be compatible throughout the site. All materials used to construct buildings within the POD23 shall be blended in such a manner as to harmonize with generally perceived good aesthetic appearances, so long as the proposal utilizes the permitted materials as specified by Section 18.08.F.2.b. Creativity in design is encouraged; however, that creativity shall be consistent with the goals and requirements established for the POD23 by this Article 18.
- b. Materials. All proposed buildings shall be constructed of the following natural materials:

- i. Wood;
  - ii. Red or earth tone brick;
  - iii. Native or cultured stone;
  - iv. Stucco/EIFS;
  - v. Pre-cast concrete where used as an accent;
  - vi. Cementitious siding (such as HardiPlank® or similar) and/or composite siding (such as SmartSide® or similar);
  - vii. Metal and glass, or
  - viii. Any materials deemed by the Zoning Commission to be acceptable substitutions for the above natural materials.
  - ix. The above material requirements shall not be applicable to vinyl soffits, fascia, windows, downspouts, gutters, window glazing and reveals, as well as hardware and similar accents.
- c. Façade Appearance. A building wall that exceeds a width of fifty (50) feet shall incorporate sectioning and offset of the wall plane to inhibit a large expanse of blank wall and add interest to the façade.
  - d. 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.
  - e. Roofing. All pitched roofs shall be of dimensional shingles, standing seam metal, slate or simulated slate.
  - f. Drive In/Drive Thru Features. A drive in/drive thru facility, if deemed appropriate within the POD23, 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.
  - g. In-Line Retail Exemption. Side or rear elevations of an in-line retail development may be exempt from the building design standards of the POD23 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 forthcoming 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.

**18.08.G** Exterior Lighting. A detailed Exterior Lighting Plan shall accompany and be submitted with the Development Plan and shall be subject to approval as part of the Development Plan. The Exterior Lighting Plan is subject to Article 7 of the Zoning Resolution and the following requirements:

- 18.08.G.1** Site lighting shall be required for all developments and be designed to sufficiently illuminate the site and minimize spillover from the property.
- 18.08.G.2** 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, type and style.
- 18.08.G.3** Building, pedestrian and landscape lighting may be incandescent, metal halide or other sustainable lighting as determined by the Zoning Commission.
- 18.08.G.4** 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.
- 18.08.G.5** All external lighting shall be decorative or 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.
- 18.08.G.6** 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.
- 18.08.G.7** 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.
- 18.08.G.8** No permanent colored lights or neon lights shall be used on the exterior of the buildings. Flashing lights shall be prohibited.
- 18.08.G.9** External building lighting shall be limited to wall-mounted sconces.

**18.08.H** Signage. A detailed Signage Plan shall accompany and be submitted with the Development Plan and shall be subject to approval as part of the Development Plan. Graphics and Signage in the POD23 shall conform to Article 20 of the Zoning Resolution or as approved by the Zoning Commission.

**18.08.I** Landscaping. A detailed Landscape Plan shall accompany and be submitted with the Development Plan and shall be subject to approval as part of the Development Plan. 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:

- 18.08.I.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 (2 ½) 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.
- 18.08.I.2** Residential District Screening. Non-residential uses, excluding multi-family accessory uses, adjacent to residential uses (both within and adjacent to the POD23) 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 18.08.F.1.b 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.
- 18.08.I.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.
- 18.08.I.4** Plants. All plants shall meet or exceed the American Standard for Nursery Stock as set forth by the American Association of Nurseries.
- 18.08.I.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.
- 18.08.I.6** 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.
- 18.08.J** Parking and Loading. A detailed Parking and Loading Plan shall accompany and be submitted with the Development Plan and shall be subject to approval as part of the Development Plan. Unless a phasing schedule is approved as part of the Development Plan, 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. In preparing the Parking and Loading Plan, all parking and loading areas shall conform with Section 7.02 of the Liberty Township Zoning Resolution and the following provisions:

- 18.08.J.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.
- 18.08.J.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 18. 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.
- 18.08.J.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.
- 18.08.J.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.).
- 18.08.J.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.
- 18.08.J.6** **Minimum Number of Parking Spaces Required.** For multi-family proposals, a minimum of two and one-fourth (2- $\frac{1}{4}$ ) parking spaces for each dwelling unit is required. For all other buildings constructed in the POD23, 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.

**18.08.J.7** On-Street Parking in Multi-Family Proposals. In multi-family dwelling proposals in the POD23, 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 POD23, 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 18.08.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 18.08.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 Ohio Revised Code Section 505.17 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 18.08.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.

**18.08.J.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 18.08.F.2.b of this Resolution.

**18.08.K** Open Space. A minimum of twenty percent (20%) of the total POD23 acreage shall remain and be utilized as 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. Open Space features may include, but are not limited to bike paths, walking paths, forested and landscaped areas not included in a yard requirement, water impoundments 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 POD23 that will be utilized in the open space system. Once an open space master Development Plan is approved, future applicants within the POD23 may be permitted to utilize that Open Space to meet up to half of the twenty

percent (20%) 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.

- 18.08.L** 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.
- 18.08.M** 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.
- 18.08.N** 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.
- 18.08.O** 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.
- 18.08.P** Other Requirements. Unless specifically supplemented by the standards contained in Article 18 herein or those standards approved by divergence, the general development standards found in Article 7 of this Zoning Resolution shall apply.

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## ARTICLE 18B – PLANNED OVERLAY DISTRICT

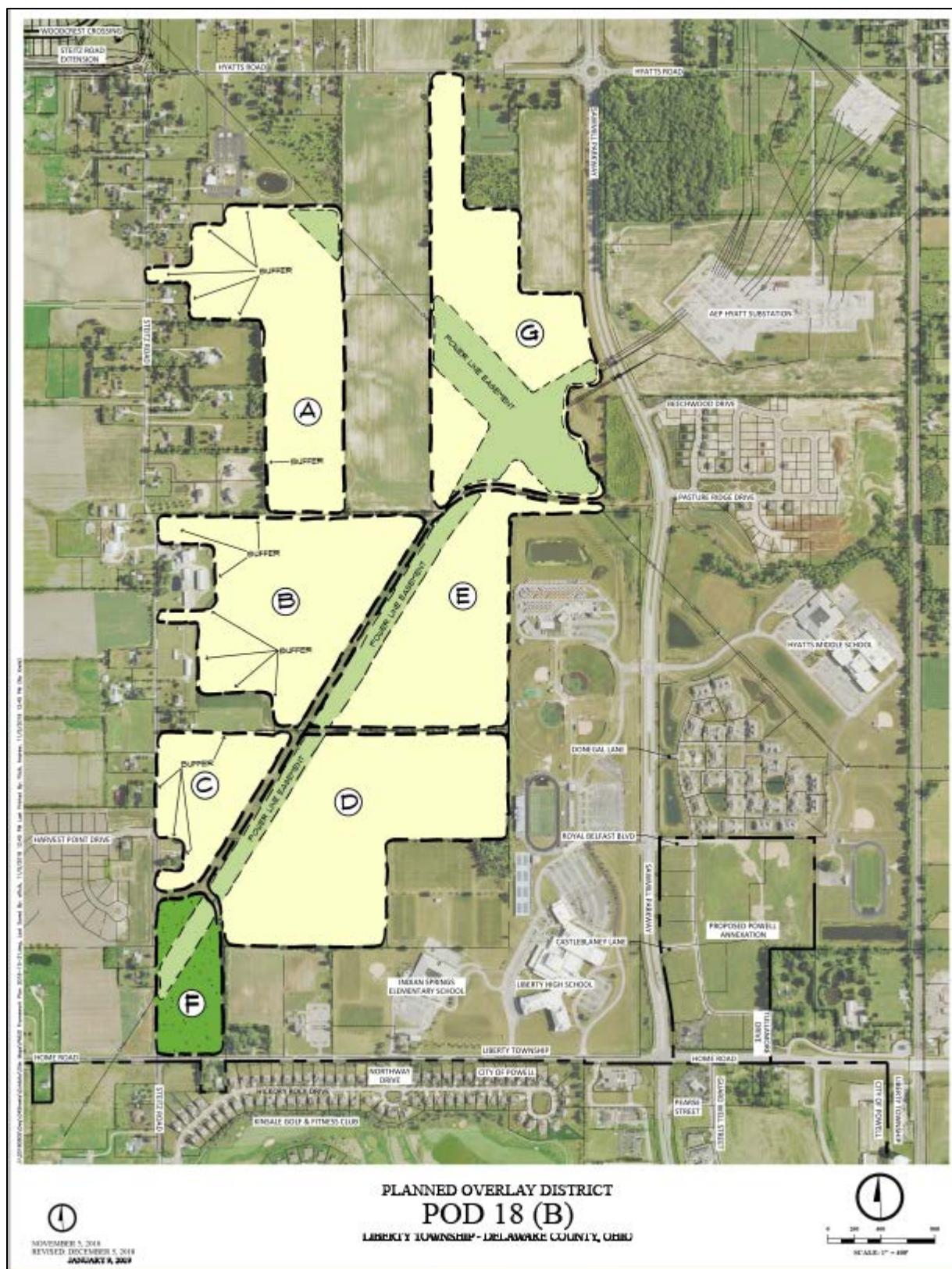
### Section 18B.01- NATURE OF THE DISTRICT

This Planned Overlay District (POD) 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 POD 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 residential uses.
- 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 POD through appropriate development controls.
- 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 18B.02 - OVERLAY DISTRICT AREA ESTABLISHED

The POD is created pursuant to Section 519.021(C) of the Ohio Revised Code and encompasses, includes, overlays and rezones the POD area shown on the POD Overlay Development Plan (Map), which map is attached hereto and incorporated herein as Attachment 1 and is hereby adopted as the official zoning district map for the POD as part of this amendment. A roadway network will be developed as part of future Final Development Plan(s) and shall be subject to final approval by the Delaware County Engineer, and final site/sub-area engineering. Properties within the POD shall make Application in accordance with the provisions of this POD and Section 10.06 of the Liberty Township Zoning Resolution for Final Development Plan approval, in compliance with the provisions of this POD. The approval of an Application for Final Development Plan following the Liberty Township Trustees' approval of this POD is a ministerial act and shall not be considered an amendment to the Liberty Township Zoning Resolution.

**Attachment 1**

## Section 18B.03 - PERMITTED USES

- 18B.03.1** Residential Uses as provided for by subareas identified herein. Specifically: (1) Single Family Homes, single family detached residential or Patio Homes (Single Family including homeowner or condominium associations); (2) Attached Homes, residential of 2, 3 and 4 unit buildings includes Townhomes and/or Condominiums), and (3) Multi-family, attached residential of 5+ units (Multi-family).
- 18B.03.2** Additional uses related to Healthcare Services including: 446 Health and Personal Care Stores; 561 Administrative and Support Services; 621 Ambulatory Health Care Services; 622 Hospitals; 623 Nursing and Residential Care Facilities; 62412 Service for elderly and persons with disabilities; 6244 Child day care. The development standards of Liberty Township Zoning Resolution Article 15, Planned Commercial District shall supplement this POD for those uses only, where this POD 18B is silent. Conflicts shall be resolved in favour of the development standards of this POD 18B.
- 18B.03.3** All uses of Article 12, Planned Elderly or Retirement Community uses. The development standards of Liberty Township Zoning Resolution Article 12 Planned Elderly or Retirement District shall supplement this POD for those uses only, and only where this POD 18B is silent. Conflicts shall be resolved in favour of the development standards of this POD 18B.
- 18B.03.4** 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 twelve (12) months and renewable for up to 3 years total. 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. Renewal shall not be unreasonably denied. 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.
- 18B.03.5** Existing Uses/Zoning To Remain. Until such time as a Final Development Plan is approved for area(s) within the POD, within the requirements of the POD, the existing legal uses and zoning for all areas within the POD shall be permitted. Legal uses established prior to this POD shall be permitted to exist as legal non-conforming.

## Section 18B.04 - ACCESSORY USES, BUILDINGS, AND STRUCTURES

- 18B.04.1** Accessory Uses. Any sub area located within the POD shall be permitted to include the following accessory uses, so long as those uses are either contained within the buildings of a permitted use, or within separate buildings or structures that are architecturally and/or operationally integrated into the sub area development:
- 18B.04.1.a** Clubhouses, recreational and entertainment facilities, indoor or outdoor, and may include but not limited to tennis courts, basketball courts, pools, bocce court, etc.
- 18B.04.1.b** Sheds, play structures, pools and pool fencing.
- 18B.04.1.c** Private Garages.

- 18B.04.1.d** Exercise and Fitness Facilities.
- 18B.04.1.e** Personal and Laundry Services (except 812332 Industrial Launderers).
- 18B.04.1.f** Mail collection facilities.
- 18B.04.1.f** Storage facilities for bicycles, as well as individual storage facilities for the keeping of personal property owned by the residents, and only accessory to such ownership. 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 Development Plan. Commercial storage facilities are not permitted.
- 18B.04.1.g** Home Occupations: professional or business activities shall be considered permitted as " 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.
- 18B.04.1.h** General park and recreational uses, activities or small scale agricultural activities such as a non-permanent farmers' market or seasonal egg hunts.

The above uses are not intended as separate, independent or principal commercial uses, but rather only accessory in nature, so as to complement the permitted principal use(s).

## **Section 18B.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:

- 18B.05.A** Uses not specifically approved by the Zoning Commission as part of the Development Plan.
- 18B.05.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 an approved Final Development Plan.
- 18B.05.C** Except as provided in a Final Development Plan, no trailers, 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 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.

**18B.05.D** No manufactured home, temporary mobile home, motor home or camper shall be occupied in this district for residential purposes. Mobile office structures may be permitted in the approved Final Development Plan in accordance with Section 18B.02.

**18B.05.E** 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 18B.06 - PROCESS FOR PLAN APPROVAL**

All Applications for Final Development Plan approval of area within the POD shall follow the procedures hereinafter set forth:

**18B.06.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 Final Development Plan for any tract or property within the POD. No statement or action by Township or County officials in the course of 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 Liberty Township Zoning Commission.

**18B.06.B** Application and Final Development Plan. The Applicant shall prepare and submit ten (10) copies of an Application and Final Development Plan, along with an electronic copy and all applicable fees to the Liberty Township Zoning Commission. The Application shall be signed by the Applicant and all owners of property, or their designee, included in the Application and Final Development Plan. The Application shall include a list of property owners, by mailing address appearing on the Delaware County Auditor's current tax list, within, contiguous to, directly across the street from, and within two hundred feet (200') of the perimeter boundaries of such area subject of the Application for Final Development Plan. The Liberty 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 Final Development Plan and the following supporting information and documentation in text and map form:

**18B.06.B.1** A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed development.

**18B.06.B.2** A grading plan drawn to scale, showing all information pertaining to surface drainage.

**18B.06.B.3** A detailed Landscape Plan shall be submitted with the Final Development Plan and shall be subject to approval as part of the Final Development Plan. It shall depict and identify all proposed landscaping features.

- 18B.06.B.4** A detailed Signage and Exterior Lighting Plan shall be submitted with the Final Development Plan and shall be subject to approval as part of the Final Development Plan.
- 18B.06.B.5** A detailed Parking Plan shall be submitted with the Final Development Plan and shall be subject to approval as part of the Final Development Plan.
- 18B.06.B.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.
- 18B.06.C** Final Development Plan Contents. The Final Development Plan shall include in text and map form the following:
- 18B.06.C.1** Proposed name of the development and its location.
- 18B.06.C.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 POD approval shall be provided.
- 18B.06.C.3** Date, north arrow and plan scale. Scale shall be one inch equals one hundred feet 1" = 100 feet or larger scale.
- 18B.06.C.4** A description and location of the precise uses proposed for the development and phases for construction, if any. If the proposed 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.
- 18B.06.C.5** Locations, widths and names of all existing public streets or other public or private roads/ways, railroad and utility rights of way or easements, parks and other public open spaces, permanent structures, and corporation lines within or adjacent to the tract.
- 18B.06.C.6** 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.
- 18B.06.C.7** The adjoining lines of adjacent tracts, parcels or lots.
- 18B.06.C.8** Additional restrictions and deed restrictions, if any.
- 18B.06.C.9** Existing topography, drainage channels, wooded areas, watercourses, wetlands and other significant physical features.
- 18B.06.C.10** Layout of proposed streets, private or public, including their names and rights of way, easements, sewers, water lines, culverts and other major improvements.

- 18B.06.C.11** Layout, numbering and dimensions of lots if more than one.
- 18B.06.C.12** The total amount of Lot Coverage and density to confirm with the POD, as that term is defined in this POD as gross acreage.
- 18B.06.C.13** 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.
- 18B.06.C.14** Building setback lines with dimensions.
- 18B.06.C.15** Building locations depicting the bulk, height and spatial relationships of building masses with adjacent development.
- 18B.06.C.16** Layout, location, dimensions and architectural features of proposed structures including preliminary floor plans and exterior elevations.
- 18B.06.C.17** Location and dimensions of all paths, sidewalks, multi-use trails and connections thereof to facilitate connectivity among areas within the POD.
- 18B.06.C.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.
- 18B.06.C.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.
- 18B.06.C.20** Engineering feasibility studies of any anticipated problems which may arise due to the proposed development as required by the Zoning Commission.
- 18B.06.C.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.
- 18B.06.C.22** Accommodations and access for emergency and fire-fighting apparatus.
- 18B.06.C.23** Location, type, dimensions and features of all signage and exterior lighting through a detailed Signage and Exterior Lighting Plan.
- 18B.06.C.24** 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.
- 18B.06.C.25** Projected schedule of site development.
- 18B.06.C.26** The ability of the applicant to carry forth the Final Development Plan by control of the land and the engineering feasibility of the Final Development Plan.

**18B.06.C.27** Other supplemental information, as may be reasonably required by the Liberty Township Zoning Commission, to determine compliance with this POD.

**18B.06.C.28** The Final 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.

**18B.06.C.29** The applicant may request a divergence from the development standards set forth in this Article 18B or otherwise to the Liberty Township Zoning Resolution. An applicant making such a request shall specifically and separately list each requested divergence and the justification therefore on the Final Development Plan submittals, with a request that the proposed divergence be approved as part of and as shown on the Final Development Plan. Unless specifically supplemented by the standards contained in the Final Development Plan, the development shall comply with the requirements contained in Article 18B and the General Development Standards most closely comparable to the use/zoning district(s), as contained in the Liberty Township Zoning Resolution.

**18B.06.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. Notice shall be sent by regular, first class mail to the applicant and to all owners of property within, contiguous to, directly across the street from, and within two hundred feet (200') of the perimeter boundaries of such area subject of the Application for Final Development Plan. Mailing by the Zoning Commission shall be to the addresses of such owners appearing on the Delaware 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 Final Development Plan within thirty (30) days after the conclusion of the hearing.

**18B.06.E** Basis of Approval. The Zoning Commission, shall consider and approve a Final Development Plan upon a finding of substantial compliance based upon the following:

**18B.06.E.1** Whether the proposed Application and Final Development Plan are consistent with the uses, and standards of this POD Zoning Resolution as set forth and defined in Section(s) 18.07 and 18.08 of this POD; and, If applicable, determine if divergence(s) are reasonably related to or that facilitate the use(s), criteria and/or standards of this POD.

**18B.06.E.2** Whether the proposed Application and Final Development Plan meet the design features as set forth and defined in Section(s) 18.07 and 18.08 of this POD.

**18B.06.E.3** Whether the proposed development will be adequately served in a manner consistent with other residential communities located within Liberty Township, by essential public facilities and services including, without limitation, roads, walkways, police and fire protection, drainage structures, potable water and centralized sanitary sewers or other approved sewage disposal systems.

**18B.06.E.4** Whether the proposed development has adequately addressed traffic considerations in the immediate vicinity of the proposed development or elsewhere in the Township, as evidenced by a traffic study approved by the Delaware County Engineer.

**18B.06.F** Effect of Approval.

**18B.06.F.1** The Zoning Commission's determination shall not be considered an amendment to the Township Zoning Resolution for purposes of Section 519.12 of the Revised Code. A negative decision of the Zoning Commission may be appealed by the Applicant first to the Township Trustees within thirty (30) days of the date of the Zoning Commission Decision, and thereafter from the decision of the Township Trustees pursuant to Chapter 2506 of the Revised Code. The approval of an applicant's Application for Final Development Plan approval pursuant to this POD is a ministerial act and shall not be considered a rezoning 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.

**18B.06.F.2** The approval of a Final 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 Final 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 or other affirmative actions, efforts or planning has not commenced, and unless the Zoning Commission approves an extension of this time limit, a Development Plan shall expire. Extensions of an approved Final Development Plan shall not be unreasonably denied. Upon the expiration of the Final Development Plan, the subject parcel(s) shall remain zoned POD, but no use shall be established or changed and no building, structure or improvement shall be constructed until an Application for a new Final Development Plan, accompanied by a new Final 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.

**18B.06.F.3** 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 or the completion of the development of the project. The length of time permitted for an extension shall be determined based upon the Application submitted. A request for extension shall be filed prior to the expiration of the established approval period.

**18B.06.F.4** Following the approval of a Final Development Plan, proposed variations from the approved Final Development Plan that involve only one (1) lot may be considered by the Board of Zoning Appeals under its hearing process pursuant to Article 25 of the Zoning Resolution. All other modifications to the Final Development Plan shall be

presented to the Zoning Commission for its consideration pursuant to Section 18.06(F)(5), hereof.

**18B.06.F.5** Upon application, the Zoning Commission may, at a duly held hearing, modify an approved Final Development Plan pursuant to the same procedures as the original Application in Section 18.06B. The request for modification may be approved upon a showing of a compelling reason and practical necessity for the same. Such modification is administrative in nature and not in conflict with the intent and purpose of the POD Planned Overlay District.

**18B.06.G** Fees. A fee as established by the Board of Trustees shall accompany an Application requesting approval of the Final 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 Liberty Township in using professional consulting services to review the Final Development Plan. These expenses may include, without limitation, the actual costs for professional consultants such as attorneys, architects, landscape architects, planners and/or. As soon as reasonably practicable following the submission of an Application for approval of a Final Development Plan, the Zoning Commission shall decide if it needs a professional consultant(s) to assist with reviewing the application.

## **Section 18B.07 - GENERAL DESIGN STANDARDS**

All proposed developments within the POD 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 Final Development Plan shall comply with the following design standards. Conflicts between this POD and the Liberty Township Zoning Resolution shall be resolved first in favour of this POD and all variances considered to accommodate or implement these POD standards, definitions and the general land uses as set forth herein. Items unaddressed or otherwise not listed within this Article 18B shall default to the Liberty Township Zoning Resolution.

**18B.07.A** Access. Any POD development sub area shall have direct access to one or more improved roads (public or private in nature) 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 Final Development Plan, emergency vehicular connectivity shall be provided. Private roads and drives shall be maintained by the sub area owner or property owners' association.

**18B.07.B** Setbacks and Yard Areas. The location and arrangements of buildings and structures within the POD shall be set per sub area as set forth on the POD Standards chart incorporated herein.

**18B.07.C** Lighting. Lighting shall be coordinated for style and practicality given the particular use or design of each sub area.

**18B.07.D** Signage. All signs and graphics within the POD shall be coordinated to be generally compatible in size, location, material, height, shape, color, and illumination. The Signage Plan for each sub area of the POD 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 POD 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 sub area buildings' materials and colors.

**18B.07.E Landscaping.**

- 18B.07.E.i** All yards (front, side and rear) and all Open Space not covered by structure, asphalt or concrete and the like, shall be landscaped with grass and shrubbery/plantings and the like. 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. A 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.
- 18B.07.E.ii** 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 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.
- 18B.07.E.iii** An enhanced landscape buffer shall be provided within the fifty (50) foot setback in sub areas A, B and C where adjacent to the existing (westerly) residential homes along Steitz Road. An undulating earth mound, with an average height of 3 feet, shall be provided 5 feet off the adjacent property boundary line, and shall be planted with grass, 4 evergreen trees (6' height at install) and 3 deciduous trees (2 1/2" caliper at install) per 100 linear feet of buffer. If the 50 foot setback area is included within a residential building lot, the development shall provide for maintenance of the fifty (50) foot setback area by a property owners' association, as evidenced by deed restrictions or covenants that memorialize the obligation for such common maintenance.

**18B.07.F** Environmentally Sensitive Areas. All proposed development within the POD shall consider and to the greatest extent practicable, sensitive areas, wetlands, streams, etc. Encroachments for infrastructure shall be permitted. All development within the POD shall comply with the rules of the Ohio EPA and US Army Corps of Engineers, as may apply.

**18B.07.G** Commercial and Healthcare Uses. If the uses set forth in Section 18B.03.2 above are proposed in Sub-Areas permitted for such uses as proscribed by Section 18B.08 below, the development standards of Liberty Township Zoning Resolution Article 15 shall apply this POD for those uses only.

**18B.07.H** Elderly/Retirement Uses. If the uses set forth in Section 18B.03.3 above are proposed in Sub-Areas permitted for such uses as proscribed by Section 18B.08 below, the development standards of Liberty Township Zoning Resolution Article 12 shall apply this POD for those uses only.

## **Section 18B.08 - DEVELOPMENT STANDARDS**

The Final Development Plan shall comply with the following development standards:

**18B.08.A** Tract Size. The gross area of a tract of land (i.e., sub area) proposed to be developed in the POD 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 as set forth in this POD.

**18B.08.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.

**18B.08.C** Development by Sub Area. Development of the POD is planned on a sub area basis:

### **Sub Area A:**

Acreage: 43.4 +/- ac

Use: Single Family Residential

Units/Density: 120 du; 2.76 u/ac

### **Sub Area B:**

Acreage: 44.8 +/- ac

Use: Single Family Residential and/or Attached Homes

Units/Density: 180 du/ 4.02 u/ac

### **Sub Area C:**

Acreage: 17.5 +/- ac

Use: Single Family Residential and/or Attached Homes

Units/Density: 52 du; 2.99 u/ac

### **Sub Area D:**

Acreage: 60 +/-ac

Use: Single Family Residential and/or Attached Homes

Units/Density: 210 du; 3.5 u/ac

### **Sub Area E:**

Acreage: 46.1 +/-

Use(s): Single Family Residential, Attached Homes and/or Multi Family Residential  
Units/Density: 308 du; 6.68 u/ac

**Use(s):** Commercial uses related to 446 Health and Personal Care Stores; 561 Administrative and Support Services; 621 Ambulatory Health Care Services; 622 Hospitals; 623 Nursing and Residential Care Facilities 62412; Service for elderly and persons with disabilities; 6244 Child day care.

Density: maximum 17,000 square feet per acre.

**Use(s):** All planned elderly or retirement community uses of Article 12

Units/Density: 25 beds/ac.

**Sub Area F:**

Acreage: 14.1 +/- u/a

Use: Parks

Units/Density: n/a

**Sub Area G:**

Acreage: 57.1 +/- ac

Use(s): Single Family, Attached homes and/or Multi-family residential

Units/Density: 190 du; 3.33 u/ac

**Use(s):** Commercial uses related to 446 Health and Personal Care Stores; 561 Administrative and Support Services; 621 Ambulatory Health Care Services; 622 Hospitals; 623 Nursing and Residential Care Facilities 62412; Service for elderly and persons with disabilities; 6244 Child day care.

Density: maximum 17,000 square feet per acre.

**Use(s):** All planned elderly or retirement community uses of Article 12

Units/Density: 25 beds/ac.

The above total number of units shall be the maximum number of units within this POD. Sub Areas E and G may be developed with either Single Family Residential, Attached Homes, Multi-family residential uses, the identified commercial or senior uses, or a combination thereof, with the densities aggregated by acre, or portion thereof, for each use. Example: If Sub-Area G is developed with 2 or 3 of the permitted uses, the density for each use shall be determined on a per acre basis of that use density applied to acres. In no event shall the total number of units as set forth for either sub areas be increased.

**18B.08.D** Frontage, Setbacks and Yard Areas. Setbacks, frontage and yard areas shown on POD Standards Chart incorporated by reference herein. Roadways and access drives/curb cuts may extend into setback areas. No accessory structures shall be closer than 10' from rear property line or 5' from the side property line.

**18B.08.E** Lot Coverage and Building Height.

**18B.08.E.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-five percent (85%) of the total area of the tract.

**18B.08.E.2** Building Height.

- a.)** Multi-Family Dwellings: No building or structure for any permitted use shall exceed three (3) 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 single, two, three or four family residential use shall exceed forty (40) feet in height. Chimneys, flagpoles, parapets, cupolas and other similar architectural elements may exceed this height limitation by no more than ten (10) feet.

**18B.08.F** Architectural Standards.

**18B.08.F.1** Design Elements. The architectural style and design of structures shall create harmony, creativity and complimentary visuals throughout the site. All materials used to construct buildings within the POD 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 18B.08(F)(2) below. Creativity in design is encouraged; however, that creativity shall be consistent with the goals and requirements established for the POD by this Article 18B.

**18B.08.F.2** Materials. The exterior elevations of all proposed buildings and screening structures shall only consist of any or any combination of the following:

- a.)** Wood;
- b.)** Red or earth tone brick or brick veneer;
- c.)** Native or cultured stone or stone veneer;
- d.)** Upscale Vinyl with thickness 0.044" (nominal)
- e.)** Stucco/EIIS;
- f.)** Pre-cast concrete where used as an accent;
- g.)** Cementitious siding (such as HardiPlank' or similar) and/or composite siding (such as SmartSide or similar);
- h.)** Metal and glass (except for multi-family uses);
- i.)** Any materials deemed by the Zoning Commission to be acceptable substitutions for the above natural materials.

The above material requirements shall not be applicable to soffits, facia windows, downspouts, gutters, window glazing, trims and reveals, as well as hardware and similar accents.

**18B.08.F.3** Roofing. All residential pitched roofs shall be of dimensional shingles, standing seam metal, slate or simulated slate, unless otherwise approved in the Final Development Plan.

Roof pitches for primary residential buildings that are visible shall be minimum 6:12.

**18B.08.G** Exterior Lighting. The Exterior Lighting Plan is subject to the following requirements:

- 18B.08.G.1** Traffic signals shall be in accordance with any applicable county or state regulations.
- 18B.08.G.2** Site lighting shall be required for each sub area, designed to sufficiently illuminate the site and minimize spillover from the property.
- 18B.08.G.3** Light poles shall not exceed twenty (20) feet in height and 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.
- 18B.08.G.4** Building, pedestrian and landscape lighting may be incandescent, metal halide or other sustainable lighting as determined by the Zoning Commission.
- 18B.08.G.5** All parking lot areas exclusive of driveways to garages shall have a maximum light intensity of twenty (20) foot candles and an average light intensity between one half (0.5) foot candle and three (3) foot candles.
- 18B.08.G.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.
- 18B.08.G.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.
- 18B.08.G.8** All Landscape Up-light 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.
- 18B.08.G.9** No permanent colored lights or neon lights shall be used on the exterior of the buildings. Flashing lights shall be prohibited.
- 18B.08.G.10** External building lighting shall be limited to wall-mounted sconces and wall pack fixtures.

**18B.08.H** Signage. Graphics and Signage in the POD shall conform to Section 18B.07(D) and Article 20 of the Zoning Resolution or as approved by the Zoning Commission.

**18B.08.I** Landscaping. All yard areas and Open Spaces shall be landscaped in accordance with an approved landscape plan. Natural foliage shall be retained as buffers where practicable. The Landscape Plan shall comply with the following requirements:

- 18B.08.I.1** Right-of-Way. The primary road through the POD area shall be boulevard style, with trees in the center median; shade trees having a minimum caliper of two and a half (2 1/2) inches, or ornamental and evergreen trees 6 feet in height; one tree for every sixty (60) lineal feet. Trees may be evenly spaced or grouped.
- 18B.08.I.2** 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.
- 18B.08.I.3** Plants. All plants shall meet or exceed the American Standard for Nursery Stock as set forth by the American Association of Nurserymen.
- 18B.08.I.4** 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.
- 18B.08.I.5** Street Trees. Trees along all internal public streets, shall be planted at a minimum distance of forty (40) feet or 1 per 50 feet for a per lot development. 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 1/2) caliper or greater at the time of planting. Street trees (not located within the boulevard) shall be located outside the right of way, on both sides of the street. This requirement does not apply in the areas of ingress and egress, or to existing trees which are undisturbed by the project.
- 18B.08.I.6** 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 as necessary to protect existing trees.
- 18B.08.I.7** Since 6355 Steitz Road, the “6355 Property”, has livestock operations, the Developer of Subarea A, at Developer’s sole cost and expense, will install on the Subarea A property, a fence along the 6355 Property east boundary and along that portion of the 6355 Property southern boundary shared with Subarea A. During the final development plan application process for Subarea A, the Developer and owner of the 6355 Property will work cooperatively on the design and placement of the fence. The fence will be installed prior to the commencement of construction on the first single family home located in Subarea A.
- 18B.08.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 a Development Plan. All parking shall conform with the following provisions:

- 18B.08.J.1** Minimum Number of Parking Spaces Required. For Multi-family residential, a minimum of two and one-fourth (2 1/4) parking spaces for each Dwelling Unit is required. The minimum number of parking spaces required for Single Family and Attached Homes shall be 2 spaces per dwelling unit. Parking for any on site amenities or recreational facilities/activities, accessory uses/facilities may be reduced ninety percent (90%) by right and reduced to zero by the Zoning Commission upon Development Plan approval. Parking spaces shall be 10' x 20', except that parking spaces may be reduced to 8'x18' for garage spaces, parking spaces in front of garages, and/or additional parking areas that exceed the aggregate minimum number. Surface parking spaces, driveway spaces and garages spaces may count toward required parking. Driveways shall be permitted to be 8 feet wide (minimum). Driveways shall not be required to have maximum slopes. Driveways may be located 5 feet from intersections.
- 18B.08.J.2** On-Street Parking in Multifamily Proposals. On street parking shall be permitted on both sides of the street, upon final approval of the fire department. In Multi-Family Dwelling proposals in the POD, 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 POD, so long as those parking spaces are within a three hundred foot radius of any entryway to the proposed Multi-Family Dwelling structure(s).
- 18B.08.J.3** No driveway shall be located so that it enters a public road within twenty (20) feet of the intersection of any two (2) public road rights of way. This requirement shall not apply to and there shall be no restriction for a driveway entering into the opposing right of way of a "T" intersection.
- 18B.08.K** Open Space. A minimum of twenty percent (20%) of the total POD acreage shall remain and be utilized as Open Space, the "POD Total Open Space Requirement." A minimum of ten percent (10%) of the total POD acreage shall be organized within each Sub-Area, except Sub-Area C, as Open Space, the "Sub-Area Open Space Requirement." Open Spaces may include features such as, but not limited to, bike paths, walking paths, existing bodies of water, water impoundments, public and private utility easement areas, forested and landscaped areas not included in a single-family yard requirement, and similar features. Open Space may include the enhanced landscape buffer area provided within the fifty (50) foot setback in sub areas A, B and C where adjacent to the existing (westerly) residential homes along Steitz Road. 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. The applicant for each Final Development Plan shall have the responsibility for updating the documentation showing compliance with the POD Total Open Space Requirement. The responsibility for maintenance of Open Space within each sub area shall be specified by the applicant in writing within a Final 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.

**18B.08.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.

**18B.08.M** Trash and Garbage Control (Attached Homes or Multi Family Residential). All trash and garbage shall be stored in container systems (dumpsters or compactors) 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.

**18B.08.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. Notwithstanding anything to the contrary, this provision shall not apply to the existing high tension electric transmission lines that are located on the property.

Developer, subject to engineering approvals, will install the sanitary sewer service line, within Sub-Area A along the western boundary line of Sub-Area A. In addition, for those homes along the east side of Steitz Road that are adjacent to Sub-Area A, the Developer will provide, at no cost, easements for those homes to connect individual sanitary sewer service lines to the Sub-Area sanitary sewer line. Each homeowner shall be responsible for all cost, including tap fees, to connect into the Sub-Area A sanitary sewer service line.

**18B.08.O** Storm water Basins. Bio-retention basins, or rain gardens, may be used when approved by the Zoning Commission as part of a Development Plan and upon approval from Delaware County. Storm water basins, drains, impoundments and appurtenances of any kind may be located in the front, side or rear yard(s) of any lot. All storm water basins shall be constructed per the requirements adopted by Delaware County Soil and Water, and shall have no minimum or maximum size.

**18B.08.P** Other Requirements. Conflicts between this POD and the Liberty Township Zoning Resolution shall be resolved first in favour of this POD and all variances considered to accommodate or implement these POD standards, definitions and the general land uses as set forth herein. Unless specifically set forth by the standards contained in this Article 18B or those standards approved by divergence, the general development standards found in Article 7 of the Liberty Township Zoning Resolution shall apply.

**18B.08.Q** Miscellaneous. No roadway access will be permitted from Sub-Area A to Steitz Road; however, emergency access will be permitted.

## Section 18B.09 — STANDARDS

POD 18B STANDARDS							
SUBAREA	A	B	C	D	E	F	G
USE	Single Family Residential	Single Family Residential or Attached Homes	Single Family Residential or Attached Homes	Single Family Residential or Attached Homes	Single Family, Attached Homes and/or Multi Family Residential	Park	Single Family, Attached Homes and/or Multi Family Residential
<b>SETBACK STANDARDS - Note: Streets are permitted within setbacks.</b>							
Steitz Rd Building + Parking	50' from ROW	50' from ROW	50' from ROW	N/A	N/A	50' from ROW	N/A
Home Rd Building + Parking	N/A	N/A	N/A	N/A	N/A	50' from ROW	N/A
Sawmill Pkwy Building + Parking	N/A	N/A	N/A	N/A	N/A	50' from ROW	50' from ROW
Hyatts Rd Building + Parking	N/A	N/A	N/A	N/A	N/A	N/A	50' from ROW
Primary Roadway (Blvd) Building	N/A	30' from ROW	30' from ROW	30' from ROW	30' from ROW	30' from ROW	30' from ROW
Perimeter Adjacent to Existing Residential Use along Steitz	50'	50'	50'	N/A	N/A	25'	N/A
Perimeter Adjacent to Existing Residential Uses along Sawmill/Hyatts	N/A	N/A	N/A	N/A	N/A	25'	25'
Perimeter Adjacent to Existing Non-Residential or Undeveloped Property	25'	N/A	N/A	25'	25'	25'	25'
Internal Subarea	10'	10'	10'	10'	10'	10'	10'
Minimum Building Separation	10'	10'	10'	10'	10'	10'	15'
<b>SINGLE FAMILY LOT STANDARDS</b>							
Minimum Lot Width (at Front Setback)	50'	50'	50'	50'	50'	N/A	50'
Minimum Front Yard Setback	20'	20'	20'	20'	20'	N/A	20'
Minimum Side Yard Setback (per side)* may allow 2 feet of encroachments for eaves, mansard roofs, bay windows	5'	5'	5'	5'	5'	N/A	5'

Minimum Rear Yard Setback (or Perimeter setback if greater)	20'	20'	20'	20'	20'	N/A	20'
<b>ATTACHED HOME STANDARDS**</b>							
Minimum Lot Width (at Front Setback)	N/A	20'	20'	20'	20'	N/A	20'
Minimum Front Yard Setback (From ROW or Edge of Pavement)	N/A	20'	20'	20'	20'	N/A	20'
Minimum Side Yard Setback (per side)**	N/A	5' or zero	5' or zero	5' or zero	5' or zero	N/A	5' or zero
Minimum Rear Yard Setback (or Perimeter Setback if greater)	N/A	10'	10'	10'	10'	N/A	N/A
* may allow 2 feet of encroachments for eaves, mansard roofs, bay windows							
** attached units shall have zero setback/zero lot line. Single family dwellings where exterior lots conform to the lot lines, zero setback shall apply.							

## Section 18B.09 — DEFINITIONS

The following definitions shall apply to terms that are used specifically in this POD. Otherwise, the definitions in Article 4 shall apply.

**Attached Home:** multiple-unit dwelling of 2, 3 or 4 units per building.

**Density:** the ratio of units per acre, calculated on a total gross acre basis.

**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.

**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 this POD 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 Liberty Township Zoning Resolution and does not include the human inhabitation of a structure or any use incidental or accessory to such inhabitation.

**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.

**Patio Home:** a stand alone, single dwelling unit.

**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, three or four family dwelling(s), 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 the Liberty Township 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.

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## ARTICLE 18C – PLANNED OVERLAY DISTRICT

### Section 18C.01- NATURE OF THE DISTRICT

This Planned Overlay District (POD) 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 POD 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 residential uses.
- 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 POD through appropriate development controls.
- 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 18C.02 - OVERLAY DISTRICT AREA ESTABLISHED

The POD is created pursuant to Section 519.021(C) of the Ohio Revised Code and encompasses, includes, overlays and rezones the POD area shown on the POD Overlay Development Plan (Map), which map is attached hereto and incorporated herein as Attachment 1 and is hereby adopted as the official zoning district map for the POD as part of this amendment. A road connection will be developed as part of future Final Development Plan(s) and shall be subject to final approval by the Delaware County Engineer, and final site engineering. Properties within the POD shall make Application in accordance with the provisions of this POD and Section 10.06 of the Liberty Township Zoning Resolution for Final Development Plan approval, in compliance with the provisions of this POD. The approval of an Application for Final Development Plan following the Liberty Township Trustees' approval of this POD is a ministerial act and shall not be considered an amendment to the Liberty Township Zoning Resolution.

## Attachment 1



## Section 18C.03 - PERMITTED USES

- 18C.03.1** Residential Uses as provided for herein. Specifically: Multi-family, attached residential of 5+ units (Multi-family).
- 18C.03.2** 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 twelve (12) months and renewable for up to 3 years total. 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. Renewal shall not be unreasonably denied. 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.
- 18C.03.3** Existing Uses/Zoning To Remain. Until such time as a Final Development Plan is approved for area(s) within the POD, within the requirements of the POD, the existing legal uses and zoning for all areas within the POD shall be permitted. Legal uses established prior to this POD shall be permitted to exist as legal non-conforming.

## Section 18C.04 - ACCESSORY USES, BUILDINGS, AND STRUCTURES

- 18C.04.1** Accessory Uses. The following accessory uses are permitted so long as those uses are either contained within the buildings of a permitted use, or within separate buildings or structures that are architecturally and/or operationally integrated into the development:
- 18C.04.1.a** Clubhouses, recreational and entertainment facilities, indoor or outdoor, and may include but not limited to tennis courts, basketball courts, pools, bocce court, etc.

- 18C.04.1.b** Sheds, play structures, pools and pool fencing.
- 18C.04.1.c** Private Garages.
- 18C.04.1.d** Exercise and Fitness Facilities.
- 18C.04.1.e** Personal and Laundry Services (except 812332 Industrial Launderers).
- 18C.04.1.f** Mail collection facilities.
- 18C.04.1.f** Storage facilities for bicycles, as well as individual storage facilities for the keeping of personal property owned by the residents, and only accessory to such ownership. 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 Development Plan. Commercial storage facilities are not permitted.
- 18C.04.1.g** Home Occupations: professional or business activities shall be considered permitted as " 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.
- 18C.04.1.h** General park and recreational uses, activities or small scale agricultural activities such as a non-permanent farmers' market or seasonal egg hunts.

The above uses are not intended as separate, independent or principal commercial uses, but rather only accessory in nature, so as to complement the permitted principal use(s).

## **Section 18C.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:

- 18C.05.A** Uses not specifically approved by the Zoning Commission as part of the Development Plan.
- 18C.05.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 an approved Final Development Plan.
- 18C.05.C** Except as provided in a Final Development Plan, no trailers, 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 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.

**18C.05.D** No manufactured home, temporary mobile home, motor home or camper shall be occupied in this district for residential purposes. Mobile office structures may be permitted in the approved Final Development Plan in accordance with Section 18C.02.

**18C.05.E** 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 18C.06 - PROCESS FOR PLAN APPROVAL**

All Applications for Final Development Plan approval of area within the POD shall follow the procedures hereinafter set forth:

**18C.06.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 Final Development Plan for any tract or property within the POD. No statement or action by Township or County officials in the course of 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 Liberty Township Zoning Commission.

**18C.06.B** Application and Final Development Plan. The Applicant shall prepare and submit ten (10) copies of an Application and Final Development Plan, along with an electronic copy and all applicable fees to the Liberty Township Zoning Commission. The Application shall be signed by the Applicant and all owners of property, or their designee, included in the Application and Final Development Plan. The Application shall include a list of property owners, by mailing address appearing on the Delaware County Auditor's current tax list, within, contiguous to, directly across the street from, and within two hundred feet (200') of the perimeter boundaries of such area subject of the Application for Final Development Plan. The Liberty 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 Final Development Plan and the following supporting information and documentation in text and map form:

**18C.06.B.1** A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed development.

**18C.06.B.2** A grading plan drawn to scale, showing all information pertaining to surface drainage.

- 18C.06.B.3** A detailed Landscape Plan shall be submitted with the Final Development Plan and shall be subject to approval as part of the Final Development Plan. It shall depict and identify all proposed landscaping features.
- 18C.06.B.4** A detailed Signage and Exterior Lighting Plan shall be submitted with the Final Development Plan and shall be subject to approval as part of the Final Development Plan.
- 18C.06.B.5** A detailed Parking Plan shall be submitted with the Final Development Plan and shall be subject to approval as part of the Final Development Plan.
- 18C.06.B.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.

**18C.06.C** Final Development Plan Contents. The Final Development Plan shall include in text and map form the following:

- 18C.06.C.1** Proposed name of the development and its location.
- 18C.06.C.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 POD approval shall be provided.
- 18C.06.C.3** Date, north arrow and plan scale. Scale shall be one inch equals one hundred feet 1" = 100 feet or larger scale.
- 18C.06.C.4** A description and location of the precise uses proposed for the development and phases for construction, if any. If the proposed 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.
- 18C.06.C.5** Locations, widths and names of all existing public streets or other public or private roads/ways, railroad and utility rights of way or easements, parks and other public open spaces, permanent structures, and corporation lines within or adjacent to the tract.
- 18C.06.C.6** 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.
- 18C.06.C.7** The adjoining lines of adjacent tracts, parcels or lots.
- 18C.06.C.8** Additional restrictions and deed restrictions, if any.

- 18C.06.C.9** Existing topography, drainage channels, wooded areas, watercourses, wetlands and other significant physical features.
- 18C.06.C.10** Layout of proposed streets, private or public, including their names and rights of way, easements, sewers, water lines, culverts and other major improvements.
- 18C.06.C.11** Layout, numbering and dimensions of lots if more than one.
- 18C.06.C.12** The total amount of Lot Coverage and density to conform with the POD, as that term is defined in this POD as gross acreage.
- 18C.06.C.13** 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.
- 18C.06.C.14** Building setback lines with dimensions.
- 18C.06.C.15** Building locations depicting the bulk, height and spatial relationships of building masses with adjacent development.
- 18C.06.C.16** Layout, location, dimensions and architectural features of proposed structures including preliminary floor plans and exterior elevations.
- 18C.06.C.17** Location and dimensions of all paths, sidewalks, multi-use trails and connections thereof to facilitate connectivity among areas within the POD.
- 18C.06.C.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.
- 18C.06.C.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.
- 18C.06.C.20** Engineering feasibility studies of any anticipated problems which may arise due to the proposed development as required by the Zoning Commission.
- 18C.06.C.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.
- 18C.06.C.22** Accommodations and access for emergency and fire-fighting apparatus.
- 18C.06.C.23** Location, type, dimensions and features of all signage and exterior lighting through a detailed Signage and Exterior Lighting Plan.

**18C.06.C.24** 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.

**18C.06.C.25** Projected schedule of site development.

**18C.06.C.26** The ability of the applicant to carry forth the Final Development Plan by control of the land and the engineering feasibility of the Final Development Plan.

**18C.06.C.27** Other supplemental information, as may be reasonably required by the Liberty Township Zoning Commission, to determine compliance with this POD.

**18C.06.C.28** The Final 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.

**18C.06.C.29** The applicant may request a divergence from the development standards set forth in this Article 18C or otherwise to the Liberty Township Zoning Resolution. An applicant making such a request shall specifically and separately list each requested divergence and the justification therefore on the Final Development Plan submittals, with a request that the proposed divergence be approved as part of and as shown on the Final Development Plan. Unless specifically supplemented by the standards contained in the Final Development Plan, the development shall comply with the requirements contained in Article 18C and the General Development Standards most closely comparable to the use/zoning district(s), as contained in the Liberty Township Zoning Resolution.

**18C.06.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. Notice shall be sent by regular, first class mail to the applicant and to all owners of property within, contiguous to, directly across the street from, and within two hundred feet (200') of the perimeter boundaries of such area subject of the Application for Final Development Plan. Mailing by the Zoning Commission shall be to the addresses of such owners appearing on the Delaware 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 Final Development Plan within thirty (30) days after the conclusion of the hearing.

**18C.06.E** Basis of Approval. The Zoning Commission, shall consider and approve a Final Development Plan upon a finding of substantial compliance based upon the following:

**18C.06.E.1** Whether the proposed Application and Final Development Plan are consistent with the uses, and standards of this POD Zoning Resolution as set forth and defined in Section(s) 18C.07 and 18C.08 of this POD; and, If applicable, determine if divergence(s) are reasonably related to or that facilitate the use(s), criteria and/or standards of this POD.

**18C.06.E.2** Whether the proposed Application and Final Development Plan meet the design features as set forth and defined in Section(s) 18C.07 and 18C.08 of this POD.

- 18C.06.E.3** Whether the proposed development will be adequately served in a manner consistent with other residential communities located within Liberty Township, by essential public facilities and services including, without limitation, roads, walkways, police and fire protection, drainage structures, potable water and centralized sanitary sewers or other approved sewage disposal systems.
- 18C.06.E.4** Whether the proposed development has adequately addressed traffic considerations in the immediate vicinity of the proposed development or elsewhere in the Township, as evidenced by a traffic study approved by the Delaware County Engineer.

**18C.06.F** Effect of Approval.

- 18C.06.F.1** The Zoning Commission's determination shall not be considered an amendment to the Township Zoning Resolution for purposes of Section 519.12 of the Revised Code. A negative decision of the Zoning Commission may be appealed by the Applicant first to the Township Trustees within thirty (30) days of the date of the Zoning Commission Decision, and thereafter from the decision of the Township Trustees pursuant to Chapter 2506 of the Revised Code. The approval of an applicant's Application for Final Development Plan approval pursuant to this POD is a ministerial act and shall not be considered a rezoning 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.
- 18C.06.F.2** The approval of a Final 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 Final 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 or other affirmative actions, efforts or planning has not commenced, and unless the Zoning Commission approves an extension of this time limit, a Development Plan shall expire. Extensions of an approved Final Development Plan shall not be unreasonably denied. Upon the expiration of the Final Development Plan, the subject parcel(s) shall remain zoned POD, but no use shall be established or changed and no building, structure or improvement shall be constructed until an Application for a new Final Development Plan, accompanied by a new Final 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.
- 18C.06.F.3** 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 or the completion of the development of the project. The length of time permitted for an

extension shall be determined based upon the Application submitted. A request for extension shall be filed prior to the expiration of the established approval period.

**18C.06.F.4** Following the approval of a Final Development Plan, proposed variations from the approved Final Development Plan that involve only one (1) lot may be considered by the Board of Zoning Appeals under its hearing process pursuant to Article 25 of the Zoning Resolution. All other modifications to the Final Development Plan shall be presented to the Zoning Commission for its consideration pursuant to Section 18.06(F)(5), hereof.

**18C.06.F.5** Upon application, the Zoning Commission may, at a duly held hearing, modify an approved Final Development Plan pursuant to the same procedures as the original Application in Section 18.06C. The request for modification may be approved upon a showing of a compelling reason and practical necessity for the same. Such modification is administrative in nature and not in conflict with the intent and purpose of the POD Planned Overlay District.

**18C.06.G** Fees. A fee as established by the Board of Trustees shall accompany an Application requesting approval of the Final 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 Liberty Township in using professional consulting services to review the Final Development Plan. These expenses may include, without limitation, the actual costs for professional consultants such as attorneys, architects, landscape architects, planners and/or. As soon as reasonably practicable following the submission of an Application for approval of a Final Development Plan, the Zoning Commission shall decide if it needs a professional consultant(s) to assist with reviewing the application.

## **Section 18C.07 - GENERAL DESIGN STANDARDS**

All proposed developments within the POD 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 Final Development Plan shall comply with the following design standards. Conflicts between this POD and the Liberty Township Zoning Resolution shall be resolved first in favour of this POD and all variances considered to accommodate or implement these POD standards, definitions and the general land uses as set forth herein. Items unaddressed or otherwise not listed within this Article 18C shall default to the Liberty Township Zoning Resolution.

**18C.07.A** Access. The POD shall have direct access to one or more improved roads (public or private in nature) 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 Final Development Plan, emergency vehicular connectivity shall be provided. Private roads and drives shall be maintained by the owner or property owners' association.

**18C.07.B** Setbacks and Yard Areas. The location and arrangements of buildings and structures within the POD shall be as set forth on the POD Standards chart incorporated herein.

**18C.07.C** **Lighting.** Residential lighting shall be coordinated for style and practicality given the particular use or design of the Final Development Plan.

**18C.07.D** **Signage.** All signs and graphics within the POD shall be coordinated to be generally compatible in size, location, material, height, shape, color, and illumination. The Signage Plan 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 POD 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.

**18C.07.E** **Landscaping.**

**18C.07.E.i** All yards (front, side and rear) and all Open Space not covered by structure, asphalt or concrete and the like, shall be landscaped with grass and shrubbery/plantings and the like. 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. A 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.

**18C.07.E.ii** 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 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.

**18C.07.F** **Environmentally Sensitive Areas.** All proposed development within the POD shall consider and to the greatest extent practicable, sensitive areas, wetlands, streams, etc. Encroachments for infrastructure shall be permitted. All development within the POD shall comply with the rules of the Ohio EPA and US Army Corps of Engineers, as may apply.

## Section 18C.08 - DEVELOPMENT STANDARDS

The Final Development Plan shall comply with the following development standards:

**18C.08.A** Tract Size. The gross area of a tract of land proposed to be developed in the POD 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 as set forth in this POD.

**18C.08.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.

### 18C.08.C

POD18C

Acreage: 17.24 +/- ac

Use: Multi-family residential

Units/Density: 236 du; 13.69 u/ac

The above total number of units shall be the maximum number of units within this POD.

**18C.08.D** Frontage, Setbacks and Yard Areas. Setbacks, frontage and yard areas shown on POD Standards Chart incorporated by reference herein. Roadways and access drives/curb cuts may extend into setback areas. No accessory structures shall be closer than 10' from rear property line or 5' from the side property line.

### 18C.08.E Lot Coverage and Building Height.

**18C.08.E.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-five percent (85%) of the total area of the tract.

#### 18C.08.E.2 Building Height.

**a.)** Multi-Family Dwellings: No building or structure for any permitted use shall exceed three (3) 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 single, two, three or four family residential use shall exceed forty (40) feet in height. Chimneys, flagpoles, parapets, cupolas and other similar architectural elements may exceed this height limitation by no more than ten (10) feet.

### 18C.08.F Architectural Standards.

**18C.08.F.1** Design Elements. The architectural style and design of structures shall create harmony, creativity and complimentary visuals throughout the site. All materials used

to construct buildings within the POD 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 18.08(F)(2) below. Creativity in design is encouraged; however, that creativity shall be consistent with the goals and requirements established for the POD by this Article 18C.

**18C.08.F.2** Materials. The exterior elevations of all proposed buildings and screening structures shall only consist of any or any combination of the following:

- a.) Wood;
- b.) Red or earth tone brick or brick veneer;
- c.) Native or cultured stone or stone veneer;
- d.) Upscale Vinyl with thickness 0.044" (nominal)
- e.) Stucco/EIFS;
- f.) Pre-cast concrete where used as an accent;
- g.) Cementitious siding (such as HardiPlank<sup>®</sup> or similar) and/or composite siding (such as SmartSide or similar);
- h.) Metal and glass (except for multi-family uses);
- i.) Any materials deemed by the Zoning Commission to be acceptable substitutions for the above natural materials.

The above material requirements shall not be applicable to soffits, facia windows, downspouts, gutters, window glazing, trims and reveals, as well as hardware and similar accents.

**18C.08.F.3** Roofing. All pitched roofs shall be of dimensional shingles, standing seam metal, slate or simulated slate, unless otherwise approved in the Final Development Plan.

Roof pitches for primary buildings that are visible shall be minimum 6:12.

**18C.08.G** Exterior Lighting. The Exterior Lighting Plan is subject to the following requirements:

**18C.08.G.1** Traffic signals shall be in accordance with any applicable county or state regulations.

**18C.08.G.2** Site lighting shall be required and designed to sufficiently illuminate the site and minimize spillover from the property.

**18C.08.G.3** Light poles shall not exceed twenty (20) feet in height and 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.

**18C.08.G.4** Building, pedestrian and landscape lighting may be incandescent, metal halide or other sustainable lighting as determined by the Zoning Commission.

**18C.08.G.5** All parking lot areas, exclusive of driveways to garages shall have a maximum light intensity of twenty (20) foot candles and an average light intensity between one-half (0.5) foot candle and three (3) foot candles.

- 18C.08.G.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.
- 18C.08.G.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.
- 18C.08.G.8** All Landscape Up-light 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.
- 18C.08.G.9** No permanent colored lights or neon lights shall be used on the exterior of the buildings. Flashing lights shall be prohibited.
- 18C.08.G.10** External building lighting shall be limited to wall-mounted sconces and wall pack fixtures.

**18C.08.H** Signage. Graphics and Signage in the POD shall conform to Section 18.07(D) and Article 20 of the Zoning Resolution or as approved by the Zoning Commission.

**18C.08.I** Landscaping. All yard areas and Open Spaces shall be landscaped in accordance with an approved landscape plan. Natural foliage shall be retained as buffers where practicable. The Landscape Plan shall comply with the following requirements:

- 18C.08.I.1** Right-of-Way. Trees may be evenly spaced or grouped. Street trees shall be located outside the right of way, on both sides of the street. This requirement does not apply in the areas of ingress and egress, or to existing trees which are undisturbed by the project.
- 18C.08.I.2** 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.
- 18C.08.I.3** Plants. All plants shall meet or exceed the American Standard for Nursery Stock as set forth by the American Association of Nurserymen.
- 18C.08.I.4** 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.

**18C.08.I.5** Street Trees. Trees along all internal public streets, shall be planted at a minimum distance of forty (40) feet or 1 per 50 feet for a per lot development. 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 1/2) caliper or greater at the time of planting. Street trees shall be located outside the right of way, on both sides of the street. This requirement does not apply in the areas of ingress and egress, or to existing trees which are undisturbed by the project.

**18C.08.I.6** 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 as necessary to protect existing trees.

**18C.08.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 a Development Plan. All parking shall conform with the following provisions:

**18C.08.J.1** Minimum Number of Parking Spaces Required. For Multi-family residential, a minimum of two and one-fourth (2 1/4) parking spaces for each Dwelling Unit is required. Parking for any on site amenities or recreational facilities/activities, accessory uses/facilities may be reduced ninety percent (90%) by right and reduced to zero by the Zoning Commission upon Development Plan approval. Parking spaces shall be 10' x 20', except that parking spaces may be reduced to 8'x18' for garage spaces, parking spaces in front of garages, and/or additional parking areas that exceed the aggregate minimum number. Surface parking spaces, driveway spaces and garages spaces may count toward required parking. Driveways shall be permitted to be 8 feet wide (minimum). Driveways shall not be required to have maximum slopes. Driveways may be located 5 feet from intersections.

**18C.08.J.2** On-Street Parking in Multifamily Proposals. On street parking shall be permitted on both sides of the street, upon final approval of the fire department. In Multi-Family Dwelling proposals in the POD, 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 POD, so long as those parking spaces are within a three-hundred foot radius of any entryway to the proposed Multi-Family Dwelling structure(s).

**18C.08.J.3** No driveway shall be located so that it enters a public road within twenty (20) feet of the intersection of any two (2) public road rights of way. This requirement shall not apply to and there shall be no restriction for a driveway entering into the opposing right of way of a "T" intersection.

**18C.08.K** Open Space. A minimum of twenty percent (20%) of the total POD acreage shall remain and be utilized as Open Space, the "POD Total Open Space Requirement." Open Spaces may include

features such as, but not limited to, bike paths, walking paths, existing bodies of water, water impoundments, public or private utility easement areas, forested and landscaped areas. 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. The responsibility for maintenance of Open Space shall be specified by the applicant in writing within a Final 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.

**18C.08.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.

**18C.08.M** Trash and Garbage Control (Multi Family Residential). All trash and garbage shall be stored in container systems (dumpsters or compactors) 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.

**18C.08.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. Notwithstanding anything to the contrary, this provision shall not apply to the existing high tension electric transmission lines that are located on the property.

**18C.08.O** Storm water Basins. Bio-retention basins, or rain gardens, may be used when approved by the Zoning Commission as part of a Development Plan and upon approval from Delaware County. Storm water basins, drains, impoundments and appurtenances of any kind may be located in the front, side or rear yard(s) of any lot. All storm water basins shall be constructed per the requirements adopted by Delaware County Soil and Water, and shall have no minimum or maximum size.

**18C.08.P** Other Requirements. Conflicts between this POD and the Liberty Township Zoning Resolution shall be resolved first in favour of this POD and all variances considered to accommodate or implement these POD standards, definitions and the general land uses as set forth herein. Unless specifically set forth by the standards contained in this Article 18C or those standards approved by divergence, the general development standards found in Article 7 of the Liberty Township Zoning Resolution shall apply.

## Section 18C.09 – STANDARDS

POD 18C STANDARDS	
SUBAREA	<b>POD 18C</b>
USE	Multi Family Residential
<b>SETBACK STANDARDS- Note: Streets are permitted within setbacks.</b>	
Steitz Road Building + Parking Setback	N/A
Home Road Building + Parking Setback	Old Home Rd. 10' Building, 0' Parking

Sawmill Parkway Building + Parking Setback	N/A
Hyatts Road Building + Parking Setback	N/A
Primary Roadway (Blvd) Building Setback	N/A
Perimeter Setback Adjacent to Existing Residential Use Along Steitz	N/A
Perimeter Setback Adjacent to Existing Residential Uses Along Sawmill/Hyatts	McClurg: 10' Building/Parking Setback
Perimeter Setback Adjacent to Existing Non-Residential or Undeveloped Property	25'
Internal Subarea Setback	N/A
Minimum Building Separation	10'
<b>SINGLE FAMILY LOT STANDARDS</b>	
Minimum Lot Width (at Front Setback)	N/A
Minimum Front Yard Setback	N/A
Minimum Side Yard Setback (per side)* may allow 2 feet of encroachments for eaves, mansard roofs, bay windows	N/A
Minimum Rear Yard Setback (or Perimeter setback if greater)	N/A
<b>ATTACHED HOME STANDARDS**</b>	
Minimum Lot Width (at Front Setback)	N/A
Minimum Front Yard Setback (From ROW or Edge of Pavement)	N/A
Minimum Side Yard Setback (per side)**	N/A
Minimum Rear Yard Setback (or Perimeter setback if greater)	N/A

## Section 18C.09 — DEFINITIONS

The following definitions shall apply to terms that are used specifically in this POD. Otherwise, the definitions in Article 4 shall apply.

**Attached Home:** multiple-unit dwelling of 2, 3 or 4 units per building.

**Density:** the ratio of units per acre, calculated on a total gross acre basis.

**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.

**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 this POD 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 Liberty Township Zoning Resolution and does not include the human inhabitation of a structure or any use incidental or accessory to such inhabitation.

**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.

**Patio Home:** a stand alone, single dwelling unit.

**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, three or four family dwelling(s), 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 the Liberty Township 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.

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## ARTICLE 19 – ADULT ENTERTAINMENT REGULATIONS

### Section 19.01 – INTRODUCTION

Pursuant to ORC Section 519.02 and for the purposes specified thereunder, Liberty Township hereby regulates and has local zoning control over land use in Liberty Township, providing for a variety of adult-oriented businesses while still preserving and enhancing the health, safety, and welfare of Township residents. For the purposes of this Zoning Resolution, adult entertainment establishments are a type of land use.

These Adult Entertainment Regulations grow out of noted concerns raised by Liberty Township concerning the possibility of adult businesses locating in the Township and the potential ill effects on the Township. Low Impact and Moderate Impact uses are defined in Section 19.05 herein. Examples of High Impact businesses are private video or arcade booths for viewing adult videos, nude dancing establishments, private non-therapeutic massages, adult motion picture theaters, adult cabarets, lingerie modeling studios, escort services, and adult primary live entertainment.

### Section 19.02 – STUDIES OF SEXUALLY-ORIENTED BUSINESSES

The Delaware County Regional Planning Commission has analyzed thirteen (13) studies of sexually-oriented businesses in communities that specifically possess relevant conditions and/or conclusions about adverse secondary effects that could also occur in the Township.

Detailed findings of these studies are indicative of the kinds of problems that can occur when adult entertainment establishments locate within a community like Liberty Township. The studies which were selected for relevance and appropriateness to the Township are the following:

1.) Div. of Planning, Dep’t of Planning and Econ. Dev., Effects of Surrounding Area of Adult Entertainment Businesses in St. Paul, Minnesota (1978); 2.) Div. of Planning, Dep’t of Planning and Econ. Dev., Adult Entertainment 40-Acre Study (1987); 3.) Hubert H. Humphrey III, Minnesota Attorney General, Report of the Attorney General’s Working Group on the Regulation of Sexually-Oriented Businesses (1989); 4.) Duncan Associates, Sexually-Oriented Business Study (2000); 5.) Adult Entertainment Businesses in Indianapolis: An Analysis (1984); 6.) Special Programs Div. of the Office of Land Dev. Serv., Austin Police Dep’t, and Austin Building Inspection Dep’t, City of Austin Texas Study of the Time, Place and Manner Regulation of [Adult] Business Activity (1986); 7.) Denver Zoning Admin., Office of Planning and Dev., Dep’t of Public Safety, Dep’t of Excise and Licenses, Assessor’s Office, City Attorney’s Office, A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver (1998); 8.) Eric D. Kelley and Connie B. Cooper, American Inst. of Certified Planners, Study of Adult Businesses and Other Businesses with Adult Materials, Kansas City, Missouri (1998); 9.) Dep’t of City Planning, City of New York, Adult Entertainment Study (1994); 10.) Dep’t of Cnty. Dev., A Study of Land Use Regulations of Adult Entertainment Establishments, Springfield, Missouri (1986); 11.) Dep’t of Planning and Dev., Adult Use Study (1986); 12.) Los Angeles City Planning Dep’t, Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles (1977); 13.) Eric D. Kelley and Connie B. Cooper, American Inst. of Certified Planners, Everything You Always Wanted to Know About Regulating Sex Businesses XXX, Planning Advisory Serv. Report No. 495/496.

### Section 19.03 – ADVERSE SECONDARY IMPACTS OF SEXUALLY-ORIENTED BUSINESSES

**19.03.A** There is a correlation between sexually-oriented businesses and both a reduction in appraised property values and increase in property deterioration to residential and commercial property values within a 1-3 block surrounding area. The 1984 Indianapolis Study “undertook the

quantification of possible effects of the proximity of adult entertainment businesses on the value of residential properties within a one thousand foot (1,000') radius of their locations." The study looked at a comparison in property values between the "Control" area and the "Study" area. The Study areas were defined areas where adult entertainment establishments were located. The Control areas were defined areas similar in nature but outside the areas where adult entertainment uses were established. The study noted that "despite average property values in the Study area being distinctly higher than the Control Areas, during the period 1979- 1982, the Control Area showed an average annual appreciation of 24.7%, while the Study Area appreciated only 8.7% annually."

- 19.03.B** The Denver Study found that sixty-nine percent (69%) of residents surveyed felt that adult use businesses had a negative overall effect on their neighborhood. Of residents polled within the study areas in Denver, twenty-three percent (23%) reported they had considered moving to get away from the adverse secondary impacts of adult entertainment establishments (page 26). Specific activities observed by those living near adult entertainment establishments included littering, trespassing, and drinking alcohol in public. Litter generated by customers of such businesses includes pornographic printed matter, used condoms, sex paraphernalia, and used syringes. Residents also mentioned having seen people urinating, masturbating, and soliciting for prostitution in areas adjacent to adult use businesses (page 26).
- 19.03.C** Patrons of standard businesses that were located in areas of adult entertainment felt less safe going to do business there. *40-Acre Study* (1987).
- 19.03.D** There is a correlation between sexually-oriented businesses and significantly increased major crime rates (such as indecent exposure, prostitution, rape, robbery and violent offenses) in the immediate area of sexually-oriented businesses.
- 19.03.D.1** The 1987 St. Paul 40-Acre Study noted that adult entertainment correlates to street prostitution, which leads to other crimes. Seventy percent (70%) of all street prostitution in the St. Paul study was located within the "street prostitution zone" which was within the adult entertainment business areas studied. Street prostitution increased within one to eight pedestrian blocks of sexually-oriented businesses.
- 19.03.D.2** The 1984 Indianapolis Study established a "Control" area and a "Study" area for comparison. The Control area closely resembled the Study area socially, economically, and geographically, but did not have adult entertainment uses. The Study area was the area of concentration of adult entertainment uses. The Indianapolis study created a mathematical scoring system to evaluate crime both within and out of the Study area. The Indianapolis study noted:
- a. "The average crime rate figure for the Indianapolis Police Department district was 784.55. The Control Area had a rate that was 137.79 points higher than the overall police district, whereas the Study area was 204.17 points higher than the Control Area. People living in the Control Area of the study were exposed to a major crime rate in their neighborhoods that was 18% higher than that of the IPD generally" (page 10).

- b.** "Residents of the Study Area, however, were exposed to a major crime rate that was 23% higher than that of the control area and 46% higher than the population of the IPD District as a whole" (page 10).
- c.** "The Study Area exhibits a crime rate that is 127% higher than the Control Area in locations that are mixed district, commercial and residential in nature" (page 12).
- d.** "Both the Control and the Study Areas experienced a significantly higher incidence of major crimes/10,000 population than the IPD District as a whole. Much of this increase would be expected given their location in generally older, less affluent and more populous areas of the city. It is more difficult to explain the distinctly higher crime rate in the Study Area as compared to the Control Area- 1,099.51 versus 886.34" (page 18).
- e.** "The average sex-related crime rate in the control area was 26.2. The Study Area had an average rate of 46.4. If the same ratio between the Control and Study Areas established for major crime during this period were applied, we would expect a crime rate that was 23% higher in the study area. The actual rate is 77% higher. An obvious difference lies in the presence of one or more adult establishments" (pages 18-19).

**19.03.D.3** The Austin Study (p.113) "reveals a definite pattern concerning sex-related crime rates. Sex-related crime rates in the control area are consistently low, ranging from 65% to 88% of the city wide average. In contrast, sex related crimes in the Study Areas are 177%-482% higher than the city wide average."

**19.03.D.4** The Denver study noted that the vice detail "has made arrests, primarily for public indecency, at all of the adult bookstores and theater/bookstores in Denver over the past several years" (page 31).

**19.03.D.5** The Denver study also noted that:

- a.** Crimes against persons accounted for 12.1% of all reported offenses in the Study areas, compared to 7.8% for the city as a whole (page 34).
- b.** Drug-related crimes were 10.7% of all reported offenses in the study area vs. 4.5% citywide.
- c.** Robberies were highest in Adult Theater study areas, at 9.1% of all crimes versus 2.7% citywide.
- d.** Adult Theater study areas had by far the most crimes related to them. For the period 1995-96, the city tallied major crimes that included assault, criminal mischief, disturbance, DUI, fight, harassment, threat, prowler, noise, vice/narcotics, robbery, shooting, stabbing, theft, and sexual assault. Incidence of crimes was greatest near 24-hour operating sexually oriented businesses.

- 19.03.D.6** There is a correlation between illegal prostitution and the human contact businesses such as “health clubs,” escort services, non-therapeutic massage, and lingerie modeling (APA Report 495 by Kelley and Cooper).
- 19.03.D.7** Adult video arcades or “peep shows” correlate with illicit sexual activity, acts of indecent exposure, loitering and unsanitary conditions on the premises (APA Report 495 by Kelley and Cooper, Austin TX, and Indianapolis).
- 19.03.D.8** The concentration of two (2) or more adult businesses in one (1) location multiplies the adverse secondary impacts related to that site (St. Paul, Denver, Kansas City, Los Angeles, Austin, Newport News, and Rochester, New York). Dispersion by separation is an important regulation to reduce adverse secondary effects. The co-location of multiple adult uses within one building is problematic and should not be allowed.
- 19.03.E** Liberty Township incorporates the detailed findings of the adverse secondary effects of adult entertainment establishments in the thirteen (13) specific studies listed herein into this Zoning Resolution by reference, and notes that, without specific zoning to mitigate such effects, the same adverse secondary effects can be expected to occur in the Township at such time adult entertainment establishments choose to locate there. The Township intends to use its zoning powers over local land use authorized by ORC 519.02 to regulate adult entertainment establishments, and therefore to mitigate the anticipated adverse secondary impacts of such establishments.

#### **Section 19.04 – ZONING ISSUES REGARDING ADULT ENTERTAINMENT ESTABLISHMENTS**

At the time of the adoption of this regulation, there are no sexually-oriented businesses in the Township. There is the possibility that adult entertainment businesses will someday want to locate within the Township. Liberty Township is a suburban residential community with a 2012 population of approximately 15,136. It lies to the north of the state capital of Columbus (2010 population of approximately 787,033). Liberty Township is similar in size and location to Renton, Washington, a suburb of Seattle. Renton enacted 1000-foot separation standards between adult entertainment establishments and certain other land uses; those standards were upheld by the United States Supreme Court. The Township wishes to use zoning powers to establish appropriate locations for adult entertainment establishments so as to minimize the adverse secondary effects of such establishments and has chosen to emulate the Renton standards.

#### **Section 19.05 – ADULT ENTERTAINMENT REGULATIONS**

- 19.05.A** Low Impact: Mainstream media shops or stores that have a maximum of ten percent (10%) of their gross floor area devoted to hard core material are permitted in the Planned Commercial District, provided:
- 19.05.A.1** Adult and/or X-rated material shall be physically and visually separate. Separation shall be by a walled enclosure at least eight (8) feet high or reaching to the ceiling.
- 19.05.A.2** Access to the adult material section shall be controlled by electronic or other means to provide assurance that persons under eighteen (18) will not obtain access, and the general public will not accidentally enter this section.

- 19.05.A.3** Adult material section shall provide signage at its entrance warning that persons under the age of 18 are not permitted inside.
- 19.05.A.4** No adult arcades are permitted in mainstream media stores.
- 19.05.A.5** No more than one designated area for sexually oriented merchandise per store.
- 19.05.A.6** There shall be no exterior signs that advertise hard core or XXX media.
- 19.05.B** Medium Impact and High Impact: Adult Entertainment Establishments are permitted in the Planned Commercial and Planned Industrial Districts under the following provisions:
- 19.05.B.1** Such adult material shall not be permitted within one thousand (1,000) feet measured from the closest wall structure of the adult media store to the closest wall structure of any of the following:
- a.** Religious institution;
  - b.** Kindergarten-Twelfth (12<sup>th</sup>) grade school;
  - c.** Park or playground;
  - d.** Residence within a residential zoning district;
  - e.** Library;
  - f.** Day care centers / preschool centers
  - g.** Another adult entertainment establishment
- 19.05.B.2** Only one adult entertainment establishment (i.e. adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, lingerie modeling studio, nude or seminude model studio, or sexual encounter establishment) is permitted in a single building. No co-location of adult entertainment establishments is permitted within one building. It is not permissible to co-locate an adult bookstore with an adult theater, for example.
- 19.05.B.3** Hard core material may not be displayed publicly.
- 19.05.B.4** No adult entertainment establishment shall be open for business prior to 10:00 a.m. or no later than 11:00 p.m.
- 19.05.B.5** There shall be no exterior signs that advertise hard core or XXX-rated material.
- 19.05.B.6** Such adult material shall be limited to an area within three thousand (3,000) feet measured from the closest wall structure of the adult media store to the right-of-way of U.S. Route 23 or within two thousand (2,000) feet of the right-of-way of the extension of Sawmill Parkway north of Hyatts Road.

## **Section 19.06 – ZONING PROCESS**

In addition to any other procedures set out in this Zoning Resolution, all Applications for Adult Entertainment Uses shall follow the procedures hereinafter set forth:

- 19.06.A** When the subject parcel is not zoned Planned Commercial or Planned Industrial at the time of application, the owner(s) of lots and lands within the Township may request that the Zoning Map be amended to include such tracts in the PC or PI District in accordance with the provisions of Section 15.06 or Section 17.06, respectively, of this Zoning Resolution.
- 19.06.B** When the subject parcel is zoned Planned Commercial or Planned Industrial at the time of application, the owner(s) of lots and lands within the District may request that the Development Plan be amended in accordance with the provisions of Section 15.11 or Section 17.11, respectively, of this Zoning Resolution.
- 19.06.C** All other provisions of this Zoning Resolution, including Platting Requirements and Zoning Permits shall be met.
- 19.06.D** No zoning permit shall be granted until the applicant provides evidence of applicable licensing through the Liberty Township Trustees.

## ARTICLE 20 – SIGN REGULATIONS

### Section 20.01 – PURPOSE

The purpose of these Sign Regulations is to promote and protect the public health and safety of Township residents by regulating existing and proposed signs of all types and for all purposes. It is intended to enhance and protect the physical appearance and preserve the scenic and natural beauty of the Township; reduce sign distraction and obstructions that may contribute to traffic or pedestrian accidents; provide more Open Space; and generally curb the deterioration of the natural environment.

For the following reasons, the purpose of these Sign Regulations is also to regulate the type, size, illumination, movement, materials, location, height, condition, and period of display time of all exterior signs and signs intended to be viewed from the exterior:

1. Preserve the noncommercial character of residential neighborhoods, and to provide reasonable, yet appropriate, conditions for identifying businesses and services rendered in commercial districts;
2. Reduce traffic and pedestrian hazards by restricting signs, including signs with lights and/or motion, which exceed the viewer's capacity to receive information or which increase the probability of accidents created by distracting attention or obstructing vision;
3. Promote expeditious and safe navigation and wayfinding for pedestrian and vehicular traffic through legible and appropriate signs;
4. Preserve order, attractiveness, and cleanliness, maintain open spaces, avoid the appearance of clutter, and prevent nuisances and invitations to vandalism;
5. Require signs to be constructed and maintained in a structurally sound and attractive condition;
6. Maintain property values and ensure compatibility with surrounding landscape and architecture including, but not limited to, areas of historical significance;
7. Encourage aesthetic quality in the design, location, and size of all signs;
8. Protect and promote the general health, safety, welfare, convenience, and comfort, and to protect and encourage a more attractive economic, business, and overall physical environment and appearance of the Township.

This Article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this Article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this Article which can be given effect without the invalid provision.

Liberty Township does not have jurisdiction to regulate signs on property of the U.S. Government or the State of Ohio (exclusive of its political subdivisions) or those signs erected pursuant to and in furtherance of a governmental function thereof.

### Section 20.02 – APPLICATION OF REGULATION, PERMITS REQUIRED

Unless otherwise specified in this Article, no person shall erect, locate, relocate, construct, modify, or change any sign in Liberty Township without first applying for and obtaining a Zoning Permit. All signs proposed to be erected, located, relocated, constructed, modified, or changed within this Township are subject to review and approval by the Township Zoning Inspector prior to the performance of any work, whether a Zoning Permit is required or not.

For the purposes of this Article, the following are not considered signs: national or state flags; athletic scoreboards; official government signs, including any sign erected and maintained pursuant to and in discharge of any governmental function or as required by law or by other governmental regulations; signs required by an order of

a court of competent jurisdiction; and public safety and directional signs approved by and/or installed by the government.

### **Section 20.03 – APPLICATION OF REQUIREMENTS AND CONDITIONS**

- 20.03.A** Application: Each Application for a Zoning Permit to erect or locate a temporary or permanent sign shall be accompanied by scaled drawings and plans showing the proposed location, configuration, size, height, and design of the sign and its foundation, supporting and enclosing structure including all dimensions, total number of square feet of display area for each side of the sign, font sizes, font styles, all colors, all lines, all words, all figures, symbols, logos, and characters, and shall disclose the method of and specifications of fixtures for illumination. In addition, the details and specifications for construction shall be provided to show conformance with all requirements of Section 20.05 and any other applicable requirements of this Zoning Resolution. A scaled site plan shall be submitted showing the exact location of the sign in relation to the building and the property.
- 20.03.B** Fees: The applicant for a Zoning Permit herein shall pay such fees as prescribed by the Liberty Township Trustees. The Zoning Department shall have no authority to modify or waive such fees.
- 20.03.C** Inspection: By filing an application, an applicant consents to allow the Township Zoning Inspector or his or her designee to enter upon the property or premises upon which the sign is located or proposed to be located to perform an inspection to ascertain whether the provisions of this Article are being complied with. Such inspection may be made during the thirty (30)-day period following any sign construction, location, relocation, or modification. The Township Zoning Inspector may order the removal of any sign that is not erected, located, and maintained in accordance with the provisions of this Zoning Resolution.

### **Section 20.04 – REMOVAL OF SIGNS WITHIN RIGHT-OF-WAY**

The Township Zoning Inspector may affect removal of any sign within the right-of-way of any public road within the unincorporated area of this Township. Unattended signs on public property, including but not limited to rights-of-way and/or parks shall be considered abandoned signs. These abandoned signs may be disposed of or destroyed without notice. Such disposal or destruction is not subject to appeal.

### **Section 20.05 – GENERAL REQUIREMENTS**

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

- 20.05.A** Stability: All permanent signs shall be designed and constructed so that they will be structurally safe, and withstand all foreseeable wind, rain, environmental, and locational risks and hazards, including the possibility of vandalism. All signs shall be fastened, suspended, or supported so that they will not be a menace or safety hazard to persons or property. All signs shall be constructed of stabilized materials that will not rapidly deteriorate due to weather conditions. No sign shall be installed in such a way that it is subject to displacement, relocation, or destruction by wind or rain.
- 20.05.B** Location: Every sign shall be relevant to the use of the property on which it is located except that off-site billboards are permitted as described in Section 20.07.A of this Zoning Resolution. No sign shall be located in or project into the right-of-way of any public or private road within the Township. No sign shall interfere with free ingress to or free egress from any door, window, or fire escape, or with visibility at intersections of public roads, private roads, and/or private driveways. Location of

all signs shall be in conformance with this Zoning Resolution, in conformance with an approved Development Plan governing signs on the property, and/or in conformance with all restrictions imposed by the Board of Zoning Appeals. The size, height, and location of all free-standing signs shall be in accordance with Section 20.05 of this Zoning Resolution unless otherwise specified.

- 20.05.C** **Illumination:** Illumination of all signs shall conform with the applicable requirements as specified in Section 7.04 of this Zoning Resolution, Lighting Regulations. All new, illuminated, and wall-mounted signs for which approval is requested after the effective date of adoption of this Section shall use only halo or halo-like illumination unless other methods of illumination are required in an approved Development Plan and/or by the Board of Zoning Appeals. Any replacement sign may be illuminated in the same manner as the original sign provided that it is in all other respects in conformance with this Zoning Resolution or with an approved Development Plan, and/or all restrictions imposed by the Board of Zoning Appeals. Any change to illumination of any sign shall conform with the Lighting Regulations contained in this Zoning Resolution.
- 20.05.D** **Appearance:** No sign shall in any way resemble any official street sign or traffic control signal or device in any manner. No sign shall use the words "STOP", "LOOK", "DANGER", or other similar word or words, symbols, graphics, or signals that may mislead or confuse traffic, or that may be detrimental to the provision of emergency response or any other governmental service. The reverse side of every one-sided permanent sign shall be completely enclosed and finished in a manner that blends with its surroundings.
- 20.05.E** **Maintenance:** All signs constructed or erected within Liberty Township shall be maintained as follows:
- 20.05.E.1** All sign surfaces, supports, braces, guys and anchors shall be kept in good condition and repair.
- 20.05.E.2** All illumination of signs shall be maintained in complete working order or shall be turned off until necessary repairs are made.
- 20.05.F** **Height:** No sign shall be erected to a greater height than permitted by the specific provisions of Sections 20.05 and 20.07 of this Zoning Resolution unless otherwise specified. No free-standing sign not governed by one of these Sections shall be erected at a height greater than twelve (12) feet as measured from the surrounding finished grade to the top of the sign. Surrounding ground and ground underneath a sign shall not be mounded such to increase the overall height of the sign compared to the surrounding topography.
- 20.05.G** **Display Area:** The area that includes the entire face of a sign and any framing, trim, or molding, but not including any supporting structure, inclusive of all blank areas between and around letters, symbols, borders, and graphics. If a sign is mounted directly on a building wall but is not installed within a sign cabinet or on a sign board or any similar fixture, the display area shall be identified by drawing a box or circle around and completely encompassing the letters, symbols, borders, and graphics.
- 20.05.H** **Calculation of Display Area:** The size (in square feet) of the display area of a sign shall be calculated by multiplying the height by the width of the display area or, if a sign is mounted directly on a building wall but not installed within a sign cabinet or on a sign board or similar fixture, by

multiplying the height by the width of a boxed area completely encompassing the letters, symbols, graphics, etc., or by determining the area of a circle that completely encompasses the letters, symbols, borders, and graphics.

**20.05.I** Interior Signs: Words and/or symbols appearing as labels on products and/or services on display and/or for sale, menu signs for restaurants, and other advertising signs located inside a building and incidentally visible from outside are not regulated by this Article.

**20.05.J** Free-Standing Signs in all Zoning Districts: Unless otherwise specified, all permanent or temporary signs mounted on, supported by, or suspended from posts, pillars, columns, or on other structures or bases, and which are not mounted on or attached to a building wall, nor an extension of a building wall, nor attached to a canopy or other architectural feature covering a sidewalk serving an entry to the building, shall be regulated in all zoning districts as follows:

**20.05.J.1** Such signs may have a display area on one (1) surface, or on two (2) surfaces which are comprised of two (2) directly opposing surfaces, or of two (2) surfaces that are completely attached to one another along one edge to form a V-shape at no greater than a forty-five (45)-degree angle. No free-standing sign shall have any sign surface with a display area of more than thirty (30) square feet, and the total display area of two (2) surfaces of one sign shall not exceed sixty (60) square feet. All free-standing signs shall be sized and located as indicated below, unless otherwise specified:

Display Area Per Sign Surface (square feet)	Maximum Allowable Sign Height (feet)	Minimum Required Setback From Any Right-of-Way (feet)
Less than 18	8	15
18 to less than 21	9	16
21 to less than 24	10	17
24 to less than 27	11	18
27 to less than 30	12	19
30	12	20

**20.05.J.2** Not more than one (1) permanent free-standing sign may be allowed for identification of any one (1) operation or establishment. Where more than one (1) operation or establishment is located on a single tract of land, having an entrance, service drive or drives, or parking area or areas used in common by the customers of such operations or establishments, only one (1) permanent free-standing sign may be authorized for identification of the entire tract, unless more are permitted by an approved Development Plan or approved as a conditional use. For the purpose of this paragraph, the existence and boundaries of each operation or establishment shall be determined by community of use, rather than by the ownership thereof, it being intended by this provision to limit each operation, establishment or community of use to one (1) permanent free-standing identification sign unless otherwise approved in a planned unit Development Plan or conditional use approval.

**20.05.J.3** No part of any free-standing sign shall be located closer to any road right-of-way line than fifteen (15) feet, nor closer to any other property line than the applicable side

and rear building setback lines of the property on which it is located unless otherwise specified.

- 20.05.J.4** The function of every freestanding sign permitted by this Section 20.05 of the Zoning Resolution shall be relevant to the use of the property on which it is located.
- 20.05.J.5** Every permanent free-standing identification sign in a planned zoning district shall be mounted on a base constructed of stone, brick, stucco or other more permanent material (also known as a monument-style sign) consistent with the exterior building materials used in the development or on the building which it identifies. The width of the sign face shall not exceed the width of the exposed base that supports the sign. The sign face shall be centered horizontally on the base. The height of the exposed base shall not exceed one-half (1/2) of the height of one face of the sign which it supports.
- 20.05.J.6** All permanent free-standing identification signs shall be monument-style signs. All such signs proposed to be located in any planned zoning district are subject to approval as part of a Development Plan. Permanent free-standing signs in any other zoning district may be permitted only upon approval by the Board of Zoning Appeals as a Conditional Use.
- 20.05.J.7** A temporary free-standing sign may be mounted on poles or posts made of wood, wire, or other appropriate material installed only for the purpose of supporting such sign, and shall not be a monument-style sign.

## **Section 20.06 – PERMITTED SIGNS, NO ZONING PERMIT REQUIRED**

The following signs shall be permitted in the Township, subject to conformance with this Article. No Zoning Permit shall be required for any sign constructed or erected under the terms of this Section. Under no circumstances shall any signs permitted by this Section 20.06 be located in any road right-of-way nor illuminated in any manner, except that a business may display an illuminated "open" sign of not more than four (4) square feet in size during the hours when the business is open to the public. No sign shall have more than two (2) sides. The location, size, and height of all signs shall be in accordance with Section 20.05 of this Zoning Resolution unless otherwise specified.

- 20.06.A** Signs For Sale, Lease, or Rent: Temporary free-standing signs or window signs may be used to advertise the sale, lease, or rent of a building, portion of a building, or premises on which the sign is located. Not more than two (2) signs shall be displayed on any lot or parcel, except that multi-family buildings or commercial buildings with individual units for sale, lease, or rent may each display one (1) sign inside the window of each such unit. Such signs shall not be illuminated, and shall not exceed six (6) square feet of area per side with not more than two (2) sides. All such signs shall be removed within thirty (30) days after the sale, lease, or rental of the premises for which the sign was erected or installed. Pursuant to Section 20.07.C of this Zoning Resolution, for signs larger than six (6) square feet on parcels greater than fifteen (15) acres, and for temporary sale, lease, or rent signs during the construction period in a Planned Commercial zoning district, permits are required.
- 20.06.B** Vehicular Signs: Permanent or temporary free-standing directional signs, pavement markings, or other signs designed and intended only for the purpose of assisting, directing, or controlling

vehicular or pedestrian traffic on the private property on which they are located are permitted, provided that such signs shall not exceed two (2) square feet of area per side, shall not display a business name or logo, and shall not interfere with or obstruct visibility when entering or leaving said property. A maximum of three (3) free-standing directional signs may be located upon any one property. Directional arrows may be painted on pavement, provided that no one (1) directional arrow painted on pavement shall exceed six (6) square feet in area. Pavement marking required by public safety laws or regulations are exempt from this regulation.

- 20.06.C** Name and Address of Occupants: A permanent or temporary free-standing or wall-mounted sign may be displayed on a residential property to announce the occupant's name and address, or a temporary sign or signs to identify or promote school academic or athletic activities, provided that such signs shall not include designations as to employment or home occupation, shall not be larger than four (4) square feet in area per side, shall not be monument-style signs, and shall be limited to one (1) sign per eligible resident in the household. In the case of one (1) property having been developed with more than one (1) dwelling unit, not more than one (1) name and address sign shall be permitted for each dwelling unit.
- 20.06.D** Political Signs: The erection of temporary free-standing or wall-mounted political signs shall be permitted in any district of the Township, provided they are located outside the right-of-way and that such signs:
- 20.06.D.1** Shall not interfere with vehicular or pedestrian traffic.
  - 20.06.D.2** Shall not be attached to any accessory structure such as a utility pole, light poles, fence, shed, or garage.
  - 20.06.D.3** Shall identify the person or committee charged with removal of the sign.
- 20.06.E** Window Advertising Signs: Window advertising signs must be displayed from inside windows and doors, and may be located only on the premises where the use, commodity, or service is available within a Planned Commercial District, Planned Industrial District, Industrial District, or Neighborhood Retail District. Window advertising signs shall be permitted for each principal structure or for each individual business if located in a building containing multiple businesses, provided that the total sign area of all window advertising signs per business or per tenant shall not exceed twenty (20) square feet, EXCEPT when used to advertise special public or institutional events as permitted by Section 20.06.F of this Zoning Resolution.
- 20.06.F** Special Events Signs: A temporary free-standing or window advertising sign announcing a special public or institutional event may be located upon the premises on which the event is to take place. Such sign may be used to advertise a grand opening, a seasonal event, or a community event. Such a sign shall not exceed thirty-two (32) square feet in area per side, and shall not be permitted to be displayed for more than thirty (30) days prior to the planned event, nor more than seven (7) days after said event. Such signs must include identification (name and address) of the person charged with the duty of removing said sign. Not more than two (2) such signs shall be allowed to be displayed on any one (1) lot or parcel of land at any time.
- 20.06.G** Farm Signs: On active and operating farms, permanent or temporary free-standing or wall-mounted signs may be used to denote the name and address of the occupants, to denote membership in

organizations, and to advertise produce or products for sale on the premises. Free-standing farm signs are not required to be monument-style signs. No sign advertising produce or products for sale on the premises may exceed thirty-two (32) square feet of area per side and all other signs shall be limited to six (6) square feet per side.

- 20.06.H** Business / Professional Signs: One (1) permanent or temporary sign having not more than ten (10) square feet of display area mounted on an exterior wall of a building housing a business establishment, on or over a window or door, or mounted or displayed not more than three (3) feet from the main entrance of a business establishment, with only the name of the proprietor and the business and disclosing the nature of the business and the address, shall be permitted. Such signs may also display a graphic drawing or image to illustrate the nature of the business.
- 20.06.I** Public Use Facilities: Permanent or temporary free-standing and wall-mounted signs designating public uses or facilities shall be constructed and displayed in conformity with all provisions of this Zoning Resolution.
- 20.06.J** Address Numbers for Each and Every Premises: All premises within Liberty Township shall be easily identified by permanent street address numbers visible from the street. Address numbers shall be permanently affixed to an exterior wall of the building they identify so as to be read from the street, and/or shall be permanently affixed to both sides of the mailbox serving the property, or to its supporting structure. If by these methods it cannot be determined which premises is being identified, then a permanent free-standing sign shall be installed adjacent to the intersection of the private driveway with the public road, but outside the road right-of-way. Address numbers shall be of a color that contrasts with the color of the structure to which they are affixed, and shall be large enough to enable the reading of such numbers from the street. Address numbers of properties located on and taking access from a Common Access Driveway shall be displayed in accordance with the Delaware County Subdivision Regulations.
- 20.06.K** Address Numbers for Commercial, Industrial, Multi-family, Condominium, and Apartment Buildings: On all commercial, industrial, multi-family, condominium, and apartment buildings permanent address numbers shall be displayed and shall be a minimum of six (6) inches in height. Such address numbers shall be located on the structure not more than three (3) feet from the main entrance. Address numbers or address ranges for buildings containing multiple units shall be displayed on the exterior walls of buildings facing the street or driveway serving such buildings, to show unit numbers contained within each building. In addition, all such properties shall have address numbers posted on or directly adjacent to all exterior doors.
- 20.06.L** Historical Signs, Commemorative Plaques, or Cornerstones: Free-standing or wall-mounted permanent signs placed by recognized historical agencies are permitted, provided that such signs are not more than twelve (12) square feet in area per side and are not illuminated.
- 20.06.M** Yard, Garage, or Moving Sales, or Auctions: A temporary free-standing sign advertising the sale of personal property may be temporarily erected on the property where the sale is being or is to be conducted, provided such sign is not located in the right-of-way of any public street or road, and provided that such sign shall not interfere with or obstruct visibility when entering or leaving the property. Such sign may be installed not more than seven (7) days prior to, and shall be removed not more than two (2) days after completion of any yard, garage, or moving sale, or auction.

- 20.06.N** Signs Identifying Home Occupations: One (1) permanent or temporary flush-mounted wall or window sign per residence no larger than two (2) square feet in area shall be permitted for the purpose of identifying a home occupation which has complied with all of the requirements of this ordinance, and all conditions imposed by the Board of Zoning Appeals for a Conditional Use to permit a home occupation.
- 20.06.O** Property Control Signs: Permanent or temporary signs to control or protect private property or for operational and/or instructional purposes (No Hunting, Keep off Grass, No Soliciting, Neighborhood Watch, Automated Teller Machine operating instructions, signs disclosing hours of operation, etc.), shall be permitted, with such signs not to exceed two (2) square feet per sign in size. Such signs used for control or protection of private property may be either free-standing, wall-mounted, or window-displayed, and when used for operational and/or instructional purposes, shall be mounted on or directly adjacent to the structure or device to which they apply.
- 20.06.P** Directory Signs: Free-standing permanent or temporary signs displaying only business names, address numbers, and directional arrows, which are designed to assist the public in locating a business establishment within a property containing multiple business establishments, may be posted within the interior of a property, provided that such signs shall not be installed at locations where they can be read from an exterior or perimeter street or road. No such sign shall be more than six (6) feet in height, and no business name shall occupy more than two (2) square feet of area on any free-standing directory sign. All business names on such sign shall be of the same font type and color.
- 20.06.Q** Sidewalk Signs: Free-standing temporary sandwich-board or A-frame signs advertising special offers may be placed on a sidewalk in front of a business establishment, provided that no such sign shall be located or placed in any roadway right-of-way or ingress/egress easement. One such sign, not to exceed nine (9) square feet in display area, and not more than forty-four (44) inches high and two and one half (2.5) feet wide, is permitted for each business establishment. The location of such signs shall not interfere with pedestrian or emergency services ingress, egress, use of or access to any sidewalk or to any door. Such signs shall be allowed only during the hours when a business establishment is open to the public, and shall be stored inside or removed from the site at all other times.

## **Section 20.07 – PERMITTED SIGNS, PERMIT REQUIRED**

The following signs shall be permitted upon obtaining a written Zoning Permit in areas clearly delineated herein and subject to the reasonable regulations set forth herein, upon obtaining a written Zoning Permit. All such signs shall conform to the general standards for all signs and shall be sized and located in accordance with Section 20.05 of this Zoning Resolution unless otherwise specified.

- 20.07.A** Outdoor Advertising or Billboards: Free-standing permanent or temporary signs to advertise 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 on lands used for agricultural purposes subject to regulations set forth herein:
- 20.07.A.1** No billboard shall exceed two hundred (200) square feet in area per side nor have more than two (2) sides.

- 20.07.A.2** The measured height from the top of any billboard to the ground level shall not exceed twelve (12) feet in height nor have a length in excess of four (4) times the height of the sign face.
- 20.07.A.3** All billboards shall be located in compliance with all State and Federal Regulations controlling the same and such proof shall be submitted to the Zoning Inspector prior to issuance of a Zoning Permit.
- 20.07.A.4** All billboards shall be located behind the front building setback lines established for the district in which the sign is located.
- 20.07.A.5** No billboard or outdoor advertising sign shall be located nearer than twenty-five (25) feet to any side or rear lot line.
- 20.07.A.6** No billboard shall be closer than four hundred (400) feet to any residence regardless of whether or not it is inhabited.
- 20.07.A.7** No billboard or outdoor advertising sign shall be continued once its commercial or business purpose has ended. The commercial or business purpose of signs for real estate subdivision sales of parcels and/or buildings shall end at such time as all parcels or buildings have been sold or are no longer advertised for sale by the subdivision landowner or developer.
- 20.07.A.8** A zoning permit shall be required prior to any change to an existing billboard.
- 20.07.B** Construction Signs: Upon application and approval, one temporary free-standing sign identifying a new construction project may be erected upon the same lot as the project which is under construction. Such sign shall be permitted only for the length of the construction project or for eighteen (18) months, whichever is shorter. Any extension past the eighteen (18) months shall be subject to approval by the Zoning Inspector. Such signs shall be approved by the specific project owner and/or developer prior to a Zoning Permit being issued. A construction sign may contain any or all of the following information: the name of the construction project, the construction firm(s), the engineer, the architect and/or the subcontractors involved in the project, the address of the project and/or lot number, and contact information including telephone numbers and web site addresses. Only one (1) construction sign shall be permitted per parcel or lot. Maximum sign area permitted shall be six (6) square feet for each single-family residential dwelling unit up to a maximum of twenty (20) square feet per side on a parcel or lot to be developed with multi-family residential, condominiums, commercial, or industrial uses.
- 20.07.C** Real Estate For-Sale Signs in All Zoning Districts: Upon application and approval on parcels exceeding fifteen (15) acres, one (1) temporary free-standing sign not to exceed twenty-four (24) square feet per side, and height and setback determined by Section 20.05 of this Zoning Resolution may be permitted to advertise that it is for sale, rent, or lease. Where a parcel has frontages on two (2) or more roads, one (1) such sign may be permitted along each dedicated road. Said signs may remain on premises for a period not to exceed eighteen (18) months without renewal of the Zoning Permit.

During the initial period of construction of any building in the planned commercial zoning district, a secondary sign may be permitted, as follows: a secondary sign not to exceed twenty (20) square feet in area per side may be suspended from the bottom of a permitted construction sign to denote that the building(s) or tenant space(s) or units to be constructed on the property will be for sale, lease, or rent, regardless of the size of the property on which the project is located. The combined total display area of one (1) side of the construction sign and one (1) side of the attached secondary sign shall not exceed forty (40) square feet, and such sign shall be located no less than twenty feet (20') from any road right-of-way and no less than the minimum building setback line from any other property line, and shall not exceed twelve feet (12') in height. Such secondary sign may remain on the premises for a period not to exceed eighteen (18) months without renewal of the Zoning Permit. Such secondary sign shall be removed prior to or upon removal of the construction sign from which it is suspended.

- 20.07.D** Subdivision Sale Signs: One (1) temporary free-standing sign, not to exceed thirty-two (32) square feet in area per side, providing information on the sale of lots within an approved and recorded subdivision may be placed upon the property and maintained until ninety percent (90%) of the lots within the subdivision are sold. 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, location, web site address, and telephone number of the sales office or sales agent.
- 20.07.E** Model Home Signs: Temporary model home signs proposed to be located in any planned zoning district require approval as part of a Development Plan. Temporary model home signs proposed to be located in any other residential zoning district shall require approval by the Board of Zoning Appeals as a Conditional Use. There shall be not more than one (1) temporary free-standing sign and not more than one (1) temporary wall-mounted or window sign per model home. Such signs may provide information on the builder, telephone number, web site address, and days and hours of operation. Such temporary free-standing sign shall not be a monument-style sign, and shall not be larger than twenty (20) square feet per side. Temporary free-standing model home signs may be illuminated subject to Section 7.04 of this Zoning Resolution, Lighting Regulations. Wall-mounted or window signs may also display the name of the model home. Such wall-mounted or window signs shall be no larger than six (6) square feet in size and shall not be illuminated. No Zoning Permit for model home signs shall be valid for longer than eighteen (18) months; such Permits may be renewed as long as the model home use exists. All model home signs shall be removed upon discontinuance of the model home use.
- 20.07.F** Bulletin Board: Permanent or temporary free-standing or wall-mounted bulletin board signs with manual changeable copy shall be permitted for the following non-public owned and operated buildings and facilities, provided that no sign shall display electronic or mechanical changeable copy and any area of a sign designed to display manual changeable copy does not exceed twelve (12) square feet in size per side of the sign, or the portion of each side of the sign that is designed for manual changeable copy does not exceed one-half (1/2) of the total display area per side, whichever is less, and the sign otherwise meets the other requirements of this Article: churches, private schools, and colleges, or as required by law.
- 20.07.G** Menu Board and Preview Menu Board: One (1) free-standing menu board and one (1) free-standing preview menu board may be approved for each drive-through lane of a business establishment having one or more drive-through lanes, and one (1) menu board located on the exterior of the building for each walk-up window may be approved for each walk-up window of a business

establishment having one or more walk-up windows, to advertise only those products that can be ordered, obtained, and paid for at a drive-through window or walk-up window. Such signs shall not be used to advertise services. Menu boards and preview menu boards for drive-through lanes may not be used to advertise products for sale that can only be obtained inside the business establishment. Menu boards and preview menu boards shall not contain electronic or mechanical changeable copy.

The total display area of a menu board shall not exceed forty (40) square feet for a drive-through 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 display area of a preview menu board shall not exceed twenty-five (25) square feet.

All menu boards and preview menu boards for drive-through lanes shall be located adjacent to a drive-through 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-through 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 such sign is visible from any dedicated road, it shall be completely screened from view from such dedicated road by use of permanent landscaping.

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.

**20.07.H** Commercial or Industrial Permanent Identification Sign: A permanent wall sign may be used to display only the name of the business, and may also display a graphic drawing or image to illustrate the nature of the business. Permanent identification signs shall be mounted on the building that houses the business establishment identified by such signs, EXCEPT as otherwise specifically authorized by this Zoning Resolution.

One (1) such sign for each established business or tenant within a building may be mounted on each building wall or on a building wall extension that has been designed and constructed to be architecturally compatible with the building and does not extend beyond any required building setback line of the building to which such wall extension is attached, provided that such wall or extension of such wall has frontage on a dedicated public or private street and/or frontage on a service drive. Such sign shall not project above the roof line or the cap of parapets on the side of the building or wall extension to which it is attached. In cases where a building has frontage on more than one (1) dedicated public or private street or on a service drive, the applicant shall designate the primary frontage. The maximum allowable display area of the each such sign shall be determined based on the tenant being a Small, Medium, or Large tenant, by meeting either the Minimum Building or Store Frontage or Gross Area applicable to each category of tenant as follows:

Tenant Type	Minimum Building or Store Frontage	Gross Area (square feet)	Maximum Wall Sign Display Area on Each Frontage	
			Primary	All Others
Small	20-39 feet	Less than 3,000	40	25
Medium	40-59 feet	3,001 – 4,999	75	40
Large	60 or more feet	5,000 or more	95	60

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, it being hereby intended to prohibit signs projecting outward from the wall, at right angles or otherwise, EXCEPT as follows:

- 20.07.H.1** Each business established within a building may display one (1) permanent identification sign not to exceed fifteen (15) square feet in size on an attached canopy or similar architectural feature which projects beyond the building over a walk or yard. Such sign may be erected on any side of a building where no other wall sign is displayed for the same established business, provided that no part of such sign may extend above the roof or cap of parapets on the side of the building on which such sign is located.
- 20.07.H.2** One (1) Permanent Identification Sign may be installed at each main entrance to a business establishment as follows: Such sign shall not be more than fifteen (15) inches in height and five (5) square feet in area, may project outward from the building wall not more than three (3) feet, or may be suspended from the underside of an architectural feature such as a canopy or roof which covers a sidewalk serving an entry to a building. The three (3) foot projection limit does not apply to any sign suspended from the underside of a canopy or roof or similar architectural feature covering a sidewalk.

No part of any sign shall be less than eight (8) feet above the sidewalk or ground level if such part 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 (1) 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 more than nineteen (19) inches high, or one (1) inch thick, or the color contrasts with that of the building. Super graphics (large scale painted graphic devices) and architectural detailing that has a graphic or signage function painted upon a building, shall be subject to regulation as a wall sign.

## **Section 20.08 – CONDITIONALLY PERMITTED SIGNS – PERMIT REQUIRED**

No conditionally approved sign shall be implemented, erected, or constructed until the Zoning Inspector issues a Zoning Permit therefore.

- 20.08.A** Within any zoning 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 25 of this Zoning Resolution. Such signs shall be sized and located in accordance with Section 20.05 of this Resolution.
- 20.08.A.1** Permanent Identification Signs in all zoning districts, if not approved as part of a Development Plan. Two such signs may be approved at entrances along major thoroughfares and shall not obstruct the visibility at any intersection. Such signs shall

be either free-standing or affixed to an approved structure such as a landscape wall or fence constructed at the entrance to a subdivision or commercial or industrial development. Such signs shall contain only the name of the subdivision or similar operation or community of use that they identify, the same address and/or use of the premises upon which the signs are located or to which they are affixed, and such shall not exceed six (6) feet in height and shall be landscaped. Such identification signs shall not contain any advertising of products or changeable copy of any type, nor shall they be portable signs on wheels.

- 20.08.A.2** Free Standing Signs for commercial and related businesses.
  - 20.08.A.3** Model Home Signs in residential developments if not approved as part of a Development Plan.
  - 20.08.A.4** Similar types of use.
- 20.08.B** The Board of Zoning Appeals may grant a Conditional Use Permit for the erection or maintenance of the aforementioned signs only upon conformance with the following requirements:
- 20.08.B.1** The filing of a written Application for a Conditional Use for such sign, with scaled drawings of the proposed sign showing its design, colors and materials, and a scaled Site Plan showing the location of the proposed sign.
  - 20.08.B.2** A determination by the Board that a free-standing sign is necessary to the conduct of the business, professional or commercial activity on the site, or identification of the use and/or of the premises on which it is located.
  - 20.08.B.3** A determination that the proposed sign meets all the requirements as designated in Section 20.05 of this Zoning Resolution.
  - 20.08.B.4** In making its determination, the Board 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.
  - 20.08.B.5** The filing of a plan for the perpetual maintenance of signs, identifying the responsibilities of the applicant, the public, the landowner or other parties. Such plan shall be subject to approval by the Board of Zoning Appeals.
  - 20.08.B.6** Not more than one (1) Free Standing Sign may be authorized for any one (1) operation or establishment. Where more than one (1) operation or establishment is located on a single tract of land, having an entrance or parking area or areas used in common by the customers of such operations or establishments, only one (1) free standing 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 operation, establishment or similar joint operation to one (1) free standing sign, EXCEPT in the case of an operation or

establishment that is contiguous to two (2) streets in which case one (1) free standing sign, fronting on each street, may be authorized.

## **Section 20.09 – PROHIBITED SIGNS**

The following signs shall be prohibited in Liberty Township:

- 20.09.A** Signs mounted upon the roof or awning of any building or structure.
- 20.09.B** Signs not otherwise specifically authorized by this Zoning Resolution.
- 20.09.C** Moving or rotating signs, portable billboards, pennants, streamers, spinners, banners, flashing lights, fluctuating lights, blinking lights, intermittent lights, string of lights, or inflatable and/or floating attraction devices, animation of signs, and other similar devices.
- 20.09.D** Signs or advertising erected and maintained on trees or painted or drawn upon rocks or other natural features.
- 20.09.E** No sign or billboard shall be painted directly upon the roof of any building or structure except for identification signs on agricultural buildings.
- 20.09.F** No sign shall be attached to any fence within the right-of-way of any road, and no advertising sign shall be attached to any fence regardless of location.
- 20.09.G** Advertising devices that attempt, or appear to attempt, to direct the movement of traffic, or which interfere with, imitate, or resemble an official sign, signal, or device, are prohibited.
- 20.09.H** No signs shall be posted, attached, mounted, or otherwise applied on utility poles, bus shelters, benches, trash receptacles, newspaper vending machines, boxes, or any other unapproved supporting structure.
- 20.09.I** The use of building walls for display of advertising is prohibited.
- 20.09.J** No vehicle, trailer, or equipment of any type may be parked on a business premises or a lot for the purpose of advertising a business, product, service, event, object, location, organization, or the like.
- 20.09.K** No sign shall be located on a vacant lot, EXCEPT for the purpose of advertising the lot for sale or lease, or for such purpose as the notification of a present danger or the prohibition of trespassing, or a billboard sign that has been permitted in accordance with Section 20.07.A of this Zoning Resolution.
- 20.09.L** No sign shall be located in the right-of-way of any public or private road within Liberty Township.
- 20.09.M** Changeable copy of all types shall be prohibited on any sign except as permitted under Sections 20.07.F and 20.07.G.
- 20.09.N** Electronic Message Center (EMC) signs or Displays, Animation or Video Display Signs, and Electronic or Mechanical Changeable Copy Signs.

## **Section 20.10 – ABANDONED SIGNS**

If any sign or billboard shall become abandoned or defective in the manner defined herein, such 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 or defective sign or billboard is any sign or billboard that meets any of the following criteria:

- 20.10.A** Any sign or billboard associated with an abandoned non-conforming use.
- 20.10.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 eighty (180) days. Seasonable businesses are exempted from this determination.
- 20.10.C** Any sign or billboard that is not maintained in accordance with this Zoning Resolution.
- 20.10.D** Any sign that is structurally defective or is a hazard to public safety or aesthetically incompatible with the surrounding property or properties.

When, upon investigation, the Zoning Inspector finds that a sign or billboard has been abandoned or defective as defined herein, he/she shall notify the owner of said sign, together with the owner of the land on which the sign is located, of his/her findings. Such notice shall advise the owners that the sign has been declared abandoned and must be removed within thirty (30) days from the date of said notice. The owners may appeal such decision to the Board of Zoning Appeals as provided in Section 25.05 of this Zoning Resolution.

It shall be the duty of the Zoning Inspector to maintain a photograph and file of said sign together with a written report of his/her findings for submission to the Board of Zoning Appeals upon request. If the sign is not removed as ordered, the Township shall be entitled to a judgment that allows the same to be removed by the Township at the expense of the lessee or owner.

## **Section 20.11 – NON-CONFORMING SIGNS**

Any sign in existence within the Township prior to the effective date of this Zoning Resolution, which was erected in conformance in all respects with all applicable laws in existence on the date of its erection, but that does not conform with the provisions of this Article, is considered to be non-conforming.

Any non-conforming sign shall be allowed to continue in its non-conforming state until it is removed or declared abandoned in accordance with Article 21 of this Zoning Resolution.

A non-conforming sign shall not be relocated unless it is brought into conformance with the provisions of this Article. Substitution of a non-conforming sign with a different sign for which a Zoning Permit is required by this Article may be permitted by the Zoning Inspector upon issuance of a Zoning Permit, provided such sign does not exceed the dimensions of the previous non-conforming sign and otherwise complies with the provisions of this Article. A non-conforming sign shall be maintained or repaired in accordance with the following provisions:

- 20.11.A** The sign and structural shape shall not be changed or altered.
- 20.11.B** The text and/or graphics may be changed, but the total display area may not be enlarged, provided that the change applies to the original non-conforming use associated with the sign.

**20.11.C** In the case where damage occurs to the sign to the extent of fifty percent (50%) or more of either the structure or the replacement value of the sign, such sign shall be removed or it shall be brought into conformance with this Article within thirty (30) days of such damage.

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 sixty (60) days or it shall be deemed abandoned.

## **Section 20.12 – REPLACEMENT SIGNS**

The Zoning Inspector may approve upon application being made and the required fee being paid, without public hearing, the replacement of any sign and/or the structural support for any sign that has been initially approved by the Board of Township Trustees, the Zoning Commission, or the Board of Zoning Appeals subject to there being no increase in the square feet of display area on any side of the sign, and no increase in sign height, and no reduction of setback from any right-of-way or from any property line which varies from the originally-approved sign; however, the materials from which a sign is constructed may be changed. Such replacement sign shall conform to all applicable standards in this Article unless variances therefore previously have been granted by either the Board of Trustees and/or the Zoning Commission, or by the Board of Zoning Appeals. An applicant for a replacement sign shall submit a written explanation of the need to replace the sign to the Zoning Inspector for review, and shall obtain any required Zoning Permit prior to making any change to any sign. If upon review, the Zoning Inspector determines that a proposed replacement sign differs in size, height, or location from the sign originally approved by the Board of Trustees and/or the Zoning Commission or by the Board of Zoning Appeals, the Zoning Inspector shall not approve such sign and the applicant shall be required to submit the appropriate application with accompanying plans, drawings, documentation, and fee for a public hearing if he/she desires to pursue the approval of such replacement sign.

## ARTICLE 21 – NON-CONFORMING LOTS, USES, AND STRUCTURES

### Section 21.01 – INTENT

Within the districts established by this Zoning Resolution or Amendments that may later be adopted, there exist lots, uses of land, structures, and uses of structures and land in combination which were lawful before this Resolution was passed or its present amendments adopted, but which would be prohibited, regulated, or restricted under the terms of this Resolution or amendments. It is the intent of this Resolution to permit these non-conformities to continue until they are removed. Non-conformities are declared by this Zoning Resolution to be incompatible with permitted uses in the districts in which such use is located. Nothing in this Article shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption of amendment of this Resolution and upon which actual building construction has been carried on diligently. For the purposes of this Article, actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner.

### Section 21.02 – SINGLE NON-CONFORMING LOTS OF RECORD

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on a single lot of record at the effective date of adoption of this Zoning Resolution. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable within the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variances from the requirements of this Zoning Resolution other than lot area or lot width, shall be obtained only through action of the Board of Zoning Appeals. No portion of any lot shall be used or sold in a manner which diminishes conformance with lot width and area requirements established by this Resolution.

### Section 21.03 – NON-CONFORMING USES

Where, at the time of adoption or amendment of this Zoning Resolution, lawful uses exist which would not be permitted by this Resolution, the uses may be continued so long as they remain otherwise lawful, provided:

- 21.03.A** Any non-conforming use may be extended throughout any parts of a structure which were manifestly arranged or designed for such use at the time of adoption or amendment of this Resolution. No such non-conforming uses shall be moved and none shall be enlarged, increased, or extended, to occupy more than ten percent (10%) of the area of land that was occupied on the date the use first became a lawful non-conforming use.
- 21.03.B** If any non-conforming uses are discontinued or abandoned for more than two (2) years, any subsequent use of such land shall conform to the regulations specified by this Zoning Resolution for the district in which such land is located.
- 21.03.C** No additional structure not conforming to the requirements of this Zoning Resolution shall be erected in connection with such non-conforming use.
- 21.03.D** If a structure in which a non-conforming use is carried out is destroyed to an extent more than fifty percent (50%) of the structure or its replacement value, the non-conforming use shall not be allowed to continue.

## **Section 21.04 – NON-CONFORMING STRUCTURES**

Where, at the time of adoption of amendment to this Resolution, a lawful structure exists that could not be built under the terms of this Zoning Resolution by reason of restrictions on area, lot coverage, height, yards, location on the lot, bulk, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- 21.04.A** Should any non-conforming structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- 21.04.B** Should any non-conforming structure or non-conforming portion of a structure be destroyed to an extent more than fifty percent (50%) of the structure or its replacement value, it may be rebuilt so that it does not encroach any further into any setback than it did before it was destroyed. Any non-conforming structure may be extended or enlarged, so long as its use is conforming and said expansion or enlargement complies with the minimum setbacks.
- 21.04.C** If a structure in which a non-conforming use is carried out is destroyed to an extent more than fifty percent (50%) of the structure or its replacement value, the non-conforming use shall not be allowed to continue.

## **Section 21.05 – NON-CONFORMING STRUCTURES AND USE IN COMBINATION**

Where, at the time of adoption or amendment to this Zoning Resolution, a lawful structure (i.e. area, lot coverage, height, etc. as described in Section 21.04 herein) and use in combination exists that would not be allowed in the district under the terms of this Resolution, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- 21.05.A** When a non-conforming structure and use in combination is discontinued or abandoned for more than two (2) consecutive years, the structure and use in combination shall not thereafter be used EXCEPT in conformity with the regulations of the district in which it is located.
- 21.05.B** Where non-conforming use status applies to a structure and use in combination, removal or destruction of the structure to an extent more than fifty percent (50%) of the structure or its replacement value shall eliminate the non-conforming use status of the land.

## **Section 21.06 – REPAIRS AND MAINTENANCE**

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done on ordinary repairs, or on repair or replacement of walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became non-conforming shall not be increased EXCEPT as hereinabove provided. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

## **Section 21.07 – RESTORATION**

For the purposes of Article 21 of this Zoning Resolution, “destroyed” refers to damage caused by accidental fire, explosion, flood, wind, earthquake, or other calamity outside the control of the owner or occupant. Such repair or restoration allowed by the provisions of this Article shall be commenced within one hundred and eighty (180) days of such calamity and diligently continued until completed, unless otherwise allowed through a conditional use permit issued by the Board of Zoning Appeals.

**Section 21.08 – SINGLE DWELLING UNIT EXCEPTION**

Notwithstanding the previous provisions of this Article, any one (1) or two (2) family dwelling units located in any use district in Liberty Township may be expanded or enlarged so long as its use is not changed from that of a one (1) or two (2) family dwelling unit. Such expansion or enlargement shall not encroach further into the setback than exists at the location of the non-conforming portion of the structure and shall otherwise be subject to the minimum setback requirements.

**Section 21.09 – EMINENT DOMAIN EXCEPTION**

If non-conformance can be shown to be caused by Eminent Domain, such affected dwelling or accessory building may be expanded or enlarged so long as its use is not changed. Such expansion or enlargement shall not encroach further into the setback than exists at the location of the non-conforming portion of the structure and shall otherwise be subject to the minimum setback requirements.

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## **ARTICLE 22 – TOWNSHIP ZONING INSPECTOR, ZONING PERMITS, AND APPLICATIONS**

### **Section 22.01 – 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 Permit Application with the existing Zoning Map. Pursuant to Section 519.161 of the ORC, the Township Zoning Inspector, before entering upon the duties of his/her office, shall give bond signed by a bonding or surety company authorized to do business in this state, or, at his/her 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 Fiscal Officer. The compensation for such Zoning Inspector shall be set and paid by the Board of Township Trustees.

### **Section 22.02 – ZONING PERMIT REQUIRED**

No structure shall hereafter be located, constructed, reconstructed, enlarged, or structurally altered, nor shall any work be started upon same, nor shall any use of land be commenced or changed until a Zoning Permit for same has been issued by the Liberty Township Zoning Inspector, which Permit shall state that the proposed building and use conform with all the provisions of this Zoning Resolution.

### **Section 22.03 – PROCEDURES FOR OBTAINING ZONING PERMIT**

No Zoning Permit shall be issued by the Township Zoning Inspector until the Zoning Permit 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 Permit shall be issued by the Township Zoning Inspector until the Property Owner for said Zoning Permit has submitted a Plot Plan of the area upon which the Property Owner's use or structure is proposed, construction plans for said project, proof of architectural approval issued by the appropriate authority, and the fees as established by the Board of Trustees. Said Plot Plan, which must be measureable to the scale as listed on the plan, shall show: all existing and proposed structures; structural dimensions at the ground; lot dimensions; side, front, and rear yard setbacks; conformance with all applicable development standards; and a signed Application for Zoning Permit that said Property Owner will conform with all Zoning Regulations then in force for said area. The Application for Zoning Permit shall be signed by the current Property Owner.

### **Section 22.04 – DURATION OF ZONING PERMIT**

No Zoning Permit shall be effective for more than eighteen (18) months unless the use specified in the Permit is implemented in accordance with the approved Plans within the period or timetable attached to the Plans. Extensions in eighteen (18)-month increments may be granted if the Zoning Inspector determines reasonable progress has been made.

### **Section 22.05 – CERTIFICATE OF COMPLIANCE**

It shall be unlawful to use, or occupy, or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance shall have been issued therefore by the Zoning Inspector, stating that the proposed use of the building or land conforms to the requirements of this Zoning Resolution. The Certificate

of Compliance, either the Temporary or the Final, must be obtained prior to the expiration date of the zoning permit. The Certificate of Compliance Application and Checklist must be submitted along with the applicable compliance fees and the final as-built survey.

### **Section 22.06 – TEMPORARY CERTIFICATE OF COMPLIANCE**

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

### **Section 22.07 – NON-CONFORMING USES**

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

### **Section 22.08 – RECORDS**

A record of all Zoning Permits shall be kept on file in the office of the Township Zoning Inspector and shall be open for public review during normal business hours.

### **Section 22.09 – COMPLAINTS**

The Zoning Inspector shall investigate all complaints received from residents alleging illegal activity and shall report all findings to the Township Trustees. The Zoning Inspector may require that all such complaints be submitted in writing and shall be signed by the complaining party.

### **Section 22.10 – ZONING FEES**

The Board of Township Trustees shall prescribe a fee schedule for all zoning-related matters, with such fees collected by the Zoning Inspector. The Board of Township Trustees may amend the fee schedule from time to time when necessary.

## ARTICLE 23 – TOWNSHIP ZONING COMMISSION

### Section 23.01 – TOWNSHIP ZONING COMMISSION

Pursuant to Section 519.04 of the ORC, 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 of such length and so arranged that the term of one (1) member will expire each year. The Board may appoint qualified members of the Regional Planning Commission to serve on the Township Zoning Commission. The time of service of each member shall be limited to two (2) consecutive full terms of five (5) years each. Each regular or alternate member shall serve until the member's successor is appointed and qualified.

Members of the Zoning Commission shall be removable for non-performance of duty, misconduct in office, or other cause by the Board, upon written charge 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 appointed by the Board of Township Trustees and shall be for the unexpired term. Prior to making any appointment to the Township Zoning Commission, the Board of Township Trustees may interview each candidate or applicant for such position. The appointment shall be made by public vote at such hearing or at a later public meeting of the Board of Township Trustees.

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.

### Section 23.02 – ORGANIZATION

The Township Zoning Commission shall organize, electing a Chairperson and Vice Chairperson, and adopt rules in accordance with the provisions of this Zoning Resolution. Meetings of the Zoning Commission shall be held at the call of the Chairman, and at other times as the Zoning Commission may determine. The Zoning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, 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 and shall be a public record. The Board of Township Trustees, the Township Zoning Inspector, and the Township Fiscal Officer shall be notified in advance of all meetings conducted by the Board.

Attendance of three (3) members shall constitute a quorum. The concurring vote of three (3) members of the Zoning Commission shall be necessary to decide in favor of an applicant on any matter which the Board is required to hear under the 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.

### Section 23.03 – COMPENSATION AND EXPENSES

The members of the Township 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 also, within the limits

of moneys appropriated by the Board of Township Trustees for that purpose, employ such executive, professional, technical, and other assistants as it considers necessary.

#### **Section 23.04 – FUNCTIONS OF THE TOWNSHIP ZONING COMMISSION**

The Township Zoning Commission shall initiate or review all proposed amendments to this Zoning 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 in this Zoning Resolution.

The Township Zoning Commission shall organize, adopt Rules of Procedure 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.

The Zoning Commission may request the Regional 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 23.05 – ZONING SECRETARY**

To assist in the administration of this Zoning Resolution, the Township Trustees shall 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 Fiscal Officer may be named to this position and may receive compensation for such services in addition to other compensation allowed by law.

#### **Section 23.06 – MEETINGS AND AGENDA OF TOWNSHIP ZONING COMMISSION**

The Zoning Commission shall establish by rule a schedule for both regular and special meetings. The Commission shall consider all items on the agenda. In the event there are no items on the agenda, no meeting need be held. Special meetings can be called by the Chairperson of the Commission or Chairperson of the Township Trustees upon ten (10) days' written notice to all Commission members. All meetings of the Zoning Commission shall be open to the public.

#### **Section 23.07 – MINUTES**

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

## ARTICLE 24 – AMENDMENTS (ZONING CHANGES)

This Article is intended to be a restatement of Section 519.12 of the ORC (most recently amended July 2, 2010) and is adopted herein for the convenience of the citizens of Liberty Township. Any amendments to Section 519.12 adopted by the Ohio General Assembly shall be considered adopted herein:

### ORC 519.12 – ZONING AMENDMENTS:

(A.)

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

(2.) Upon the adoption of a motion by the Township Zoning Commission, the certification of a resolution by the Board of Township Trustees to the Commission, or the filing of such application by property owners or lessees as described in division (A.)(1.) of this Section with the Commission, the Commission shall set a date for a public hearing, which date shall not be less than twenty (20) nor more than forty (40) days from the date of the certification of such a resolution, the date of adoption of such motion, or the date of the filing of such an application. Notice of such hearing shall be given by the Commission by one (1) publication in one (1) or more newspapers of general circulation in the Township at least ten (10) days before the date of the hearing.

(B.)

If the proposed amendment intends to rezone or redistrict ten (10) or fewer parcels of land, as listed on the Delaware 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 two hundred feet (200') of the perimeter boundaries of such area proposed to be rezoned or redistricted to the addresses of such owners appearing on the Delaware County Auditor's current tax list. The failure of delivery of such notice shall not invalidate any such amendment.

(C.)

If the proposed amendment intends to rezone or redistrict ten (10) or fewer parcels of land, as listed on the Delaware County Auditor's current tax list, the published and mailed notices shall set forth the time, date, and place of the public hearing and shall include all of the following:

- (1.) The name of the Township Zoning Commission that will be conducting the hearing;
- (2.) A statement indicating that the motion, resolution, or application is an amendment to the Zoning Resolution;

- (3.) A list of the addresses of all properties to be rezoned or redistricted by the proposed amendment and of the names of owners of these properties, as they appear on the Delaware County Auditor's current tax list;
  - (4.) The present zoning classification of property named in the proposed amendment and the proposed zoning classification of such property.
  - (5.) The time and place where the motion, resolution, or application proposing to amend the Zoning Resolution will be available for examination for a period of at least ten (10) days prior to the public hearing.
  - (6.) The name of the person responsible for giving notice of the public hearing by publication or by mail, or by both publication and mail.
  - (7.) A statement that, after the conclusion of such hearing, the matter will be submitted to the Board of Township Trustees for its action.
  - (8.) Any other information requested by the Zoning Commission.
- (D.) If the proposed amendment alters the text of the Zoning Resolution or rezones or redistricts more than ten (10) parcels of land, as listed on the Delaware County Auditor's current tax list, the published notice shall set forth the time, date, and place of the public hearing and shall include all of the following:
- (1.) The name of the Zoning Commission that will be conducting the public hearing on the proposed amendment.
  - (2.) A statement indicating that the motion, application, or resolution is an Amendment to the Zoning Resolution.
  - (3.) The time and place where the text and maps of the proposed amendment will be available for examination for a period of at least ten (10) days prior to the public hearing.
  - (4.) The name of the person responsible for giving notice of the public hearing by publication.
  - (5.) A statement that, after the conclusion of such hearing, the matter will be submitted to the Board of Township Trustees for its action.
  - (6.) Any other information requested by the Zoning Commission.
- (E.) Within five (5) days after the adoption of such motion described in division (A.) of this Section, the certification of such resolution described in division (A.) of this Section, or the filing of the application described in division (A.) of this Section, the Township Zoning Commission shall transmit a copy of it together with text and map pertaining to it to the Delaware County Regional Planning Commission. The Regional Planning Commission shall recommend the approval or denial of the

proposed amendment or the approval of some modification of it and shall submit its recommendation to the Township Zoning Commission. The recommendation shall be considered at the public hearing held by the Township Zoning Commission on the proposed amendment.

The Township Zoning Commission, within thirty (30) days after the hearing, shall recommend the approval or denial of the proposed amendment, or the approval of some modification of it, and submit that recommendation together with the motion, application, or resolution involved, the text and map pertaining to the proposed amendment, and the recommendation of the Regional Planning Commission on it to the Board of Township Trustees.

The Board of Township Trustees, upon receipt of such recommendation, shall set a time for a public hearing on the proposed amendment, which date shall not be more than thirty (30) days from the date of the receipt of that recommendation. Notice of the hearing shall be given by the Board by one (1) publication in one (1) or more newspapers of general circulation in the Township, at least ten (10) days before the date of the hearing.

(F.) 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, the published notice shall set forth the time, date and place of the public hearing and shall include all of the following:

- (1.) The name of the Board of Township Trustees that will be conducting the hearing.
- (2.) A statement indicating that the motion, resolution, or application is an amendment to the Zoning Resolution.
- (3.) A list of the addresses of all properties to be rezoned or redistricted by the proposed Amendment and of the names of owners of these properties, as they appear on the Delaware County Auditor's current tax list.
- (4.) The present zoning classification of property named in the proposed Amendment and the proposed zoning classification of such property.
- (5.) The time and place where the motion, resolution, or application proposing to amend the Zoning Resolution will be available for examination for a period of at least ten (10) days prior to the public hearing.
- (6.) The name of the person responsible for giving notice of the public hearing by publication or by mail, or by both publication and mail.
- (7.) Any other information requested by the Board.

(G.) If the proposed amendment alters the text of the Zoning Resolution, or rezones or redistricts more than ten (10) parcels of land as listed on the Delaware County Auditor's current tax list, the published notice shall set forth the time, date, and place of the public hearing, and shall include all of the following:

- (1.) The name of the Board that will be conducting the public hearing on the proposed Amendment.

- (2.) A statement indicating that the motion, resolution, or application is an Amendment to the Zoning Resolution.
  - (3.) The time and place where the text and maps of the proposed Amendment will be available for examination for a period of at least ten (10) days prior to the public hearing.
  - (4.) The name of the person responsible for giving notice of the hearing by publication.
  - (5.) Any other information requested by the Board.
- (H.) Within twenty (20) days after its 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 denies or modifies the recommendation of the Township Zoning Commission, a majority vote of the Board shall be required.

The proposed amendment, if adopted by the Board, shall become effective thirty (30) days after the date of its adoption, unless, within thirty (30) days after the adoption, 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, or part of that unincorporated area included in the Zoning Plan equal to not less than eight percent (8%) of the total vote cast for all candidates for governor in that area at the most recent general election at which a governor was elected, requesting the Board of Township Trustees to submit the amendment to the electors of that area for approval or rejection at a special election to be held on the day of the next primary or general election that occurs at least ninety (90) days after the petition is filed. Each part of this petition shall contain the number and the full and correct title, if any, of the zoning amendment, resolution, motion, or application, furnishing the name by which the amendment is known and a brief summary of its contents. In addition to meeting the requirements of this Section, each petition shall be governed by the rules specified in Section 3501.38 of the ORC.

The form of a Petition calling for a Zoning Referendum and the statement of the circulator shall be substantially as follows:

***"PETITION FOR ZONING REFERENDUM"***

*(If the proposal is identified by a particular name or number or both, these should be inserted here.)*

*A proposal to amend the Zoning Map of the unincorporated area of \_\_\_\_\_ Township, \_\_\_\_\_ County, Ohio, Adopted \_\_\_\_\_ (date) \_\_\_\_\_. (followed by a brief summary of the proposal.)*

*To the Board of Township Trustees of \_\_\_\_\_ Township, \_\_\_\_\_ County, Ohio:*

*We, the undersigned, being electors residing in the unincorporated area of \_\_\_\_\_ Township, included within the \_\_\_\_\_ Township Zoning Plan, equal to not less than eight percent (8%) of the total vote cast for all candidates for governor in the area at the preceding general election at which a governor was elected, request the Board of Township Trustees to submit this amendment of the Zoning Resolution to the electors of \_\_\_\_\_ Township residing within the unincorporated area of the Township included in the \_\_\_\_\_ Township Zoning*

*Resolution, for approval or rejection at a special election to be held on the day of the next primary or general election to be held \_\_\_\_\_ (date) \_\_\_\_\_ pursuant to Section 519.12 of the Ohio Revised Code.*

*Signature, Street Address or R.F.D, Township, Precinct, County, Date of Signing*

**STATEMENT OF CIRCULATOR**

*I, \_\_\_\_\_ (name of circulator) \_\_\_\_\_ declare under penalty of election falsification that I am an elector of the State of Ohio and reside at the address appearing below his/her signature hereto; that I am the circulator of the foregoing part petition containing \_\_\_\_\_ (number) \_\_\_\_\_ signatures; that I have witnessed the affixing of every signature; that all signers were to the best of my knowledge and belief qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to Section 3501.382 of the Revised Code.*

*(Signature of Circulator)*

*(Address of Circulator's permanent residence in this state)*

*(City, village, or Township and Zip Code)*

**WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE."**

The petition shall be filed with the Board of Township Trustees and shall be accompanied by an appropriate map of the area affected by the zoning proposal. Within two (2) weeks after receiving a petition filed under this Section, the Board of Township Trustees shall certify the petition to the Board of Elections. A petition filed under this Section shall be certified to the Board of Elections not less than ninety (90) days prior to the election at which the question is to be voted upon.

The Board of Elections shall determine the sufficiency and validity of each petition certified to it by a Board of Township Trustees under this Section. If the Board of Elections determines that a petition is sufficient and valid, the question shall be voted upon at a special election to be held on the day of the next primary or general election that occurs at least ninety (90) days after the date the petition is filed with the Board of Township Trustees, regardless of whether any election will be held to nominate or elect candidates on that day.

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

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 County Recorder and with the Regional Planning Commission.

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 this Section does not invalidate the amendment and is not grounds for an appeal of any decision of the Board of Zoning Appeals.

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## ARTICLE 25 – BOARD OF ZONING APPEALS

### Section 25.01 – BOARD OF ZONING APPEALS

Pursuant to Section 519.13 of the ORC, 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 Liberty Township included in the area zoned by this Zoning Resolution. The terms of all members shall be five (5) years in length and so arranged that the term of one (1) member will expire each year. The time of service of each member of the Board of Zoning Appeals shall be limited to two (2) consecutive full terms. Each regular or alternate member shall serve until the member's successor is appointed and qualified.

Members of the Board of Appeals shall be removable for the reason specified and in compliance with the procedure established in ORC Chapter 519. Vacancies shall be appointed by the Board of Township Trustees and shall be for the unexpired term. Prior to making any appointment to the Board of Zoning Appeals, the Board of Township Trustees may interview each candidate or applicant for such position. The appointment shall be made by public vote at such hearing or at a later public meeting of the Board of Township Trustees.

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, an alternate member may vote on any matter on which the absent member is authorized to vote. Alternate members shall be removable for the same causes and in the same manner as regular members, as provided by Section 519.04 of the ORC.

### Section 25.02 – ORGANIZATION

The Board of Zoning Appeals shall organize, electing a Chairperson and Vice Chairperson, 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 other times as the Board of Zoning Appeals may determine. The Chairperson, or designee, may administer oaths and the Board of Zoning Appeals may compel attendance of witnesses. 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 and shall be a public record. The Board of Township Trustees, the Township Zoning Inspector and the Township Fiscal Officer shall be notified in advance of all meetings conducted by the Board.

Attendance of three (3) members of the Board of Zoning Appeals shall constitute a quorum.

### Section 25.03 – 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 moneys appropriated by the Board of Township Trustees for the purpose, employ such executive, professional, technical, and other assistants as it considers necessary.

### Section 25.04 – FUNCTIONS OF THE BOARD OF ZONING APPEALS

Pursuant to Section 519.14 of the ORC, the Township Board of Zoning Appeals may exercise the following powers and perform the following functions:

- 25.04.A** Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of Sections 519.02 to 519.25 of the ORC, or of any resolution adopted pursuant thereto, including this Zoning Resolution.
- 25.04.B** Authorize, upon appeal, in specific cases, such Variance from the terms of the Zoning Resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the Zoning Resolution will result in unnecessary hardship, and so that the spirit of the Zoning Resolution shall be observed and substantial justice done.
- 25.04.C** Authorize, in specific cases, Variances that relate solely to Area requirements as defined in 25.06.C herein and Use requirements as defined in Section 25.06.B herein.
- 25.04.D** Grant conditional Zoning Permits for the use of land, buildings or other structures if such uses are provided for in the Zoning Resolution. If the Board considers conditional Zoning Permits for activities that are permitted and regulated under Chapter 1514 of the ORC or activities that are related to making finished aggregate products, the Board shall proceed in accordance with Section 519.141 of the ORC.
- 25.04.E** Revoke an authorized variance or conditional Zoning Permit granted for the extraction of minerals, if any condition of the variance or Permit is violated. The Board shall notify the holder of the variance or Permit by certified mail of its intent to revoke the variance or Permit under Division E of this Section, and of his/her right to a hearing before the Board, within thirty (30) days of the mailing of the notice, if he/she 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/her attorney, or by other representative, or he/she may present his/her position in writing. He/she may present evidence and examine witnesses appearing for or against him/her. If no hearing is requested, the Board may revoke the variance or Permit without a hearing. The authority to revoke a variance or Permit is in addition to any other means of zoning enforcement provided by law.

In exercising the above-mentioned powers, 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 25.05 – PROCEDURE ON HEARING APPEALS**

Pursuant to Section 519.15 of the ORC, 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. All Applications for Appeal under this Section shall be submitted on such forms as designated by the Zoning Inspector. A fee, the amount of which is established by the Board of Trustees, shall accompany a Notice of Appeal. The Zoning Inspector, from whom the appeal is taken, shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give at least ten (10) days' written notice by ordinary mail to the parties in interest, give notice of such public hearing by one (1) publication in a newspaper of general circulation within the

Township at least ten (10) days before the date of such hearing, and decide the appeal within a reasonable time after it is submitted. At the hearing, any person may appear in person or by attorney.

## **Section 25.06 – PROCEDURE ON APPLICATION FOR USE AND AREA VARIANCE**

The Board of Zoning Appeals may, in appropriate cases and subject to appropriate conditions and safeguards, vary the strict application of the terms of this Zoning Resolution in harmony with its general purpose and intent, in accordance with the specific rules contained herein.

- 25.06.A** Public Notice: Written application for a Use or Area 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 cause a public hearing to be held. The Board of Zoning Appeals shall give written notice by ordinary mail to 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 one (1) time, ten (10) days in advance of the time set for the public hearing, in a newspaper 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.
- 25.06.B** Use Variance: At such hearing, the applicant shall present a statement and adequate evidence in such form as the Township Board of Zoning Appeals may require. The Board of Zoning Appeals shall not grant a Use Variance unless it finds that all of the following conditions apply to the case in question:
- 25.06.B.1** There are special circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions were not created by the applicant.
- 25.06.B.2** The granting of a Variance application is necessary for the preservation and enjoyment of substantial property rights.
- 25.06.B.3** The granting of the application will not materially and adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be materially detrimental to the public welfare, or injurious to property or improvements in such neighborhood.
- 25.06.C** Area Variance: The Board of Zoning Appeals shall not grant an Area Variance unless the property owner has encountered practical difficulties in the use of his/her property. The factors to be considered and weighed by the Board are:
- 25.06.C.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.
- 25.06.C.2** Whether the Variance is substantial.
- 25.06.C.3** Whether the essential character of the neighborhood would be substantially altered, or whether adjoining properties would suffer a substantial detriment, as a result of the Variance.

- 25.06.C.4** Whether the Variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage).
- 25.06.C.5** Whether the property owner purchased the property with knowledge of the zoning restriction.
- 25.06.C.6** Whether the property owner's predicament can be obviated feasibly through some method other than a Variance.
- 25.06.C.7** Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the Variance.

In granting any Variance under the provisions of this Section, the Board of Zoning Appeals shall designate any related conditions that, in its opinion, will substantially secure the objectives of the regulations or provisions in the application on which the Variance is granted.

- 25.06.D** 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 the requested Variance.

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.

- 25.06.E** Form of Application: All Applications for Use and Area Variances under this Section shall be submitted on such forms as designated by the Zoning Inspector and shall be signed by the current property owner. No application will be considered unless the same is fully completed and accompanied by all required information listed on said Application.

Failure to comply with the terms of a Use or Area Variance shall be regarded as a violation of this Zoning Resolution, and the sanctions may include revocation of such Variance after due process.

## **Section 25.07 – PROCEDURE ON APPLICATION FOR CONDITIONAL USE PERMIT**

The owner of any land or building in 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.

- 25.07.A** Application: An application for Conditional Use Permit shall be submitted on such forms as designated by the Zoning Inspector and shall be signed by the current property owner. A Site Plan shall be prepared and attached to each application together with plat plans and/or drawings as necessary. No application shall be considered unless the same is fully completed and accompanied by all required information on said Application.
- 25.07.B** Hearing: The application shall be transmitted to the Board of Zoning Appeals who shall cause a public hearing to be held.

- 25.07.C** Notice: Notice of the application for Conditional Use Permit and the hearing thereof 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 (1) 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 the time and place of the meeting as well as the general nature of the Conditional Use request.
- 25.07.D** Decision: The Board shall make its decision within a reasonable time after the hearing. In the event the Board approves the Conditional Use Permit, it may impose such reasonable conditions as it considers necessary to ensure that the use will be conducted in the best interest of the Zoning District. All Conditional Use Permits must be developed in accordance with the approved application.

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:

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

Failure to comply with the terms of a Conditional Use Permit shall be regarded as a violation of this Zoning Resolution and the sanctions may include revocation of such Permit after due process.

## **Section 25.08 – DECISION OF BOARD**

Within a reasonable period of time after the conclusion of the hearing, the Board of Zoning Appeals shall issue its decision based upon the criteria of and in accordance with the Zoning Resolution. A copy of the Board's decision, shall be mailed to the Applicant by ordinary mail. 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 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.

### **Section 25.09 – ZONING SECRETARY**

The Township Trustees shall appoint a Zoning Secretary to perform such duties as required by the Board of Zoning Appeals and described in this Zoning Resolution.

### **Section 25.10 – PUBLIC INFORMATION**

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

### **Section 25.11 – RECORD**

For any hearing at which the applicant desires a record to be made, other than that already prepared by the Township Zoning Secretary, said applicant may retain at his/her own expense a court reporter to make such record. In all hearings wherein no such request has been made for a record, the minutes of the Township Zoning Secretary of the Board of Zoning Appeals shall serve as the sole transcript.

### **Section 25.12 – FEES TO ACCOMPANY NOTICE OF APPEAL, 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 set annually and shall be required generally for each application to defray the costs of advertising, mailing, and other expenses. The Zoning Department shall have no authority to modify or waive such fees.

## **ARTICLE 26 – ENFORCEMENT**

### **Section 26.01 – 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 Zoning Resolution, adopted by the Liberty Township Board of Township Trustees pursuant to ORC Chapter 519. 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 26.02 – REMEDIES**

Pursuant to Section 519.24 of the ORC, 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 ORC Chapter 519, or of this Zoning Resolution or Amendments hereto adopted by the Liberty Township Board of Township Trustees under such Zoning 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 26.03 – PENALTY**

Whoever violates the provisions of this Zoning Resolution shall be fined not more than five hundred dollars (\$500.00) for each offense as per Section 26.01 – Violations.

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## **ARTICLE 27 – SEVERABILITY AND REPEAL**

### **Section 27.01 – SEVERABILITY**

If for any reason any one (1) 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 Articles, Sections, sentences, clauses, or parts of this Zoning Resolution held invalid and the invalidity of any Section, sentence, clause, or part of this Zoning Resolution in any one (1) or more instances shall not attest to or prejudice in any way the validity of this Zoning Resolution in any other instance.

### **Section 27.02 – REPEAL**

This Zoning Resolution may be repealed only by complying with the requirements of ORC Chapter 519 as amended.

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