

INTRODUCTION

ZONING RESOLUTION FOR AUSTINTOWN TOWNSHIP MAHONING COUNTY, OHIO

Whereas, the Board of Trustees of Austintown Township, Mahoning County, Ohio, has deemed it necessary to promote the public health, safety, morals, and general welfare for the residents of said Township; and,

Whereas, a Zoning Resolution for the building and land use within the unincorporated territory of the Township was adopted in 1948, in accordance with Section 519.10 and related sections of the OHIO REVISED CODE; and,

Whereas, five (5) persons have been duly appointed by the Board of Trustees of Austintown Township to serve as a Zoning Commission for said Township; and,

Whereas, said Zoning Commission has recommended the complete revision of the Austintown Township Zoning Resolution and Official Zoning Map, and have submitted such amendments and map to the Board of Trustees of Austintown Township under the authority and in accordance with the provisions of Section 519.12 of the OHIO REVISED CODE on January 5, 2023.

Therefore, the Board of Trustees of Austintown Township did adopt the amendments to the Zoning Resolution and Map on February 6, 2023, under the authority and in accordance with the provisions of the OHIO REVISED CODE and said amendments became effective on March 8, 2023.

PURPOSE

Pursuant to Ohio Revised Code Chapter 519, the Austintown Township Board of Trustees hereby adopts this Resolution for the purposes stated within Ohio Revised Code Section 519.02, as follows:

For the purpose of promoting the public health, safety, and morals, the Board of Trustees may, in accordance with a comprehensive plan, regulate by resolution the location, height, bulk, number of stories, and size of buildings and other structures, including tents, cabins, and trailer coaches, percentages of lot areas which may be occupied, set back building lines, sizes of yards, courts, and other open spaces, the density of population, the uses of buildings and other structures including tents, cabins, and trailer coaches, and the uses of land for trade, industry, residence, recreation, or other purposes in the unincorporated territory of such Township, and for such purposes may divide all or part of the unincorporated territory of the Township into districts or zones of such number, shape, and area as the Board determines. All such resolutions shall be uniform for each class or kind of building or other structure or use throughout any district or zone, but the resolutions in one district or zone may differ from those in other districts or zone.

DISTRICTS CREATED

The Austintown Township Board of Trustees accepts and adopts as a part of this resolution, the Zoning Map of Austintown Township, which shall be drawn to scale and shall clearly define the boundaries of the following districts which shall be established within this resolution:

AGRICULTURAL-SUBURBAN ESTATE (A-SER)

To protect the decreasing supply of prime agricultural land and open space and to permit a degree of low-density-single-family dwellings.

RESIDENCE R-1

To encourage the establishment of low-density-single-family dwellings.

RESIDENCE R-2

To permit the establishment of medium density one and two family dwellings.

RESIDENCE R-3

To permit the establishment of medium density multiple family dwellings.

RESIDENCE R-4

To encourage the development of mobile home parks in a well-planned environment.

BUSINESS B-1

To encourage the establishment of professional, administrative, clerical and similar uses which have no retail trade on the premises.

BUSINESS B-2

To encourage the establishment of areas for general business uses to meet the needs of a regional market area.

BUSINESS B-3

Vacated – Amendment 2022-04-Z-February 6, 2023

INDUSTRIAL I-1

To encourage the development of establishments for light industrial, storage and warehousing.

INDUSTRIAL I-2

To encourage the development of major manufacturing, processing, warehousing and major research and testing operations.

PLANNED UNIT DEVELOPMENT (PUD) DISTRICT

To promote progressive development of land and construction thereon by encouraging a maximum of living environments by allowing a variety of housing and building types.

ZONING DISTRICTS MAP

The districts and their boundary lines are indicated upon a map entitled "ZONING MAP OF AUSTINTOWN TOWNSHIP", Mahoning County, Ohio, herein after referred to as the "Zoning Map". Said Zoning Map is incorporated herein by reference and made a part of this Resolution as if fully rewritten herein. The said Zoning Map, together with all notations, references, and other matters shown thereon are hereby declared a part of this resolution. If changes are made in district boundaries or other matter portrayed on the Zoning Map, such changes shall be entered on the Zoning Map on the effective date of the amendment.

INTERPRETATIONS

Except when otherwise indicated by dimensions or fixed boundaries shown on the Zoning Map, the depth of residential and business frontage is established for the purposes of this ordinance at one-hundred fifty (150) feet. Where a district boundary line divides a lot in a single ownership, existing at the time of enactment of this ordinance, the use authorized on, and the district requirements of the least restrictive portion of such lot shall be construed as extending to the entire lot, provided that such extension shall not include any part of the lot which is more than fifty (50) feet from the district boundary line.

An entrance or drive shall not be used for any purpose zoned differently than the property through which it might pass through.

Nothing in the following provisions, or in the entire ordinance shall prevent the use of any land for the following, providing the yard, area and height requirements for the district are met; however, a zoning permit shall be issued, and a fee paid where applicable, for all structures incidental to these uses:

Agricultural purposes or the construction or use of building or structures incidental to the use for agricultural purposes of the land on which such buildings or structures are located;

Governmental and Public buildings including public parks, public schools, public libraries and all buildings and lands used for function of governmental agencies;

Public Service Facility (Public Utility) - the erection, construction, alteration, operation, or maintenance of buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and other similar public service structures by a public utility, by a railroad, whether publicly or privately owned, or by a governmental agency which furnishes electrical, gas, rail transport, communications and public water and sewage service.

ARTICLE I - DEFINITIONS

ABANDONED MOTOR VEHICLE - Any motor vehicle or accessory to same, which is dismantled or stored in a yard area, and which does not have a current valid license thereon.

ACCESS DRIVEWAY - An entrance or exit from a public thoroughfare to any business, business/commercial or industrial complex, or multi-dwelling structure.

ACCESSORY BUILDING - A subordinate building, the use of which is customarily incidental to that of the main building, and which is located on the same lot or parcel of land.

ACCESSORY USE - A gainful occupation or use, not otherwise contrary to law, customarily incidental to the use of building for dwelling purposes.

ACRE - Land area, equal to 43,560 square feet, measured on the horizontal plane, and including land occupied by all natural and man-made features of the landscaping.

AGRICULTURE - The use of land for farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture and animal and poultry husbandry. The above uses shall not include the feeding or sheltering of animals, exclusive of domesticated household pets, within one hundred (100) feet of an adjacent residential dwelling.

AIRPORT - Any runway, land area or other facility designed or used whether publicly or privately by any person for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary building and open spaces.

ALTERATION OF BUILDING - Any change in supporting members of a building except such changes as may be required for its safety; any addition to a building, any change in use from one district classification to another, or removal of a building from one location to another.

AMATEUR RADIO ANTENNAS - Any transmitter, antenna, tower, or other apparatus designed for communications through amateur radio, also referred to as ham radio.

ANIMAL HUSBANDRY - The keeping or raising of domestic animals incidental to the use of land for agricultural purposes permitted under the above definition of agriculture.

AUTOMOBILE SERVICE STATION - A place where gasoline, kerosene, or any other motor fuel or lubricating oil or grease is offered for sale to the public or deliveries are made directly into motor vehicles.

AUTOMOBILE WRECKING YARD - The use of more than twenty-five (25) square feet of any land, building or structure for the purpose of wrecking, dismantling, or storing, for private and/or commercial purposes, any unlicensed motor vehicle or various parts thereof.

BANNER SIGN - A sign made of fabric or any non-rigid material with no enclosing framework.

BAR-an establishment providing on-premises consumption of liquor and alcoholic beverages.

BASEMENT - A story, any wall of which, is all or partially below the ground level of the adjoining ground.

BED AND BREAKFAST ESTABLISHMENT - Any place of lodging that provides four or fewer rooms for rent on a temporary basis, is the owner's personal residence, is occupied by the owner at the time of rental, and where meals may be served to guests.

BILLBOARD - Same as "Outdoor Advertising Sign".

BOARDING HOUSE OR ROOMING HOUSE - A dwelling, other than a hotel, wherein more than three (3) people are sheltered or fed for profit.

BOARDING AND TRAINING KENNELS - Any lot or premises used for the boarding and/or training of domesticated animals, other than the animals owned by the person residing on the premises.

BREW PUB - an establishment selling beer brewed on the premises.

BUFFERING - An area that is established on a parcel of land for the purpose of promoting the health, safety and general welfare; and to further protect the aesthetic values of adjoining property.

BUILDING, FRONT LINE OF - The line of the foundation of the building nearest the front line of the lot. This foundation line includes enclosed sun parlors and enclosed porches, but excludes unenclosed porches.

BUILDING, HEIGHT OF - The vertical distance measured from the highest ground elevation at the structure to the highest point of the structure, excluding chimneys, vent stacks, satellite earth station dishes, and antennae.

BUILDING MATERIALS YARD - An establishment, the primary use of which is the wholesaling of lumber and other building construction materials and supplies. This definition does not include a large format retail store.

CARPORT - A covered automobile parking space not completely enclosed by walls or doors. A carport shall be subject to all provisions prescribed in these Resolutions for a private garage or accessory building.

CREMATORY - a place where a dead person's body is cremated to reduce (a dead body) to mostly tiny bits of bones resembling ash through exposure to flame and intense heat followed by pulverization of bone fragments.

CEMETERY - Land used or intended to be used for the burial of the human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries, if operated in connection with and within the boundaries of such cemetery.

CENTER LINE OF STREET - A line midway between and parallel to the two (2) street or property lines.

CERTIFICATE OF OCCUPANCY (OCCUPANCY PERMIT) - A required certificate to be obtained from the Zoning Inspector before the occupancy or change of occupancy for any use permitted in Austintown Township.

CLINIC - A place used for the care, diagnosis and treatment of sick, ailing infirm, or injured persons, and those who are in need of medical and surgical attention who may be provided with board or room or kept overnight on the premises.

CLUB - A building or portion thereof or premises owned or operated by a person for a social, literary, political, educational or recreational purpose, primarily for the exclusive use of members and their guests.

COMMERCIAL ENTERTAINMENT FACILITIES - Any profit making activity which is generally related to the entertainment field, such as motion picture theaters, carnivals, night clubs, cocktail lounges and similar entertainment activities.

COMMERCIAL VEHICLE - Any vehicle utilized in a business or profit making venture designed to carry materials and/or personnel, such as but not limited to a van, a pickup truck, a stakebodied truck or such similar vehicle used for business purposes.

COMMON OPEN SPACE - A parcel of land or area of water intended for the use and enjoyment of the occupants of a PUD. It may contain structures and improvements appropriate for the use and enjoyment of the occupants.

CONDITIONAL USE - A use permitted within a district other than a principally permitted use, requiring a conditional use permit and approval of the Board of Zoning Appeals. Permit for said use to be issued by the Zoning Inspector when approved by the Board of Zoning Appeals.

CONDOMINIUM - A building or group of buildings in which units are individually owned but the structure, common areas and facilities are owned on a proportional, undivided basis by all of the owners, in accordance with ORC Section 5311.01.

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

CUL-DE-SAC - An enlarged area of any street intended to be used for the turning of emergency and/or other vehicles. Usually located at the end of a street or at the intersection of two streets.

DAY CARE - Ministering to the needs of persons other than by their children, parents, guardians, custodians, or relatives for any part of the twenty-four-hour day, in a place other than the persons own home, in accordance with ORC Section 5104.01 et seq.

DENSITY - A measurement expressing the number of units per parcel of land.

DIRECTIONAL SIGN - An on-premises sign giving directions, which may contain the name or logo of an establishment, but no advertising copy.

DISTRICTS - A part, zone, or geographic area within Austintown Township within which certain zoning or development regulations apply.

DRIVEWAY - A hard surfaced access route that leads from a public thoroughfare to a dwelling unit, garage or parking area.

DUMP - Land used for the disposal by abandonment, dumping, burial, burning or any other means, and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

DWELLING - Any building or structure (except a house trailer or mobile home) which is wholly or partly used or intended to be used for living or sleeping by one or more human occupants.

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

DWELLING - SINGLE FAMILY - A dwelling consisting of a single dwelling unit only, separated from other dwelling units by open space.

DWELLING - TWO FAMILY - A dwelling consisting of two dwelling units which may be either attached side by side or one above the other, and each unit having a separate or combined entrance or entrances.

DWELLING - MULTI-FAMILY - A dwelling consisting of three (3) or more dwelling units, including condominiums, with varying arrangements of entrances and party walls.

DWELLING - ROOMING HOUSE - (Boarding House-Lodging House-Dormitory) - A dwelling or part thereof, other than a hotel, motel or restaurant, where meals and/or lodging are provided for compensation for more than three (3) unrelated persons where no cooking or dining facilities are provided in the individual rooms.

DWELLING - FRONT SET BACK - The front foundation wall of a dwelling shall be set back and placed parallel to the front line of the lot.

EASEMENT - Authorization by a property owner for the use by another, for a specified purpose, of any designated part of his or her property.

EFFECTIVE DATE - The date that these resolutions or any subsequent revisions take effect.

ELECTRONIC MESSAGE CENTER - A sign designed so that the characters, letter or illustrations can be changed or rearranged automatically on a lamp-bank or through mechanical means (e.g. electronic or digital signs).

ENTRANCE - The terminus of any access driveway or driveway which intersects with a dedicated public right-of-way or non-dedicated private drive.

EXPOSED STORAGE (VEHICLES): A vehicle stored in an exposed manner shall include any motor vehicle stored in a yard area, within plain view or covered, not stored within a garage or building.

FAMILY - One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, adoption or marriage, no such family shall contain over three (3) persons.

FESTOONS - A piece of fabric with a distinctive design or advertisement used to attract attention to a business or permitted use.

FLOOR AREA - The sum of the gross horizontal areas of the one or several stories of a building, measured from the exterior faces of exterior walls or from the centerline of common walls separating two (2) buildings or sections of buildings. Floor area, for the purposes of these resolutions, shall not include unfinished basements, elevators, attic spaces, terraces, breezeways, open porches, decks, uncovered steps, and/or garages.

FRONT YARD - The space between the building line or front main wall of a building, exclusive of open porches, and the front property line.

FLOOR SHOW - a series of acts presented in a nightclub.

FUNERAL HOME, FUNERAL PARLOR or MORTUARY - a business that provides burial and funeral services for the dead and their families. These services may include a prepared wake and funeral, and the provision of a chapel for the funeral.

GARAGE or ESTATE SALES - Sales by residents of used or surplus personal possessions including, but not limited to all sales entitled garage, yard, lawn, basement, attic, porch, room, tent, backyard, patio, or moving. This term shall include garage sales, lawn sales, attic sales, rummage sales or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large can be made aware of such sale.

GOVERNMENT SIGN - Any temporary or permanent sign erected and maintained by the township, county, state or federal government for traffic direction or for designation of or direction to any school, hospital, historical site, public service, property or facility.

GOVERNMENTAL AND PUBLIC BUILDINGS - Public parks, public schools, public libraries and all buildings and lands used for the functions of governmental agencies.

HALF-STORY - A half-story as applied to dwellings shall consist of living quarters above the first floor, containing not less than one-half of the area of the floor area below measured between knee walls of not less than four (4) feet in height, and with a main ceiling height of seven feet in the center section.

HEAVY EQUIPMENT - Equipment used for business purposes, including vehicles such as cranes, backhoes, bulldozers, earth-moving equipment, power shovels and related equipment; and fixed equipment used for business purposes such as a press or other such production machinery and related items used for business purposes.

HOME OCCUPATION - Any use or profession customarily conducted entirely within a dwelling and carried on only by an inhabitant thereof, which use is clearly incidental, and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

HOSPITAL - Any building or other structure containing beds for at least four (4) patients and devoted to the medical diagnosis, treatment, or other care of human ailments.

HOTEL - A building in which lodging, or boarding and lodging are provided for five (5) or more guest rooms and offered to the public for compensation. Ingress and egress to and from all rooms shall be provided through an inside lobby.

IMPERVIOUS SURFACE - Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to buildings, roofs, parking areas, driveways, sidewalks, and pavement.

INSTITUTIONS - Buildings and/or land designed to aid individuals in need of mental, therapeutic, rehabilitative, counseling or other correctional services.

INTIMATE APPAREL AND ADULT PRODUCT SHOP - a retail establishment specializing in the sale of a variety of intimate apparel, and goods and materials including but not limited to sexually explicit merchandise, instruments, devices, adult novelty items, and adult toys made or

designed to appeal to erotic or sexual appetites. Nothing in this definition shall be construed to include any pharmacy, drug store, general mass-merchandise retailer, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

JUNK YARD - Any land, property, structure, building, or combination of the same, on which worn out, dismantled, or inoperative vehicles or parts are collected for use or sale, including old machinery, appliances, equipment and various types of metals or other solid material.

LANDSCAPING - As pertaining to a buffer zone, shall include living, perennial plantings at least six (6) feet high, forming an obstruction of vision. This planting shall conform to the restrictions at an intersection described elsewhere.

LIVABLE FLOOR AREA, MINIMUM - The sum of the net areas customarily used as living space. This area shall not include a basement, garage, open porch, deck, and/or uncovered steps.

LOADING SPACE/DELIVERY AREA - An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a vehicle while loading or unloading merchandise or materials. Required off-street loading space is not to be included in computation of required off-street parking spaces. All off-street loading spaces shall be located totally outside of any street right-of-way.

LOT - A parcel of land occupied by, or which may be occupied by, a building and accessory buildings and including the yards and other open spaces required by this ordinance or the land shown as a separate lot or parcel on the records of Mahoning County.

LOT AREA - The computed area contained within the lot lines. Where the lot has been conveyed to the center of the street, the area of the lot between such centerline and the established street right-of-way shall not be included as part of the area for the purpose of these resolutions.

LOT LINES - The property lines defining the limits of a lot.

LOT LINE, FRONT - The line separating a lot from the street right-of-way on which the lot fronts. On a corner lot, the lot lines on both streets shall be considered as front lot lines.

LOT LINE, REAR - The lot line most distant from the front lot line and most nearly parallel to it.

LOT LINE, SIDE - Any lot line other than a front or rear lot line.

LOT, WIDTH - The distance from one side lot line to the other measured at the front property line. On a corner lot, the width shall be measured parallel to the primary street lot line. A lot on a curvilinear street or on a cul-de-sac has a minimum width measured as a chord to the curved front lot line.

MEDICATION MAINTENANCE FACILITY OR DISPENSARY -

A facility or use where any form of prescription medication is dispensed to patients, by a doctor, for use or consumption on-site as opposed to a pharmacy that dispenses prescription medication for use at home. Such use shall not include a "medical marijuana dispensary." Such use may include, but is not limited to, methadone treatment facilities as licensed by the State of Ohio.

MICRO-BREWERY - A limited-production brewery, typically producing specialty beers and often selling its products on-site or locally.

MINERALS - Sand, gravel, clay, shale, gypsum, halite, limestone, dolomite, sandstone, other stone, metalliferous, or non-metalliferous ore, other mineral or substance of commercial value excavated in a solid state from natural deposits on or in the earth, but does not include coal, peat, or top soil.

MINIMUM LOT AREA - The minimum area of a lot as defined in these resolutions or as superseded by Mahoning County Planning Commission regulations or laws of the State of Ohio.

MINIMUM SETBACK LINE (FRONT YARD) - A line equidistant from the street right-of-way line, at a distance prescribed in each district, denoting the front edge of the allowable building area, and extending across the full width of the lot.

MOBILE HOME - Any non-self-propelled structure transportable in one or more sections which, when placed on a site has six hundred (600) or more square feet in livable square floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

MOBILE HOME LOT - The portion of a mobile home park designed for the use or occupancy of one mobile home.

MOBILE HOME PARK - A tract of land used for the parking of mobile homes together with the necessary improvements and facilities upon the land.

MORTUARY - A place, especially a funeral home, where dead bodies are kept prior to burial or cremation.

MOTEL - A building or group of buildings, used for sheltering of transients, and which may include such accessory uses as restaurants, newstands, and gift shops.

MOTOR HOME - Any self-propelled motor vehicle, readily movable, with a basic purpose of providing temporary housing at various locations.

NAMEPLATE - A non-electric on-premise identification sign giving only the name, address and/or occupation.

NIGHT CLUB - A place of entertainment open at night usually serving food and liquor and providing music and space for dancing and often having a floor show. Dress codes may apply. Patrons are usually required to dress nicely with a dress shirt, jeans or dress pants and acceptable shoes.

NON-CONFORMING USE - Any building or land lawfully occupied by a use on the effective date of these resolutions or any amendment or supplement thereto, which does not conform to the use resolutions of the district in which it is situated.

NURSERIES OR GREENHOUSES - An establishment used for the growing, storage, and sale of legal garden plants, shrubs, trees, or vines for retail or wholesale sales.

OPEN PORCH - A porch open on three (3) sides except for wire screening. A porch shall not be considered open if enclosed by either permanent or detachable glass sash, or an enclosed railing more than three (3) feet in height.

OPEN SPACE - The portion of a lot, not covered by a building area, open to the sky. It may include drives, walkways, landscaping, fences and objects not defined under building area.

OFF-PREMISE SIGN - A sign advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located.

ON-PREMISE SIGN - A sign which pertains to the use of the premises on which it is located.

OUTDOOR ADVERTISING SIGN - A fixed or portable appliance, structure, or surface, including the supporting structure made necessary thereby, which is, or is to be erected upon the ground, or wall of a building or above the roof of a building and which is used, erected, intended and/or designed to be used for the public display of posters, painted displays, electrical displays, pictures or other pictorial or reading matter, for the benefit of

a person, organization, business, or cause not residing or located on the lot, on the building or on a lot adjoining the lot or building where said appliance, structure, or surface is, or is to be located. An outdoor advertising sign shall include: any cloth, card, paper, metal, painted glass, wood, plaster, stone, or other sign of any kind or character whatsoever, placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure or thing whatsoever. The term "placed" as used in the definition of "Outdoor Advertising Sign" and "Outdoor Advertising Structure" shall include: erecting, constructing, posting, painting, tacking, nailing, gluing, sticking, carving, or otherwise fastening, affixing, or making visible in any manner whatsoever.

PARK (TO PARK) - The stoppage of any automobile, jeep, van, truck, trailer or motor home (recreational vehicle), with the intent of permitting any of these to remain standing on a parcel of property for a period of time less than seventy-two (72) hours.

PARKING SPACE-OFF-STREET - An area no less than 10' x 20'; exclusive of access thereto, designated for the parking of automobiles and located totally outside of any street right-of-way.

PERGOLA - A pergola is an outdoor structure forming a shaded walkway, passageway, or sitting area consisting of vertical posts or pillars that usually support cross-beams and an open lattice.

PLANNED UNIT DEVELOPMENT (PUD) - A development in which lot size, yard areas and building placement may be varied to create a harmonious blend of residential and/or business and industrial uses, and providing for open spaces and common uses.

PLAT - A map, or layout of a city, town, section or subdivision, indicating the location and boundaries of individual properties, same having been recorded.

POLITICAL SIGN - A temporary sign used in connection with a local, state, or national election, or referendum.

PORTABLE SIGN - A temporary sign designed to be moved easily.

PRIVATE GARAGE - A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, boats and/or trailers of the occupants of the premises and wherein:

1. Not more than one space is rented for parking to a person not residing on the premises;
2. No more than one commercial vehicle per dwelling unit is parked or stored;
3. Repair work is limited to the normal maintenance of vehicles owned by the person or persons residing on the premises.

PROPERTY LINE - A boundary line dividing one parcel of land from another.

PUB - An establishment for the sale of beer and other drinks, and sometimes also food, to be consumed on the premises.

PUBLIC BUILDINGS - Any structure owned and operated by a governmental agency, library, public school, or a school which is certified by the State of Ohio.

PUBLIC GARAGE - A garage conducted as a business. The rental of storage space for two (2) or more cars not owned by persons residing on the premises shall be deemed a business use.

PUBLIC SERVICE FACILITY (PUBLIC UTILITY) - The erection, construction, alteration, operation, or maintenance of buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and other similar public service structures by a public utility, by a railroad whether publicly or privately owned, or by a government agency, including the furnishing of electrical, gas, rail transport, communications, public water and sewage service.

QUASI-PUBLIC BUILDINGS OR USES - Churches, Sunday schools, parochial schools, colleges, and other facilities of an educational, religious, charitable, philanthropic or non-profit nature.

REAL ESTATE SIGN - A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

REAR YARD - An open space between the rear wall of the building and the rear line of the lot, and unoccupied except for accessory buildings, including among others, either attached or detached garages and open porches.

RECREATION AREA AND USES - Buildings and/or lands, other than public buildings and uses, that as a general rule require and utilize considerable areas of land and include but not limited to hunting, fishing, swimming, riding and stable facilities, parks, golf courses, athletic fields or courts, amusement parks, private clubs, stadiums, camp parks and overnight parks for travel trailers, tent trailers, non-governmental outdoor shooting ranges, and similar facilities.

RECYCLING CENTER - A facility for the collection of products such as paper, glass, plastic and metals intended for reprocessing or recycling.

REFUSE - Discarded or waste materials which do not include garbage or foodstuffs in any form.

ROADSIDE STAND (FARM MARKET) - A temporary vehicle or temporary stand without foundation used for the sale of agricultural produce where fifty percent (50%) or more 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, in accordance with ORC Section 519.21, as amended June, 1982.

ROW HOUSES - Three or more attached houses in a row with party walls.

SANITARY LANDFILL - A disposal site employing a method of disposing of solid waste in accordance with the current ORC regulations.

SET-BACK - The horizontal distance from the front line to the front edge of the allowable building area.

SEXUALLY ORIENTED BUSINESS - A sexually oriented business is one which is designed and used to sell, rent or show sexually explicit materials, to display nude bodies or one which is distinguished or characterized by an emphasis on "Specified Sexual Activities" or "Specified Anatomical Areas" as defined in Article XIX of this Resolution, particularly but not exclusively, defined as meaning an adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, or massage parlor.

SHORT-TERM RENTAL - The leasing of any residential property, either the entire dwelling unit or individual rooms, for a period of time less than 30 consecutive days to one additional family or housekeeping unit. This use includes, but is not limited to homes or rooms being rented through services such as AirBnB, VRBO, HomeAway, etc.

SIDE YARD - An open unobstructed space on the same lot with a building, between the building and the side line of the lot, and extending through from the front to the rear yard, into which space there is no extension of building parts other than open porches or carports completely open on three (3) sides, rain water leaders, window sills, and other such fixtures, chimneys, open steps and bay windows, not more than twelve (12) feet wide, and one (1) floor level only, and for a distance not to exceed two (2) feet.

SIGN - Any structure, whether fixed or portable, or natural object, such as a tree, rock, bush, and the ground itself, or part thereof, or device attached thereto or painted or represented thereon, which shall be used to attract attention to any object, product, place, activity, person, institution, organization or business or which shall display or include any letter, work, banner, flag, pennant, insignia, device, or representation used as, or which is in the nature of an announcement, direction, or advertisement. For the purpose of these regulations, the word sign does not include the flag, pennant, badge, or insignia of any governmental agency or charitable, religious, educational, or similar organization.

SIGN, ANIMATED OR MOVING - Any sign or part of a sign which changes physical position by any movement or rotation or which gives visual impression of such movement or rotation. This definition does not include signs classified as "electronic message centers."

SIGN, BLADE OR FEATHER - A temporary sign that is constructed of cloth, canvas, plastic fabric or similar lightweight, non-rigid material and that is supported by a single vertical pole mounted into the ground or on a portable structure.

SIGN, CANOPY - Any sign that is a part of or attached to a canopy or awning.

SIGN, DEVELOPMENT/SUBDIVISIONS - A sign identifying a recognized subdivision, condominium complex, or development.

SIGN, DRIVE-THROUGH - Any signage allocated along a drive-through lane that is oriented toward the customer or user in the drive-through lane.

SIGN, FLASHING - Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation or any externally

mounted intermittent light source. This definition does not include signs classified as “electronic message centers.”

SIGN, ILLEGAL - A sign which does not meet the requirements of this chapter and which has not received legal nonconforming status.

SIGN, LIGHT POLE - A sign made of fabric or materials similar to banners that can be attached to mounting brackets on a light pole. The sign banner may be changeable but the light pole and mounting brackets are permanent fixtures.

SIGN, MANUEL CHANGEABLE COPY - A sign or portion of a sign where it is possible to change the copy on a frequent basis but where such sign change must be manually made and is not made electronically.

SIGN, MONUMENT - A permanent freestanding sign other than a pole sign, not attached to a building, which is placed upon or supported by the ground independently of any other structure, typically on a monument or pedestal structure.

SIGN, NON-CONFORMING - Any sign which was erected legally prior to the adoption of this code, but which does not comply with subsequently enacted sign restrictions and regulations or a sign which does not conform to the sign code requirements.

SIGN, POLE - A permanent freestanding sign supported by one or more uprights, poles or braces placed in or upon the ground surface and not attached to any building.

SIGN, PORTABLE - Any sign that is designed to be or capable of being moved or transported, and not permanently affixed or attached to any building, structure, or grounds. A vehicle not used regularly in the operation of a business shall be considered a portable sign.

SIGN, ROOF - A sign erected or maintained in whole or in part upon, against or directly above the roof or parapet line of a building.

SIGN, TEMPORARY - A sign that is neither permanently anchored to the ground, nor permanently affixed to a structure, nor mounted on a chassis, and intended for a limited period of display.

SIGN, WALL - A sign attached directly to an exterior wall of a building and which does not extend more than eighteen inches from nor above the roof line or beyond the limits of the outside wall, with the exposed face of the sign in a plane parallel to the building wall. Murals and other painted signs are considered wall signs pursuant to this section.

SIGN, WINDOW - A sign attached to, in contact with, placed upon or painted on the window or door of a building which is intended for viewing from the outside of such building. This does not include merchandise located in a window.

STORE (TO STORE) - The stoppage of any automobile, jeep, van, truck, trailer or motor home (recreational vehicle), with the intent of permitting any of these to remain standing on a parcel of property for a period of time longer than seventy-two (72) hours.

STORY - That part of a building included between any floor and or roof next above. When applying to the permissible height of buildings, the term story shall not include a basement if the basement is not designed for living quarters and if the ceiling thereof is not more than four (4) feet above the average ground level.

STREET, PRIVATE - A thoroughfare which affords principal means of access to abutting property, but which has not been dedicated to the public, or subject to the public easements.

STREET, THOROUGHFARE OR ROAD - The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designed as follows:

1. **ALLEY** - A minor street used primarily for vehicular service access to the back or side of properties abutting on another street;
2. **ARTERIAL STREET** - A general term denoting a highway primarily for through traffic, carrying heavy loads and large volume of traffic, usually on a continuous street;

3. **COLLECTOR STREET** - A thoroughfare, whether within a residential, industrial, business or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions;

4. **CUL-DE-SAC** - A local street of relatively short length, with one end open to traffic and the other end terminating in a vehicular turnaround;

5. **DEAD-END STREET** - A street temporarily having only one outlet for vehicular traffic and intended to be extended or continued in the future;

6. **LOCAL STREET** - A street primarily for providing access to residential or other abutting property.

STRIP MINING - All or any part of the process following in the removing of minerals, coal, peat, sand, gravel, clay, shale, limestone or sandstone, etc., from their natural deposits by means of open excavation.

STRUCTURE - Any form of construction built for other than dwelling purposes.

SWIMMING POOL-PRIVATE - Exclusively used for admission by the residents and guests of a single household, a multi-family development, or a community, the members and guests of a club, or the patrons of a motel; an accessory use.

SWIMMING POOL-PUBLIC - Operated with a charge for admission; a primary use.

TAVERN - an establishment where alcoholic beverages are sold for on-premise consumption.

TEMPORARY SPECIAL EVENTS - A temporary use on private property that is not usual or customary for that property and the zoning district in which the subject property is located (e.g., festivals, circuses, and other temporary events).

TERMS - The word shall is a mandatory requirement. The words used or occupied include the words intended, designed or arranged to be used or occupied. The word lot includes the words plot or parcel.

TOWNHOUSE - Two (2) or more attached dwelling units or groups of dwelling units.

TRAFFIC PAVEMENT - The term applied to all blacktop, slag, concrete, macadam or other surfaces used by vehicles for parking or means of egress or ingress.

TRAILER - Any vehicle or structure designed or used as a conveyance on highways and streets drawn by motive power.

TRAILER PARK OR MOBILE HOME PARK - A tract of land open to the general public upon which spaces for trailers or mobile homes are provided for a consideration, whether for overnight, by the day, the week, the month, or longer period.

TRUSTEES - The Board of Trustees of Austintown Township.

USE - The purpose for which a building or premises is or may be occupied.

USE, PRINCIPLE - The principal use to which the premises are devoted and the primary purpose for which the premises exist.

VARIANCE - A variance is a modification of the strict terms of the relevant resolutions where such modifications will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the resolutions would result in unnecessary and undue hardship or practical difficulty.

ZONING MAP - The "Zoning Map of Austintown Township, Mahoning County, Ohio".

ZONING PERMIT - The document issued by the Township Zoning Inspector authorizing the various uses in accordance with the Zoning Resolution.

ARTICLE II - ENFORCEMENT

200-INTERPRETATIONS - In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of public health, safety, morals, comfort and general welfare.

201-ENFORCEMENT - The provisions of this ordinance shall be enforced by the Township Zoning Inspector, who shall be appointed by the Board of Township Trustees.

202-ZONING PERMITS -Zoning permits shall be secured from the Township Zoning Inspector prior to the construction, erection, alteration of any building or part of a building, costing or valued at \$250.00 or more; prior to the installation of a mobile home stand, and prior to the construction of or prior to the replacement of a free-standing sign or wall sign. Zoning permits shall be secured for parking lots, expansion of existing parking lots, dwellings, additions to dwellings, multi-plex dwellings, porches, decks, accessory buildings, carports, garages, hot-tubs, gazebos, swimming pools, fences, all business, commercial, and industrial building and additions, and all other structures, unless otherwise exempted in this resolution.

No zoning permit shall be issued without evidence that the responsible county health authority has approved the proposed sanitary sewage disposal facilities for the use for which the permit has been requested.

No zoning permit shall be granted for any structure which has ingress or egress to a state highway until the owner of such property has secured a permit from the Ohio Department of Transportation, in accordance with regulations adopted by that department.

No zoning permit shall be granted for any structure which has ingress or egress to a county road until the owner of such property has secured a permit from the Mahoning County Engineer's Office, in accordance with regulations adopted by that department.

CONTENTS OF APPLICATION FOR ZONING PERMIT - A request for a zoning permit shall be made in writing by the owner or by his authorized agent; and shall include:

1. A statement of the use or intended use of the building or structure after construction, erection or alteration;
2. Shall be accompanied by a plan showing the proposed building line in its exact relation to the lot and street lines;
3. Building heights;
4. Parking spaces;
5. Number of dwelling units;
6. Such other matters as may be necessary to determine conformance with, and provide for the enforcement of this ordinance.

APPROVAL OF ZONING PERMIT - Within fifteen (15) days after the receipt of an application, the Zoning Inspector shall either approve or disapprove the application in conformance with the provisions of the ordinance.

Zoning Permits expire one year from the date of issuance and within this period all buildings in all zoning districts shall have all exterior walls, roofs, windows, porches, garages, and doors completed. The Zoning Inspector may authorize an extension of up to six months if just cause is shown.

The Board of Township Trustees may adopt a system of zoning permits, establish and collect reasonable fees therefor, and amend such fees or adopt new fees, from time to time, when necessary.

REVOCAION OF A ZONING PERMIT - The Zoning Inspector shall hereby have the authority to revoke an approved zoning certificate if the information submitted as part of the application is found to be erroneous or fraudulent after the certificate has been issued.

The Zoning Inspector may also revoke a zoning certificate if the applicant has not conformed with all applicable federal, state, county, and township regulations, resolutions, and rules including, but not limited to, the Ohio Administrative Code, the Ohio Revised Code, State of Ohio departments and agencies, the Mahoning County Planning Commission, Mahoning County Public Health, Mahoning County Engineer, the Mahoning Soil and Water Conservation District, and the applicable water and sewer districts/agencies.

203-OCCUPANCY PERMITS - Occupancy permits for any new use or any change in use of buildings or lands shall be issued by the Township Zoning Inspector, with the permit certifying that the building or use complies with the provisions of the ordinance. An occupancy permit shall be granted or denied within ten (10) days from date of written application therefore.

204-VIOLATIONS AND PENALTIES - Violations of the provisions of this ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in various sections of this ordinance, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 and in addition shall pay all costs and expenses involved in the case.

Each day such violation continues after receipt of a violation notice shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, or any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

205-ACTIONS PREVENTING VIOLATIONS - In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land is or proposed to be used in violation of this ordinance, the Board of Trustees, the Township Zoning Inspector, or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to the other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

ARTICLE III - NON-CONFORMITIES

300-INTENT - Within the district established by this ordinance or by amendments that may later be adopted, there exists uses which were lawful before this ordinance or amendments were passed but which would be prohibited under the terms of this ordinance, they shall be known as non-conformities. It is the intent of this ordinance to permit nonconformities to continue until they are removed, but not to encourage their survival.

301-CONTINUANCE OF NON-CONFORMING USES -

1. A non-conforming building, structure, or use existing at the time this resolution takes effect may be altered or enlarged as to extend such use or structure not to exceed an additional twenty percent (20%) in square foot area, upon application to and determination of the Board of Zoning Appeals. A non-conforming use may be altered to decrease its non-conformity.

2. If no structural alterations are made, any non-conforming use of a structure or structure and land may, upon appeal to the Board of Zoning Appeals, be changed to another non-conforming use provided that the Board of Zoning Appeals shall find the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use.

3. A non-conforming building or use may not be altered, rebuilt or resumed except in conformity with the regulations for the district in which it is located if:

a) It has once been changed to a conforming use;

b) Subsequent to the enactment of this ordinance, it has been dis-continued for a period of two (2) years or more which shall be deemed an abandonment of the non-conforming use;

c) It has been destroyed by fire, explosion or other cause, to the extent of seventy-five percent (75%) or more of either its value or bulk. However, if a non-conforming building or use is destroyed by fire, explosion or other cause to the extent of less than seventy-five percent (75%) of either its value or bulk, it may be rebuilt and reoccupied as a non-conforming building or use, only if reconstructed with the same or less cubical content and upon basically the same plan as that of the original structure.

4. If a non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

5. All non-conforming uses shall register with the Zoning Office and shall secure an annual occupancy permit for continuation of the use.

302-REPAIRS AND MAINTENANCE - On any non-conforming structure work may be done on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, provided that the cubic content existing when it became non-conforming shall not be increased. 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. The provisions of this section shall not apply in respect to non-conformity in yard requirements.

ARTICLE IV - ADMINISTRATION

400-OFFICE OF ZONING INSPECTOR CREATED - A Zoning Inspector designated by the Board of Township Trustees shall administer and enforce this ordinance. He may be provided with the assistance of such other persons as the Board of Township Trustees may direct. The Township Zoning Inspector, before entering upon his duties, shall give bond as specified in Section 519.161, Ohio Revised Code.

401-DUTIES OF ZONING INSPECTOR - For the purpose of this ordinance, the Zoning Inspector shall have the following duties:

1. Upon finding that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, ordering the action necessary to correct such violation;
2. Order discontinuance of illegal uses of land, buildings or structures;
3. Order removal of illegal buildings or structures or illegal additions or structural alterations;
4. Order discontinuance of any illegal work being done;
5. Take any other action authorized by this ordinance to ensure compliance with or to prevent violations of this ordinance. This may include the issuance of and action on zoning and certificate of occupancy permits, and such similar administrative duties as are permissible under the law.

402-PROCEEDINGS OF ZONING COMMISSION - The Zoning Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this ordinance. Meetings shall be held at the call of the Chairman and at such other times as the Commission may determine. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Commission. The Zoning Commission is composed of five (5) members who reside in the unincorporated area of the Township, and are appointed by the Board of Township Trustees. Their terms are for five (5) years and so arranged that the term of one member expires each year. Members of the Commission may be removed from office by the Board of Township Trustees for cause upon written charges and after public hearing. Vacancies shall be filled by the Board of Township Trustees for the unexpired term of the member affected.

403-DUTIES OF ZONING COMMISSION - For the purpose of this ordinance, the Zoning Commission shall have the following duties:

1. Initiate proposed amendments to this ordinance;
2. Review all proposed amendments to this ordinance and make recommendations to the Board of Township Trustees.

404-BOARD OF ZONING APPEALS CREATED - A Board of Zoning Appeals is hereby created, which shall consist of five (5) members to be appointed by the Board of Township Trustees, each for a term of five (5) years and so arranged that the term of one member expires each year. Each member shall be a resident of the Township. Members of the Board may be removed from office by the Board of Township Trustees for cause upon written charges and after public hearing. Vacancies shall be filled by appointment by the Board of Township Trustees for the unexpired term of the member affected.

405-PROCEEDINGS OF THE BOARD OF ZONING APPEALS - The Board shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this ordinance. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to

the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

406-DUTIES OF THE BOARD OF ZONING APPEALS -In exercising its duties, the Board may, as long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or 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 shall have the powers of the Zoning Inspector from whom the appeal is taken. The majority vote of the members of the Board shall be necessary to reverse the Zoning Inspector. For the purpose of this ordinance, the Board has the following specific responsibilities:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, or determination made by the Zoning Inspector;
2. To authorize such variances from the terms of this ordinance as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this ordinance will result in un-necessary hardship or practical difficulty, and so that the spirit of this ordinance shall be observed and substantial justice done;
3. To grant conditional use permits as specified in this ordinance, and such additional safeguards as will uphold the intent of this ordinance;
4. To revoke an authorized variance or conditional use permit granted for the extraction of minerals, if any condition of the variance or permit is violated.

407-DUTIES OF ZONING INSPECTOR, BOARD OF ZONING APPEALS, LEGISLATIVE AUTHORITY AND COURTS ON MATTERS OF APPEAL – It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Inspector, and that such questions shall be presented to the Board only on appeal from the decision of the Zoning Inspector, and that recourse from the decisions of the Board shall be to the courts as provided by law. It is further the intent of this ordinance that the duties of the Board of Township Trustees in connection with this ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this ordinance. Under this ordinance, the Board of Township Trustees shall have only the duties of considering and adopting or rejecting proposed amendments, or the repeal of this ordinance as provided by law, and of establishing a schedule of fees and charges as stated in this ordinance. Any appeal from the decision of the Board of Zoning Appeals shall be made within thirty (30) days from the date of the Board's decision.

408-APPEALS - Appeals to the Board of Zoning Appeals concerning interpretation or administration of this ordinance may be taken by any person aggrieved or 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 and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Inspector shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. The fee for the filing of an appeal shall be established by the Board of Township Trustees.

409-STAY OF PROCEEDINGS - An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Inspector from whom the appeal is taken certifies to the Board of Zoning Appeals after the notice of appeal is filed with him, that by reason of facts stated in the application, a stay would, in his opinion, cause imminent peril to life and property, in such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of

record on application, on notice to the Zoning Inspector from whom the appeal is taken on due cause shown.

410-VARIANCES - The Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship or practical difficulty. No non-conforming use of neighboring lands, structures, or buildings, in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.

Variations shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this ordinance would result in unnecessary hardship or practical difficulty.

The Board of Zoning Appeals may authorize upon appeal in specific cases such use variance from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

The Board of Zoning Appeals may authorize upon appeal in specific cases such area variance from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this ordinance would result in practical difficulty.

The factors to be considered and weighed by the Board of Zoning Appeals in determining a property owner seeking an area variance has encountered practical difficulty in the use of his property include, but are not limited to the following:

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

411-SUPPLEMENTARY CONDITIONS AND SAFEGUARDS - Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this ordinance.

Violations of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this ordinance and punishable as prescribed in this ordinance under Article II, Section 204.

412-PUBLIC HEARING BY THE BOARD OF ZONING APPEALS - The Board of Zoning Appeals shall hold a public hearing within forty (40) days after the receipt of an application for an appeal, variance or a conditional use. Before holding the public hearing, notice of such hearing shall be given in one or more newspapers of general circulation of the Township, at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the

proposed appeal, variance, or conditional use. A written notice of such hearing shall also be mailed by the Board of Zoning Appeals by first class mail, at least ten (10) days before the date of said hearing to all parties in interest. The notice shall contain the same information as required of notice published in the newspaper. Within thirty (30) days after the public hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions or disapprove the request.

413-AMENDMENTS - Whenever the public necessity, convenience, general welfare, or good zoning practices require, the Board of Township Trustees may by resolution, after receipt of recommendation thereon from the Zoning Commission, and subject to the procedures provided by law, amend, supplement, change or repeal the regulations, restrictions and boundaries or classification of property.

414-INITIATION OF ZONING AMENDMENTS - Amendments to this ordinance may be initiated in one of the following ways:

1. By adoption of a motion by the Zoning Commission;
2. By adoption of a resolution by the Board of Township Trustees;
3. By filing an application by at least one (1) owner or lessee of property within the area proposed to be changed or affected by said amendment.

415-CONTENTS OF APPLICATION - Applications for amendments to the Zoning Ordinance shall contain at least the following information:

1. Names, address and phone of applicant;
2. Proposed amending resolution;
3. Present zoning district;
4. Proposed zoning district;
5. A vicinity map showing property lines and a complete description of the property;
6. A fee as established by the Board of Township Trustees.

416-TRANSMITTAL TO ZONING COMMISSION - Immediately after the adoption of a resolution by the Board of Township Trustees or the filing of an application, said application or resolution shall be transmitted to the Zoning Commission.

417-SUBMISSION TO MAHONING COUNTY PLANNING COMMISSION -

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

418-PUBLIC HEARING BY ZONING COMMISSION - The Zoning Commission shall schedule a public hearing, not less than twenty (20) nor more than forty (40) days after the adoption of such motion, transmittal of such resolution, or the filing of such application. Before holding the public hearing, notice of such hearing shall be given by the Zoning Commission by at least one (1) publication in one (1) or more newspapers or general circulation in the Township, at least ten (10) days before the date of said hearing. This notice shall set forth the time and place of the public hearing, the nature of the proposed amendment, and a statement that after the conclusion of such public hearing, the matter will be referred to the Board of Township Trustees for further determination. If the proposed amendment intends to rezone or redistrict ten (10) or less parcels of land, as listed on the tax duplicate, written notice of 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, and directly across the thoroughfare from such area proposed to be rezoned or redistricted, to the

address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list. The failure to deliver the notice shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in the newspaper.

419-RECOMMENDATION BY ZONING COMMISSION - Within thirty (30) days after the public hearing, the Zoning Commission shall recommend to the Board of Township Trustees that the amendment be granted as requested, or it may recommend a modification of the amendment, or it may recommend that the amendment be not granted.

420-PUBLIC HEARING BY BOARD OF TOWNSHIP TRUSTEES – Within thirty (30) days from the receipt of the recommendation of the Zoning Commission, the Board of Township Trustees shall hold a public hearing. Notice of such public hearing shall be given by the Board of Township Trustees by at least one (1) publication in a newspaper of general circulation in the Township, at least ten (10) days before the date of said hearing.

421-ACTION BY BOARD OF TOWNSHIP TRUSTEES - Within twenty (20) days after public hearing, the Board of Township Trustees shall either adopt or deny the recommendation of the Zoning Commission or adopt some modification thereof. In the event the Board of Township Trustees denies or modifies the recommendation of the Zoning Commission, the unanimous vote of the Board of Township Trustees is required.

422-EFFECTIVE DATE AND REFERENDUM - Such amendment adopted by the Board of Township Trustees shall become effective thirty (30) days after the date of such adoption unless within thirty (30) days after the adoption of the amendments is presented to the Board of Township Trustees a petition signed by a number of qualified voters residing in the unincorporated area of the Township, equal to not less than eight (8) percent of the total vote cast for all candidates for Governor in such area at the last preceding general election at which a Governor was elected, requesting the Board of Township Trustees to submit the amendment to the electors of such area, for approval or rejection, at the next primary or general election. No amendment for which such referendum vote has been requested shall be put into effect unless a majority of the votes cast on the issue is in favor of the amendments. Upon certification by the Board of Elections that the amendment has been approved by the voters it shall take immediate effect.

423-RESUBMITTAL OF ZONING APPLICATION - Before a property may be resubmitted for a change to the same zoning district, there shall be a waiting period of one (1) year from the date of prior application. This time period shall apply to all properties on which a hearing/meeting has been held by either the County Planning Commission, Zoning Commission or Board of Township Trustees.

424-VALIDITY OF THIS ORDINANCE - If any part of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of the ordinance.

425-AFFECT OF THIS ORDINANCE ON OTHER ORDINANCES - No provisions in this ordinance shall be interpreted as superseding any greater restrictions or regulation contained in any other ordinance or any deed or plot restrictions.

ARTICLE V - AGRICULTURAL – SUBURBAN ESTATE RESIDENTIAL - A-SER

500-PURPOSE - The purpose of the A-SER District is: 1) to preserve and protect the decreasing supply of prime agricultural land and open space, and 2) to permit a degree of low density development of a rural non-farm nature.

501-PERMITTED USES - After obtaining a valid zoning certificate in accordance with the provisions of these regulations, the following uses are permitted:

1. Agricultural dwellings, barns and their accessory uses and buildings;
2. The growing and selling, either retail or wholesale, of all types of agricultural produce, livestock and appurtenant products produced on the premises and resulting from agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture and animal and poultry husbandry;
3. One (1) single family dwelling with an attached private garage and/or one (1) detached private garage, and accessory building, exclusive of trailers or house trailers.
4. Governmental and public buildings;
5. Public service facilities.

502-CONDITIONALLY PERMITTED USES - After obtaining a conditional use permit in accordance with the provisions of these regulations, the following uses may be permitted:

1. All uses specified in Article XVI, Section 1600.
2. Boarding kennels.
3. Bed and breakfast establishments and short-term rental establishments as specified in Article XVI-Conditional Uses, Section 1600-Paragraph 10

503-GENERAL REQUIREMENTS -

FRONT YARDS - The building setback at the front shall not be less than seventy-five (75) feet from the street or road property line, or one hundred (100) feet from the street or road center line, whichever may be greater.

REAR YARDS - There shall be a rear yard of no less than eighty (80) feet.

SIDE YARDS - A dwelling only, on an interior lot, total side yard of no less than fifty (50) feet and the width of the narrower of the two (2) side yards shall be no less than ten (10) feet. A dwelling constructed with an attached or integral garage, the total side yard may be reduced to an overall total of no less than forty-six (46) feet. In the case of a corner lot, no structure shall be placed closer than twenty (20) feet to the side street property line nor closer than ten (10) feet to the interior lot line.

AREA AND FRONTAGE - Minimum area of two (2) acres, a frontage of no less than one hundred twenty-five (125) feet at the front property line nor less than one hundred

(100) feet at the building line and a depth of no less than two hundred (200) feet; except that nothing in this ordinance shall prevent the use for residential purposes of a lot platted prior to the time of enactment of this ordinance, providing the front yard, rear yard and side yard requirements as stipulated above, are met.

MINIMUM FLOOR AREA - No dwelling shall have a livable ground floor area which totals less than:

1,400 square feet - one story plan without basement;

1,300 square feet - one story plan with basement;

1,500 square feet - total for a two-story plan;

1,300 square feet – total for a story and a half plan;

1,300 square feet - split level-total living area on upper and lower level.

The foregoing are exclusive of open and screened porches.

HEIGHT - Dwellings shall not exceed thirty-five (35) feet in height. There shall be no limit on the height of non-residential structures, except that for each foot the height of such a structure exceeds thirty-five (35) feet, the total width of the two (2) side yards shall be increased by two (2) feet. No living quarters shall be placed in a basement or in any other room or space having less than four (4) feet of ceiling clearance above the average ground level.

504-PRIVATE GARAGE AND ACCESSORY BUILDING - No detached garage or other outbuilding (including a portable-canvas garage) shall be placed nearer to a side or rear property line than ten (10) feet. Detached garages or other outbuildings (including a portable-canvas garage) shall be placed no closer to the front property line than the setback of the dwelling. A detached garage or other outbuilding (including a portable-canvas garage) placed within a side yard shall comply to the same side yard requirements as an attached garage. In the case of a corner lot, no building shall be placed nearer to the side street than the side yard requirement of the dwelling. No living quarters (dwelling unit) shall be placed in any portion of a detached residential garage. There shall be no more than one (1) outbuilding other than a detached garage per agricultural lot. An outbuilding shall be no larger than 240 square feet.

CARPORTS - Attached carports may not extend nearer to a rear property line than twenty-five (25) feet or nearer to a side yard property line than the side yard requirements of the dwelling. Detached carports are subject to the requirements as stipulated for detached garages and accessory buildings.

505-FENCING - Fencing of residential properties shall be permitted provided that any fence in excess of three (3) feet in height extends no nearer to the front street than the front yard requirement of the dwelling and further provided the fence does not exceed six (6) feet in height. In the case of a corner lot, no fence in excess of three (3) feet may extend nearer to the side street than the side yard requirement of the dwelling. It shall be the responsibility of the property owner erecting the fence to provide for maintenance of the outside surface. The finished surface shall in all cases shall be to the outside, with all

posts, braces, etc. to the inside. All matters of dispute shall be civil matters between the parties.

506-OPEN FRONT, SIDE AND REAR PORCHES - An open front porch may not extend nearer to a front property line than ten (10) feet or nearer to the side yard property line than the side yard requirements of the dwelling. An open side porch may not extend nearer to a side yard property line than the side yard requirements of the dwelling. An open rear porch may not extend nearer to a rear property line than twenty (20) feet or nearer to a side yard property line than the side yard requirements of the dwelling. An open porch is defined as open on three (3) sides except for wire screening. A porch shall not be considered open if enclosed by either permanent or detachable glass sash, or an enclosed railing more than three (3) feet in height as measured from the finished floor elevation.

507-GAZEBOS - Gazebos must be placed within the rear yard a minimum of forty (40) feet from the front foundation of the dwelling and a minimum of five (5) feet from a side or rear property line. In the case of corner lot, no gazebo shall be placed nearer than twenty (20) feet to a side street property line.

508-HOT-TUBS - Hot tubs and their appurtenances must be placed at the rear of the dwelling. Hot tubs and their appurtenances may not extend nearer to a rear property line than twenty-five (25) feet or nearer to a side yard property line than the side yard requirements of the dwelling.

509-DRIVEWAYS - The driveway leading from the street right-of-way to the single-family dwelling shall be constructed as a hard surface driveway, consisting of brick, concrete, or asphalt, for the first sixty (60) feet from the public right-of-way.

510-SWIMMING POOLS

A receptacle for water having a water surface area of more than one hundred (100) square feet and a depth greater than twenty-four (24) inches shall be considered to be a private swimming pool for the purpose of this ordinance and shall be subject to the following restrictions:

A Zoning Permit shall be required for such pool, and these specifications shall apply to all lands encompassed within the zoning ordinance, irrespective of how zoned.

PERMANENT IN-GROUND SWIMMING POOL

(1) The pool must be placed within the rear yard. No portion of such pool shall be permitted to be closer than ten (10) feet from any side or rear property line or closer to a side street than the side yard requirement of the dwelling.

(2) The pool area shall be entirely enclosed by a fence. All fence openings into the pool area enclosure shall be equipped with doors or gates with self-closing and self-latching

devices that a young child cannot open from outside the fence. The fence and gate shall be not less than four (4) feet and not over six (6) feet in height above ground level, commencing at grade level and extending vertically. Such fence may enclose either the pool area or the entire yard area, so long as it serves adequately to protect children from entry to the pool.

PERMANENT ABOVE GROUND SWIMMING POOLS FOUR FEET (4') OR ABOVE

(1) The pool must be placed within the rear yard. No portion of such pool shall be permitted to be closer than ten (10) feet from any side or rear property line or closer to a side street than the side yard requirement of the dwelling.

(2) Above ground pools will not be required to be fenced, but it is the responsibility of the property owner to take all safety precautions, including, but not limited to, removing all ladders and other forms of access to pools when the pools are not in use. Above ground pools that are surrounded in whole or part by decks or other above ground structures shall have access gates that are equipped with locks or other such devices that a young child cannot open from outside the gate and which serve adequately to protect children from entry to the pool.

(3) Decks and other appurtenances placed adjacent and/or attached to above ground swimming pools must be placed a minimum of five (5) feet from side and rear property lines.

TEMPORARY PORTABLE SWIMMING POOLS SUMMER USE ONLY

(1) "Summer use only" means the pool cannot be erected before May 1st and must be dismantled by October 1st. The dimensions of a temporary portable swimming pool shall be less than one hundred (100) square feet and a depth less than twenty-four (24) inches. If a temporary portable pool is left up beyond the above-mentioned dates it becomes a permanent pool and the rules for permanent above ground pools shall apply.

(2) The pool must be placed within the rear yard. No portion of such pool shall be permitted to be closer than ten feet (10') from any side or rear property line or closer to a side street than the side yard requirement of the dwelling.

(3) No zoning permit shall be required for a temporary portable swimming pool.

511-HEAVY EQUIPMENT - In an agricultural district, the parking or storage of heavy equipment used for business purposes is prohibited.

512 EASEMENTS-No structure may be placed on a recorded easement. It is the property owner's responsibility to know if an easement(s) exists.

513-STORAGE -No cargo trailer, shipping container, or metal trailer, mounted on axles or devoid of axles, shall be used for storage purposes; and shall not be stored on a residential parcel.

513-SIGNS - Signs shall be regulated in Article XVIII of these regulations.

ARTICLE VI - RESIDENCE R-1 DISTRICT

600-PURPOSE - The purpose of the R-1 District is to encourage the establishment of low density single family dwellings.

601-PERMITTED USES - After obtaining a valid zoning certificate in accordance with the provisions of these regulations, the following uses are permitted:

1. All uses allowed in a A-SER District; 2. One (1) single family dwelling with an attached private garage and/or one (1) detached private garage, and accessory buildings, exclusive of trailers or house trailers.

602-CONDITIONALLY PERMITTED USES - After obtaining a conditional use permit in accordance with the provisions of these regulations, the following uses may be permitted:

1. All uses specified in Article XVI, Section 1600.
2. Bed and breakfast establishments and short-term rental establishments as specified in Article XVI-Conditional Uses, Section 1600-Paragraph 10.

603-GENERAL REQUIREMENTS -

FRONT YARDS - No building, exclusive of open porches, no more than ten (10) feet in depth, shall extend nearer to the front property line than fifty (50) feet. However, where there are existing building or buildings, with a setback more or less than the required minimum of fifty (50) feet, the setback shall be determined by the mean distance of setback of the building or buildings, other than accessory buildings, within one hundred fifty (150) feet on each side of proposed building and fronting on the same side of the street. No building shall be required to be placed more than sixty (60) feet back from the front property line or shall no building be placed closer than thirty (30) feet to the front property line. In the case of a corner lot, either street may be taken as the front line and any building may be placed to within twenty (20) feet of the side street line.

EXCEPTION - By approval of the Board of Township Trustees, an area developed after the effective date of this amendment and sidewalks are included in this development, the minimum front setback as stated above may be reduced to thirty-five (35) feet.

REAR YARDS - There shall be a rear yard of not less than forty (40) feet.

SIDE YARDS - A dwelling only, on an interior lot, total side yard of no less than twenty-four (24) feet and the narrower of the two (2) side yards shall be no less than seven (7) feet. A dwelling constructed with an attached or integral garage, the total side yard may be reduced to an overall total of no less than twenty (20) feet. This does not include garages which must be entered from the rear of the dwelling. However, when a lot platted prior to the time of the enactment of this ordinance is less than sixty (60) feet wide, the total width of the two (2) side yards may be reduced nine (9) inches for each foot of difference to a total width of no less than sixteen (16) feet, and further provided the narrower of the two (2) side yards is no less than seven (7) feet. For corner lots, no

structure shall be placed closer than twenty (20) feet to the side street property line nor closer than seven (7) feet to the interior lot line.

AREA AND FRONTAGE - Minimum area of 13,200 square feet, a width of no less than eighty (80) feet at the building line, no less than fifty (50) feet at the front property line and a depth of no less than one hundred sixty five (165) feet. For lots platted on cul-de-sacs, there shall be no less than sixty (60) feet at the front property line and the minimum depth shall be measured at the center of the lot. However, this shall not prevent the use for residential purposes of a lot platted prior to the time of enactment of this ordinance, provided the front yard, rear yard and side yard requirements are met.

EXCEPTION - Upon obtaining the approval of the Trustees, any developer who will donate ten (10) percent (including the five percent (5%) recommended by the Mahoning County Planning Commission) for recreational and/or open space, may plat lots with seventy-five (75) feet of frontage at the building line.

MINIMUM FLOOR AREA- No dwelling shall have a livable ground floor area which totals less than:

1,400 square feet - one story plan without basement;

1,300 square feet - one story plan with basement;

1,500 square feet - total for a two-story plan;

1,300 square feet – total for a story and a half plan;

1,300 square feet - split level-total living area on upper and lower level.

The foregoing are exclusive of open and screened porches, basements, and attached garages.

HEIGHT -Dwellings shall not exceed thirty-five (35) feet in height. There shall be no limit on the height of non-residential structures except that for each foot the height of such a structure exceeds thirty-five (35) feet, the total width of the two (2) side yards shall be increased by two (2) feet. No living quarters shall be placed in a basement or in any other room or space having less than four (4) feet of ceiling clearance above the average ground level.

604- PRIVATE GARAGE AND ACCESSORY BUILDING - No detached garage or other outbuilding (including a portable-canvas garage) shall be placed nearer to a side or rear property line than five (5) feet. No detached garage (including a portable-canvas garage) or other outbuilding shall be placed nearer to a front building setback line than forty (40) feet. In the case of a corner lot, no building shall be placed nearer to the side street than the side yard requirements of the dwelling. No living quarters (dwelling unit) shall be placed in any portion of a detached residential garage. A detached garage is limited to one (1) story, not to exceed a maximum height of thirteen (13) feet, with the height measured as the distance between the finished floor to the top plate of the side wall; and no detached garage or outbuilding shall exceed a maximum area of six hundred seventy-two (672) square feet. The square footage calculation includes proposed roof overhangs designed for carports, porches, or storage areas. There shall be no more than

one (1) outbuilding other than a detached garage per residential lot. An outbuilding shall be no larger than 240 square feet.

CARPORTS - Attached carports may not extend nearer to a rear property line than twenty-five (25) feet or nearer to a side yard property line than the side yard requirements of the dwelling. Detached carports are subject to the requirements as stipulated for detached garages and accessory buildings.

605-FENCING - Fencing of residential properties shall be permitted provided that any fence in excess of three (3) feet in height extends no nearer to the front street than the front yard requirement of the dwelling and further provided the fence does not exceed six (6) feet in height. In the case of a corner lot, no fence in excess of three (3) feet may extend nearer to the side street than the side yard requirements of the dwelling. It shall be the responsibility of the property owner erecting the fence to provide for maintenance of the outside surface. The finished surface shall in all cases be to the outside, with all posts, braces, etc. to the inside. All matters of dispute shall be civil matters between the property owners.

606-OPEN FRONT, SIDE AND REAR PORCHES

An open front porch may not extend nearer to a front property line than ten (10) feet or nearer to the side yard property line than the side yard requirements of the dwelling. An open side porch may not extend nearer to a side yard property line than the side yard requirements of the dwelling. An open rear porch may not extend nearer to a rear property line than twenty (20) feet or nearer to a side yard property line than the side yard requirements of the dwelling. An open porch is defined as open on three (3) sides except for wire screening. A porch shall not be considered open if enclosed by either permanent or detachable glass sash, or an enclosed railing more than three (3) feet in height as measured from the finished floor elevation.

607-GAZEBOS

Gazebos must be placed within the rear yard a minimum of forty (40) feet from the front foundation of the dwelling and a minimum of five (5) feet from a side or rear property line. In the case of corner lot, no gazebo shall be placed nearer than twenty (20) feet to a side street property line. Gazebos shall not be constructed for habitable purposes.

608-HOT-TUBS

Hot tubs and their appurtenances must be placed at the rear of the dwelling. Hot tubs and their appurtenances may not extend nearer to a rear property line than twenty-five (25) feet or nearer to a side yard property line than the side yard requirements of the dwelling.

609-DRIVEWAYS

The driveway leading from the street right-of-way to the single-family dwelling shall be constructed as a hard surface driveway, consisting of brick, concrete, or asphalt, for the first sixty (60) feet from the public right-of-way.

610-SWIMMING POOLS

A receptacle for water having a water surface area of more than one hundred (100) square feet and a depth greater than twenty-four (24) inches shall be considered to be a private swimming pool for the purpose of this ordinance and shall be subject to the following restrictions:

A Zoning Permit shall be required for such pool, and these specifications shall apply to all lands encompassed within the zoning ordinance, irrespective of how zoned.

PERMANENT IN-GROUND SWIMMING POOL

(1) The pool must be placed within the rear yard. No portion of such pool shall be permitted to be closer than ten (10) feet from any side or rear property line or closer to a side street than the side yard requirement of the dwelling;

(2) The pool area shall be entirely enclosed by a fence. All fence openings into the pool area enclosure shall be equipped with doors or gates with self-closing and self-latching devices that a young child cannot open from outside the fence. The fence and gate shall be not less than four (4) feet and not over six (6) feet in height above ground level, commencing at grade level and extending vertically. Such fence may enclose either the pool area or the entire yard area, so long as it serves adequately to protect children from entry to the pool.

PERMANENT ABOVE GROUND SWIMMING POOLS FOUR FEET (4') OR ABOVE

(1) The pool must be placed within the rear yard. No portion of such pool shall be permitted to be closer than ten (10) feet from any side or rear property line or closer to a side street than the side yard requirement of the dwelling.

(2) Above ground pools will not be required to be fenced, but it is the responsibility of the property owner to take all safety precautions, including, but not limited to, removing all ladders and other forms of access to pools when the pools are not in use. Above ground pools that are surrounded in whole or part by decks or other above ground structures shall have access gates that are equipped with locks or other such devices that a young child cannot open from outside the gate and which serve adequately to protect children from entry to the pool.

(3) Decks and other appurtenances placed adjacent and/or attached to above ground swimming pools must be placed a minimum of five (5) feet from side and rear property lines.

TEMPORARY PORTABLE SWIMMING POOLS SUMMER USE ONLY

(1) "Summer use only" means the pool cannot be erected before May 1st and must be dismantled by October 1st. The dimensions of a temporary portable swimming pool shall be less than one hundred (100) square feet and a depth less than twenty-four (24) inches. If a temporary portable pool is left up beyond the above-mentioned dates it becomes a permanent pool and the rules for permanent above ground pools shall apply.

(2) The pool must be place within the rear yard. No portion of such pool shall be permitted to be closer than ten feet (10') from any side or rear property line or closer to a side street than the side yard requirement of the dwelling.

(3) No zoning permit shall be required for a temporary portable swimming pool.

611-HEAVY EQUIPMENT - In a residential district, the parking or storage of heavy equipment used for business purposes is prohibited.

612 EASEMENTS -No structure may be placed on a recorded easement. It is the property owner's responsibility to know if an easement(s) exists.

613-STORAGE -No cargo trailer, shipping container, or metal trailer, mounted on axles or devoid of axles, shall be used for storage purposes; and shall not be stored on a residential parcel.

614-SIGNS - Signs shall be regulated in Article XVIII of these regulations.

ARTICLE VII - RESIDENCE R-2 DISTRICT

700-PURPOSE - The purpose of the R-2 District is to permit the establishment of medium density one and two family dwellings.

701-PERMITTED USES - After obtaining a valid zoning certificate in accordance with the provisions of these regulations, the following uses are permitted:

1. All uses allowed in a Residence R-1 District;
2. Only one (1) single family dwelling or one (1) two-family dwelling with an attached private garage and/or one (1) detached private garage, and accessory buildings, exclusive of trailers or house trailers. Two (2) detached garages may be constructed with a two family dwelling or duplex.

702-CONDITIONALLY PERMITTED USES - After obtaining a conditional use permit in accordance with the provisions of these regulations, the following uses may be permitted:

1. All uses specified in Article XVI, Section 1600.
2. Bed and breakfast establishments and short-term rental establishments as specified in Article XVI-Conditional Uses, Section 1600 - Paragraph 10.

703-GENERAL REQUIREMENTS -

FRONT YARDS - No buildings, exclusive of open porches, no more than ten (10) feet in depth, shall extend nearer to the front property line than fifty (50) feet. However, where there are existing building or buildings with a setback less than the required minimum of fifty (50) feet, the setback may be determined by the mean distance of setback of the building or buildings, other than accessory buildings, within one hundred-fifty (150) feet on each side of proposed building and fronting on the same side of the street. In no instance shall a building be placed nearer to a front property line than thirty (30) feet. In the case of a corner lot, either street may be taken as the front line and any building may be placed to within sixteen (16) feet of the side street line.

EXCEPTION - By approval of the Board of Township Trustees, an area developed after the effective date of this amendment and sidewalks are included in this development, the minimum setback as stated above may be reduced to thirty-five (35) feet.

REAR YARDS - There shall be a rear yard no less than forty (40) feet.

SIDE YARDS - A single family dwelling only on an interior lot shall have a total side yard of no less than twenty-four (24) feet and the narrower of the two (2) side yards shall be no less than seven (7) feet; for a two-family dwelling, the total side shall be increased by six (6) feet. For dwellings constructed with an attached or integral garage, the required overall total side yard may be reduced by four (4) feet. This does not include garages which must be entered from the rear of the dwelling. However, when a lot platted prior to the time of the enactment of this ordinance is less than fifty (50) feet wide, the total width of the two (2) side yards for single family dwelling may be reduced by six (6) inches for each foot or difference to a total width of not less than ten (10) feet. The width of the narrower of the two (2) side yards shall not be less than five (5) feet. Two-family dwellings may only be built on lots with a minimum of seventy (70) feet at the building line and a depth of no less than one hundred-forty (140) feet. For corner

lots, no structure shall be placed closer than sixteen (16) feet to the side street property line nor closer than five (5) feet to the interior lot line.

AREA AND FRONTAGE - Minimum area of 13,200 square feet, a frontage of no less than eighty (80) feet at the building line; no less than fifty (50) feet at the front property line and a depth of no less than one hundred-sixty-five feet. Lots platted on cul-de-sacs shall have no less than sixty (60) feet at the front property line and the minimum depth shall be measured at the center of the lot. However, this shall not prevent the use for single family dwellings of a lot platted prior to the time of enactment of this ordinance, provided the front yard, rear yard and side yard requirements are met.

EXCEPTION - Upon obtaining the approval of the Board of Township Trustees, any developer who will donate ten percent (10%) (including the five percent (5%) recommended by the Mahoning County Planning Commission) for recreational area and/or open space, may plat lots for single family dwellings with a width of sixty-five (65) feet at the building line.

MINIMUM FLOOR AREA - No dwelling shall have a livable ground floor area which totals less than:

1,400 square feet - one story plan without basement;

1,300 square feet - one story plan with basement;

1,500 square feet - total for a two-story plan;

1,300 square feet – total for a story and a half plan;

1,300 square feet - split level-total living area on upper and lower level.

No duplex hereafter constructed, altered or converted shall contain less than an average of one-thousand one-hundred (1,100) square feet per family if private basement space is provided, nor less than one-thousand two-hundred (1,200) square feet per family without private basements. The foregoing are exclusive of open or screened porches, basements, and attached garages.

HEIGHT - Dwellings shall not exceed thirty-five (35) feet in height. There shall be no limit on the height of non-residential structures except that for each foot the height of such a structure exceeds thirty-five (35) feet, the total width of the two (2) side yards shall be increased by two (2) feet. No living quarters shall be placed in a basement or in any other room or space having less than four (4) feet of ceiling clearance above the average ground level.

704- PRIVATE GARAGE AND ACCESSORY BUILDING - No detached garage or other outbuilding (including a portable-canvas garage) shall be placed nearer to a side or rear property line than five (5) feet. No detached garage (including a portable-canvas garage) or other outbuilding shall be placed nearer to a front building setback line than forty (40) feet. In the case of a corner lot, no building shall be placed nearer to the side street than the side yard requirement of the dwelling. No living quarters (dwelling unit) shall be placed in any portion of a detached residential garage. A detached garage is limited to one (1) story, not to exceed a maximum height of thirteen (13) feet, with the height measured as the distance between the finished floor to the top plate of the side wall; and no detached garage or outbuilding shall exceed a maximum area of six hundred seventy-two (672) square feet. The square footage calculation includes proposed roof overhangs designed for carports, porches, or storage areas. There shall be no more than one

(1) outbuilding other than a detached garage per residential lot. An outbuilding shall be no larger than 240 square feet.

CARPORTS - Attached carports may not extend nearer to a rear property line than twenty-five (25) feet or nearer to a side yard property line than the side yard requirements of the dwelling. Detached carports are subject to the requirements as stipulated for detached and accessory buildings.

705-FENCING - Fencing of residential properties shall be permitted provided that any fence in excess of three (3) feet in height extends no nearer to the front street than the front yard requirement of the dwelling and further provided the fence does not exceed six (6) feet in height. In the case of a corner lot, no fence in excess of the three (3) feet may extend nearer to the side street than the side yard requirements of the dwelling. It shall be the responsibility of the property owner erecting the fence to provide for maintenance of the outside surface. The finished surface shall in all cases be the outside, with posts, braces, etc. to the inside. All matters of dispute shall be civil matters between the property owners.

706-OPEN FRONT, SIDE AND REAR PORCHES - An open front porch may not extend nearer to a front property line than ten (10) feet or nearer to the side yard property line than the side yard requirements of the dwelling. An open side porch may not extend nearer to a side yard property line than the side yard requirements of the dwelling. An open rear porch may not extend nearer to a rear property line than twenty (20) feet or nearer to a side yard property line than the side yard requirements of the dwelling. An open porch is defined as open on three (3) sides except for wire screening. A porch shall not be considered open if enclosed by either permanent or detachable glass sash, or an enclosed railing more than three (3) feet in height as measured from the finished floor elevation.

707-GAZEBOS - Gazebos must be placed within the rear yard a minimum of forty (40) feet from the front foundation of the dwelling and a minimum of five (5) feet from a side or rear property line. In the case of corner lot, no gazebo shall be placed nearer than twenty (20) feet to a side street property line. Gazebos shall not be constructed for habitable purposes.

708-HOT-TUBS - Hot tubs and their appurtenances must be placed at the rear of the dwelling. Hot tubs and their appurtenances may not extend nearer to a rear property line than twenty-five (25) feet or nearer to a side yard property line than the side yard requirements of the dwelling.

709-DRIVEWAYS - The driveway leading from the street right-of-way to a single-family or two-family dwelling shall be constructed as a hard surface driveway, consisting of brick, concrete or asphalt. Any additional parking lot area developed in conjunction with a duplex unit shall be constructed as a hard surface area, consisting of brick, concrete or asphalt.

710-SWIMMING POOLS

A receptacle for water having a water surface area of more than one hundred (100) square feet and a depth greater than twenty-four (24) inches shall be considered to be a private swimming pool for the purpose of this ordinance and shall be subject to the following restrictions:

A Zoning Permit shall be required for such pool, and these specifications shall apply to all lands encompassed within the zoning ordinance, irrespective of how zoned.

PERMANENT IN-GROUND SWIMMING POOL

(1) The pool must be placed within the rear yard. No portion of such pool shall be permitted to be closer than ten (10) feet from any side or rear property line or closer to a side street than the side yard requirement of the dwelling.

(2) The pool area shall be entirely enclosed by a fence. All fence openings into the pool area enclosure shall be equipped with doors or gates with self-closing and self-latching devices that a young child cannot open from outside the fence. The fence and gate shall be not less than four (4) feet and not over six (6) feet in height above ground level, commencing at grade level and extending vertically. Such fence may enclose either the pool area or the entire yard area, so long as it serves adequately to protect children from entry to the pool.

PERMANENT ABOVE GROUND SWIMMING POOLS FOUR FEET (4') OR ABOVE

(1) The pool must be placed within the rear yard. No portion of such pool shall be permitted to be closer than ten (10) feet from any side or rear property line or closer to a side street than the side yard requirement of the dwelling.

(2) Above ground pools will not be required to be fenced, but it is the responsibility of the property owner to take all safety precautions, including, but not limited to, removing all ladders and other forms of access to pools when the pools are not in use. Above ground pools that are surrounded in whole or part by decks or other above ground structures shall have access gates that are equipped with locks or other such devices that a young child cannot open from outside the gate and which serve adequately to protect children from entry to the pool.

(3) Decks and other appurtenances placed adjacent and/or attached to above ground swimming pools must be placed a minimum of five (5) feet from side and rear property lines.

TEMPORARY PORTABLE SWIMMING POOLS SUMMER USE ONLY

(1) "Summer use only" means the pool cannot be erected before May 1st and must be dismantled by October 1st. The dimensions of a temporary portable swimming pool shall be less than one hundred (100) square feet and a depth less than twenty-four (24) inches. If a temporary portable pool is left up beyond the above-mentioned dates it becomes a permanent pool and the rules for permanent above ground pools shall apply.

(2) The pool must be placed within the rear yard. No portion of such pool shall be permitted to be closer than ten feet (10') from any side or rear property line or closer to a side street than the side yard requirement of the dwelling.

(3) No zoning permit shall be required for a temporary portable swimming pool.

711-HEAVY EQUIPMENT - In a residential district, the parking or storage of heavy equipment used for business purposes is prohibited.

712- EASEMENTS -No structure may be placed on a recorded easement. It is the property owner's responsibility to know if an easement(s) exists.

713-STORAGE -No cargo trailer, shipping container, or metal trailer, mounted on axles or devoid of axles, shall be used for storage purposes; and shall not be stored on a residential parcel.

714-SIGNS - Signs shall be as regulated in Article XVIII.

ARTICLE VIII - RESIDENCE R-3 DISTRICT

800-PURPOSE - The purpose of the R-3 District is to permit the establishment of multiple family dwellings. It is the intent of this ordinance that the overall size of any R-3 District be limited in order to prevent over concentration when future zoning requests are considered.

801-PERMITTED USES - After obtaining a valid zoning certificate in accordance with the provisions of these regulations, the following uses are permitted:

1. All buildings, structures and uses permitted in Residence R-2 Districts;
2. Multiple family dwellings;
3. Multiple family dwellings without limit as to the number of dwelling units within a unified development on a property with a land area of no less than five (5) acres, or on a property bounded on all sides by streets or park or other permanent open space, provided:
 - a) The height of a structure shall not exceed three (3) stories or thirty-five (35) feet;
 - b) The coverage of the land area, exclusive of garages and accessory buildings, shall not exceed ten percent (10%);
 - c) The density of dwelling units shall not exceed ten (10) units per acre;
 - d) Front Yard - No building, exclusive of open porches, no more than ten (10) feet in depth, shall extend nearer to the front property line than fifty (50) feet. In the case of a corner lot, either street may be taken as the front line and any building may be placed to within sixteen (16) feet of the side street line.

EXCEPTION - By approval of the Board of Township Trustees, an area developed after the effective date of this amendment and sidewalks are included in this development, the minimum front setback as stated above may be reduced to thirty five (35) feet;

- e) Minimum side and rear yard width of no less than thirty-five (35) feet in relation to any adjoining properties, which side and rear yard shall be unoccupied and unobstructed by buildings except garages and accessory buildings which shall not be placed closer to the front street line than the front yard requirement of the dwelling or closer than five (5) feet to any other property line;
- f) Parking space or garage shall be provided in the rear or side yard extending from the front setback of the buildings to the rear lot line, and on the same unified development to park at least two and one-half (2-1/2) cars for each dwelling unit. Each parking space to be at least two hundred (200) square feet in area, exclusive of access thereto. All driveway accesses leading from the street right-of-way to multi-family dwelling units shall be constructed as hard surface driveways, consisting of brick, concrete or asphalt. All parking lot areas developed in conjunction with multi-family dwelling units shall be constructed as hard surface areas, consisting of either concrete or asphalt.

802-CONDITIONALLY PERMITTED USES - After obtaining a conditional use permit in accordance with the provisions of these regulations, the following may be permitted:

1. All uses specified in Article XVI, Section 1600.
2. Bed and breakfast establishments and short-term rental establishments as specified in Article XVI-Conditional Uses, Section 1600-Paragraph 10.

803-GENERAL REQUIREMENTS -

FRONT YARDS - No building, exclusive of open porches, no more than ten (10) feet in depth, shall extend nearer to the front property line than fifty (50) feet. In the case of a corner lot, either street may be taken as the front line and any building may be placed to within sixteen (16) feet of the side street line.

EXCEPTION - By approval of the Board of Township Trustees, an area developed after the effective date of this amendment and sidewalks are included in this development, the minimum front setback as stated above may be reduced to thirty-five (35) feet.

REAR YARDS - There shall be a rear yard no less than forty (40) feet in depth.

SIDE YARDS – A single-family dwelling shall have a total side yard width of no less than twenty-four (24) and the narrower of the two (2) side yards shall be no less than seven (7) feet. A single-family dwellings constructed with an attached or integral garage, the total side yard may be reduced by four (4) feet. This does not include garages which must be entered from the rear of the dwelling. For two (2) family dwellings the total side yard shall be thirty (30) feet and the narrower of the two (2) side yards shall be no less than seven (7) feet. For three (3) family dwellings the total side yard shall be thirty (36) feet and the narrower of the two (2) side yards shall be no less than seven (7) feet. For four (4) family dwellings the total side yard shall be forty-two (42) feet and the narrower of the two (2) side yards shall be no less than seven (7) feet. For five (5) and six unit (6) dwellings the total side yard shall be forty-eight (48) feet and the narrower of the two (2) side yards shall be no less than fourteen (14) feet. Multiple family dwellings in excess of six (6) families shall have two (2) side yards with a minimum of twenty-five (25) feet on each side. In the case of a corner lot, no structure shall be placed closer than twenty (20) feet to the side street property line.

AREA AND FRONTAGE - Minimum of 13,200 square feet for one (1) or two (2) family dwellings; no less than 16,000 square feet for three (3) or four (4) family units; and no less than 18,000 square feet for five (5) or six (6) family units. Multiple family dwellings in excess of six (6) families shall have a lot area of no less than one (1) acre. Each lot shall have a frontage of no less than eighty (80) feet at the building line; no less than fifty (50) feet at the property line a depth of no less than one hundred sixty-five (165) feet. Lots platted on cul-de-sacs shall have no less than sixty (60) feet at the front property line and the minimum depth shall be measured at the center of the lot. However, this shall not prevent the use for single family dwellings of a lot platted prior to the time of enactment of this ordinance, provided the front yard, rear yard and side yard requirements are met.

EXCEPTION - Upon obtaining the approval of the Board of Township Trustees, any developer who will donate ten percent (10%) (including the five percent (5%) recommended by the Mahoning County Planning Commission) for recreational and/or open space, may plat lots for single family dwellings with a width of sixty-five (65) feet at the building line.

MINIMUM FLOOR PLAN - No single family dwelling shall have a livable floor area which totals less than:

1,400 square feet - one story plan without basement;

1,300 square feet - one story plan with basement;

1,500 square feet - total for two-story;

1,300 square feet – total for a story and a half plan;

No duplex hereafter constructed, altered or converted shall contain less than an average of one-thousand one-hundred (1,100) square feet per family if private basement space is provided, nor less than one-thousand two-hundred (1,200) square feet per family without private basements. The foregoing are exclusive of open or screened porches, basements, and attached garages.

Multiple family dwellings units in excess of a duplex and without limit as to the number of dwelling units shall have a minimum square footage of one-thousand two-hundred (1,200) square feet per dwelling unit exclusive of open or screened porches, basements, and attached garages.

HEIGHT -Dwellings shall not exceed thirty-five (35) feet in height. There shall be no limit on the height of non-residential structures except that for each foot the height of such a structure exceeds thirty-five (35) feet, the total width of the two (2) side yards shall be increased by two (2) feet.

DENSITY - There shall be no more than ten (10) family units per acre of land and the coverage of the land area exclusive of garages and accessory buildings for multi's in excess of six (6) units shall be no more than ten percent (10%); multi's six units or less, the land coverage shall not exceed twelve percent (12%).

PARKING - For multiple family dwellings, garage or parking space shall be provided in the rear or side yard, side yard extending from the front setback of the building to the rear lot line, and on the same lot or unified development, to park at least two and one-half (2-1/2) cars for each dwelling unit. Each parking space to be at least one-hundred sixty-two (162) square feet in area, exclusive or access thereto. Additional parking may be provided in the front yard. All parking lot areas developed in conjunction with multi-family dwelling units shall be constructed as hard surface areas, consisting of either concrete or asphalt.

804- PRIVATE GARAGE AND ACCESSORY BUILDING - No detached garage or other outbuilding (including a portable-canvas garage) shall be placed nearer to a side or rear property line than five (5) feet. No detached garage (including a portable-canvas garage) or other outbuilding shall be placed nearer to a front building setback line than forty (40) feet. In the case of a corner lot, no building shall be placed nearer to the side street than the side yard requirement of the dwelling. No living quarters (dwelling unit) shall be placed in any portion of a detached residential garage. A detached garage is limited to one (1) story, not to exceed a maximum height of thirteen (13) feet, with the

height measured as the distance between the finished floor to the top plate of the side wall; and no detached garage or outbuilding shall exceed a maximum area of six hundred seventy-two (672) square feet. The square footage calculation includes proposed roof overhangs designed for carports, porches, or storage areas. There shall be no more than one (1) outbuilding other than a detached garage per residential lot. An outbuilding shall be no larger than 240 square feet.

Exception: An additional three hundred thirty six (336) square feet may be added to a detached garage for every dwelling unit in excess of two (2) units within a multi-plex complex.

CARPORTS - Attached carports may not extend nearer to a rear property line than twenty-five (25) feet or nearer to a side yard property line than the side yard requirements of the dwelling. Detached carports are subject to the requirements as stipulated for detached garages and accessory buildings.

805-FENCING -Fencing of residential properties shall be permitted provided that any fence in excess of three (3) feet in height extends no nearer to the front street than the front yard requirement of the dwelling, and further provided that fence does not exceed six (6) feet in height. In the case of a corner lot, no fence in excess of three (3) feet may extend nearer to the side street than the side yard requirements of the dwelling. It shall be the responsibility of the property owner erecting the fence to provide for maintenance of the outside surface. The finished surface shall in all cases be the outside, with all posts, braces, etc. to the inside. All matters of dispute shall be civil matters between the property owners.

806-OPEN FRONT, SIDE AND REAR PORCHES - An open front porch may not extend nearer to a front property line than ten (10) feet or nearer to the side yard property line than the side yard requirements of the dwelling. An open side porch may not extend nearer to a side yard property line than the side yard requirements of the dwelling. An open rear porch may not extend nearer to a rear property line than twenty (20) feet or nearer to a side yard property line than the side yard requirements of the dwelling. An open porch is defined as open on three (3) sides except for wire screening. A porch shall not be considered open if enclosed by either permanent or detachable glass sash, or an enclosed railing more than three (3) feet in height as measured from the finished floor elevation.

807-GAZEBOS - Gazebos must be placed within the rear yard a minimum of forty (40) feet from the front foundation of the dwelling and a minimum of five (5) feet from a side or rear property line. In the case of corner lot, no gazebo shall be placed nearer than twenty (20) feet to a side street property line. Gazebos shall not be constructed for habitable purposes.

808-HOT-TUBS - Hot tubs and their appurtenances must be placed at the rear of the dwelling. Hot tubs and their appurtenances may not extend nearer to a rear property line

than twenty-five (25) feet or nearer to a side yard property line than the side yard requirements of the dwelling.

809-DRIVEWAYS/PARKING LOT AREAS - The driveway leading from the street right-of-way to a single family, two-family, or multi-family building shall be constructed as a hard surface driveway, consisting of brick, concrete or asphalt. Any additional parking lot areas constructed in conjunction with duplex or multi-family dwelling units shall be constructed as a hard surface area, consisting of either concrete or asphalt.

810-SWIMMING POOLS

A receptacle for water having a water surface area of more than one hundred (100) square feet and a depth greater than twenty-four (24) inches shall be considered to be a private swimming pool for the purpose of this ordinance and shall be subject to the following restrictions:

A Zoning Permit shall be required for such pool, and these specifications shall apply to all lands encompassed within the zoning ordinance, irrespective of how zoned.

PERMANENT IN-GROUND SWIMMING POOL

(1) The pool must be placed within the rear yard. No portion of such pool shall be permitted to be closer than ten (10) feet from any side or rear property line or closer to a side street than the side yard requirement of the dwelling.

(2) The pool area shall be entirely enclosed by a fence. All fence openings into the pool area enclosure shall be equipped with doors or gates with self-closing and self-latching devices that a young child cannot open from outside the fence. The fence and gate shall be not less than four (4) feet and not over six (6) feet in height above ground level, commencing at grade level and extending vertically. Such fence may enclose either the pool area or the entire yard area, so long as it serves adequately to protect children from entry to the pool.

PERMANENT ABOVE GROUND SWIMMING POOLS FOUR FEET (4') OR ABOVE

(1) The pool must be placed within the rear yard. No portion of such pool shall be permitted to be closer than ten (10) feet from any side or rear property line or closer to a side street than the side yard requirement of the dwelling.

(2) Above ground pools will not be required to be fenced, but it is the responsibility of the property owner to take all safety precautions, including, but not limited to, removing all ladders and other forms of access to pools when the pools are not in use. Above ground pools that are surrounded in whole or part by decks or other above ground

structures shall have access gates that are equipped with locks or other such devices that a young child cannot open from outside the gate and which serve adequately to protect children from entry to the pool.

(3) Decks and other appurtenances placed adjacent and/or attached to above ground swimming pools must be placed a minimum of five (5) feet from side and rear property lines.

TEMPORARY PORTABLE SWIMMING POOLS SUMMER USE ONLY

(1) "Summer use only" means the pool cannot be erected before May 1st and must be dismantled by October 1st. The dimensions of a temporary portable swimming pool shall be less than one hundred (100) square feet and a depth less than twenty-four (24) inches. If a temporary portable pool is left up beyond the above-mentioned dates it becomes a permanent pool and the rules for permanent above ground pools shall apply.

(2) The pool must be placed within the rear yard. No portion of such pool shall be permitted to be closer than ten feet (10') from any side or rear property line or closer to a side street than the side yard requirement of the dwelling.

(3) No zoning permit shall be required for a temporary portable swimming pool.

811-HEAVY EQUIPMENT - In a residential district, the parking or storage of heavy equipment used for business purposes is prohibited.

812- EASEMENTS -No structure may be placed on a recorded easement. It is the property owner's responsibility to know if an easement(s) exists.

813-STORAGE -No cargo trailer, shipping container, or metal trailer, mounted on axles or devoid of axles, shall be used for storage purposes; and shall not be stored on a residential parcel.

814-SIGNS - Signs shall be as regulated in Article XVIII.

815-TRASH CONTAINERS - Shall be in accordance with Article XVII, Section 1710 of this ordinance.

ARTICLE IX - RESIDENCE R-4 DISTRICT

900-PURPOSE - The purpose of the Mobile Home Park District, R-4, is to encourage the development of mobile homes in a well-planned environment.

901-PERMITTED USES -After obtaining a valid zoning certificate in accordance with the provisions of these regulations, the following uses are permitted:

1. Mobile Home Parks and their accessory uses.

902-GENERAL REQUIREMENTS -

AREA AND FRONTAGE -No mobile home park shall be permitted on a tract of land having a total area of less than ten (10) acres, nor a maximum area of twenty (20) acres, and a frontage of no less than one hundred (100) feet.

MOBILE HOME LOT - Each mobile home lot shall be no less than 4,500 square feet, and each mobile home lot shall be developed with a mobile home stand of no less than five (5) feet from the mobile home lot boundary.

FRONT YARD -No mobile home or other permitted structure shall be placed closer than fifty (50) feet to a front or side street property line.

SIDE AND REAR YARD -A side yard on each side and a rear yard of no less than twenty (20) feet shall be provided around the edge of the mobile home park. Such yards shall not be occupied by or included as part of an individual mobile home lot.

BUFFERING - All areas surrounding a mobile home park shall be properly landscaped with grass, evergreen ground cover, trees, and hardy shrubs, and/or other similar vegetation, and shall be maintained in good condition.

Where the mobile home park is located adjacent to, faces, or adjoins a residential district, those boundaries shall be effectively screened by an acceptably designed wall, fence or evergreen plating screen (in addition to the landscaping requirements described above).

903-ACCESSORY USES - Within a mobile home park development, the following accessory uses and buildings shall be permitted:

1. A permanent dwelling for one (1) family, office and maintenance facilities for operation of the mobile home park;
2. Mobile homes offered for sale by the operator of the Mobile Home Park, provided no more than three (3) mobile homes are displayed, said mobile homes to be displayed in accordance with the front and side street requirements of the development;
3. Recreation facilities for residents of the mobile home park;
4. Garages, carports and accessory buildings, provided they are placed no closer than fifty (50) feet to a front or side street property line, or fifteen (15) feet to a side or rear property line.

904-RECREATION AREA -A minimum of five percent (5%) of the total land area of the mobile home park shall be reserved for recreation area for the use of the residents within the mobile home park.

905-OTHER REGULATIONS -

1. Unless otherwise stated herein, requirements concerning house trailer lots, streets, driveways, walkways, and parking must conform to the latest state regulations on House Trailer Parks;
2. Prior to the development of a Mobile Home Park, a development plan of the Mobile Home Park shall be filed with the office of the Township Zoning Inspector. It shall be further required that a zoning permit be secured for each mobile home stand prior to its installation, and for all permitted structures and uses within the Mobile Home Park.

ARTICLE X - BUSINESS B-1 DISTRICT

1000-PURPOSE - The purpose of the B-1 District is to encourage the establishment of professional, administrative, clerical and similar uses; and also to encourage the establishment of those businesses which have no retail trade on the premises. It is recognized that this district can be effectively used as a transitional buffer between more intense business districts and residential districts.

1001-PERMITTED USES - After obtaining a valid zoning certificate in accordance with the provisions of these regulations, the following uses are permitted:

1. All uses permitted in a Residence R-2 District;
2. Administrative offices primarily engaged in general administration; supervision, purchasing, accounting and other management functions;
3. Businesses offices carrying on no retail trade with the general public and having no stock or goods for sale to customers, such as:
 - a) Banks and Financial Institutions
 - b) Holding, Investment and Trust Companies;
 - c) Real Estate Offices;
 - d) Insurance Offices;
4. Professional Offices engaged in providing tangible and intangible services to the general public, involving both persons and their possessions, such as:
 - a) Office of Physicians and Surgeons;
 - b) Offices of Dentists and Dental Surgeons;
 - c) Offices of Osteopathes;
 - d) Offices of Chiropractors;
 - e) Medical and Dental Laboratories - normally associated with and directly serving the medical and dental offices permitted in this district;
 - f) Legal Services;
 - g) Engineering and Architectural Services;
 - h) Accounting, Auditing and Bookkeeping Services;
 - i) Day Schools, Nursery Schools, Private and Commercial Schools;
 - j) Recording Studios;
 - k) Fire and Police Stations;
 - l) Government Offices;
 - m) U.S. Post Offices;
4. Child Day Care Center; Adult Day Care Center;
5. Libraries, Museums and Fine Art Centers;
6. Adult Group Homes for developmentally disabled;
7. Bed and breakfast establishments and short-term rental establishments;

1002-CONDITIONALLY PERMITTED USES - After obtaining a conditional use permit in accordance with the provisions of these regulations, the following uses may be permitted:

1. Offices of Veterinarians, Animal Hospitals and Clinics;
2. Beauty Shops, Barber and Styling Shops, Nail/ Manicuring;
3. Research, Development, and Light Testing Laboratories;
4. Commercial Broadcasting Stations and Towers;
5. Institutions
6. Hospitals
7. Funeral Homes and Crematories;
8. Medication Maintenance Facilities or Dispensaries;
9. Health Club or Fitness Center;
10. Recreation Facilities, Indoor non-governmental including tennis/racquet courts, swimming pools, roller/in-line and ice-skating rinks and fitness tracks;
11. Auditoriums and Performing Arts Theaters;

12. All uses specified in Article XVI, Section 1600 of this ordinance.

1003-PROHIBITED USES – Any other use not designated as a permitted or conditionally permitted use within the Business B-1 District is classified as a prohibited use.

1004-GENERAL REQUIREMENTS -

LOT AREA AND WIDTH - Minimum width of eighty (80) feet of frontage on a dedicated right-of-way and a minimum lot area of 10,000 square feet; except that nothing in this ordinance shall prevent the use of lots platted prior to the enactment of this ordinance provided all other general requirements are met.

FRONT YARD - Minimum of fifty (50) feet. In the case of corner lots, the setback from the side street property line shall be no less than twenty (20) feet. If a service or delivery area is located on the side street side, this minimum shall be doubled.

SIDE YARD - Total side yard of no less than twenty (20) feet and the width of the narrower shall be no less than five (5) feet.

REAR YARD- Minimum of fifteen (15) feet. If a service court, delivery area or alleyway is located in the rear yard, the minimum shall be increased to forty-five (45) feet.

HEIGHT - No building shall exceed forty (40) feet in height.

SIGNS - All signage shall be as regulated in Article XVIII of this ordinance.

PARKING - One parking space measuring 10' x 20' (200 square feet), exclusive of access and driveways, shall be provided for 80% of the total gross floor space on each floor. Up to twenty (20%) percent of required parking stalls may be land banked with green space only. If installed post development the land banked stalls will require storm water management designed to the criteria of the Mahoning County Engineer's Office. See also Article XVII-Supplementary District Regulations, Section 1713-Minimum Off-Street Parking Requirements.

1005-RESIDENTIAL USES - In those structures which are to be used solely for dwelling purposes, as permitted, the front, side and rear yard requirements, and the area, lot, width and height restrictions for Residence R-2 District shall be adhered to.

1006 PARKING LOT SETBACKS - All traffic pavement shall be set back from the front property line a minimum of twenty (20) feet except for those reasonable portions required for access to and from the street and to adjoining properties. For corner lots traffic pavement shall be set back from the side street property line a minimum of ten (10) feet except for those reasonable portions required for access to and from the street and to adjoining properties. The area created between the property lines and parking lot setback lines shall be landscaped with grass, evergreen ground cover or any other generally acceptable landscaping treatment as approved by the Zoning Inspector. The ratio for required plant material within the *front* parking lot setback is as follows:

- 1) One (1) deciduous tree measuring two-inch caliper for every twenty (20) feet of frontage on a dedicated improved right-of-way (recommended but not required: Locust tree);
- 2) Five shrubs measuring a minimum of eighteen (18) inches in height for every twenty (20) feet of frontage on a dedicated improved right-of-way.

In no case shall trees and shrubs be placed in such a manner which would present a safety hazard to vehicular or pedestrian traffic. The areas within the parking setbacks shall not be used for the placement of retention and/or detention ponds.

1007-BUFFERING – All buildings, dumpster enclosures, and pavement shall be set back a minimum of twenty (20) feet from all side and rear properties adjacent to Agricultural A-SER Districts, Residential R-1 Districts, Residential R-2 Districts, and Residential R-3 Districts. The following is required within designated buffer areas:

- 1) Where fences or walls are utilized, they shall be a minimum of six (6) feet in height and constructed of opaque materials; or
- 2) Screen evergreen plantings shall have when planted a minimum height of six (6) feet and should be of such size, species, and spacing as can reasonably be expected to produce a solid six (6) foot screen within three (3) years. The plantings shall be placed so that mature plants can be maintained within the property lines.

The area within a designated buffer setback shall not be used for the placement of retention and/or detention ponds. A required buffer may not be used, disturbed, or altered for any purpose unless otherwise approved by the Zoning Inspector or the Austintown Township Board of Appeals. Buffers required by this section shall be located completely on the lot subject to the buffer requirements. All landscaping materials shall be installed and maintained according to accepted nursery industry practices and procedures. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials, and shall keep them in a proper, neat, and orderly appearance, free from refuse, debris, and weeds at all times. All unhealthy or dead plant material shall be replaced within three (3) months, or by the next planting period, whichever comes first. No plant material required by these regulations shall be removed for any reason unless replaced with like kind and size at the time of removal. No approvals shall be required if replaced with a like kind and size of material. Any changes to an approved landscaping plan shall require approval in the same manner as landscaping plan originally approved.

1008-TRASH CONTAINERS - Shall be in accordance with Article XVII, Section 1710 of this ordinance or Section 1007 Buffering for areas adjacent to properties located in Agricultural A-SER Districts, Residential R-1 Districts, Residential R-2 Districts, and Residential R-3 Districts.

1008-SITE DRAINAGE - On-site surface drainage retention/detention areas and calculations must be presented to the Township Zoning Office as part of the site development plan for review by the office of the Mahoning County Engineer. Storm water management requirements must meet the design criteria of the Mahoning County Engineer's Office. If a property is located on a state right-of-way and draining into the state right-of-way ODOT storm water management requirements must also be met. The developer, contractor, and/or property owner must request a final on-site inspection by the zoning inspector of the required and approved storm water management improvements including retention, detention, grading, final elevations, and post-construction best management practices (BMPs). The developer, contractor, and/or property owner may be required at the discretion of the zoning inspector to submit for review by the Mahoning County Engineer a certified as built drawing(s) depicting and/or a construction certification letter assuring storm water management compliance.

Storm water management infrastructure required for site drainage must be maintained to the original approved design criteria. Storm water retention/detention systems must be free of rubbish, garbage, sedimentation build-up, or uncontrolled growth of plant materials/weeds. All structures including, but not limited to, headwalls, inlet-outlet pipes and control structures, orifices, catch basins, paving and curbing shall be in good repair and functioning at an optimal level as stipulated in the approved storm water management drawings. Swale ditch or ditches determined to be part of the storm water detention/retention system must be free of debris, rubbish, obstructions, and excessive plant growth so as to promote positive drainage flow. Underground/vault storm water retention/detention systems must be free of litter or rubbish and shall be in good repair and functioning at an optimal level as stipulated in the approved storm management design drawings. Surface grading must be maintained, to include filling of sinkholes, and any surface undulations that could pose a trip hazard to foot traffic if the affected area is open to public access.

1009-DRIVEWAYS/PARKING LOT AREAS - The access driveway leading from the street right-of-way to a Business B-1 structure/s shall be constructed as a hard surface driveway, consisting of either concrete or asphalt. All parking lot areas in conjunction with said commercial structure/s shall be constructed as hard surface areas, consisting of either concrete and asphalt.

1010-LIGHTING - Lighting of the business parcel shall not constitute a nuisance nor impair safe movement of traffic on any street or highway. The focus of all lighting shall be downward, directed towards the business parcel. No lighting shall be directed towards the sky. There shall be no running, flashing, or sequential building lights. Exterior lighting shall consist of dark sky

compliant light fixtures accompanied with a photometric site plan indicating zero (0) foot candles of light on adjacent properties.

ARTICLE XI - BUSINESS B-2 DISTRICT

1100-PURPOSE - The purpose of the B-2 District is to encourage the establishment of areas for general business uses to meet the needs of a regional market area. Activities in this district are often large space users with limited and controlled access to the adjacent street and unlimited strip development should be discouraged.

1101-PERMITTED USES -After obtaining a valid zoning certificate in accordance with the provisions of these regulations, the following uses are permitted:

1. All permitted uses of the Business B-1 District. All conditionally permitted uses of the Business B-1 District unless otherwise stipulated in Section 1102 - Conditionally Permitted Uses.
2. Antique Shops and Art Galleries;
3. Auto repair – no more than two bays;
4. Clothing Stores;
5. Auditoriums and Performing Arts Theaters;
6. Auto Parts Stores;
7. Bakeries;
8. Beauty Shops, Barber and Styling Shops, Nail/ Manicuring;
9. Bed and breakfast establishments and short-term rental establishments;
10. Book and Stationary Store;
11. Cinema or Motion Picture Theater, Indoor;
12. Drug Stores;
13. Florists, Gift Shops and Specialty Shops;
14. Grocery Stores, General Retail Stores (where the composite site development area is less than 300,000 sq. ft. in area);
15. Gunsmiths and Licensed Firearms Dealers;
16. Funeral Homes;
17. Furniture, Home Furnishing, Office Equipment, and Office Supplies Stores;
18. Hardware and Home Improvement Stores and Building Supply Yards for retail sale;
19. Health Club or Fitness Center;
20. Hotels and Motels;
21. Jewelry Stores;
22. Laundromats & Dry Cleaning; Clothing Alteration Shops;
23. Libraries, Museums and Fine Art Centers;
24. Athletic Facilities - Indoor including tennis/racquet courts, swimming pools, roller/in-line and ice-skating rinks, batting cages, fitness tracks, or Similar Facilities;
25. Restaurants, Coffeehouses, Doughnut Shops, or Delicatessens with a maximum seating capacity not exceeding 30 persons – use Section 1105-Parking;
26. Restaurants, Coffeehouses, Doughnut Shops or Delicatessens, with a maximum seating capacity exceeding 30 persons - One parking space (10' x 20') per 50 sq. ft. of gross floor area;
27. Restaurant(s) or addition(s) to existing restaurant(s) located in a multi-tenant building occupying 20% or more of the gross square footage of the building - One parking space (10' x 20') per 50 sq. ft. of gross floor area;
28. Sporting Goods Stores;
29. Tattoo and Body Piercing Establishments;
30. Tobacconist or Cigar/Cigarette Shops.

1102-CONDITIONALLY PERMITTED USES - After obtaining a conditional use permit in accordance with the provisions of these regulations, the following uses may be permitted:

1. Car Wash Establishments;
2. Boarding Kennels and Catteries;
3. Community Shopping Center, Plazas or Malls (where the composite building area is larger than 300,000 square feet - the composite building area shall be defined as the lot area developed with

business floor space, parking lot area, traffic accesses, retention/detention areas, buffer areas, and loading space/delivery areas);

4. Bar, Tavern, Pub, Brewpub, Cocktail Lounge, Night Club, Micro-Brewery;
5. Auto body/auto trim shops;
6. Arcades, Indoor or Outdoor Amusement Centers, Game Rooms, Miniature Golf, Golf Driving Ranges, Bowling Alleys, Outdoor Batting Cages, or Similar Facilities;
7. Used Car Lot;
8. Automobile Dealership; Truck Dealership, Recreational Vehicle Dealership, Boat Dealership, Heavy Equipment Dealership, Lift Dealership;
9. Automobile, Truck and other Motor Vehicle Fueling Stations, Gas Stations and Similar Facilities;
10. Nurseries and garden centers;
11. Intimate Apparel Shop;
12. Offices of Veterinarians, Animal Hospitals and Clinics;
13. Research, Development, and Light Testing Laboratories;
14. Institutions;
15. Hospitals;
16. Crematories;
17. Medication Maintenance Facilities or Dispensaries;
18. Banquet Facilities and Additions to existing banquet facilities;
19. Outdoor Cinema or Motion Picture Complex;
20. Outdoor Amphitheaters and Performance Stages;
21. Lottery Booths, Drive-Up Kiosks, Detached ATM Drive Up;
22. Facilities, Reverse Vending Machines, or similar facilities;
23. Flea Markets, Pawnshops and Dealers of Second-Hand Merchandise (except for used or vintage clothing and children's goods);
24. Mining and Extraction Uses;
25. Towing and/or vehicle impoundment lot; vehicle storage lot;
26. Auto Repair – More than two bays;
27. Self Storage;
28. In-door shooting ranges.

1103-PROHIBITED USES -Without limiting the foregoing, the following are specifically prohibited:

1. Any process of manufacturing, including fabrication, converting, assembly or treatment and machine and welding shops, or yeast processing;
2. Slaughtering poultry and animals, rendering lard and other fats and meat smoking, whether or not the same is incidental to a retail business;
3. Junk yards, secondhand material yards and automobile graveyards and disassembly plants;
4. Laundry and dry-cleaning plants employing more than ten (10) persons;
5. Commercial warehouses, wholesale lumber and coal yards, wholesale building material storage yards, loading and transfer stations and truck terminals;
6. The storage of explosives, and the storage of crude oil or any part of its volatile products or other highly inflammable liquids in above-ground tanks except in accordance with state fire and building code regulations thereto;
7. Bottling works;
8. Stone or monument works;
9. All buildings, structures and uses prohibited in Industrial Districts;
10. Abandoned, unlicensed, inoperable, wrecked or dismantled automobiles, vans, trucks, buses, recreational vehicles, motorcycles, trailers, farm equipment, aircraft, boats, furniture or other miscellaneous items and materials;
11. Strip mining;

12. Automobile wrecking yards;
13. No trailer shall be used for a business or retail use;
14. No cargo trailer, shipping container, or metal trailer, mounted on axles or devoid of axles, shall be used for storage purposes; and shall not be stored on a business parcel;
15. Transportation semi-tractor trailers shall not be used for purposes of storage of goods, products, or merchandise; and shall not be stored on a business parcel;
16. Cyber-café gaming facility;
17. Rolling Tobacco Private Club.

1104-PROHIBITED USES - Any other use not designated as a permitted or conditionally permitted use within the Business B-2 District is classified as a prohibited use.

1105-GENERAL REQUIREMENTS OF BUSINESS B-2 -

LOT AREA AND WIDTH - Minimum width of one hundred (100) feet of frontage on a dedicated right-of-way and a minimum lot area of 20,000 square feet shall be required, except that nothing in this ordinance shall prevent the use of a lot platted prior to the time of enactment of this amendment to the ordinance, providing the front yard, rear yard, side yard requirements stipulated herein are met.

FRONT SETBACK - Minimum of fifty (50) feet. In the case of corner lots, the setback from the side street property line shall be no less than twenty (20) feet. If a service or delivery area is located on the side street side, this minimum shall be doubled.

SIDE YARD - Total side yard of no less than twenty (20) feet and the width of the narrower shall be no less than five (5) feet.

REAR YARD- Minimum of fifteen (15) feet. If a service court, delivery area or alleyway is located in the rear yard, the minimum shall be increased to forty-five (45) feet.

HEIGHT - No building shall exceed forty (40) feet in height.

SIGNS -All signage shall be as regulated in Article XVIII of this ordinance.

PARKING - One parking space measuring 10' x 20' (200 square feet), exclusive of access and driveways, shall be provided for 80% of the total gross floor space on each floor. Up to twenty (20%) percent of required parking stalls may be land banked with green space only. If installed post development the land banked stalls will require storm water management designed to the criteria of the Mahoning County Engineer's Office and/or ODOT. See also Article XVII-Supplementary District Regulations, Section 1713-Minimum Off-Street Parking Requirements.

1006 PARKING LOT SETBACKS - All traffic pavement shall be set back from the front property line a minimum of twenty (20) feet except for those reasonable portions required for access to and from the street and to adjoining properties. For corner lots traffic pavement shall be set back from the side street property line a minimum of ten (10) feet except for those reasonable portions required for access to and from the street and to adjoining properties. The area created between the property lines and parking lot setback lines shall be landscaped with grass, evergreen ground cover or any other generally acceptable landscaping treatment as approved by the Zoning Inspector. The ratio for required plant material within the front parking lot setback is as follows:

- 1) One (1) deciduous tree measuring two-inch caliper for every twenty (20) feet of frontage on a dedicated improved right-of-way (recommended but not required: Locust tree);
- 2) Five shrubs measuring a minimum of eighteen (18) inches in height for every twenty (20) feet of frontage on a dedicated improved right-of-way.

In no case shall trees and shrubs be placed in such a manner which would present a safety hazard to vehicular or pedestrian traffic. The area within the front parking setback shall not be used for the placement of retention and/or detention ponds.

1007-BUFFERING - All buildings, dumpster enclosures, and pavement shall be set back a minimum of twenty (20) feet from all side and rear properties adjacent to Agricultural A-SER Districts, Residential R-1 Districts, Residential R-2 Districts, and Residential R-3 Districts. The following is required within designated buffer areas:

- 1) Where fences or walls are utilized, they shall be a minimum of six (6) feet in height and constructed of opaque materials; or
- 2) Screen evergreen plantings shall have when planted a minimum height of six (6) feet and should be of such size, species, and spacing as can reasonably be expected to produce a solid six (6) foot screen within three (3) years. The plantings shall be placed so that mature plants can be maintained within the property lines.

The area within a designated buffer setback shall not be used for the placement of retention and/or detention ponds. A required buffer may not be used, disturbed, or altered for any purpose unless otherwise approved by the Zoning Inspector or the Austintown Township Board of Appeals. Buffers required by this section shall be located completely on the lot subject to the buffer requirements. All landscaping materials shall be installed and maintained according to accepted nursery industry practices and procedures. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials, and shall keep them in a proper, neat, and orderly appearance, free from refuse, debris, and weeds at all times. All unhealthy or dead plant material shall be replaced within three (3) months, or by the next planting period, whichever comes first. No plant material required by these regulations shall be removed for any reason unless replaced with like kind and size at the time of removal. No approvals shall be required if replaced with a like kind and size of material. Any changes to an approved landscaping plan shall require approval in the same manner as landscaping plan originally approved.

1107-TRASH CONTAINERS - Shall be in accordance with Article XVII, Section 1710 of this ordinance or Section 1007 Buffering for areas adjacent to properties located in Agricultural A-SER Districts, Residential R-1 Districts, Residential R-2 Districts, and Residential R-3 Districts.

1108-SITE DRAINAGE - On-site surface drainage retention/detention areas and calculations must be presented to the Township Zoning Office as part of the site development plan for review by the office of the Mahoning County Engineer. Storm water management requirements must meet the design criteria of the Mahoning County Engineer's Office. If a property is located on a state right-of-way and draining into the state right-of-way ODOT storm water management requirements must also be met. The developer, contractor, and/or property owner must request a final on-site inspection by the zoning inspector of the required and approved storm water management improvements including retention, detention, grading, final elevations, and post-construction best management practices (BMPs). The developer, contractor, and/or property owner may be required at the discretion of the zoning inspector to submit for review by the Mahoning County Engineer a certified as built drawing(s) depicting and/or a construction certification letter assuring storm water management compliance.

Storm water management infrastructure required for site drainage must be maintained to the original approved design criteria. Storm water retention/detention systems must be free of rubbish, garbage, sedimentation build-up, or uncontrolled growth of plant materials/weeds. All structures including, but not limited to, headwalls, inlet-outlet pipes and control structures, orifices, catch basins, paving and curbing shall be in good repair and functioning at an optimal level as stipulated in the approved storm water management drawings. Swale ditch or ditches determined to be part of the storm water detention/retention system must be free of debris, rubbish, obstructions, and excessive plant growth so as to promote positive drainage flow. Underground/vault storm water retention/detention systems must be free of litter or rubbish and shall be in good repair and functioning at an optimal level as stipulated in the approved storm management design drawings. Surface grading must be maintained, to include filling of sinkholes, and any surface undulations that could pose a trip hazard to foot traffic if the affected area is open to public access.

1109-DRIVEWAYS/PARKING LOT AREAS - All access driveways leading from the street right-of-way to a Business B-2 structure(s) shall be constructed as hard surface driveways, consisting of either concrete or asphalt. All parking lot area(s) in conjunction with said

commercial structure(s) shall be constructed as hard surface areas, consisting of either concrete or asphalt.

1110-LIGHTING - Lighting of the business parcel shall not constitute a nuisance nor impair safe movement of traffic on any street or highway. The focus of all lighting shall be downward, directed towards the business parcel. No lighting shall be directed towards the sky. There shall be no running, flashing, or sequential building lights. Exterior lighting shall consist of dark sky compliant light fixtures accompanied with a photometric site plan indicating zero (0) foot candles of light on adjacent properties.

ARTICLE XII - BUSINESS B-3 DISTRICT - Vacated – Amendment 2022-04-Z-February
6, 2023

ARTICLE XIII - INDUSTRIAL I-1 DISTRICT

1300-PURPOSE - The purpose of an Industrial I-1 District is to encourage the development of establishments for light industrial, storage and warehousing, which are clean, quiet and free of hazardous or objectionable elements such as noise, odor, dust, smoke, or glare. This district is further designed to act as a transitional use between heavy industrial uses and other less intense business and residential uses.

1301-PERMITTED USES - After obtaining a valid zoning certificate in accordance with the provisions of these regulations, the following uses are permitted:

1. All permitted uses allowed in Business B-2 District. All conditionally permitted uses of the Business B-2 District unless otherwise stipulated in Section 1302 - Conditionally Permitted Uses.
2. Storage and wholesaling establishments primarily engaged in transporting, storing, handling or selling merchandise to retailers, industrial, institutional or professional users; or to other wholesalers, or acting as agents in buying or selling merchandise for such persons or companies;
3. Wholesale processing establishments engaged in food processing and kindred products or printed matters;
4. Research and testing laboratories.

1302-CONDITIONALLY PERMITTED USES - After obtaining a conditional use permit in accordance with the provisions of these regulations, the following uses may be permitted:

1. Community Shopping Center, Plazas or Malls (where the composite building area is larger than 300,000 square feet - the composite building area shall be defined as the lot area developed with business floor space, parking lot area, traffic accesses, retention/detention areas, buffer areas, and loading space/delivery areas);
2. Bar, Tavern, Pub, Brewpub, Cocktail Lounge, Night Club, Micro-Brewery;
3. Arcades, Indoor or Outdoor Amusement Centers, Game Rooms, Miniature Golf, Golf Driving Ranges, Bowling Alleys, Batting Cages, or Similar Facilities;
4. Used Car Lot;
5. Automobile Dealership; Truck Dealership, Recreational Vehicle Dealership; Boat Dealership, Heavy Equipment Dealership, Lift Dealership;
6. Nurseries and garden centers;
7. Crematories;
8. Banquet Facilities and Additions to existing banquet facilities;
9. Outdoor Cinema or Motion Picture Complex;
10. Outdoor Amphitheaters and Performance Stages;
11. Mining and Extraction Uses;
12. Towing and vehicle impoundment yards;
13. In-door shooting ranges.

1303-PROHIBITED USES –

1. Cyber-café gaming facility;
2. Rolling Tobacco Private Club;
3. Any use not designated as a permitted or conditionally permitted use within the Industrial I-1 District is classified as a prohibited use. All uses prohibited within the Industrial I-2 District are prohibited in the Industrial I-1 District.

1304 GENERAL REQUIREMENTS -

OFF STREET PARKING - There shall be a minimum of two hundred (200) square feet of parking space with adequate access provided for each person to be employed at any one time at such location, together with parking spaces for all vehicular equipment to be used at said location. No parking shall be permitted to extend beyond the property lines onto right-of-way.

HEIGHT - There shall be a height limit of forty (40) feet for buildings used for businesses or industrial purposes.

LOT AREAS AND WIDTH - There shall be a minimum width of one hundred (100) feet of frontage on a dedicated right-of-way and a minimum lot area of no less than 20,000 square feet.

However, this shall not prevent the use of lots platted prior to the enactment of this ordinance provided all other General Requirements are met.

FRONT YARD - There shall be a front setback of no less than fifty (50) feet. In the case of a corner lot, no building shall be placed to within twenty (20) feet of the side street property line.

SIDE YARD - There shall be a total side yard of no less than twenty (20) feet and the width of the narrower of the two (2) side yards shall be no less than five (5) feet.

REAR YARD - There shall be a rear yard of no less than thirty (30) feet.

1305 SIGNS - All signs shall be as regulated in Article XVIII of this ordinance.

1306-TRASH CONTAINERS- ~~Shall be in accordance with Article XVII.~~ Shall be in accordance with Article XVII, Section 1710 of this ordinance or Section 1310 Buffering for areas adjacent to properties located in Agricultural A-SER Districts, Residential R-1 Districts, Residential R-2 Districts, and Residential R-3 Districts.

1307-SITE DRAINAGE - On-site surface drainage retention/detention areas and calculations must be presented to the Township Zoning Office as part of the site development plan for review by the office of the Mahoning County Engineer. Storm water management requirements must meet the design criteria of the Mahoning County Engineer's Office. If a property is located on a state right-of-way and draining into the state right-of-way ODOT storm water management requirements must also be met. The developer, contractor, and/or property owner must request a final on-site inspection by the zoning inspector of the required and approved storm water management improvements including retention, detention, grading, final elevations, and post-construction best management practices (BMPs). The developer, contractor, and/or property owner may be required at the discretion of the zoning inspector to submit for review by the Mahoning County Engineer a certified as built drawing(s) depicting and/or a construction certification letter assuring storm water management compliance.

Storm water management infrastructure required for site drainage must be maintained to the original approved design criteria. Storm water retention/detention systems must be free of rubbish, garbage, sedimentation build-up, or uncontrolled growth of plant materials/weeds. All structures including, but not limited to, headwalls, inlet-outlet pipes and control structures, orifices, catch basins, paving and curbing shall be in good repair and functioning at an optimal level as stipulated in the approved storm water management drawings. Swale ditch or ditches determined to be part of the storm water detention/retention system must be free of debris, rubbish, obstructions, and excessive plant growth so as to promote positive drainage flow. Underground/vault storm water retention/detention systems must be free of litter or rubbish and shall be in good repair and functioning at an optimal level as stipulated in the approved storm management design drawings. Surface grading must be maintained, to include filling of sinkholes, and any surface undulations that could pose a trip hazard to foot traffic if the affected area is open to public access.

1308-DRIVEWAYS/PARKING LOT AREAS - All access driveways leading from the street right-of-way to an Industrial-1 District structure(s) shall be constructed as hard surface driveways, consisting of either concrete or asphalt. All parking lot area(s) in conjunction with said industrial structure(s) shall be constructed as hard surface areas, consisting of either concrete or asphalt.

1309-PARKING LOT SETBACKS - All traffic pavement shall be set back from the front property line a minimum of twenty (20) feet except for those reasonable portions required for access to and from the street and to adjoining properties. For corner lots traffic pavement shall be set back from the side street property line a minimum of ten (10) feet except for those reasonable portions required for access to and from the street and to adjoining properties. The area created between the property lines and parking lot setback lines shall be landscaped with grass, evergreen ground cover or any other generally acceptable landscaping treatment as approved by the Zoning Inspector. The ratio for required plant material within the front parking lot setback is as follows:

- 1) One (1) deciduous tree measuring two-inch caliper for every twenty (20) feet of frontage on a dedicated improved right-of-way (recommended but not required: Locust tree);
- 2) Five shrubs measuring a minimum of eighteen (18) inches in height for every twenty (20) feet of frontage on a dedicated improved right-of-way.

In no case shall trees and shrubs be placed in such a manner which would present a safety hazard to vehicular or pedestrian traffic. The area within the front parking setback shall not be used for the placement of retention and/or detention ponds.

1310-BUFFERING – All buildings, dumpster enclosures, and pavement shall be set back a minimum of twenty (20) feet from all side and rear properties adjacent to Agricultural A-SER Districts, Residential R-1 Districts, Residential R-2 Districts, and Residential R-3 Districts. The following is required within designated buffer areas:

- 1) Where fences or walls are utilized, they shall be a minimum of six (6) feet in height and constructed of opaque materials; or
- 2) Screen evergreen plantings shall have when planted a minimum height of six (6) feet and should be of such size, species, and spacing as can reasonably be expected to produce a solid six (6) foot screen within three (3) years. The plantings shall be placed so that mature plants can be maintained within the property lines.

The area within a designated buffer setback shall not be used for the placement of retention and/or detention ponds. A required buffer may not be used, disturbed, or altered for any purpose unless otherwise approved by the Zoning Inspector or the Austintown Township Board of Appeals. Buffers required by this section shall be located completely on the lot subject to the buffer requirements. All landscaping materials shall be installed and maintained according to accepted nursery industry practices and procedures. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials, and shall keep them in a proper, neat, and orderly appearance, free from refuse, debris, and weeds at all times. All unhealthy or dead plant material shall be replaced within three (3) months, or by the next planting period, whichever comes first. No plant material required by these regulations shall be removed for any reason unless replaced with like kind and size at the time of removal. No approvals shall be required if replaced with a like kind and size of material. Any changes to an approved landscaping plan shall require approval in the same manner as landscaping plan originally approved.

1311-LIGHTING - Lighting of the business parcel shall not constitute a nuisance nor impair safe movement of traffic on any street or highway. The focus of all lighting shall be downward, directed towards the business parcel. No lighting shall be directed towards the sky. There shall be no running, flashing, or sequential building lights. Exterior lighting shall consist of dark sky compliant light fixtures accompanied with a photometric site plan indicating zero (0) foot candles of light on adjacent properties.

ARTICLE XIV - INDUSTRIAL I-2 DISTRICT

1400-PURPOSE - The purpose of the Industrial I-2 District is to encourage the development of major manufacturing, processing, warehousing and major research and testing operations. These operations require extensive community facilities and reasonable access to arterial thoroughfares; they may have extensive open storage and service areas and generate heavy traffic.

1401-PERMITTED USES - After obtaining a valid zoning certificate in accordance with the provisions of these regulations, the following uses are permitted:

1. All buildings, structures and uses permitted in an Industrial I-1 District;
2. Buildings, structures and uses in general construction, manufacturing, processing, warehousing and major research and testing operations.

1402-CONDITIONALLY PERMITTED USES - After obtaining a conditional use permit in accordance with the provisions of these regulations, the following uses may be permitted:

1. Community Shopping Center, Plazas or Malls (where the composite building area is larger than 300,000 square feet - the composite building area shall be defined as the lot area developed with business floor space, parking lot area, traffic accesses, retention/detention areas, buffer areas, and loading space/delivery areas);
2. Bar, Tavern, Pub, Brewpub, Cocktail Lounge, Night Club, Micro- Brewery
3. Arcades, Indoor or Outdoor Amusement Centers, Game Rooms, Miniature Golf, Golf Driving Ranges, Bowling Alleys, Batting Cages or Similar Facilities
4. Used Car Lots;
5. Automobile Dealerships; Truck Dealerships, Recreational Vehicle Dealerships; Boat Dealerships, Heavy Equipment Dealerships, Lift Dealerships;
6. Nurseries and garden centers;
7. Crematories;
8. Banquet Facilities and Additions to existing banquet facilities;
9. Outdoor Cinema or Motion Picture Complex;
10. Outdoor Amphitheaters and Performance Stages;
11. Mining and Extraction Uses;
12. Towing and vehicle impoundment yards;
13. In-door shooting ranges.

1403-PROHIBITED USES

Without limiting the foregoing, the following are specifically prohibited:

- a) Any process of assembly, manufacture or treatment which produces an offensive or obnoxious smoke, odor, dust or noise, including but not limited to such things as: the manufacture or refining of asphalt, blast furnaces, the manufacturing or processing of yeast, cork, fertilizer, linoleum or oil cloth and glue or gelatin; the tanning of hides and skins, abattoir and slaughter houses (except for poultry); and the manufacture of paint, oil and varnish;
- b) Any process of assembly, manufacture or treatment constituting a hazardous use, including but not limited to such things as the manufacture or bulk storage of fireworks and explosives; and the manufacture of illuminating and other explosive or poisonous gases, except as may be incidental to a permitted industrial process;
- c) The storage of crude oil or any of its volatile products or other highly inflammable liquids in above-ground tanks, except in accordance with State regulations in respect thereto, and provided further that all above-ground tanks having a capacity of ten thousand gallons or more shall be properly diked with dikes having a capacity equal to one and one half (1-1/2) times the capacity of the tank or tanks surrounded;
- d) Junk yards and automobile graveyards;
- e) The storage of secondhand materials for resale; the storage, bailing or treatment of junk, iron, rags, bottles or scrap paper, except within a building;
- f) Strip mining;

- g) No trailer shall be used for a business, retail or industrial use;
- h) Cyber-café gaming facility;
- i) Rolling Tobacco Private Club;
- j) Any other use not designated as a permitted or conditionally permitted use within the Industrial I-2 District is classified as a prohibited use.

1404-GENERAL REQUIREMENTS -

OFF STREET PARKING - A minimum of two hundred (200) square feet of parking space with adequate access shall be provided for each person to be employed at any one time at such location, together with parking spaces for all vehicular equipment to be used at said location. No parking shall be permitted to extend beyond the property lines onto right-of-way.

HEIGHT - No height restriction.

LOT AREA AND WIDTH - Minimum width of one hundred (100) feet of frontage on a dedicated right-of-way and a minimum lot area of not less than 20,000 square feet. However, this shall not prevent the use of lots platted prior to the enactment of this ordinance, provided all other General Requirements are met.

FRONT YARD - Minimum of fifty (50) feet. In the case of a corner lot, no building shall be placed to within twenty (20) feet of a side street property line.

SIDE YARD - Total side yard of no less than twenty (20) feet and the width of the narrower of the two (2) side yards shall be no less than five (5) feet.

REAR YARD - Minimum of fifteen (15) feet.

1403-SIGNS - All signs shall be as regulated in Article XVIII of this ordinance.

1404-TRASH CONTAINERS - Shall be in accordance with Article XVII, Section

1710 of this ordinance or Section 1408 Buffering for areas adjacent to properties located in Agricultural A-SER Districts, Residential R-1 Districts, Residential R-2 Districts, and Residential R-3 Districts.

1405-SITE DRAINAGE - On-site surface drainage retention/detention areas and calculations must be presented to the Township Zoning Office as part of the site development plan for review by the office of the Mahoning County Engineer. Storm water management requirements must meet the design criteria of the Mahoning County Engineer's Office. If a property is located on a state right-of-way and draining into the state right-of-way ODOT storm water management requirements must also be met. The developer, contractor, and/or property owner must request a final on-site inspection by the zoning inspector of the required and approved storm water management improvements including retention, detention, grading, final elevations, and post-construction best management practices (BMPs). The developer, contractor, and/or property owner may be required at the discretion of the zoning inspector to submit for review by the Mahoning County Engineer a certified as built drawing(s) depicting and/or a construction certification letter assuring storm water management compliance.

Storm water management infrastructure required for site drainage must be maintained to the original approved design criteria. Storm water retention/detention systems must be free of rubbish, garbage, sedimentation build-up, or uncontrolled growth of plant materials/weeds. All structures including, but not limited to, headwalls, inlet-outlet pipes and control structures, orifices, catch basins, paving and curbing shall be in good repair and functioning at an optimal level as stipulated in the approved storm water management drawings. Swale ditch or ditches determined to be part of the storm water detention/retention system must be free of debris, rubbish, obstructions, and excessive plant growth so as to promote positive drainage flow. Underground/vault storm water retention/detention systems must be free of litter or rubbish and shall be in good repair and functioning at an optimal level as stipulated in the approved storm management design drawings. Surface grading must be maintained, to include filling of sinkholes, and any surface undulations that could pose a trip hazard to foot traffic if the affected area is open to public access.

1406-DRIVEWAYS/PARKING LOT AREAS - All access driveways leading from the street right-of-way to an Industrial-1 District structure(s) shall be constructed as hard surface driveways, consisting of either concrete or asphalt. All parking lot area(s) in conjunction with said industrial structure(s) shall be constructed as hard surface areas, consisting of either concrete or asphalt.

1407-PARKING LOT SETBACKS - All traffic pavement shall be set back from the front property line a minimum of twenty (20) feet except for those reasonable portions required for access to and from the street and to adjoining properties. For corner lots traffic pavement shall be set back from the side street property line a minimum of ten (10) feet except for those reasonable portions required for access to and from the street and to adjoining properties. The area created between the property lines and parking lot setback lines shall be landscaped with grass, evergreen ground cover or any other generally acceptable landscaping treatment as approved by the Zoning Inspector. The ratio for required plant material within the front parking lot setback is as follows:

- 1) One (1) deciduous tree measuring two-inch caliper for every twenty (20) feet of frontage on a dedicated improved right-of-way (recommended but not required: Locust tree);
- 2) Five shrubs measuring a minimum of eighteen (18) inches in height for every twenty (20) feet of frontage on a dedicated improved right-of-way.

In no case shall trees and shrubs be placed in such a manner which would present a safety hazard to vehicular or pedestrian traffic. The area within the front parking setback shall not be used for the placement of retention and/or detention ponds.

1408-BUFFERING – All buildings, dumpster enclosures, and pavement shall be set back a minimum of twenty (20) feet from all side and rear properties adjacent to Agricultural A-SER Districts, Residential R-1 Districts, Residential R-2 Districts, and Residential R-3 Districts. The following is required within designated buffer areas:

- 1) Where fences or walls are utilized, they shall be a minimum of six (6) feet in height and constructed of opaque materials; or
- 2) Screen evergreen plantings shall have when planted a minimum height of six (6) feet and should be of such size, species, and spacing as can reasonably be expected to produce a solid six (6) foot screen within three (3) years. The plantings shall be placed so that mature plants can be maintained within the property lines.

The area within a designated buffer setback shall not be used for the placement of retention and/or detention ponds. A required buffer may not be used, disturbed, or altered for any purpose unless otherwise approved by the Zoning Inspector or the Austintown Township Board of Appeals. Buffers required by this section shall be located completely on the lot subject to the buffer requirements. All landscaping materials shall be installed and maintained according to accepted nursery industry practices and procedures. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials, and shall keep them in a proper, neat, and orderly appearance, free from refuse, debris, and weeds at all times. All unhealthy or dead plant material shall be replaced within three (3) months, or by the next planting period, whichever comes first. No plant material required by these regulations shall be removed for any reason unless replaced with like kind and size at the time of removal. No approvals shall be required if replaced with a like kind and size of material. Any changes to an approved landscaping plan shall require approval in the same manner as landscaping plan originally approved.

1409-LIGHTING - Lighting of the business parcel shall not constitute a nuisance nor impair safe movement of traffic on any street or highway. The focus of all lighting shall be downward, directed towards the business parcel. No lighting shall be directed towards the sky. There shall be no running, flashing, or sequential building lights. Exterior lighting shall consist of dark sky compliant light fixtures accompanied with a photometric site plan indicating zero (0) foot candles of light on adjacent properties.

ARTICLE XIV - INDUSTRIAL I-2 DISTRICT

1400-PURPOSE - The purpose of the Industrial I-2 District is to encourage the development of major manufacturing, processing, warehousing and major research and testing operations. These operations require extensive community facilities and reasonable access to arterial thoroughfares; they may have extensive open storage and service areas and generate heavy traffic.

1401-PERMITTED USES - After obtaining a valid zoning certificate in accordance with the provisions of these regulations, the following uses are permitted:

1. All buildings, structures and uses permitted in an Industrial I-1 District;
2. Buildings, structures and uses in general construction, manufacturing, processing, warehousing and major research and testing operations.

1402-CONDITIONALLY PERMITTED USES - After obtaining a conditional use permit in accordance with the provisions of these regulations, the following uses may be permitted:

1. Community Shopping Center, Plazas or Malls (where the composite building area is larger than 300,000 square feet - the composite building area shall be defined as the lot area developed with business floor space, parking lot area, traffic accesses, retention/detention areas, buffer areas, and loading space/delivery areas);
2. Bar, Tavern, Pub, Brewpub, Cocktail Lounge, Night Club, Micro- Brewery
3. Arcades, Indoor or Outdoor Amusement Centers, Game Rooms, Miniature Golf, Golf Driving Ranges, Bowling Alleys, Batting Cages or Similar Facilities
4. Used Car Lots;
5. Automobile Dealerships; Truck Dealerships, Recreational Vehicle Dealerships; Boat Dealerships, Heavy Equipment Dealerships, Lift Dealerships;
6. Nurseries and garden centers;
7. Crematories;
8. Banquet Facilities and Additions to existing banquet facilities;
9. Outdoor Cinema or Motion Picture Complex;
10. Outdoor Amphitheaters and Performance Stages;
11. Mining and Extraction Uses;
12. Towing and vehicle impoundment yards;
13. In-door shooting ranges.

1403-PROHIBITED USES

Without limiting the foregoing, the following are specifically prohibited:

- a) Any process of assembly, manufacture or treatment which produces an offensive or obnoxious smoke, odor, dust or noise, including but not limited to such things as: the manufacture or refining of asphalt, blast furnaces, the manufacturing or processing of yeast, cork, fertilizer, linoleum or oil cloth and glue or gelatin; the tanning of hides and skins, abattoir and slaughter houses (except for poultry); and the manufacture of paint, oil and varnish;
- b) Any process of assembly, manufacture or treatment constituting a hazardous use, including but not limited to such things as the manufacture or bulk storage of fireworks and explosives; and the manufacture of illuminating and other explosive or poisonous gases, except as may be incidental to a permitted industrial process;
- c) The storage of crude oil or any of its volatile products or other highly inflammable liquids in above-ground tanks, except in accordance with State regulations in respect thereto, and provided further that all above-ground tanks having a capacity of ten thousand gallons or more shall be properly diked with dikes having a capacity equal to one and one half (1-1/2) times the capacity of the tank or tanks surrounded;
- d) Junk yards and automobile graveyards;
- e) The storage of secondhand materials for resale; the storage, bailing or treatment of junk, iron, rags, bottles or scrap paper, except within a building;
- f) Strip mining;

- g) No trailer shall be used for a business, retail or industrial use;
- h) Cyber-café gaming facility;
- i) Rolling Tobacco Private Club;
- j) Any other use not designated as a permitted or conditionally permitted use within the Industrial I-2 District is classified as a prohibited use.

1404-GENERAL REQUIREMENTS -

OFF STREET PARKING - A minimum of two hundred (200) square feet of parking space with adequate access shall be provided for each person to be employed at any one time at such location, together with parking spaces for all vehicular equipment to be used at said location. No parking shall be permitted to extend beyond the property lines onto right-of-way.

HEIGHT - No height restriction.

LOT AREA AND WIDTH - Minimum width of one hundred (100) feet of frontage on a dedicated right-of-way and a minimum lot area of not less than 20,000 square feet. However, this shall not prevent the use of lots platted prior to the enactment of this ordinance, provided all other General Requirements are met.

FRONT YARD - Minimum of fifty (50) feet. In the case of a corner lot, no building shall be placed to within twenty (20) feet of a side street property line.

SIDE YARD - Total side yard of no less than twenty (20) feet and the width of the narrower of the two (2) side yards shall be no less than five (5) feet.

REAR YARD - Minimum of fifteen (15) feet.

1403-SIGNS - All signs shall be as regulated in Article XVIII of this ordinance.

1404-TRASH CONTAINERS - Shall be in accordance with Article XVII, Section

1710 of this ordinance or Section 1408 Buffering for areas adjacent to properties located in Agricultural A-SER Districts, Residential R-1 Districts, Residential R-2 Districts, and Residential R-3 Districts.

1405-SITE DRAINAGE - On-site surface drainage retention/detention areas and calculations must be presented to the Township Zoning Office as part of the site development plan for review by the office of the Mahoning County Engineer. Storm water management requirements must meet the design criteria of the Mahoning County Engineer's Office. If a property is located on a state right-of-way and draining into the state right-of-way ODOT storm water management requirements must also be met. The developer, contractor, and/or property owner must request a final on-site inspection by the zoning inspector of the required and approved storm water management improvements including retention, detention, grading, final elevations, and post-construction best management practices (BMPs). The developer, contractor, and/or property owner may be required at the discretion of the zoning inspector to submit for review by the Mahoning County Engineer a certified as built drawing(s) depicting and/or a construction certification letter assuring storm water management compliance.

Storm water management infrastructure required for site drainage must be maintained to the original approved design criteria. Storm water retention/detention systems must be free of rubbish, garbage, sedimentation build-up, or uncontrolled growth of plant materials/weeds. All structures including, but not limited to, headwalls, inlet-outlet pipes and control structures, orifices, catch basins, paving and curbing shall be in good repair and functioning at an optimal level as stipulated in the approved storm water management drawings. Swale ditch or ditches determined to be part of the storm water detention/retention system must be free of debris, rubbish, obstructions, and excessive plant growth so as to promote positive drainage flow. Underground/vault storm water retention/detention systems must be free of litter or rubbish and shall be in good repair and functioning at an optimal level as stipulated in the approved storm management design drawings. Surface grading must be maintained, to include filling of sinkholes, and any surface undulations that could pose a trip hazard to foot traffic if the affected area is open to public access.

1406-DRIVEWAYS/PARKING LOT AREAS - All access driveways leading from the street right-of-way to an Industrial-1 District structure(s) shall be constructed as hard surface driveways, consisting of either concrete or asphalt. All parking lot area(s) in conjunction with said industrial structure(s) shall be constructed as hard surface areas, consisting of either concrete or asphalt.

1407-PARKING LOT SETBACKS - All traffic pavement shall be set back from the front property line a minimum of twenty (20) feet except for those reasonable portions required for access to and from the street and to adjoining properties. For corner lots traffic pavement shall be set back from the side street property line a minimum of ten (10) feet except for those reasonable portions required for access to and from the street and to adjoining properties. The area created between the property lines and parking lot setback lines shall be landscaped with grass, evergreen ground cover or any other generally acceptable landscaping treatment as approved by the Zoning Inspector. The ratio for required plant material within the front parking lot setback is as follows:

- 1) One (1) deciduous tree measuring two-inch caliper for every twenty (20) feet of frontage on a dedicated improved right-of-way (recommended but not required: Locust tree);
- 2) Five shrubs measuring a minimum of eighteen (18) inches in height for every twenty (20) feet of frontage on a dedicated improved right-of-way.

In no case shall trees and shrubs be placed in such a manner which would present a safety hazard to vehicular or pedestrian traffic. The area within the front parking setback shall not be used for the placement of retention and/or detention ponds.

1408-BUFFERING – All buildings, dumpster enclosures, and pavement shall be set back a minimum of twenty (20) feet from all side and rear properties adjacent to Agricultural A-SER Districts, Residential R-1 Districts, Residential R-2 Districts, and Residential R-3 Districts. The following is required within designated buffer areas:

- 1) Where fences or walls are utilized, they shall be a minimum of six (6) feet in height and constructed of opaque materials; or
- 2) Screen evergreen plantings shall have when planted a minimum height of six (6) feet and should be of such size, species, and spacing as can reasonably be expected to produce a solid six (6) foot screen within three (3) years. The plantings shall be placed so that mature plants can be maintained within the property lines.

The area within a designated buffer setback shall not be used for the placement of retention and/or detention ponds. A required buffer may not be used, disturbed, or altered for any purpose unless otherwise approved by the Zoning Inspector or the Austintown Township Board of Appeals. Buffers required by this section shall be located completely on the lot subject to the buffer requirements. All landscaping materials shall be installed and maintained according to accepted nursery industry practices and procedures. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials, and shall keep them in a proper, neat, and orderly appearance, free from refuse, debris, and weeds at all times. All unhealthy or dead plant material shall be replaced within three (3) months, or by the next planting period, whichever comes first. No plant material required by these regulations shall be removed for any reason unless replaced with like kind and size at the time of removal. No approvals shall be required if replaced with a like kind and size of material. Any changes to an approved landscaping plan shall require approval in the same manner as landscaping plan originally approved.

1409-LIGHTING - Lighting of the business parcel shall not constitute a nuisance nor impair safe movement of traffic on any street or highway. The focus of all lighting shall be downward, directed towards the business parcel. No lighting shall be directed towards the sky. There shall be no running, flashing, or sequential building lights. Exterior lighting shall consist of dark sky compliant light fixtures accompanied with a photometric site plan indicating zero (0) foot candles of light on adjacent properties.

ARTICLE XV - PLANNED UNIT DEVELOPMENT DISTRICT (PUD)

1500-OBJECTIVES FOR PLANNED UNIT DEVELOPMENTS - Planned Unit Developments will be permitted for the purpose of conserving land through more efficient

allocation of private lots, multi-family dwelling units, common grounds, and non-residential uses, promoting greater efficiency in providing public and utility services, and receiving the benefits of new techniques of community development and renewal.

1501-PROVISIONS GOVERNING PLANNED UNIT DEVELOPMENTS – Because of the special characteristics of planned unit developments, special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this article and those of the other articles of this resolution, the provisions of this article shall prevail for the development of land for planned unit developments. Subjects not covered by this article shall be governed by the respective provisions found elsewhere in this resolution.

1502-USES PERMITTED - Only those uses permitted or conditionally permitted in each district of this resolution may be proposed for development under the planned unit development approach. Compatible residential, commercial, industrial, public and quasi-public uses may be combined provided that the proposed location of the commercial or industrial use will not adversely affect adjacent property, and/or the public health, safety, and general welfare. The amount of land not in compliance with Section 1502 devoted to commercial and/or industrial use in a residential-commercial development shall be determined by the Zoning Commission.

1503-RECOMMENDED MINIMUM PROJECT AREA - It is recommended that the gross area of the tract to be developed under the planned unit development approach should conform to the following schedule:

Residential 5

Residential (27.6)-Commercial (2.4) 30

Residential (32)-Commercial (3.2)-Industrial (4.8) 40

When the planned unit development is a mixture of uses no more than eight percent (8%) of the tract may be devoted to commercial activities nor more than twelve percent (12%) of the tract to industrial activities.

1504-DEFINITIONS -

"Common Open Space" is a parcel or parcels of land or any area of water, or a combination of land and water within the site designed and intended for the use or enjoyment of occupants of the planned unit development. Common Open Space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of occupants.

"Landowner" shall mean the legal or beneficial owner or owners of all the land proposed to be included in a planned unit development. The holder of an option or contract to purchase, a lessee or other person having an enforceable proprietary interest in such land, shall be deemed to be a landowner for the purposes of this Article.

"Plan" shall mean the written and graphic submission for a planned unit development, including a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, density of development, private streets, ways and parking facilities, common open space and public facilities.

"Planned Unit Development (PUD)" means a development which is planned to integrate residential use with collateral uses, and in which lot size, setback lines, yard areas, and dwelling types may be varied and modified to achieve particular design objectives and make provision for open spaces, common areas, utilities, public improvements, and collateral non-residential uses.

"Professional Consultant" shall mean a person who possesses the knowledge and skills, by reason of education, training and experience, to comprehend the full nature and extent of the project in question regarding its social, economic, physical, environmental and design characteristics, and implications in order to foster a unified plan for development. He may be, but not necessarily limited to, a registered architect, landscape architect, professional engineer, professional surveyor, planner, or equivalent.

1505-PROJECT OWNERSHIP - The project land may be owned, leased, or controlled either by a single person or corporation, or by a group of individuals or corporations. Such ownership may be by a public or private corporation.

1506-COMMON OPEN SPACE - Five (5) to twenty (20) percent of the land developed in any planned unit development project shall be reserved for common open space and recreational facilities for residents or users of the area being developed. The open space shall be disposed of as required in Section 1507 of this Resolution.

1507-DISPOSITION OF OPEN SPACE - The required amount of common open space land reserved under a planned unit development shall either be held in corporation ownership by owners of the project area for the use of each owner who buys property within the development, or be dedicated to the Township and retained as common open space for parks, recreation, and related uses. All land dedicated to the Township must meet the Planning Commission requirements as to size, shape, and location. Public utility and similar easements and right-of-ways, for water courses and other similar channels are not acceptable for common open space dedication to the Township unless such land or right-of-way is usable as a trail or other similar purpose and approved by the Planning Commission. Such open space shall include that open space that may be required by the Mahoning County Planning Commission under Article 4.2 of the Mahoning County Subdivision Regulations. The advice of the Mahoning County Planning Commission may be sought regarding any additional open space acquisition.

1508-MAINTENANCE OF OPEN SPACE - The responsibility for the maintenance of all open spaces shall be agreed upon by the Township Trustees before approval of the final development plan.

1509-UTILITY REQUIREMENTS - Underground utility plans shall be required in designated planned unit developments. The Mahoning County Subdivision Regulations must be followed. Additional Township requirements may be added when appropriate.

1510-RESIDENTIAL PLANNED UNIT DEVELOPMENT - Residential Planned Unit Development may be developed following the provisions of Sections 1511-1513.

1511-MINIMUM LOT SIZE -

1. The lot area of the dwelling unit may not be reduced to less than 60% of the minimum lot area required in the official schedule of district regulations, except for attached, clustered, detached or single family houses intended to be conveyed separately, in which case there shall be no required minimum area except that the lot shall wholly contain all of the house and all front, rear or side yards as shown on the approved plan.

In no case shall the density of the housing units exceed six (6) per acre for the overall tract, including open areas.

2. Lot widths may be varied to allow for a variety of structural designs. It is also recommended that setbacks be varied.

1512-LOTS TO ABUT UPON COMMON OPEN SPACE - Every property developed under the planned unit development approach should be designed to abut upon common open space or similar areas. A clustering of dwellings is encouraged. In areas where townhouses are used, there shall be no more than eight (8) townhouse units in any contiguous group.

1513-HEIGHT REQUIREMENTS - For each foot of building height over the maximum height regulations specified in the respective residential districts, the distance between such buildings and the side and rear property lines of the planned unit development project area shall be increased by a two (2) foot addition to the side and rear yard required in the district.

1514-NON-RESIDENTIAL, COLLATERAL COMMERCIAL USES -The provisions of Section 1515-1517 shall apply to non-residential, collateral commercial uses within a planned unit development.

1515-ARRANGEMENT OF COMMERCIAL USES - Commercial buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections with thoroughfares. Planting screens or fences shall be provided on the sides of the development abutting areas occupied or likely to be occupied by residences.

The plan of the project shall provide for the integrated and harmonious design of buildings, and for adequate and properly arranged facilities for internal traffic circulation, landscaping, and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding, existing, or potential developments.

All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner as specified by the Zoning Commission.

1516-PARKING - Off-street parking, loading, and service areas shall be provided in accordance with Articles X, XI, and XVI of this Ordinance. However, off-street parking and loading areas shall not be permitted within fifteen (15) feet of any residential use.

1517-OPEN SPACE - Open space gained through the varying of setback and area requirements as established in Section 1506 is to be used for the development of open plazas, pedestrian malls, tot lots, and other public spaces and uses with adequate arrangement, design, and planting.

1518-NON-RESIDENTIAL, COLLATERAL INDUSTRIAL USES - The provisions of Section 1518-1520 shall apply to non-residential, collateral industrial uses within a planned unit development.

1519-ARRANGEMENT OF INDUSTRIAL USES - Industrial uses and establishments within the planned unit development shall be developed in parklike surroundings, utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas or docks, and/or outdoor storage of raw materials or products. A planned industrial area shall provide for the harmony of buildings and a compact grouping in order to economize in the provision of such utility services as are required.

Thoroughfares shall be kept to a minimum throughout the planned industrial area in order to reduce through traffic.

Project side yards of forty (40) feet and a rear yard of fifty (50) feet shall be required if the project is located adjacent to any residential district or residential portion of the planned unit development. All intervening spaces between the right-of-way line and project building line and intervening spaces between buildings, drives, parking areas, and improved areas shall be landscaped with trees and plantings and properly maintained at all times.

1520-PERMITTED USES - Certain types of commercial uses such as restaurants, central secretarial and stenographic pools, or other business service type uses, repair services, or clinics as may form a small commercial center to serve the needs of the industries or their personnel, may be permitted in the planned industrial area as accessory uses.

1521-APPLICATION FOR PLANNED UNIT DEVELOPMENT (PUD), ZONE CHANGE DISTRICTING, AND ZONING APPROVAL PROCESS - An Applicant may apply for a Planned Unit Development Zone Change by making application to the Township Zoning Commission pursuant to the provisions of Article IV, Sections 414-416 of the Township Zoning Ordinance.

In addition to the Contents of Application contained in Article IV, Section 415, the application for Planned Unit Development Zone Change shall contain the following:

- a) An area map showing the Applicant's entire holding, that portion of the Applicants property under consideration, and all properties, sub-divisions, streets and easements within two hundred (200) feet of Applicants property.
- b) A project site plan including the following information:
 1. Title of drawing, including name and address of Applicant;
 2. North point, scale and date;
 3. Boundaries of the property plotted to scale;
 4. Existing watercourses;
 5. A site plan showing location, proposed use and height of all buildings, location of all parking and truck-loading areas, with ingress and egress drives thereto; location and proposed development of all open spaces, including parks, playgrounds, and open reservations; location of outdoor storage; if any, location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; descriptions of method of sewage disposal and location of such facilities; location and size of all signs, location and design of street and parking lighting; the amount of building area proposed for non-residential uses, if any.
 6. Recommendations for proposed zoning;
 7. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls;
 8. Adequacy and arrangement of pedestrian traffic access and circulation including: separation of pedestrian from vehicular traffic, and pedestrian convenience;
 9. Location, arrangement, appearance and sufficiency of off-street parking and loading;
 10. Location, arrangement, size and placement of building(s), lighting, and signs;
 11. Arrangement of landscape features.
 12. Adequacy of storm water and sanitary waste disposal facilities;

13. Adequacy of structures, roadways, in areas with moderate to high susceptibility to flooding and ponding and/or erosion. The application shall be considered in accordance with the procedures established under Ohio Revised Code, Section 519.12, as contained in Article IV, Sections 416-423, of the Township Zoning Ordinance.

1522-PHASING AND CHANGES OF APPROVED DEVELOPMENT PLAN -

Any plan which requires more than twenty-four (24) months to complete shall be constructed in phases and phasing plan must be developed. In a phased PUD, it is expected that changes in the approved development plan will be required from time to time. In order to preserve the flexibilities which are fundamental to PUD, plan changes to permit adjustments to a phasing program are permitted to the limitations listed below:

1. The changed plan must meet the basic objectives and all regulations and requirements of this resolution;
2. All plan changes must be submitted to the Township Trustees for reapproval.

1523-EXPIRATION AND EXTENSION OF APPROVAL PERIOD - The approval of a development plan for a residential planned unit development district shall be for a period not to exceed two (2) years to allow for preparation and recording of the required subdivision plat, and the development of the project. If construction of five percent (5%) of the total cost of the project has not been completed within two (2) years after approval is granted, the Board of Trustees may initiate hearings pursuant to Section 413 of the Zoning Ordinance to consider rezoning of said PUD to the original zoning district classification. An extension of the time limit or modification of the approved development plan may be approved if the Township Trustees find that such extension or modification is not in conflict with the public interest.

1524-VIOLATION - Violation of the approval of uses for Residential Planned Unit Development shall constitute a violation of the Austintown Township Zoning Ordinance in accordance with Article II, Section 204, and such violations may be prevented pursuant to the provisions of Section 519.24 of the Ohio Revised Code.

1525-SITE DRAINAGE: On-site surface drainage retention/ detention areas and calculations must be presented to the Township Zoning Office as part of the site development plan for review by the office of the Mahoning County Engineer. The developer, contractor, and/or property owner must request a final on-site inspection by the zoning inspector of the required and approved storm water management improvements including retention, detention, grading, final elevations, and post-construction best management practices (BMPs). The developer, contractor, and/or property owner may be required at the discretion of the zoning inspector to submit for review by the Mahoning County Engineer a certified as built drawing(s) depicting and/or a construction certification letter assuring storm water management compliance.

ARTICLE XVI - CONDITIONAL USES

1600 - The Board of Zoning Appeals as hereinafter created may authorize the issuance of a conditional use permit for any of the following buildings or uses in any district:

1. Quasi-public buildings;
2. Recreational areas;
3. Day school, nursery school, private and commercial school;
4. Institutions;
5. Homes for the elderly;
6. Cemeteries, provided that no mausoleum or crematory shall be located less than two hundred (200) feet from adjacent property and/or street lines, and that any new cemetery shall contain a minimum of twenty (20) acres;
7. Aircraft landing field and its necessary appurtenances;
8. Radio stations and towers;
9. A parking lot to be used in conjunction with an abutting property or property directly across the street, provided the lot is to be used, at no charge, for the parking of motor vehicles of owner, employees, customers, patrons or guests of the person or firm controlling and operating the lot, and any other conditions as required by the Board of Appeals; and.

The Board of Zoning Appeals as hereinafter created may authorize the issuance of a conditional use permit for bed and breakfast establishment and short-term rentals in the Agricultural A-SER Districts, Residence R-1 Districts, Residence R-2 Districts, and the Residence R-3 Districts;

10. Bed and Breakfast Establishments

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

- (a) Bed and breakfast establishments shall only be permitted within a single-family, detached dwelling.
- (b) The owner of the premises shall reside full-time in the dwelling, or in a dwelling on an adjoining lot.
- (c) No more than five bedrooms in any dwelling may be used for bed and breakfast lodging and at least one bathroom shall be dedicated to guest use.
- (d) One off-street parking space shall be provided for each bedroom used for guest lodging.
- (e) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the bed and breakfast establishment that will indicate from the exterior that the building is being utilized in part for any purpose other than a dwelling unit.
- (f) Meals provided for cost in a bed and breakfast establishment shall only be served to the guests who are lodging at the bed and breakfast establishment.
- (g) Guests shall be permitted to reside at the facility for not longer than three continuous weeks.

1601-GENERAL STANDARDS APPLICABLE TO ALL CONDITIONAL USES

- The Board of Appeals shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

1. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character or the general vicinity, and that such use will not change the essential character of the same area;
2. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or

that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

3. Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community;

4. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production

of traffic, noise, smoke, fumes, glare, or odor;

5. Will have vehicular approaches to the property which shall be so designed to not create an interference with traffic on surrounding public thoroughfares;

6. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

1602-SUPPLEMENTARY CONDITIONS AND SAFEGUARDS - In granting any conditional use, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards regarding:

1. General character, height and use of structures;

2. Provisions of surrounding open space and treatment of the grounds;

3. Buffering;

4. Street capacity, traffic, parking;

5. Front, side and rear yard requirements;

6. Lighting, noise, odor.

Violations of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this ordinance and punishable under Article II, Section 204.

1603-EXPIRATION OF CONDITIONAL USE PERMIT - A conditional use approval shall be deemed to authorize only one particular conditional use, and said approval shall become void if the use is not implemented within two (2) years from the date of approval of the Board of Zoning Appeals.

1604-PROCEDURE FOR A CONDITIONAL USE PERMIT - An application for conditional use permit shall be filed with the Board of Zoning Appeals. At a minimum, the application shall contain the following information:

1. Name, address and phone number of Applicant;

2. Legal description of the property;

3. Description of existing use;

4. Description of proposed conditional use;

5. A plan of the proposed site for the conditional use, showing the location of existing and/or proposed buildings, parking and loading areas; traffic access and traffic circulation, landscaping, service areas, utilities, signs, yards and such other information as the Board may require to determine if the proposed

conditional use meets the intent and requirements of this ordinance.

1605-PROCEDURE FOR HEARING, NOTICE - Upon receipt of the application for a conditional use permit, the Board of Zoning Appeals shall hold a public hearing within forty (40) days from receipt of said application, publish notice in newspaper, and give written notice to all parties in interest.

Action by the Board of Zoning Appeals - Within thirty (30) days after the public hearing, the Board shall either approve, approve with supplementary conditions, or disapprove the application as presented. If the application is approved or approved with modifications, the Board shall direct the Zoning Inspector to issue a conditional use permit listing the specific conditions specified by the Board for approval. Any person or persons, jointly or severally adversely affected by the Board of Appeals, may appeal to the Court of Common Pleas of Mahoning County. The Court may affirm, reverse, vacate or modify the decision complained of in the appeal. Such appeal must be

presented to the Court within thirty (30) days after the filing of the decision in the office of the Board.

1606-REVIEW OF ALL CONDITIONAL USE PERMITS - A conditional use permit for a use authorized under these resolutions shall be issued for a three (3) year period. After a three (3) year period has elapsed, a new conditional use permit shall be required and may be issued provided that the Board of Zoning Appeals and the Zoning Inspector have determined that the said use has been and is continuing operation according to the specifications of the Zoning Ordinance, and any attached special conditions in the previous conditional use permit. If necessary, the Board of Zoning Appeals may modify the requirements for the continued operation of the use as a prerequisite for the reissuance of the conditional use permit.

ARTICLE XVII - SUPPLEMENTARY DISTRICT REGULATIONS

1700-PURPOSE - The purpose of supplementary district regulations is to set specific conditions for various uses, classification of uses or areas where problems are frequently encountered.

1701-FRONTAGE ON STREET - Every dwelling hereafter constructed shall have full lot frontage upon a dedicated, improved street.

1702-FIRE ESCAPES AND OPEN STAIRWAYS - Nothing contained in this ordinance shall prevent the projection of an open fire escape or stairway into a rear, side or front yard for a distance not to exceed eight (8) feet.

1703-HEIGHT EXCEPTIONS - Nothing in this ordinance shall be interpreted to limit or restrict the height of a church spire, radio or wireless tower, belfry, clock tower, scenery lift or similar structure.

1704-PARKING AND STORAGE OF CERTAIN VEHICLES AND STORAGE OF FURNITURE AND MISCELLANEOUS ITEMS - No abandoned, wrecked, unused, or dismantled automobile, truck, jeep, van, recreational vehicle (motor home), trailer, farm equipment, or aircraft shall be permitted to be stored in an exposed manner in any yard area in any agricultural, residential, or business district.

None of the following shall be permitted to be discarded, deposited, or stored in an exposed manner in any yard area, or on any open porch, in any agricultural, residential, or business district: garbage, trash, waste, rubbish, ashes, cans, bags, boxes, pallets, automobile or truck parts, chassis, quarter panels, tires, tire rims, appliances, furniture, glass, scrap metal, barrels, plastic, or anything else of an unsightly or unsanitary nature. No motor vehicle shall be parked or stored in the grass/lawn of any yard area (front, side or rear), and must be parked or stored on a hard surface or gravel driveway in any residential or business district.

An unused motor vehicle shall not be advertised "for sale" and placed on property located in a Residence R-1, R-2, R-3, R-4 or Business B-1 District for a period longer than fourteen (14) days.

1705-CONVERSION OF DWELLINGS TO MORE UNITS - A residence may not be converted to accommodate an increased number of dwelling units unless:

1. The yard dimensions meet the yard requirements as required by the zoning regulations for new structures in that district;
2. The lot area per family equals the lot area requirements for new structures in that district;
3. The floor area per dwelling unit is not reduced to less than that which is required for new construction in that district.

1706-TEMPORARY BUILDINGS - Temporary buildings, construction trailers, equipment and materials used in conjunction with construction work only, may be permitted in any district during the period construction work is in progress, but such temporary facilities shall be removed upon completion of the construction work.

1707-TRAILERS AND HOUSE TRAILERS - No individual trailers, mobile homes, or vehicles designed for mobile living shall be occupied for dwelling purposes, except in a Mobile Home Park District.

Recreational vehicles, boats and trailers shall be permitted to be parked/stored in a residential district as follows:

1. In the yard area of the side yard, with no portion of the unit to be closer to the side yard property line than ten (10) feet;
2. In the driveway only in the front yard, with the unit parked perpendicular to the street and setback a minimum of twenty-five (25) feet from the street front property line;
3. In the case of a corner lot, with the unit parked perpendicular to the street and setback a minimum of twenty-five (25) feet from the side street property line;
4. In the yard area of the rear yard, with the unit parked a minimum of fifteen (15) feet from a rear or side yard property line.

EXCEPTION - A temporary Occupancy Permit may be issued for a maximum period of three (3) months by the Township Zoning Inspector to allow the occupancy of a mobile home on

property where the dwelling has been damaged by fire or similar disaster, and is being repaired for occupancy.

1708-A-COMMERCIAL VEHICLES -

1. One (1) commercial vehicle with a gross vehicle weight (GVW) not to exceed 11,000 pounds shall be permitted to be parked or stored in any Residence R-1, R-2, R-3, R-4 or Business B-1 District;
2. None of the following described commercial vehicles shall be permitted to be parked or stored in any Residence R-1, R-2, R-3, R-4 or Business B-1 District, except if completely stored within a private garage;
 - a) A truck with a gross vehicle weight (GVW) of more than 11,000 pounds;
 - b) A tractor and/or trailer used for freight purposes;
 - c) A bus or motorcoach.

1708-B-HEAVY EQUIPMENT - In a residential district, the parking or storage of heavy equipment used for business purposes is prohibited.

1709-SWIMMING POOLS - COMMUNITY OR CLUB SWIMMING POOLS - Community or club swimming pools shall comply with the following regulations:

1. The pool and the area used by bathers shall be no closer than fifty (50) feet to any property line;
2. The swimming pool and all of the area used by the bathers shall be walled or fenced to prevent uncontrolled access by children. Said fence or wall shall be no less than five (5) feet in height and maintained in good condition.

1710-TRASH CONTAINERS- In all Business and Industrial Districts and for multi-dwelling units, dumpsters, whether permanent or portable, shall be placed a minimum of five (5) feet from property lines, and shall be placed within an acceptable opaque enclosure consisting of three (3) walls no less than five (5) feet in height. If said dumpster is detached from a building, the open side shall face the interior of the property or contain an opaque gate.

In all business and industrial districts and for multi-dwelling complexes, dumpsters shall be placed within the open space between the rear wall of the building and the rear line of the lot or a minimum of 10 feet behind the front building setback line. Trash dumpsters of sufficient size must be provided for each use it serves. All garbage and trash must be contained inside the dumpster and not inside the enclosure. This standard shall also apply to any recycling bins or containers.

Dumpster placement may be approved as part of a specific site plan by the Board of Appeals when reviewing conditional use requests.

No commercial trash container or dumpster shall be permitted in any Residence R-1 or Residence R-2 District, except for a temporary period of time during the rehabilitation/construction of a dwelling.

1711-HOME OCCUPATIONS - Home occupations, as an accessory use, shall be permitted in residential districts under the following conditions and requirements;

1. The accessory use shall be such as the office or studio of a musician, lawyer, architect, teacher, real estate agent, insurance agent, clerical, accountant, broker, consultant, engineer, architect, sales representative, clock repair, computer programing, computer repair, barber shop/beauty shop/nail/manicuring salons with a maximum of one chair, caterers with no on-site catering, workshops for a seamstress, tailor, dressmaker, gunsmith, and artisan.

2. The following home occupations shall require approval of a conditional use permit: photographer, State of Ohio licensed massage therapist, dog grooming, and personal trainer.

3. Home occupation uses not expressly permitted or conditionally permitted are determined to be prohibited.

4. The use shall be conducted solely by a person residing on the premises. No employees are permitted under the home occupation criteria. The home occupations shall be conducted wholly within the dwelling unless otherwise approved by the Board of Appeals.

5. Shall be a personal service with no sale of merchandise and there shall be no change in the appearance of the structure and/or property which would alter or detract from the residential characteristics of the neighborhood.

6. If the accessory use involves teaching or instructions, it is restricted to private instruction with a maximum number of two (2) students at a time. Classes with more than two (2) students are not permitted.

7. There shall be no commercial display visible from the street except a small professional name plate or announcement sign having a maximum area of two (2) square feet.

8. Off-street parking shall be provided for all vehicles.

9. The storage of equipment, supplies, materials, files, and the like, shall be stored completely within the residence or accessory buildings.

1712-HAZARDOUS WASTE DUMPING - No manufacturing, assembling, dumping, storage or treatment of any hazardous or toxic waste or of any nuclear product or the processing of any materials which are volatile, corrosive, reactive or hazardous to the environment or a public health nuisance shall be permitted in the Township.

1713-MINIMUM OFF-STREET PARKING REQUIREMENTS - In Business B-1, Business B-2, Business B-3, Industrial I-1, and Industrial I-2 Districts, the following minimum off-street parking requirements shall be effective. If a business is not specifically covered by the following requirements, then the general parking requirements set forth for Business B-1 District (Section 1004); Business B-2 District (Section 1105); Business B-3 District (Section 1205); Industrial I-1 District (Section 1302); Industrial I-1 District (Section 1402) shall be followed:

1. Automobile or Machinery Sales and Service Garages - 1 space for each 100 sq. ft. floor area;
2. Barber shops and beauty shops - 2 spaces per barber and/or beautician;
3. Bowling Alley - 5 spaces each alley;
4. Churches/Temples - 1 space each 4 seats;
5. Community Center, Commercial recreation or amusement place (structures) - 1 space each 100 sq. ft. floor area;
6. Funeral Home/Mortuaries - 1 space each 100 sq. ft. floor area;
7. Furniture/Appliance Stores, Hardware Store, Machinery or equipment sales and service - 1 space each 100 sq. ft. floor area;
8. Hospitals, Sanitarium, Convalescent Home, Nursing Home - 1 space each 2 patients, plus 1 space each employee;
9. Hotels/Motels, Boarding and Lodging Houses - 1 space each sleeping room;
10. Manufacturing plants, Industrial establishment, Research or Testing Laboratories and Bottling plants - 1 space each 2 employees on maximum work shift;
11. Restaurants, Bars and Night Clubs - 1 space each 50 sq. ft. floor area;
12. Stadiums, Sports Arenas, Auditoriums, Theaters, Assembly Halls – other than schools - 1 space each 2 seats.

1714-CASUAL SALES (GARAGE SALES) IN RESIDENTIAL DISTRICTS -

The sale of specific or miscellaneous goods or materials on a lawn, driveway, or within an attached or detached private garage shall be deemed a casual sale. On any property zoned as a residential district, such sales are limited to a maximum of two (2), three (3) day sales within any calendar year. Signs advertising such a sale shall be restricted and placed on the subject residential property only. Such signs shall not exceed four (4) square feet. Signs shall not be placed on public right-of-way or on utility poles.

1715 – DONATION BOXES - Donation drop-off boxes shall be permitted only in accordance with the following standards and procedures:

1. Donation drop-off boxes shall not be allowed in any agricultural, residential or Business B-1 zoning districts, except on properties where a conditional use permit exists for a place of religious worship or assembly.

2. Donation drop-off boxes are permitted only on properties that contain a primary permitted use.

3. Donation drop-off boxes are subject to the issuance of a Zoning Permit and upon receipt of written authorization by the property owner or legal representative. A scaled site plan depicting placement will be required for the permit review process.

4. Donation drop-off boxes shall not obstruct pedestrian or vehicular circulation, nor be located in public rights-of-way, landscape areas, drive aisles, required parking spaces, fire lanes, loading zones, buffers or any other location that may cause hazardous conditions, constitute a threat to the public safety, or create a condition detrimental to surrounding land uses.

Donation drop-off boxes shall be setback from the edge of road paving a minimum of 60 feet.

5. Each donation drop-off box shall have a firmly closing lid and shall have a capacity no greater than six cubic yards. No donation drop-off box shall exceed eight feet in height.

6. Donation drop-off boxes may be constructed of painted metal, rubber, wood, or plastic and shall be properly maintained in a safe and good condition.

7. Donation drop-off boxes shall be clearly marked to identify the specific items and materials requested to be left for donation, the name of the operator or owners of the donation container, the entity responsible for maintenance of the drop-off box and removal of materials and trash from the immediate area, and a telephone number where the owner, operator or agent of the owner or operator may be reached at any time. The box shall display a notice stating that no items or materials shall be left outside of the donation drop-off box as well as a notice that shall read "Not for refuse disposal. Liquids are prohibited. Do not use for garbage, candy wrappers, soft drink bottles, etc."

8. No commercial advertising will be permitted on donation drop off boxes box except for its specific use as stated in Paragraph 7;

9. Occupation of parking spaces by donation drop-off boxes shall not reduce the number of available parking spaces below the minimum number required for the site.

10. All donated items must be collected and stored in the donation drop-off box. Donated items or materials shall not be left outside of donation drop-off boxes and the area around each box shall be maintained by the owner or operator, or the property owner, free of litter and any other undesirable materials.

1716 - Amateur Radio Antennas - Towers used to support amateur radio antenna shall not exceed 70 feet in height.

A tower shall be set back a minimum of one foot from each lot line for every one foot in height. All guy wires, if applicable, shall be set back a minimum of ten feet from all lot lines.

Any tower and related structures shall be installed in accordance with the instructions furnished by the manufacturer of the tower model. An antenna mounted on a tower may be modified and changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.

1717 - Playsets, Treehouses, Batting Cages, and Trampolines - Playsets, treehouses, batting cages, and trampolines shall be permitted in any rear yard, without a zoning certificate provided that the use is 200 square feet or less. Any use that has a larger footprint or that is an enclosed structure shall be regulated as a detached accessory building.

1718 - Temporary Special Events - A zoning certificate for temporary special events such as festivals, circuses, concerts, tents, and similar uses shall be valid for no more than 4 consecutive days provided the applicant receives other applicable permits from the Mahoning County Building Department, Mahoning County Health Department, the Austintown Township Police Department, and Austintown Township Fire Department. No more than two special events shall be permitted on any single lot or plaza per calendar year.

ARTICLE XVIII - SIGNS

1800-PURPOSE - The purpose of this amendment is to promote and protect the public health, welfare, and safety by regulating outdoor signs of all types. More specifically, this article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech while also:

Enhancing and protecting the physical appearance of the township;

Promote and maintain visually attractive residential, business, commercial, and industrial districts;

Balancing the rights of individuals to convey messages through signs with the right of the public to be protected against the unrestricted proliferation of signs;

Ensuring that signs are located and designed to reduce sign distraction and confusion that may be contributing factors in traffic congestion and accidents, and maintain a safe and orderly pedestrian and vehicular environment;

Preventing the erection of structures of any kind that will obstruct sight distance at the intersection of streets, alleys, or driveways;

Preventing the erection of poorly constructed and unsafely located, posted, or painted signs;

Regulating the proper construction, maintenance, safety, and structural soundness of signs;

Reduce hazards that may be caused by signs overhanging or projecting over public right-of-ways including accessory signs and other types advertising media; and

Prohibiting all signs not expressly permitted by this article.

APPLICABILITY

It shall hereafter be unlawful for any person to erect, place, or maintain a sign in the township except in accordance with the provisions of this article.

Unless otherwise provided, this section shall apply to any sign, in any zoning district, that is visible from the public right-of-way or from property other than the property on which the sign is located.

Any sign already established on the effective date of this section or future amendment thereto, and which sign is rendered nonconforming by the provisions herein, shall be subject to the nonconforming regulations.

SUBSTITUTION AND PROTECTION CLAUSE

Wherever a sign with a commercial message is allowed or permitted under this article, an owner may replace the message with a noncommercial message, subject to the time, place and manner provisions of this article, without applying for a zoning certificate and/or paying a fee that otherwise would be required for the placement of a commercial message sign on the lot; provided, that the sign structure or mounting device is legal without consideration of message content. This provision prevails over any provision to the contrary in this article. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision does not create a right to increase the total amount of signage on a lot or parcel, nor does it affect the requirement that a sign structure or mounting device be properly permitted.

1801-EXCEPTIONS - In all districts, the following types of signs are exempt from securing a permit; however, the regulations as specified shall apply:

1. **INSTITUTIONAL** - Signs setting forth the name of any simple announcement for any public, charitable, educational or religious institution located entirely within the premises; and civic, historic interest signs and the like;
2. **PRIVATE TRAFFIC DIRECTION** - Signs directing traffic movements, within a premises, not exceeding six (6) square feet in area for each sign;
3. **HOME OCCUPATION SIGNS** - Home occupation, professional signs announcing only the name and occupation of building tenant; to be no larger than two (2) square feet and placed a minimum of ten (10) feet from street right-of-way;
4. **TEMPORARY SIGNS** - As permitted by Section 1806 of this Article.
5. **GOVERNMENT SIGNS** - Signs erected and maintained pursuant to and in the discharge of any governmental function or required by any law, ordinance, or governmental regulation, are exempt from these regulations.
6. Any signage located inside a building;
7. For the purpose of safety services locating a property, a sign denoting the dwelling or building number is required and such sign shall comply with the requirements of the fire code;
8. Any works of art that do not contain a commercial message (excluding graffiti);
9. Any sign located on umbrellas or similarly related private patio furniture or seating provided it is located outside of the right-of-way and complies with any other applicable standards of this code;
10. Any sign on a truck, bus or other vehicle that is used in the normal course of a business for transportation or vehicle signage required by local, state or federal governments;
11. Signs installed or required by Austintown Township, Mahoning County, a publicly funded transit agency, or any agency of the State of Ohio or federal government;
12. Warning signs or traffic safety signs required by public utility providers; and

13. Any lighting, signs, or related decorations erected on a seasonal basis in observance of religious, national, or state holidays that are not intended to be permanent in nature and which do not contain a commercial message.

PROHIBITED SIGN TYPES

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

1. Signs that are applied or affixed to trees, utility poles, benches, or any other unapproved supporting structure, or otherwise placed in the public right-of-way;
2. Any sign or sign structure which is structurally unsafe, or constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation;
3. Signs that employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of motion to attract attention.
4. Laser lights, beacons and searchlights, except for emergency purposes;
5. Motor vehicles, tractor trailers, trailers, or similar vehicles with signs painted on, attached to, or otherwise affixed to the vehicle or trailer shall not be parked or stored on a lot as a form of signage. This standard does not apply to vehicles used in the day-to-day business of the applicable use (e.g., delivery vehicles or vehicles used by employees). Vehicles and/or trailers with signage that are parked for more than 24-hours on a lot without a principal use or parked, without any movement, for more than 72 hours on a lot with a principal use, shall be considered a violation of this subsection.
6. Any signs which imitate or resemble official traffic or governmental signs that are designed or used in a manner as to interfere with, mislead, or confuse drivers along streets;
7. Roof mounted signs unless classified as a conditional use.
8. Any other sign type that is not specifically permitted by this article.

1803-SIGN AREAS - The sign area shall be that area enclosed by one rectangle or painted area, the sides of which make contact with the extreme points or edges of the sign, excluding the supporting structure which does not form part of the sign proper or of the display. Where a double face sign is displayed, only one side shall be used in the computation of the sign area.

SIGN SETBACKS

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

SIGN HEIGHT

The height of a sign shall be computed as the distance from the base of the sign at normal grade (average grade at the base of the sign) to the top of the highest attached component of the sign. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely undertaken for the purpose of locating or increasing the height of sign.

In cases where the normal grade is below grade at street level, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public or private street.

Any material whose major function is providing structural support for a sign shall be considered part of the sign for purposes of determining sign height.

1804-GENERAL REQUIREMENTS - The following requirements shall be applicable to all signs in all districts:

1. A sign advertising a product or service shall be permitted only on the premises where such product or service is sold or available;
2. No signs shall extend over a sidewalk or other public way, and this shall include all accessory signs and advertising media;
3. All signs with a commercial message shall be professionally manufactured, or of equivalent quality.
4. The construction, erection, safety, and maintenance shall comply with all applicable building and electrical codes.
5. No sign or sign structure shall be placed on private or public property without the written consent of the owner or agent thereof.
6. Permanent signs shall be fabricated with rigid materials that are of good quality and good durability.
7. In the event there is a conflict between the provisions of this section and the provisions of any applicable building codes, the provisions of the applicable building code shall govern.

ZONING CERTIFICATE REQUIRED

No person shall erect, place, relocate, expand, modify, maintain, or otherwise alter a sign, or cause a sign to be erected, placed, relocated, expanded, modified, maintained, or otherwise altered unless all provisions of this resolution have been met. To ensure compliance with these regulations, a zoning permit shall be required to be issued unless specifically exempted in this article.

The repainting, changing of parts and preventive maintenance of signs, and a change in the message on a changeable copy sign shall not be deemed alterations requiring a zoning permit.

A zoning permit shall be required for a sign face change.

1805-CONDITIONAL USE - Signs in excess of the minimum standards as specified by this ordinance which identify establishments located in the proximity of major highways serving the motoring public for services such as lodging, food and gasoline, may be approved by the Township Board of Zoning Appeals as an exception to the ordinance.

Digital message signs (with the exception of fuel cost digital signs) in excess of the minimum standards as specified by this ordinance which identify establishments located in the proximity of major highways serving the motoring public for services such as lodging, food and gasoline, may be approved by the Township Board of Zoning Appeals as an exception to the ordinance;

On-premise roof mounted signs within the **Business B-2 District**.

1806-BUSINESS-INDUSTRIAL-INSTITUTIONAL-QUASI PUBLIC SIGNS - In addition to the general requirements previously described, the following requirements shall be applicable to

signs located at business, industrial, institutional, and quasi-public properties, unless otherwise exempted:

1. Only identity signs and temporary signs hereinafter described shall be permitted;
2. Free standing (ground supported) signs shall not exceed thirty (30) feet in height. Any sign more than sixteen (16) feet in height shall not be placed closer to a front or side street property line than one-half of the vertical dimension of its height, and no sign shall be placed closer than two (2) feet to an interior lot line. Free standing signs shall not be established less than eight (8) feet above street grade, except when placed a minimum of ten (10) feet from front or side street property line. Said eight (8) feet above street grade to be an unobstructed open space, except for poles or supports.
3. Individual business parcels, community shopping centers, plazas, strip plazas, or malls shall be permitted only one (1) free standing, ground supported identification sign on a business/industrial parcel. Individual business parcels, community shopping centers, plazas, strip plazas, or malls located on a corner lot, or with frontage on two dedicated, improved right-of ways, shall be permitted to place two (2) free standing, ground supported identification signs on a business/industrial parcel, one (1) sign on each street frontage ~~at~~ near an entrance.

WALL SIGNS - Signs which are affixed to an exterior wall of a building and which identifies the business, commodity, service or entertainment, which is offered, sold or conducted on the premises.

A wall sign may be painted directly on a building wall, mounted on the façade wall, or mounted on a raceway.

Wall signs may be internally or externally illuminated.

ELECTRONIC MESSAGE CENTERS

Where electronic message center signs are allowed, such signs shall be subject to the following:

Electronic message centers may only be used as part of a pylon sign, monument sign or drive-through sign in accordance with this article.

The transition time between messages shall be less than one second.

All electronic message centers shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.

The electronic message center shall come equipped with an automatic dimming photocell, which automatically adjusts the display's brightness based on ambient light conditions.

Audio emissions from electronic message center signs shall be prohibited.

The maximum sign area shall be no greater than 80 square feet.

No portable or temporary accessory sign shall be placed on any premises except as provided for in these regulations.

Only one (1) banner, festoon, or pennant, not to exceed sixty (60) square feet in dimension, shall be displayed on any business or industrial parking lot in conjunction with an allowable use. Said banner, festoon, or pennant shall only advertise products sold on the premises upon which the sign is located.

TEMPORARY SIGNS - The following signs shall be permitted in all districts and shall be limited as herein stated:

1. **CONSTRUCTION SIGNS** which identify the architects, engineers, contractors, and other individuals or firms involved with the construction, (but not including any advertisement of any product), and signs announcing the character of the building enterprise or the purpose for which the building is intended, during construction period, to a maximum area of thirty-two (32) square feet for each firm. The signs shall be confined to the site of the construction and shall be removed within fourteen (14) days after occupancy of the premises;

2. **REAL ESTATE** signs advertising the sale, rental or lease of the premises or part of the premises on which the signs are displayed, up to a total area of thirty-two (32) square feet;

3. **POLITICAL CAMPAIGN** signs announcing candidates seeking public political office and other data pertinent thereto. These signs shall be confined within private property. Political signs may not be posted within public right-of-way or on utility poles. A zoning permit is not required for placement of a political sign;

4. **TEMPORARY ACCESSORY SIGNS** - No more than one (1) sign, two (2) in the case of a corner lot or a lot with frontage on two dedicated, improved right-of ways --one (1) display on each street frontage advertising a price, special, etc.—which is in conjunction with the allowable use of the property shall be permitted. Said accessory temporary sign to be no larger than twelve (12) square feet, to be non-illuminated and not placed on the right-of way, and in no way obstruct traffic visibility. No person shall be permitted to park or place any vehicle, trailer or portable message sign of a permanent or semi-permanent nature on public or private property advertising the service or products at that or any other location or directing traffic to same;

5. **ROADSIDE STAND SIGNS** - Only one (1) sign not more than thirty-two (32) square feet in area in conjunction with a roadside stand/farm market use is permitted to be displayed on agricultural...or residential property, used to advertise seasonal agricultural sales. Such signs shall be removed at the conclusion of the seasonal sales;

6. **TEMPORARY DIRECTIONAL SIGNS** - Temporary directional signs may be authorized for a period up to six (6) months provided the following conditions are met:

a) A need for a sign to direct attention from the main thoroughfare, such as the identification of a new subdivision plat by a developer or contractor, must be established to the satisfaction of the Zoning Inspector;

b) A written authorization from the owner of the property on which the sign will be erected must be filed with the application;

c) Plans showing size, construction, copy and location of the proposed sign must be filed with the application;

d) Signs shall be no larger than four (4) feet by eight (8) feet, including ornamentation, and no higher than twelve (12) feet in overall height, including supports;

e) No sign shall be permitted on a public property nor otherwise situated in such a way as to create a traffic hazard.

Such temporary directional sign permits may be renewed for two (2) additional periods (maximum sign life of 18 months); and signs not removed when permit has expired or not complying with the above conditions shall be deemed in violation of the Zoning Ordinance;

7. **TEMPORARY CIVIC NON-PROFIT SIGNS** - Temporary signs may be used by churches, parks, libraries, schools, and other public institutions and nonprofit organizations for promotion of special events held within Austintown Township. Such use shall be limited to ten (10) days prior to the event and permission of the property owner must be obtained prior to the placement of the temporary signage in any zoning district. No sign shall be placed as to constitute a traffic or safety hazard. A zoning permit is not required for placement of a temporary sign under this sign classification.

BILLBOARD SIGNS - Billboards and outdoor advertising shall be permitted in all districts zoned as an agricultural, business or industrial classification (ORC 519.20), with the following limitations:

1. Only one (1) double face billboard sign shall be permitted per lot, with said billboard not to exceed an overall height of thirty (30) feet, not exceed a gross area of 300 square feet;
2. No portion of a billboard sign shall be placed on an agricultural, business, or industrial parcel closer than fifteen (15) feet away from a street front property line, side property line, or rear property line. Setback measurements will be taken from the sign face and/or the leading edge of the sign face.
3. No billboard shall employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of motion.
4. No billboard shall have any flashing, running or sequential lights.
5. Billboards and outdoor advertising along a state highway, interstate highway, or designated federal aid primary system highway shall conform to all applicable state (O.D.O.T.) and federal regulations. A zoning application must include an approved O.D.O.T. permit.
6. No billboard sign shall be affixed to, constructed on, or placed on a trailer, semi-trailer, or truck of any type. No billboard shall be placed atop a building roof.
7. The placement of billboard and outdoor advertising signs shall be so placed as to maintain a distance of one thousand five hundred (1,500) lineal feet between one another as measured from the base of each sign, regardless of whether the signs are both located on the same single road corridor, or are both located on different road corridors.
8. No sign shall be placed within five hundred (500) feet of any publicly owned or maintained property, including but not limited to, public lands and park property.
9. Digital billboard sign faces may not flash, blink, or use intermittent lighting. Digital billboard sign faces may not use motion, animation or video. Digital billboard sign faces shall have static image lasting no less than eight (8) seconds. The digital billboard must go dark if there is a malfunction.
10. A digital billboard sign face shall be a conditional use requiring approval from the Board of Appeals if proposed within 200 feet of a Residential R-1 District, Residential R-2 District, and/or Residential R-3 District. The measurement shall be made from the closest point of the digital billboard structure to the closest point of an R-1, R-2, and/or R-3 property line.
11. A digital billboard sign face shall be a permitted use if proposed to be located more than 200 feet from a Residential R-1 District, Residential R-2 District, and/or Residential R-3 District and compliance with items 1-10 of Article XVIII – Section 1807-Billboard Signs is achieved for a new sign structure or if the existing billboard structure has a non-conforming setback or placement.

SIGNS IN RIGHT-OF-WAY

Signs shall be prohibited in the right-of-way with the exception of:

Signs installed by Austintown Township, Mahoning, State of Ohio, federal government, or a publicly funded transit agency;

Any warning signs or traffic safety signs required by public utility providers;

The Zoning Inspector may remove or cause to be removed any unlawful sign in the public right-of-way.

SIGNS FOR NONRESIDENTIAL USES IN RESIDENTIAL ZONING DISTRICTS

One permanent freestanding monument sign may be permitted on a lot containing a nonresidential use in a residential zoning district provided the sign meets the following requirements:

In all cases, the sign shall be set back a minimum of five feet from any lot lines or rights-of-way. The maximum sign area shall be no greater than 100 square feet.

A maximum of 80 percent of the monument sign area may be devoted to a manual changeable copy or an electronic message center.

No such sign or any portion of the structure shall exceed 16 feet in height.

Wall signs shall be permitted for all nonresidential uses in a residential.

SIGN VIOLATIONS

Any sign or device located within a public right-of-way shall be deemed a public nuisance and can be removed by the Zoning Inspector without any written notice.

If any such sign or device has not been removed on or before the expiration of the time limits as stated in this section, following receipt of said notice, it shall be deemed a violation of this resolution and the Zoning Inspector shall take the appropriate action necessary for removal of the sign or device, or the correction of the violation at the owner's expense.

ARTICLE XIX - SEXUALLY ORIENTED BUSINESSES AMENDMENT TO THE AUSTINTOWN TOWNSHIP ZONING RESOLUTION LIMITING SEXUALLY ORIENTED BUSINESSES TO SPECIFIED ZONING DISTRICTS AND REQUIRING THAT THEY MEET LOCATIONAL CRITERIA AND BE DISPERSED

ARTICLE XIX - WHEREAS, the Austintown Township Trustees find that there is convincing documented evidence that SEXUALLY ORIENTED BUSINESSES, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values; and

WHEREAS, it is recognized that SEXUALLY ORIENTED BUSINESSES, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

WHEREAS, the Austintown Township Trustees desire to minimize and control these adverse effects and thereby protect the health, safety, and morals of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, the Austintown Township Trustees have determined that locational criteria will serve to protect health, safety, and morals of the people of this Township; and

WHEREAS, it is not the intent of this amendment to suppress any speech activities protected by the First Amendment, but to enact a content neutral amendment which addresses the secondary effects of SEXUALLY ORIENTED BUSINESSES; and

WHEREAS, it is not the intent of the Austintown Township Trustees to condone or legitimize the distribution of obscene material, and the Trustees recognizes that state and federal law prohibits the distribution of obscene materials, and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in the Township.

BE IT ENACTED BY THE TRUSTEES OF AUSTINTOWN TOWNSHIP, OHIO:

1900-PURPOSE AND FINDINGS - PURPOSE. It is the purpose of this amendment to regulate SEXUALLY ORIENTED BUSINESSES in order to promote the health, safety, and morals of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of SEXUALLY ORIENTED BUSINESSES within the Township. The provisions of this amendment do not have the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Further, it is not the intent of this amendment to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this amendment to condone or legitimize the distribution of obscene material.

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

1901-DEFINITIONS -

1. **ADULT ARCADE** means any place to which the public is permitted or invited where either or both (i) motion picture machines, projectors, video or laser disc players, or (ii) other video or image-producing devices are available, run via coin, token, or any form of consideration, to show images to five or fewer persons at one time; and where the images shown and/or live entertainment presented are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

2. **ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE** means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- a) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- (b) instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

3. **ADULT CABARET** means a nightclub, bar, restaurant, or similar commercial establishment that regularly features: (1) persons who appear in a "state of nudity" or "seminude"; or (2) live entertainment characterized by the depiction or description of specified anatomical areas or specified sexual activities; or (3) live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment. In the event that there is a conflict between this definition and the definition of "Adult Cabaret" in any Resolution authorized by O.R.C. § 503.52 et seq. adopted by the Board of Trustees and lawfully in effect, the definition in the aforementioned Resolution shall prevail.

4. **ADULT MOTION PICTURE THEATER** means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

5. **ADULT THEATER** means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of "specific anatomical areas" or by "specified sexual activities."

6. **COVERING** means any clothing or wearing apparel, including pasties, but does not include any substance that can be washed off the skin, such as paint or makeup, or any substance designed to simulate the appearance of the anatomical area beneath it.

7. **ESTABLISHMENT** means and includes any of the following:

- (a) the opening or commencement of any Sexually Oriented Business as a new business;
- (b) the conversion of an existing business, whether or not a Sexually Oriented Business, to any Sexually Oriented Business;
- (c) the additions of any Sexually Oriented Business to any other existing Sexually Oriented Business; or
- (d) the relocation of any Sexually Oriented Business.

8. **NUDE MODEL STUDIO** means any place where a person who appears semi-nude or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include:

- (a) a proprietary school licensed by the State of Ohio, or a college, junior college, or university supported entirely or in part by public taxation.
- (b) a private college or university that offers educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- (c) an establishment holding classes in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; where in order to participate in a class a student must enroll at least three days in advance of the class; and where no more than one semi-nude model is on the premises at any one time.

9. **NUDITY or a STATE OF NUDITY or NUDE** means exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to

view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; exposing to view any device, costume, or covering that gives the appearance of or simulates any of these anatomical areas.

10. **PERSON** means an individual, proprietorship, partnership, corporation, association, or other legal entity.

11. **SEMINUDITY or SEMINUDE CONDITION or SEMINUDE** means exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing provided that the areola is not exposed in whole or in part.

12. **SEXUAL ENCOUNTER CENTER** means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(a) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) activities between male and female persons and/or persons of the same sex when one or more of the persons is semi-nude.

13. **SEXUALLY ORIENTED BUSINESS** means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude model studio, or sexual encounter center.

14. **SPECIFIED ANATOMICAL AREAS** means:

(a) the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(b) less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

15. **SPECIFIED SEXUAL ACTIVITIES** means any of the following: (a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (b) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or (c) excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.

16. **SUBSTANTIAL ENLARGEMENT** of a Sexually Oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this amendment takes effect.

1902-SEXUALLY ORIENTED BUSINESS are classified as follows

1. adult arcades;
2. adult bookstores, adult novelty stores, or adult video stores;
3. adult cabarets;
4. adult motion picture theaters;
5. adult theaters;
6. nude model studios; and
7. sexual encounter centers.

1903-LOCATION OF SEXUALLY ORIENTED BUSINESSES -

1. A Sexually Oriented Business may be located only in accordance with the restrictions contained in (2) through (7) below.

2. A Sexually Oriented Business may be located only in an Industrial District or on a lot wholly contained in that portion of a B-2 District that is within 4,000 ft. of the midpoint of the Rte. 46 and I-80 interchange overpass.

3. No Sexually Oriented Business may be established on any lot which abuts Mahoning Ave.

4. No Sexually Oriented Business may be established within 500 feet of:

(a) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(b) A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high

schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities;
school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(c) A boundary of a residential district as defined in the Zoning Resolution.

(d) A public park or recreational area which as been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Township which is under the control, operation, or management of either the Township or which is operated or managed by another public entity; or

(e) An entertainment business which is oriented primarily towards children or family entertainment.

5. No Sexually Oriented Business may be established within 500 feet of the property line of a lot of devoted to a residential use as defined in the Zoning resolution.

6. No Sexually Oriented Business may be established, operated or enlarged within 500 feet of another Sexually Oriented Business.

7. Not more than one Sexually Oriented Business shall be established or operated in the same building, structure, or portion thereof, and the floor area of any Sexually Oriented Business in any building, structure, or portion thereof containing another Sexually Oriented Business may not be increased.

8. For the purpose of subsections (4) & (5) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a Sexually Oriented Business is operated, to the nearest property line of the premises of a use listed in subsection (4) & (5).

9. For purposes of subsection (6) of this Section, the distance between any two Sexually Oriented Businesses shall be measured in a straight line, without regard to the intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

1904-ADDITIONAL REGULATIONS CONCERNING LOT, YARD, HEIGHT, PARKING, BUILDING AND SITE DESIGN STANDARDS, AND SITE DEVELOPMENT PLAN REQUIREMENTS

1. Lot area and width, setbacks, buffering, yard area, height provisions and other site development requirements for a Sexually Oriented Business are those specified in §§1105-1110 of the Zoning Resolution.

2. Parking requirements for a Sexually Oriented Business are those specified in §1105 of the Zoning Resolution.

1905-SIGN REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES

1. All signs shall be "wall signs" as defined in §1806 of the Zoning Resolution, with a maximum allowable sign area of 40 square feet and shall comply with the standards specified in §1804 of the Zoning Resolution.

2. Review and approval procedures for a sign permit for a Sexually Oriented Business shall be in accordance with the procedures specified in §1806 of the Zoning Resolution.

3. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or street in front of the building.

4. Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square-foot sign may be placed on the door to state hours of operation and admittance to adults only.

1906-SEVERABILITY

If any section, subsection, or clause of this amendment shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected. All amendments or parts of amendments in conflict with the provisions of this amendment are hereby repealed.

1907- This amendment shall be enforced from and after November 27, 2002.

1908 - That it is found and determined that all formal actions of the Trustees concerning and related to the adoption of this amendment were adopted in an open meeting of the Trustees and that all deliberations of the Trustees were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Zoning Resolution, as amended.

ARTICLE XXI—EROSION AND SEDIMENT CONTROL (ESC)SECTION 2100 – PURPOSE AND INTENT

A. The purpose of these regulations is to establish technically feasible and reasonable standards to achieve a level of water management and sediment control that will minimize damage to property and degradation of water resources and wetlands, and will promote and maintain the public health and safety.

B. These regulations are intended to:

1. Allow development while minimizing increases in downstream flooding, erosion, and sedimentation.

2. Reduce water quality impacts to receiving water resources and wetlands that may be caused by new development or redevelopment activities.

C. These regulations apply to all of the permitted and conditional buildings, structures, and uses set forth in every zoning district in this zoning resolution, except as otherwise provided herein.

SECTION 2101 – WORDS AND TERMS DEFINED

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

SECTION 2102 – REQUIREMENTS AND APPLICATION PROCEDURES

A. Two (2) sets of Erosion and Sediment Control (ESC) Plan shall be included with the application for a zoning certificate for any of the principal permitted, accessory, or conditional buildings, structures, and uses or off-street parking, loading/unloading areas allowed by this resolution and any additions or alterations thereto.

B. ESC Plans are not required for any principal permitted, accessory, or conditional buildings, structures, or uses or off-street parking, loading/unloading areas allowed by this resolution or any additions or alterations thereto disturbing less than one (1) acre of land area.

C. The contents of the ESC Plan shall meet all requirements and recommendations for erosion and sediment control contained in the most recent version of the Mahoning County Erosion and Sediment Control Rules.

D. If the lot owner is required to prepare a Storm Water Pollution Prevention Plan (SWP3) in accordance with the Ohio Environmental protection Agency's (EPA) NPDES Permit No. OHC00002, or the most recent version thereof, this SWP3 may be submitted in lieu of a separate ESC Plan. In situations of conflict between OEPA requirements and these regulations. The most restrictive shall prevail.

E. The zoning inspector shall review the ESC Plans submitted under this resolution and approve for compliance or return for revisions with comments and recommendations for revisions within twenty-one (21) working days after receipt of the Plan. The zoning inspector shall advise that the ESC Plan may be forwarded to the Mahoning County Engineer's Office and Mahoning SWCD for technical assistance and review. A disapproved Plan shall receive a narrative report citing specific problems and procedures violated and the procedures for filling a revised Plan to ensure compliance with the Mahoning county Erosion and Sediment Control Rules. At the time the zoning inspector receives a revised Plan, Another twenty-one (21) day review period shall begin.

F. Soil disturbing activities shall not begin and zoning as zoning certificates or conditional zoning certificates shall not be issued with an ESC Plan approved by the zoning inspector in accordance with these regulations.

G. Any addition or alteration to the site design as shown on the approved ESC Plan may require the resubmission of said Plan in accordance with these regulations. In making a determination regarding such resubmission, the zoning inspector may consult with the Mahoning County Engineers and/or Mahoning SWCD. The zoning inspector shall determine if any addition or alteration requires the issuance of a new zoning certificate or conditional zoning certificate.

SECTION 2103 – COMPLIANCE WITH STATE AND FEDERAL REGULATIONS

A. Approvals issued in accordance with these regulations do not relieve the site owner of responsibility for obtaining all other necessary permits and/or approvals from federal, state, and/or county agencies. Such permits and/or approvals shall be obtained before any zoning certificate or conditional zoning certificate issued.

If requirements vary, the most restrictive requirement shall prevail.

B. Soil-disturbing activities regulated under these regulations shall not begin until all necessary state and federal permits have been granted to the owner. These permits may include, but are not limited to, the following:

1. Ohio EPA NPDES Permits authorizing storm water discharges associated with construction activity or the most current version thereof.

Proof of compliance with these requirements shall be a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the lot owner explaining why the NPDES Permit is not applicable.

2. Section 401 of the Clean Water Act. Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application, public notice, or project approval, or a letter from the lot owner verifying that a qualified professional has surveyed the lot and found no waters of the United States. Such a letter shall be noted on site plans submitted to the zoning inspector. Wetland and other waters of the United States, shall be delineated by protocols accepted by the Ohio EPA and U.S. Army Corp of Engineers at the time of application of this regulation.

3. Ohio EPS Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application, public notice, or project approval or a letter from the lot owner verifying that a qualified professional has surveyed the lot and found no waters of that State. Such a letter shall be noted on site plans submitted to the zoning inspector, isolated wetlands shall be delineated by protocols accepted by the Ohio EPA at the time of application of these regulations.

4. Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, if an Individual Permit is required for the development project, public notice or project approval. If an Individual Permit is not required, the lot owner shall submit proof of compliance with the U.S. Army Corp of Engineer's Nationwide Permit Program. This shall include one of the following:

a. A Letter from the lot owner verifying that a qualified professional has surveyed the site and found no water of the United States. Such a letter shall be noted on site plan submitted to the zoning inspector.

b. A site plan showing that any proposed fill of waters of the United States conforms to the general and specific conditions specified in the applicable Nationwide Permit. Wetlands and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corp of Engineers at the time of application of these regulations.

5. Ohio Dam Safety Law: Proof of compliance shall be a copy of the Ohio Department of Natural Resources (ODNR) Division of Water permit application, a copy of the project approval letter from the ODNR Division of Water, or a letter from the lot owner or a qualified professional explaining why the Ohio Dam Safety is not applicable.

ARTICLE XXII- SMALL WIND ENERGY PROJECT REGULATION (Adopted January 23, 2012)

Section 2200. This regulation may be referred to as the Small Wind Energy Project Regulation.

Section 2201 Purpose. The purpose of this regulation is to establish regulations for small wind energy projects in order to preserve and protect the public health and safety.

Section 2202 Applicability. This regulation applies to all lands within the boundaries of Austintown Township, Mahoning County, State of Ohio.

Section 2203 Definitions. In this regulation:

Clear Fall Zone - An area surrounding the wind turbine unit into which the turbine, tower and or turbine components might fall due to inclement weather, poor maintenance, faulty construction methods, or any other condition causing turbine failure. The area shall remain confined within the property lines of the primary parcel where the turbine is located.

Megawatt - A unit of power equal to one million watts.

Met tower - A tower, including any anchor, base, base plate, boom, cable, electrical or electronic equipment, guy wire, hardware, indicator, instrument, telemetry device, vane, or wiring, that is used to collect or transmit meteorological data, including wind speed and wind flow information, in order to monitor or characterize wind resources at or near a small wind energy project.

Owner - The person or entity that owns a wind energy project or met tower and the person or entity who holds title to property on which the small wind energy project or met tower is located.

Small wind energy project - A wind energy project that has a capacity of more than 500 watts but less than 5 megawatts, including the wind turbine generator or anemometer or any parts thereof and is primarily used to generate energy for use on the property where it is located.

Total height - The vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

Tower - Either the freestanding or monopole structure that supports a wind generator or the freestanding or monopole structure that is used as a met tower.

Zoning Inspector - The Austintown Township Zoning Inspector.

Wind energy project - Equipment that converts and then stores or transfers energy from the wind into usable forms of energy (as defined by ORC § 1551.20) and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the project.

Wind generator - The mechanical and electrical conversion components mounted at the top of a tower in a wind energy project.

Section 2204 Standards - Small Wind Energy Project. A small wind energy project is a conditional use in any district and is subject to the following requirements:

- (1) Set backs. A wind tower for a small wind energy project must be set back:
 - (a) A distance equal to 1.1 times its total height from any public road right of way, unless written permission is granted from the governmental entity with jurisdiction over the road;
 - (b) A distance equal to 1.1 times its total height from any overhead utility lines, unless written permission is granted from the affected utility;
 - (c) A distance equal to 1.1 times its total height from all property lines, and
The Owner shall provide for a “clear fall zone” that shall be maintained at all times the turbine or tower is standing. A diagram of the “clear fall zone”, along with the manufacturer’s recommendations of such a zone, must be attached to the engineering report submitted as part of the application.
- (2) Sound. The noise generated by the operation of a small wind energy project may not exceed 5 decibels above background noise measured at the closest neighboring property line, except during short-term events such as severe windstorms.
- (3) Blade Clearance. The vertical distance from ground level to the tip of a wind generator blade when the blade is at its lowest point shall be at least 30 feet.
- (4) Access. All ground-mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or a ladder within 16 feet of the ground that is readily accessible to the public.
- (5) Electrical Wires. All electrical wires associated with a small wind energy project, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, must be located underground.
- (6) Lighting. A wind tower and generator shall be artificially lighted only if lighting is required by the Federal Aviation Administration or Ohio Department of Transportation.
- (7) Appearance, Color, and Finish. The wind generator and tower shall remain painted or finished the color or finish in compliance with the Federal Aviation Association (FAA).
- (8) Code Compliance. A small wind energy project, including tower, shall comply with all applicable state construction and electrical codes, and the National Electrical Code.
- (9) Signal Interference. The owner of a small wind energy project or met tower must take reasonable steps to prevent and eliminate any interference with the transmission and reception of electromagnetic communications, such as microwave, radio, telephone, or television signals.

(10) Utility Interconnection. A small wind energy project that connects to the electric utility must comply with all pertinent provisions of the Ohio Revised Code.

Section 2205 Standards - Met Tower. A met tower is a conditional use in any district subject to the same standards as a small wind energy project set forth in Section 2204.

Section 2206 Permit Requirements.

(1) Conditional Use Permit. A Conditional Use permit is required for the installation of a small wind energy project or a met tower.

(2) Site Plan Review. The Conditional Use Permit application shall be accompanied by a site plan which includes the following:

- (a) Property lines and physical dimensions of the property;
- (b) Location, dimensions, and types of existing major structures on the property;
- (c) Location of the proposed wind project tower;
- (d) Location of any overhead utility lines on or adjacent to the property;
- (e) The right-of-way of any public road that is contiguous with the property;
- (f) Description and specifications of the components of the small wind energy project, met tower, or both, including the manufacturer, model, capacity, blade length, rotor diameter, and total height of any small wind energy project; and
- (g) A statement from the applicant that all Wind Energy Project(s) will be installed in compliance with manufacturer's specifications, and a copy of those manufacturer's specifications.

(3) Fees. The application for a Conditional Use permit for a small wind energy project must be accompanied by the appropriate fee required.

(4) Expiration. A Conditional Use permit issued pursuant to this regulation shall expire if:

- (a) The small wind energy project or met tower is not installed and functioning within 18 months from the date the Conditional Use permit is approved by the Board of Appeals; or
- (b) The small wind energy project is out of service or otherwise unused for a continuous 12-month period.

(5) Building Permits- Applicants for all small wind energy projects and parts thereof shall obtain all applicable Building Permits from the State of Ohio, as required.

(6) The system shall comply with all applicable Federal Aviation Administration (FAA) requirements, including Part 77 of Title 14 of the Code of Federal Aviation Regulations regarding installations close to airports.

(7) The Conditional Use Permit application for a small wind energy project shall include standard drawings and an engineering analysis and report of the system's tower and certification by a professional engineer.

Section 2207 Maintenance. Wind turbines must be maintained in good working order.

Section 2208 Abandonment.

(1) The owner shall, within 30 days of permanently ceasing operation of a met tower or small wind energy project, provide written Notice of Abandonment to the Zoning Inspector.

(2) A small wind energy project or met tower that is out-of-service for a continuous 12 month period will be deemed to have been abandoned. The Zoning Inspector may issue a

Notice of Abandonment to the owner of the small wind energy project or met tower that is deemed to have been abandoned. The owner shall have the right to respond to the Zoning Inspector's Notice of Abandonment within 30 days from the Notice date. The Zoning Inspector shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides verification that demonstrates the small wind energy project or met tower has not been abandoned.

(3) If the small wind energy project or met tower is determined to be abandoned or the Zoning Inspector receives a Notice of Abandonment from the owner, the small wind energy project or met tower must be removed within 90 days of the Notice of Abandonment and the site must be reclaimed. "Reclamation includes removal of all equipment and apparatuses, supports and or other hardware associated with the existing wind turbine, including the removal of the above mentioned items to a depth of three (3) feet below grade. If the owner fails to remove a small wind energy project or met tower and reclaim the site, the Township may remove or cause the removal of the small wind energy project or met tower and cause the site to be reclaimed. The cost of removal and reclamation shall become a lien upon the property and may be collected in the same manner as property taxes.

Section 2209 Conditional Use Permit Procedure.

(1) An Owner shall submit an application to the zoning inspector for a conditional use permit for a small wind energy project. The application must be on a form approved by the Township and must be accompanied by seven (7) copies of the site plan identified in Section 2206 above.

(2) The Board of Zoning Appeals shall authorize issuance of a permit or deny the application within the time provisions set out in the Zoning Ordinance.

(3) The Board of Zoning Appeals may authorize the issuance a conditional use permit for a small wind energy project after a public hearing on the application if the application and supporting materials show that the proposed small wind energy project meets the requirements of this regulation and the use is otherwise authorized by the Board of Zoning Appeals. The Board may condition the issuance of the conditional use permit upon the filing a bond or other surety with the Township in an amount set by said board.

(4) The maximum permitted height shall be controlled by the setback constraints. The Board of Appeals shall not issue a variance to the minimum required setbacks for a small wind energy project

(5) The Owner shall conspicuously post the conditional use permit on the premises upon issuance so as to be visible to the public at all times until construction or installation of the small wind energy project is complete.

Section 2210 Violations. (1) It is unlawful for any person to construct, install, or operate a small wind energy project or met tower that is not in compliance with this regulation or with any condition contained in a permit issued pursuant to this regulation. A small wind energy project or met tower that was installed prior to the effective date of this regulation is exempt from the requirements of this regulation.

(2) It is unlawful for a person to disobey, fail, neglect, or refuse to comply with or otherwise resist an order issued pursuant to this regulation.

Section 2211 Signage. No signage or advertising shall be permitted on any wind turbine device or met tower, provided however, that each wind turbine, shall have a visible mounted energy placard no larger than 24 inches by 24 inches containing the name and emergency contact information of the owner and individual or firm responsible for service and the date of installation of the facility.

Section 2212 Enforcement.

(1) The Zoning Inspector may enter any property for which a permit has been issued under this regulation to conduct an inspection to determine whether there is any violation of this regulation or whether the conditions stated in the permit have been met.

(2) The Zoning Inspector may issue an order to abate any violation of this regulation.

(3) The Zoning Inspector may issue a citation for any violation of this regulation.

(4) The Zoning Inspector may refer a violation of this regulation to the Mahoning County Prosecutor or to outside legal counsel approved by a majority vote of the Board of Trustees for legal action.

Section 2213 Penalties.

(1) Any person who fails to comply with any provision of this regulation shall be subject to enforcement and penalties as stipulated in the Zoning Ordinance.

(2) Nothing in this section shall be construed to prevent the township from using any other lawful means to enforce this regulation.

Section 2214 Relationship to Other Regulations. This regulation does not abrogate, annul, impair, interfere with, or repeal any existing regulation.

Section 2215 Severability. The provisions of this regulation are severable, and the invalidity of any section, subsection, paragraph, or subdivision will not affect the validity or effectiveness of the remainder of the regulation.

ARTICLE XXIII- MASSAGE ESTABLISHMENTS

WHEREAS, the Austintown Township Trustees find that Massage Establishments in Austintown Township require special supervision from public safety agencies in order to protect and preserve the health, safety and morals of the patrons of such businesses as well as citizens of the Township; and

WHEREAS, the Board of Township Trustees has determined that location criteria alone do not adequately protect the health, safety and morals of the people of this Township; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health concern of the Township which demands reasonable regulation of Massage Establishments in order to protect the health and well-being of the citizens; and

WHEREAS, the Board of Township Trustees finds that the incidence of unlawful sexual activities in Massage Establishments may be diminished by appropriate regulation;

WHEREAS, There is convincing documented evidence that adult entertainment establishments, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, cause increased crime, particularly in the overnight hours, and downgrade property values;

WHEREAS, permitting is a legitimate and reasonable means of accountability to ensure that operators of Massage Establishments comply with reasonable regulations and do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, licensing is a legitimate and reasonable means of accountability to ensure that individuals acting as a masseur or masseuse for a Massage Establishment comply with reasonable regulations and do not engage in illegal sexual activity or solicitation; and

WHEREAS, the Ohio Legislature has specifically authorized a Board of Township Trustees to regulate and require the registration of Massage Establishments under Ohio Revised Code 503.41;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF AUSTINTOWN TOWNSHIP, COUNTY OF MAHONING, STATE OF OHIO, THAT:

SECTION 2301-PURPOSE:

The purpose of this Resolution is to establish reasonable and uniform regulations of Massage Establishments within the Township in order to promote the health, safety, and morals of the citizens of the Township.

SECTION 2302-DEFINITIONS:

- A. **“EMPLOYEE”** means any person who performs any service or work on the premise of a massage establishment, including but not limited to providing massages, performing work of a management or supervisory nature, or performing support functions, on a full time basis, part-time or contractual basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person on the premises exclusively for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.
- B. **“MASSAGE”** means any method of exerting pressure on, stroking, kneading, rubbing, tapping pounding, vibrating, or stimulating the external soft tissue of the body with the hands, or with the aid of any mechanical or electrical apparatus or appliance.
- C. **"MASSAGE ESTABLISHMENT"** means any fixed place of business where a person offers massages: (1) In exchange for anything of value; or (2) In connection with the provision of another legitimate service.
- D. **"MASSEUR”** or **“MASSEUSE”** means any individual who performs massages at a massage establishment.
- E. **“SEXUAL OR GENITAL AREA”** means the genitalia, pubic area, anus, or perineum of any person, and the breasts of a female.
- F. **SEXUALLY ORIENTED BUSINESS** - A sexually oriented business is one which is designed and used to sell, rent or show sexually explicit materials, to display nude bodies or one which is distinguished or characterized by an emphasis on "Specified Sexual Activities" or "Specified Anatomical Areas" as defined in Article XIX and XXIII of this Resolution, particularly but not exclusively, defined as meaning an adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, or massage parlor.
- G. **Wall Sign.** The term Wall Sign shall mean a business sign attached or erected against the building or structure, with the exposed face of the sign in a plane parallel to the plane of such building or structure.

SECTION 2303-MASSAGE ESTABLISHMENT PERMIT REQUIRED:

No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on in the unincorporated areas of the township, the operation of a massage establishment without having first obtained a permit from the board of township trustees as provided in O.R.C. 503.41.

SECTION 2304-MASSEUR OR MASSEUSE LICENSE REQUIRED:

No individual shall act as a masseur or masseuse for a massage establishment located in the unincorporated areas of the township without having first obtained a license from the board of township trustees as provided in O.R.C. 503.41.

SECTION 2305-EXEMPTIONS:

No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on in the unincorporated areas of the township, the operation of a massage establishment without having first obtained a license from the board of township trustees as provided in O.R.C. 503.41. This provision shall not apply to the following:

1. A person, licensed or registered by the State of Ohio Medical Board, while performing activities normally required by or associated with their licensed or registered profession;
2. A licensed cosmetologist, registered barber, registered barber apprentice, licensed chiropractor, licensed podiatrist, licensed practical or registered nurse, while performing activities normally required by or associated with their licensed or registered profession;
3. A person working under the direct supervision of an individual mentioned in this section while such individual is performing activities normally required by or associated with their licensed or registered profession.
4. Hospitals, nursing homes and public health centers, occupational therapists, athletic trainers, karate schools, private and public K-12 schools, community fitness centers.

SECTION 2306-REGULATIONS PERTAINING TO THE LOCATION OF MASSAGE ESTABLISHMENTS:

- A. A Massage Establishment may be authorized as a permitted use by the Austintown Township Zoning Inspector in accordance with the restrictions contained in (B) through (H) below in addition to the requirements adopted under Ohio Revised Code. 503.41.
- B. A Massage Establishment may be located only in an Industrial District and/or on a lot containing a minimum lot area of 20,000 sq. ft. on that portion of a Business B-2 District that is within 4,000 ft. of the midpoint of the State Route 46 and I-80 interchange overpass.
- C. No Massage Establishment may be established on any lot which abuts Mahoning Avenue, South Canfield-Niles Road, South Raccoon Road, New Road, Kirk Road, Westchester Drive, Viola Avenue, Idaho Road, Wilcox Road, Fitch Boulevard,

Howard Drive, Barkley Avenue, Lanterman Road, Javit Court, and North and South Four Mile Run Road.

- D.** No Massage Establishment may be established within 500 feet of:
1. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 2. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
 3. A boundary of a residential district as defined in the Zoning Resolution;
 4. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Township which is under the control, operation, or management of either the Township or which is operated or managed by another public entity; or
 5. An entertainment business that is oriented primarily towards children or family entertainment.
- E.** No Massage Establishment may be established within 500 feet of the property line of a lot devoted to a residential use as defined in the Zoning Resolution;
- F.** No Massage Establishment may be established, operated or enlarged within 500 feet of another Massage Establishment or any other Sexually Oriented Business as defined in the Zoning Resolution;
- G.** Not more than one Sexually Oriented Business shall be established or operated in the same building, structure, or portion thereof, and the floor area of any Sexually Oriented Business in any building, structure, or portion thereof containing another Sexually Oriented Business may not be increased.
- H.** For the purpose of subsection (d) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a Sexually Oriented Business is operated, to the nearest property line of the premises of a use listed in subsection (d).

- I. For purposes of subsection (g) of this Section, the distance between any two Sexually Oriented Businesses shall be measured in a straight line, without regard to the intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

SECTION 2307-SIGN REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES:

- A. All signs shall be "wall signs" with a maximum allowable sign area of 40 square feet. Only one sign is permitted on each exterior wall of the building wherein the Massage Establishment is located. The wall sign shall contain no photographs, silhouettes, drawings, or pictorial representations in any manner, and may contain only the name of the enterprise. Each letter forming a word on a wall sign shall be of a solid color and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a wall sign shall be of a uniform and solid color.
- B. Banner signs or similar portable temporary signs, pennants, flags, inflatables, or any other portable temporary advertising device are not permitted on the exterior premises. Electronic reader board signs or similar signs are not permitted. Flashing lights and any lights that together create motion of any kind are not permitted on the sign or building or within the parking lot or landscaped/green space areas.
- C. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or street in front of the building.
- D. Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A two-square-foot sign may be placed on the door to state hours of operation and admittance to adults only.

SECTION 2308-ADDITIONAL REGULATIONS CONCERNING LOT, YARD, HEIGHT, PARKING, BUILDING AND SITE DESIGN STANDARDS, AND SITE DEVELOPMENT PLAN REQUIREMENTS:

- A. Lot area and width, setbacks, yard area, height provisions and other site development requirements for a Massage Establishment are those specified in §§1105-1110 of the Zoning Resolution. See sub-section "F" for buffering requirements. Each Massage Establishment shall be subject to all development standards of the underlying Business B-2 District and Industrial I-1 and Industrial I-2 Districts in which it is located.
- B. Parking requirements for a Massage Establishment are those specified in §1105 of the Zoning Resolution.

- C.** Deliveries of any kind to the establishment shall not be left on the exterior of the building at any time. Any merchandise whether exposed or packaged shall not be stored permanently or temporarily on the exterior of the building.
- D.** It shall be the duty of the operator of a Massage Establishment to: (a) post conspicuous signs stating that no loitering is permitted on such property; (b) designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every ninety minutes or inspecting such property by use of video cameras and monitors; and (c) provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.
- E.** No Massage Establishment shall erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way. A Massage Establishment shall have sufficient outside lighting to provide adequate nighttime illumination of the exterior of the building and the surrounding parking areas within the care and control of the business. All on-site parking areas and premises entries of Massage Establishment shall be illuminated from dusk until one hour past closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot-candle of light on the parking surface and/or walkways. An on-premises exterior lighting plan shall be presented to the township zoning and county building departments for approval prior to the operation of any Massage Establishment. All parking must be visible from the fronting street. Access to the exterior rear of the building shall be denied to any persons other than employees and public officials during the performance of their respective duties.
- F.** Where a Massage Establishment abuts an Agricultural-A-SER District, Residence R-1 District, Residence R-2 District, Residence R-3 District, or Business B-1 District it shall comply with the requirements of Article XI-Business B-2 District, Section 1106 General Requirements of Business B-2: "Buffering".
- G.** All Massage Establishment building facades, exteriors, and exits must be indistinguishable from surrounding buildings. Illustrations depicting partially or totally nude males and/or females shall not be posted or painted on any exterior wall of a building used for a Massage Establishment, or on any door or apparatus attached to such building, or on any exterior structure such as but not limited to a tower, satellite dish antenna, light poles, natural landscape features such as rocks, mounds, etc.
- H.** The Massage Establishment shall provide separate restroom facilities for male and female patrons. Male patrons and employees shall be prohibited from using the restroom(s) for females, and female patrons and employees shall be prohibited from using the restroom(s) for males, except to carry out duties of repair, maintenance and

cleaning of the restroom facilities. The restrooms shall be free from sexually oriented material, including any motion picture or video projection, recording or reproduction equipment.

SECTION 2309- EFFECTIVE DATE:

This Resolution will be effective thirty days after the date of adoption unless, within thirty days after the adoption of the Resolution, the Township Fiscal Officer receives a petition, signed by a number of qualified electors residing in the unincorporated area of the Township equal to not less than ten per cent of the total number of votes cast in that area for all candidates for the office of governor at the most recent general election for that office, requesting the Board of Township Trustees to submit the Resolution to the electors of the area for approval or rejection at the next primary or general election occurring at least seventy-five days after the Board receives the petition.

SECTION 2310-COMPLIANCE WITH OPEN MEETINGS LAW:

It is found and determined that all formal actions of this Board concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board, and that all deliberations of this Board that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 2311-SEVERABILITY:

If any section, subsection, or clause of this amendment shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected. All amendments or parts of amendments in conflict with the provisions of this amendment are hereby repealed.

ARTICLE XX—RIPARIAN SETBACKS

(Adpated from the Chagrin River Watershed Partners' Riparian Setback Model Ordinance)

WHEREAS, flooding is a significant threat to property and public health and safety, and vegetated riparian areas lessen the damage from flooding by slowing the water velocity, enabling water to soak into the ground, and by providing temporary storage of over bank flood flow; and,

WHEREAS, streambank erosion is a significant threat to property and public health and safety, and vegetated riparian areas stabilize streambanks and provide resistance to erosive forces both within streams and on adjacent lands; and,

WHEREAS, the protection of riparian areas results in the presence of plants best suited to each individual environment along a stream, with proven capability for survival and regeneration at no cost; and,

WHEREAS, vegetated riparian areas filter and trap sentiments, chemicals, salts septic discharge, and other pollutants from runoff and flood waters, thus protecting surface and ground water quality; and,

WHEREAS, vegetated riparian areas can provide a dense tree canopy that helps to maintain and improve the stability of watercourse temperature, thus protecting aquatic ecosystems, and helps to reduce the presence of aquatic nuisance species; and,

WHEREAS, the protection of riparian areas can result in a diverse and interconnected riparian corridor that provides habitat to a wide array of wild-life; and,

WHEREAS, the woody debris from fallen, damaged, and cut trees increases flood levels and damage to bridges in Austintown Township and neighboring communities; and,

WHEREAS, sedimentation of eroded soil adversely affect aquatic communities and incurs removal costs to downstream communities; and,

WHEREAS, there are watershed-wide efforts to minimize flooding and stream bank erosion in the Mill Creek, Meander Creek, and the Mahoning River watersheds to protect and enhance the water resources of the major watercourses to which Austintown Township drains and their tributaries; and,

WHEREAS, the Alliance for Watershed Action and Riparian Easements (AWARE); the Eastgate Regional Council of Governments; the Mahoning County Soil and Water Conservation District; the Mahoning County Engineer; the Ohio Environmental Protection Agency; and the U.S. Environmental Protection Agency recommend riparian setbacks as a valuable tool in an overall management program for flood risk reduction, erosion control, water quality control, and aquatic habitat protection; and,

WHEREAS, studies undertaken by, and reviewed by, the Ohio Environmental Agency and other independent scientific bodies recommend the minimum width for riparian setbacks; and

WHEREAS, the Zoning Commission and Board of Trustees of Austintown Township has reviewed and adopted the recommendations of the above government agencies, and the Zoning Commission and Board of Trustees of Austintown Township finds that in order to minimize encroachment on watercourses and the need for costly engineering solutions to protect structures and reduce property damage and threats to the safety of watershed residents; to protect and enhance the scenic beauty of Austintown Township; and to preserve the character of Austintown Township, the quality of life of the residents of Austintown Township, and corresponding property values, it is necessary and appropriate to regulate structures and uses within a riparian setback along the banks of designated water-courses in Austintown Township; and,

WHEREAS, Section 519.02 of the Ohio Revised Code grants Townships the legal authority to adopt land use measures for promoting the public health and safety of it citizens.

WHEREAS, 40 C.F.R., Parts 9, 1221, 123, and 124, referred to as NPDES Storm Water Phase II, required designated communities, including Austintown Township, to develop a Storm Water Management Program to address the quality of storm water runoff during and after soil

disturbing activities. The Mahoning County Storm Water Management Program was adopted on March 6, 2003.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees Austintown Township, County of Mahoning, State of Ohio, that:

Resolution-Article XX-Riparian Setbacks, is hereby adopted to read in total as follows:

ARTICLE XX—RIPARIAN SETBACKS

A. PURPOSE AND SCOPE

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

1. Reduce flood impacts by absorbing peak flows, slowing the velocity of flood waters, and regulating base flow.
2. Assist stabilizing the banks of watercourses to reduce woody debris from fallen or damaged trees, stream bank erosion, and the downstream transport of sediments eroded from watercourse banks.
3. Reduce pollutants in watercourses during periods of high flows by filtering, settling, and transforming pollutants already present in watercourses.
4. Reduce pollutants in watercourses by filtering, settling, and transforming pollutants in runoff before they enter watercourses.
5. Provide watercourse habitats with shade and food.
6. Reduce the presence of aquatic nuisance species to maintain a diverse aquatic system.
7. Provide habitat to a wide array of wildlife by maintaining diverse and connected riparian vegetation.
8. Benefit Austintown Township by minimizing encroachment on water-course channels and the need for costly engineering solutions such as gabion baskets and rip rap to protect structures and reduce property damage and threats to the safety of watershed residents; and by contributing to the scenic beauty and environment of Austintown Township; and thereby preserving the character of Austintown Township, the quality of life of the residents of Austintown Township, and corresponding property values. The following regulation has been enacted to protect and enhance these functions of riparian areas by providing reasonable controls governing structures and uses within a riparian setback along designated watercourses in Austintown Township.

B. APPLICABILITY, COMPLIANCE AND VIOLATIONS

1. This regulation shall apply to all zoning district.
2. This regulation shall apply to all structures and uses on lands containing a designated watercourse as defined in this regulations, except as provided herein.
3. No approvals or permits shall be issued by Austintown Township with out full compliance with the terms of this regulation.

C. CONFLICTS WITH OTHER REGULATIONS AND SEVERABILITY

1. Where this regulation imposes a greater restriction upon land than is imposed or required by any other provision of law, regulation, contract, or deed, the provisions of this regulation shall control.
2. This regulation shall not limit or restrict the application of other pro-visions of law, regulation, contract, deed, or the legal remedies available thereunder, except as provided in Section C (1) of this regulation.
3. If any clause, section , or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, validity of the remainder shall not be affected thereby.

D. DEFINITIONS

For the purpose of this regulation, the following terms shall have the meaning herein indicated:

CAPTURED OR CHANNELIZED STREAMS: Streams that are considered captured or channelized are those that are constructed in waters of the U.S. or connect two waters of the U.S., and they possess a defined ordinary high water mark (OWH), and they possess a defined channel and evidence of stream flow.

COMMUNITY: Throughout this regulation, this shall refer to Austintown Township or its designated representatives, boards, or commissions.

DAMAGED OR DISEASED TREES: Trees that have split trunks; broken tops; heart tops; heart rot; insect or fungus problems that will lead to imminent death; undercut root systems that put the tree in imminent danger or falling; lean as a result of root failure that puts the tree in imminent danger of falling; or any other condition that puts the tree in imminent danger of being uprooted or falling into or along a watercourse or onto a structure.

DESIGNATED WATERCOURSE: A watercourse within Austintown Township that is in conformity with the criteria set forth in this regulation.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): The agency with overall responsibility for administering the National Flood Insurance Program. **IMPERVIOUS COVER:** Any paved, hardened, or structural surface regardless of its composition, including but not limited to buildings, roads, driveways, parking lots, loading/unloading areas, decks, patios, and swimming pools.

NATURAL STREAM CHANNEL DESIGN: Practices undertaken to stabilize stream systems by restoring natural function and morphology. Natural channel design stream restoration and/or streambank stabilization projects should comply with principles laid out in the following publications: Stream Corridor Restoration: Principles, Processes, and Practices The Federal Interagency Stream Restoration Working Group, October, 1998. Applied River Morphology, Second Edition, Dr. Dave Rodgen, October, 2002. NRCS Field Office Technical Guide, Natural Resource Conservation Service.

NOXIOUS WEED: Any plant species defined by the Ohio Department of Agriculture as a “noxious weed” and listed as such by the Department. For the purposes of this regulation, the most recent version of this list at the time of application of this regulation shall prevail.

100-YEAR FLOODPLAIN: Any land susceptible to being inundated by water from a base flood. The base flood is the flood that has a one percent or greater chance of being equaled or exceeded in any given year.

OHIO ENVIRONMENTAL PROTECTION AGENCY: Referred throughout this regulation as the “Ohio EPA”

ORDINARY HIGH WATER MARK: The point of the bank or shore to which the presence and action of surface water is so continuous as to leave a district marked by erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. The ordinary high water mark defines the bed of a watercourse.

RIPARIAN AREA: Naturally vegetated land adjacent to watercourses, if appropriately sized, helps to stabilize streambanks, limit erosion, reduce flood size flows, and/or filter and settle out runoff pollutants, or performs other functions consistent with the purposes of this regulation.

RIPARIAN SETBACK: The real property adjacent to a designated watercourse located in the area defined by the criteria set forth in this regulation.

SOIL AND WATER CONSERVATION DISTRICT: An entity under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s), hereinafter referred to as Mahoning County SWCD.

SOIL DISTURBING ACTIVITY: Clearing, grading, excavating, filling, or other alteration of the earth’s surface where natural or human made ground cover is destroyed and which may result in or contribute to, erosion and sediment pollution.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would be equal to, or would exceed, 50% of the market value of the structure before the damage occurred.

WATERCOURSE: Any brook, channel, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.

WETLAND: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

E. ESTABLISHMENT OF DESIGNATED WATERCOURSES AND RIPARIAN SETBACKS

1. Designated water courses shall include those watercourses meeting any ONE of the following criteria:

(a) All watercourses draining an area greater than ½ square mile, OR

(b) All watercourses draining an area less than ½ square mile and having a defined bed and bank. In determining if watercourses have a defined bed and bank, Austintown Township may consult with a representative of the Mahoning County SWCD or other technical experts necessary, OR

(c) All previously natural watercourses that are channelized, enclosed by pipe, or captured.

2. Riparian setbacks or designed watercourses are established as follows:

(a) A minimum of 120 feet on either side of all watercourses draining an area greater than 20 square miles and up to 300 square miles.

(b) A minimum of 75 feet on either side of all watercourses draining an area greater than ½ square mile and up to 20 square miles.

(c) A minimum of 25 feet on either side of all watercourses draining an area less than ½ square mile and having a defined bed and bank as determined by Austintown Township in Section C of this regulation.

3. Riparian Setback Map. The Mahoning County Engineer's Office shall create a map identifying designated watercourses and their riparian setbacks.

Said map is attached hereto and made part of this regulation and is identified as Exhibit A. The following shall apply to the Riparian Setback Map:

(a) It shall be used as a reference document and the information contained therein shall be believed to be accurate.

(b) It shall be a guide only.

(c) Nothing herein shall prevent the Austintown Township from making additions, amendments, revisions, or deletions from the Riparian Setback Map from time to time as may be necessary.

(d) If any discrepancy is found between the Riparian Setback Map and this regulation, the criteria set forth in Section E (1) and (2) shall prevail.

4. The following conditions shall apply in riparian setbacks:

(a) Riparian setbacks shall be measured in a horizontal direction outward from the ordinary high water mark of each designated water course.

(b) Riparian setbacks shall be measured in a horizontal direction outward from the outside diameter of the outermost pipe.

(c) Riparian setbacks shall be measured in a horizontal direction outward from the center of the captured stream.

(d) Except as otherwise provided in this regulation, riparian setbacks shall be preserved in their natural state.

(e) Where the 100-year floodplain is wider than a minimum riparian setback on either or both sides of a designated watercourse, the minimum riparian setback shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain shall be defined by FEMA. If a FEMA defined floodplain does not exist for a designated watercourse, Austintown Township may require a site-specific floodplain delineation in conformance with standard engineering practices and approved by the Mahoning County Engineers Office. Any costs associated with reviewing this site-specific flood plain delineation may be assessed by the applicant.

(f) Where a wetland is identified within a minimum riparian setback, the minimum riparian setback width shall be extended to the outer-most boundary of the wetland. Wetlands shall be delineated through a site survey prepared by a qualified wetlands professional retained by the landowner using delineation protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.

F. APPLICATIONS AND SITE PLANS

1. The applicant shall be responsible for delineating riparian setbacks as required by this regulation and shall identify such setbacks on a site plan included with all subdivisions plans, land development plans, and/or zoning permit application submitted to Austintown Township. The site plan shall be prepared by a professional engineer, as determined by Austintown Township and shall be based on a survey of the affected area. Two (2) copies of the site plan shall be submitted.

The site plan shall include the following information:

- (a) The boundaries of the lot with dimensions.
- (b) The locations of all designated watercourses.
- (c) The limits, with dimensions, of the riparian setbacks.
- (d) The existing topography at intervals of two (2) feet.
- (e) The location and dimensions of any proposed structures or uses, including proposed soil disturbance, in relationship to all designated watercourses.
- (f) North arrow, scale, date, and stamp bearing the name and registration number of the qualified professional who prepared the site plan.
- (g) Other such information as may be necessary for Austintown Township to ensure compliance with this regulation.

2. Austintown Township may, in reviewing the site plan, consult with the Mahoning County SWCD or other such experts. The site plan shall not take the place of a soil erosion and sedimentation control plan and/or a storm water pollution prevention plan.

3. If soil disturbing activities will occur within 50 feet of the outer boundary of the applicable riparian setback as specified in this regulation, the riparian setback shall be clearly identified by the applicant on site with construction fencing as shown on the site plan. Such identification shall be completed prior to the initiation of any soil disturbing activities and shall be maintained throughout soil disturbing activities.

3. No approvals or permits shall be issued by Austintown Township prior to identification of riparian setbacks on the affected land in conformance with this regulation.

G. PERMITTED STRUCTURES AND USES WITHOUT ZONING CERTIFICATE

The following structures and uses are permitted in the riparian setback without a zoning certificate. Open space uses that are passive in character shall be included in the Riparian Setback including, but not limited to, those listed 1 through 4 of this section. No structures or uses permitted under this regulation shall allow trespass on, or public access to, privately held lands.

1. Recreational Activity. Hiking, fishing, hunting, picnicking, and similar passive recreational uses, as permitted by federal, state and local laws.
2. Removal of Damaged or Diseased Trees. Damaged or diseased tree may be removed.
3. Revegetation and/or Reforestation. Riparian setbacks may be revegetated and/or reforested with native, noninvasive plant species.
4. Water Supply Wells. Water supply wells for the purpose of serving permitted structures or uses on lots of record shall be allowed.

H. PERMITTED STRUCTURE AND USES WITH ZONING CERTIFICATE

The following structures and uses may be permitted in a riparian setback, subject to the approval of an application for a zoning certificate by the Zoning Inspector and in accordance with the following regulations and such other applicable regulations contained in this zoning ordinance. When granting Zoning Certificates for the following

uses, the Zoning Inspector may, for good cause, attach such conditions as it deems appropriate.

Certificates issued under this regulation are issued to the applicant only, shall not be transferred, and shall be void if not implemented within one (1) year of issuance.

1. Crossings. Crossings of designated watercourses through riparian setbacks with roads, driveways, easements, bridges, culverts, utility service lines, or other means may be permitted provided such crossings minimize disturbance in riparian setbacks and mitigate any necessary disturbances. Such crossings shall be designed by a professional engineer and only be undertaken upon approval of a Crossing Plan by the Austintown Zoning Inspector. If work will occur below the ordinary high water mark of the designated watercourse, proof of compliance with the applicable conditions of a U.S. Army Corps of Engineers Section 404 Permit (either a Nationwide Permit, including the Ohio State Certification Special Conditions and Limitations, or an Individual Permit, including Ohio 401 water quality certification), shall also be provided to Austintown Township. Proof of compliance shall be the following:

(a) A site plan showing that any proposed crossing conforms to the general and special conditions of the applicable Nationwide Permit, or (b) A copy of the authorization letter from the U.S. Army Corp of Engineers approving activities under the applicable Nationwide Permit, or (c) A copy of the authorization letter from the U.S. Army Corps of Engineers approving activities under an Individual Permit.

2. Streambank Stabilization Projects. Streambank stabilization projects along designated watercourses may be allowed, provided that such measures use natural stream channel design principles. Such streambank stabilization measures shall only be undertaken upon approval of a Streambank Stabilization Plan by the Zoning Inspector.

If streambank stabilization work is proposed below the ordinary high water mark of the designated watercourse, proof of compliance with the applicable conditions of a US Army Corps of Engineers Section 404 Permit (either a Nationwide Permit 13, including the Ohio State Certification Special Conditions and Limitations, or an Individual Permit, including Ohio 401 water quality certification) shall be provided to Austintown Township. Proof of compliance shall be the following:

(a) A site plan showing that any proposed crossing conforms to the general and special conditions of Nationwide Permit 13, or (b) A copy of the authorization letter from the US Army Corps of Engineers approving under Nationwide Permit 13, or (c) A copy of the authorization letter from the US Army Corps of Engineers approving activities under an Individual Permit.

I. USES PROHIBITED IN RIPARIAN SETBACKS

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

1. Construction. There shall be no buildings or structures of any kind.

2. Dredging or Dumping. There shall be no filling, dredging, or dumping of soil, spoils, liquid, or solid materials.

3. Fences and Walls. There shall be no fences or walls, except as permitted under this regulation.

4. Roads or Driveways. There shall be no roads or driveways, except as permitted under this regulation.

5. Motorized Vehicles. There shall be no use, parking, or storage of motorize vehicles, except as permitted under this regulation.

6. Disturbance of Natural Vegetation. There shall be no disturbance of natural vegetation within riparian setbacks, except for the following:

(a) Maintenance of lawns, landscaping, shrubbery, or trees existing at the time of passage of this regulation.

(b) Cultivation of lawns, landscaping, shrubbery, or trees in accordance with an approved Landscaping Plan submitted in conformance with this regulation.

(c) Conservation measures designed to remove damaged or diseased trees or to control noxious weeds or invasive species.

7. Parking Spaces or Lots and Loading/Unloading Spaces for Vehicles. There shall be no parking spaces, parking lots, or loading/unloading spaces.

8. New Surface and/or Subsurface Sewage Disposal or Treatment Areas. Riparian setbacks shall not be used for the disposal or treatment of sewage, except as necessary to repair or replace an existing home sewage disposal system in accordance with local health district regulations.

9. Storm Water Retention and Detention Facilities. Riparian setbacks shall not be used for storm water retention and detention facilities.

J. NON-CONFORMING STRUCTURE OR USES IN RIPARIAN SETBACKS

Non-Conforming structures and uses will be governed by Article III-Non-Conformities, Section 301-Continuance of Non-Conforming Uses.

K. VARIANCES WITHIN RIPARIAN SETBACKS

1. The Board of Zoning Appeals may grant a variance to this regulation as provided herein. In granting a variance, the following conditions shall apply:

(a) In determining whether there is unnecessary hardship with respect to the use of a property or practical difficulty with respect to maintaining the riparian setback as established in this regulation, such as to justify the granting of a variance, the Board of Zoning Appeals shall consider the potential harm or reduction in riparian functions that may be caused by a proposed structure or use.

(b) The Board of Zoning Appeals may not authorize any structure or use in a zoning district other than those authorized in the Zoning Ordinance.

2. In making a determination under Section K (1) of this regulation, the Board of Zoning Appeals may consider the following:

(a) The natural vegetation of the property as well as the percentage of the parcel that is in the 100-year floodplain.

(b) The extent to which the requested variance impairs the flood control, erosion control, water quality protection, or other functions of the riparian setback. This determination shall be based on sufficient technical and scientific data.

(c) The degree of hardship, with respect to the use of a property or the degree of practical difficulty with respect to maintaining the riparian setback as established in this regulation, placed on the landowner by this regulation and the availability of alternatives to the proposed structure or use.

(d) Soil-disturbing activities permitted in the riparian setback through variances should be implemented to minimize clearing to the extent possible and to include Best Management Practices necessary to minimize erosion and control sediment.

(e) The presence of significant impervious cover, or smooth vegetation such as maintained lawns, in the riparian setback compromises its benefits to Austintown Township. Variances should not be granted for asphalt or concrete paving in the riparian setback. Variances may be granted for gravel driveways when necessary.

(f) Whether a property, otherwise buildable under the Ordinance of Austintown Township, will be made unbuildable because of the regulation.

3. In order to maintain the riparian setback to the maximum extent practicable, the Board of Zoning Appeals may consider granting variations to other area or setback requirements imposed on a property by the Zoning Ordinance.

4. In granted a variance under this regulation, the Board of Zoning Appeals, for good cause, may impose such conditions that it deems appropriate to maintain the purposes of this regulation.

L. PROCEDURES FOR VARIANCES AND APPEALS

Any applicant seeking a variance to the conditions imposed under this regulation or an appeal to an administrative decision made under this regulation, follow procedures set forth in Article IV, Section 401, 407, 408, 410 and 412 of the Zoning Ordinance.

M. INSPECTIONS OF RIPARIAN SETBACKS

1. The identification of riparian setbacks shall be inspected by Austintown Township.
2. Prior to soil disturbing activities authorized under this regulation, the applicant shall provide Austintown Township with at least fifteen (15) days written notice prior to starting such soil disturbing activities.
3. Any time evidence is brought to the attention of Austintown Township that uses or structures are occurring that may reasonably be expected to violate the provisions of this regulation.

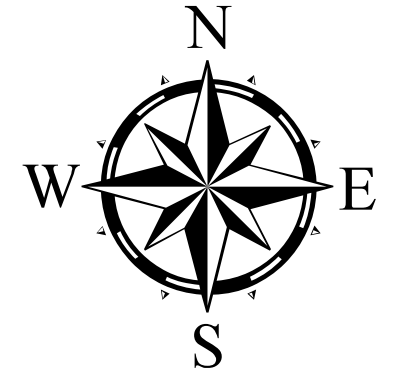
N. PENALTY

1. Any person who shall violate any section of this regulation shall be guilty of a minor misdemeanor and upon conviction thereof, shall be subject to punishment as provided in Section 519.23 and 519.99 of the Ohio Revised Code, and shall be required to restore the riparian setback through a restoration plan approved by the Board of Zoning Appeals.
2. TheThe imposition of any other penalties provided herein shall not preclude Austintown Township from instituting an appropriate action or proceeding in a Court or proper jurisdiction, pursuant to Section 519.24 of the Ohio Revised Code, to prevent an unlawful development, or to retrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or the orders of the Austintown Township Zoning Inspector.

Zoning Map

Township of Austintown

Mahoning County, OHIO
 Prepared By
 The Mahoning County GIS Department
 For
 The Austintown Township Zoning Commission



Map Legend

- City Boundary
- County Boundary
- School District Boundary
- Township Boundary
- Village Boundary
- River/Stream
- Airport/Landing Strip
- Bike Trail
- Tax Parcel
- Cemetery
- Lake
- River/Wide Stream
- Swamp
- Park
- Campground
- Government Building
- Golf Course
- Hospital
- Historical Society
- Maintenance Building
- Museum
- Point of Interest
- Shopping Center
- School
- Sewage Treatment Plant
- Water Storage Tank
- Water Treatment Plant

Zoning Legend

- A-SER Agricultural Suburban Estate
- B-1 Business
- B-2 Business
- I-1 Industrial
- I-2 Industrial
- PUD Planned Unit Development
- R-1 Residence
- R-2 Residence
- R-3 Residence
- R-4 Residence
- Un-Zoned

Trustees

Approved This ___ Day Of _____



The digital data contained herein was compiled from recorded deeds, survey plats, orthophotography and other public records. Mahoning County does not warrant the accuracy, reliability or timeliness of information contained on this system and assumes no legal responsibility; persons relying on the information contained hereon do so at their own risk. Users should consult public information sources for verification of the information herein and should notify the Mahoning County GIS Department of any discrepancies.

