

BUFFALO TOWNSHIP

ZONING ORDINANCE

Adopted 11-17-89

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INDEX

SECTION I - INTENT AND INTERPRETATION

1.01	Title	Page 1
1.02	Purpose	Page 1
1.03	Interpretation and Conflict	Page 1
1.04	Separability Clause	Page 1
1.05	Adoption	Page 1

SECTION II - ENFORCEMENT, PENALTIES, AND FEES

2.01	Zoning Inspector	Page 2
2.02	Zoning Permits Required	Page 2
2.03	Application for Zoning Permit	Pages 2-3
2.04	Approval of Zoning Permit	Page 3
2.05	Expiration of Zoning Permit	Pages 3-4
2.06	Certificate of Occupancy	Page 4
2.07	Violation	Pages 4-5
2.08	Schedule of Fees, Charges, and Expenses	Page 5

SECTION III - NON-CONFORMING USES

3.01	Intent	Page 6
3.02	Grace Period	Page 6
3.03	Conformance Required	Page 6
3.04	Non-Conforming Structures	Pages 6-7
3.05	Non-Conforming Uses	Page 7
3.06	Substitution or Extension	Page 8
3.07	Discontinuance	Page 9
3.08	Repair and Maintenance	Page 9

SECTION IV - ADMINISTRATIVE BODIES AND THEIR RESPONSIBILITIES

4.1	Zoning Inspector	Page 10
4.2	Township Rural Zoning Commission	Pages 10-11
4.3	Board of Zoning Appeals	Pages 11-13

SECTION V - ADMINISTRATIVE PROCEDURES

5.1	Procedures for Amendment or District Changes	Pages 14-18
5.2	Procedures for Requirements for Appeals and Variances	Pages 18-22

SECTION VI - USE DISTRICTS

6.01	A-1 Restricted Agricultural District	Pages 23-27
------	--------------------------------------	-------------

SECTION VII - DEFINITIONS

Definitions	Pages 28-30
-------------	-------------

SECTION VIII - BUFFALO TOWNSHIP MAP	Page 31
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SECTION I

INTENT AND INTERPRETATION

1.01 TITLE.

This resolution shall be known and may be cited as the "Zoning Resolution of Buffalo Township, Noble County, Ohio".

1.02 PURPOSE.

This resolution is enacted for the purpose of promoting public health, safety, and morals, all in accordance with a comprehensive plan and as permitted by the provisions of Section 519.02 et. seq. of the Ohio Revised Code.

1.03 INTERPRETATION AND CONFLICT

In their interpretation and application, the provisions of this resolution shall be held to be minimum requirements. It is not intended by this resolution to interfere with, or abrogate, or annul any easements, covenants, or other agreements between parties unless they violate this resolution. When two specific provisions of this resolution conflict, or a provision of this resolution conflicts with any other lawfully adopted rules, regulations, ordinances, or resolutions, the most restrictive or that imposing the higher standards shall apply.

1.04 SEPARABILITY CLAUSE.

The invalidation of any clause, sentence, paragraph or section of this resolution by a court of competent jurisdiction shall not effect the validity of the remainder of this resolution either in whole or in part.

1.05 ADOPTION.

This resolution shall become effective upon certification by the Board of Elections that the resolution was approved as set forth in Section 519.11 of the Ohio Revised Code. upon adoption of this resolution all/or any previous zoning resolutions now in effect shall be deemed to be repealed.

SECTION II

ENFORCEMENT, PENALTIES, AND FEES

2.01 ZONING INSPECTOR.

It shall be the duty of the Zoning Inspector, as provided under Section 518.02 et. seq. of the Ohio Revised Code, to enforce this resolution in accordance with the administrative and other provisions of this resolution.

All officials and public employees of Buffalo Township, shall conform to the provisions of this resolution and shall issue no permit or license for any use, building, or purpose in conflict with the provisions of this resolution. Any permit or license, issued in conflict with the provisions of this resolution shall be null and void.

2.02 ZONING PERMITS REQUIRED.

No buildings or other structure, excepting building or structure utilized exclusively for agricultural purposes shall be erected, moved, added to, structurally altered, nor shall any building, structure, or land be established or changed in use without a permit therefore issued by the Zoning Inspector. The Zoning Inspector shall not issue a permit that does not conform with the provisions of this resolution unless he receives a written order from the Board of Zoning Appeals deciding an appeal, conditional use, variance, planned unit development, or mobile home park as provided by this resolution.

2.03 APPLICATION FOR ZONING PERMIT.

Three copies of an application for zoning permit shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun within one year or substantially completed within two and one-half (2 1/2) years. At a minimum, the application shall contain the following information:

- A. Name, address, and phone number of applicant.
- B. Legal description of property.
- C. Existing use.
- D. Proposed use.

- E. Zoning district.
- F. Plans in duplicate ~~drawn to scale~~, showing the actual dimensions and the shape of the lot to be build upon; the exact size and location of existing buildings on the lot, if any, and the location and dimensions of the proposed building(s) or alteration.
- G. Building heights.
- H. Number of dwelling units.
- J. Such other matters as may be necessary to determine conformance with, and provide for the enforcement of this resolution.

2.04 APPROVAL OF ZONING PERMIT.

Within thirty (30) days after the receipt of an application, the Zoning Inspector shall either approve or disapprove the application in conformance with the provisions of this resolution. All zoning permits shall, however, be conditional upon the commencement of work within one year. One copy of the plans shall be returned to the applicant by the Zoning Inspector, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of the plan, similarly marked, shall be retained by the Zoning Inspector. ~~One copy of the application shall be forwarded by the Zoning Inspector.~~ One copy of the application shall be forwarded by the Zoning Inspector to the County Auditor upon issuance of a Certificate of Occupancy. The Zoning Inspector shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this resolution. In every case where the lot is not provided with public water supply and/or disposal of sanitary wastes by means of public sewers, the application shall be accompanied by a Certificate of Approval by the Health Officer of Noble County of the proposed method of water supply and/or disposal of sanitary wastes prior to approval by the Zoning Inspector.

2.05 EXPIRATION OF ZONING PERMIT.

If the work described in any zoning permit has not begun within one year from the date of issuance thereof, said permit shall expire; it shall be revoked by the Zoning Inspector; and written notice thereof shall be given to the person affected. if the work described in any zoning permit has not been substantially completed within two and one-half (2 1/2) years of the date of issuance thereof, said permit shall expire and be revoked by the Zoning Inspector, and written notice thereof shall

be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new zoning permit has been obtained or extension granted.

2.06 CERTIFICATE OF OCCUPANCY.

- A. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued therefore by the Zoning Inspector stating that the proposed use of the building or land conforms to the requirements of this resolution.
- B. Certificates of Occupancy shall be applied for coincident with the application of zoning permit, and shall be issued within ten (10) days after notice by the applicant that the exterior erection or structural alteration of such building shall have been completed in conformity with the provisions of these regulations.

C. Temporary Certificate of Occupancy.

A temporary certificate of occupancy may be issued by the Zoning Inspector for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion.

D. Record of Certificate of Occupancy.

The Zoning Inspector shall maintain a record of all certificated of occupancy and a copy of any individual certificate shall be furnished upon request to any occupant or his/her legally authorized representative.

2.07 VIOLATION.

- A. Failure to Obtain a Zoning Permit or Certificate of Occupancy.

Failure to obtain a zoning permit or certificate of occupancy shall be a violation of this resolution and punishable under Section 2.07 (D) of this resolution.

- B. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates.

Zoning permits or certificates of occupancy issued on the basis of plans and applications approved by the Zoning Inspector authorize only the use and arrangement set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this resolution, and punishable as provided in Section 2.07 (D) of this resolution.

C. Complaints Regarding Violations.

Whenever a violation of this resolution occurs, or is alleged to have occurred, any person may file a written Complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Inspector. He shall record properly such complaint, immediately investigate, and take such appropriate action thereon as may be necessary and as provided by this resolution.

D. Penalties for Violation.

Violation of the provisions of this resolution or failure to comply with any of its requirements (including violations of conditions and safeguards established in various sections of this resolution) shall constitute a misdemeanor. Any person who violates this resolution or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100 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, 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. Nothing herein contained shall prevent the Township from taking such other lawful action as is necessary to prevent or remedy any violations.

2.08 SCHEDULE OF FEES, CHARGES, AND EXPENSES.

The Board of Township Trustees shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, certificates of occupancy, appeals, and other matters pertaining to this resolution. The schedule of fees shall be posted in the office of the Zoning Inspector, and may be altered or amended only by the Board of Township Trustees. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

SECTION III
NON-CONFORMING USES

3.01 INTENT.

Within the districts established by this resolution or amendments hereinafter adopted there exist lots, structures, uses of land and structures which were lawful before this resolution was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this resolution or future amendments. It is the intent of this resolution to permit these non-conformities to continue until they are removed, but not to encourage their survival.

3.02 GRACE PERIOD.

Any property purchased or acquired in good faith for any non-conforming use prior to the adoption of this resolution, upon which property the work of changing or remodeling or construction of such non-conforming use has been legally commenced at the time of adoption of this resolution, may be used for the non-conforming use for which such changing, remodeling, or construction was undertaken provided that such work is completed within two (2) years of the date of adoption of this resolution or amendment thereto making said use non-conforming.

3.03 CONFORMANCE REQUIRED.

Except as hereinafter specified, no land, building, structure or premises shall hereafter be used, and no building or part thereof, or other structure, shall be located, erected, moved, reconstructed, extended, specified for the district in which it is located.

3.04 NON-CONFORMING STRUCTURES.

3.041 Continuation.

Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or development standards, may be continued, so long as it remains otherwise lawful, subject to the restrictions of Subsection 3.042 through 3.044.

3.042 Enlargement, Repair, Alterations.

Any such structure described in Subsection 3.041 may be enlarged, maintained, repaired, or structurally altered; provided, however, that no such enlargement, maintenance, repair, or structural alteration shall either create any additional non-conformity or increase the degree of existing non-conformity of all or any part of such structures.

3.043 Damage or Destruction.

In the event that any such structure described in Subsection 3.041 is damaged or destroyed, by any means, to the extent of more than seventy-five (75) percent of the current replacement cost of the entire structure, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of seventy-five (75) percent or less, no repairs or restoration shall be made unless a zoning certificate is obtained and restoration is actually begun within one year after the date of such partial destruction.

3.044 Moving.

No structure described in Subsection 3.041 shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it will be located after being moved.

3.05 NON-CONFORMING USES.

3.051 Continuation.

Any lawfully existing non-conforming use of part or all of a structure or any lawfully existing non-conforming use of land, not involving a structure, may be continued, so long as otherwise lawful, subject to the following subsections.

3.06 SUBSTITUTION OR EXTENSION.

3.061 A non-conforming use may be changed to another non-conforming use only by the Board of Zoning Appeals, provided:

A. The Board must determine that any change of use will be no more detrimental to the neighborhood than the prior or existing use.

3.062 Except as hereinafter specifically provided, no non-conforming use, except when required to do so by law, shall be enlarged, extended, reconstructed or structurally altered.

A. The Board of Zoning Appeals may permit a building containing a non-conforming use to be enlarged to an extent not exceeding twenty-five (25) percent of the ground floor area of the existing building or buildings devoted to a non-conforming use at the time of enactment of this resolution or at the time of its amendment making a use non-conforming. The Board shall not authorize any enlargement which would result in a violation of the provisions of this resolution with respect to any adjoining premises.

B. No non-conforming building or structure shall be moved in whole or in part to any other location unless such building or structure and other open spaces provided are made to conform to all of the regulations of this district in which such building or structure is to be located.

C. The Board may authorize the expansion of non-conforming uses of open space upon the land in ownership at the effective date of this resolution or the date of any amendments making such use non-conforming, provided that such extension is necessary and incidental to the existing properties and shall involve no structure or buildings.

3.07 DISCONTINUANCE.

A non-conforming use which has been discontinued or abandoned shall not thereafter be returned to a non-conforming use. A non-conforming use shall be considered abandoned whenever any one of the following conditions exist:

- A. When the use has been discontinued for a period of six (6) months.
- B. When the non-conforming use has been replaced by a conforming use.
- C. When it has been changed to another non-conforming use under permit from the Board of Zoning Appeals.

3.08 REPAIR AND MAINTENANCE.

- A. Work may be done on ordinary maintenance and repairs, or on repair or replacement of walls, fixtures, wiring, or plumbing; provided, however, that this paragraph shall not be deemed to authorize any violation of other subsections of these regulations.
- B. Nothing in this resolution shall be deemed to prevent the strengthening or restoring to a safe condition of a building or other structure (other than a damaged or destroyed building or other structure subject to the provisions of subsection 3.043) in accordance with the order of a public official who is charged with protecting the public safety and who declares such building or other structure to be unsafe and orders its restoration to a safe condition.

SECTION IV

ADMINISTRATIVE BODIES AND THEIR RESPONSIBILITIES

4.1 ZONING INSPECTOR.

A Zoning Inspector designated by the Board of Township Trustees shall administer and enforce this resolution. 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. The duties shall be:

- A. Upon finding that any of the provisions of this resolution are being violated, he shall notify in writing the person responsible for such violation(s), ordering the action necessary to correct such violation(s).
- B. Order discontinuance of illegal zoning, uses of land, buildings, or structures.
- C. Order removal of illegal buildings or structures or illegal additions or structural alterations.
- D. Order discontinuance of any illegal work being done.
- E. Take any other action authorized by this resolution to insure compliance with or to prevent violation(s) of this resolution. This includes the issuance of any permits and such similar administrative duties as are permissible under the law.

4.2 TOWNSHIP RURAL ZONING COMMISSION.

4.21 TOWNSHIP ZONING COMMISSION.

The Board of Township Trustees of any township proceeding under Section 519.01 to 519.99, inclusive, of the Ohio Revised Code shall create and establish a township zoning commission. The commission shall be composed of five members who reside in the unincorporated area of the township, to be appointed by the board, and the terms of the members shall be of such length and so arranged that the term of one member will expire each year. Where there is a county or regional planning commission the board may appoint qualified members of such commission to serve on the township zoning commission. Each member shall serve until his successor is appointed and qualified. Members of the zoning commission shall be removable for nonperformance of duty, misconduct in office, or other cause by the board, upon written

charges being filed with the board, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least ten (10) days prior to the hearing, either personally, by registered mail or by leaving such copy at his usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by the board and shall be for the unexpired term.

4.22 PROCEEDING OF ZONING COMMISSION.

The Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this resolution. 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 action, all of which shall be a public record and be immediately filed in the office of the Township Trustees.

4.23 DUTIES OF THE ZONING COMMISSION.

For the purpose of this resolution, the Commission shall have the following duties:

- A. Review all proposed amendments to this resolution in accordance with Section 5.1 and make recommendations to the Board of Township Trustees.
- B. Review all planned unit developments and make recommendations to the Board of Zoning Appeals.
- C. Review all proposed new zoning resolutions and make recommendations to the Board of Township Trustees.

4.3 BOARD OF ZONING APPEALS.

4.301 Creation and Appointment.

A Board of Zoning Appeals is hereby established having the powers as hereinafter indicated. Said board shall consist of five (5) members appointed by the Board of Township Trustees. Every member shall be a legal resident of Buffalo Township. Members shall be appointed for a term of five (5) years, except that the initial appointments shall be, one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. However, each member shall serve until his successor is

appointed and qualified. Vacancies shall be filled by resolution of the Board of Township Trustees for the unexpired term of the member affected.

Members of the board shall be removable for non-performance of duty, misconduct in office, or other cause by the Board of Township Trustees, upon written charges being filed with the Board of Trustees, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charges at least ten (10) days prior to the hearing, either personally, by registered mail or by leaving such copy at his usual place of residence. The member shall be given the opportunity to be heard and answer such charges.

4.302 Proceedings of the Board of Zoning Appeals.

The township board of zoning appeals shall organize and adopt rules in accordance with the resolution. Meetings of the board shall be held at the call of the chairman, may administer oaths, and the Board of Zoning Appeals may compel the attendance of witnesses. All meetings of the board 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 a fact, and shall keep records of its examinations and other official actions, all of which shall be immediately file in the office of township trustees and be a public record.

4.303 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 resolution, 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 concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Inspector, or to decide in favor of the applicant of any matter upon which it is required to pass under this resolution or to effect any variation in the application of this resolution. For the purpose of this resolution the board has the following specific responsibilities:

- A. To hear and decide appeals where it is alleged there is an error in any order, requirements, decision, or determination made by the Zoning Inspector.
- B. To authorize such variance from the terms of this resolution as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this resolution will result in unnecessary hardship, and so that the spirit of this resolution shall be observed and substantial justice done.
- C. To grant conditional zoning permits as specified elsewhere in this resolution and under the conditions specified and such additional safeguards as will uphold the intent of this resolution.
- D. To authorize the issuance of a zoning permit for planned unit development after recommendation thereon by the Zoning Commission if the board finds the proposed planned unit development is consistent with the intent of this resolution.

4.304 Duties of Zoning Inspector, Board of Zoning Appeals, Legislative Authority and Courts on Matters of Appeal.

It is the intent of this resolution 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 decision of the board shall be to the courts as provided by law. It is further the intent of this resolution that the duties of the Board of Township Trustees in connection with this resolution 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 resolution. Under this resolution the Board of Township Trustees shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this resolution as provided by law, and of establishing a schedule of fees and charges as stated in Section 2.08 of this resolution.

SECTION V

ADMINISTRATIVE PROCEDURES

5.1 PROCEDURES FOR AMENDMENT OR DISTRICT CHANGES.

This resolution maybe amended by utilizing the procedure specified in Section 5.101 - 5.115 inclusive, of this resolution.

5.101 Whenever the public necessity, general welfare, or good zoning practice require, the Board of Township Trustees may by resolution after receipt of recommendations thereof from the Township Zoning Commission, and subject to the procedures provided by law, amend, supplement, change, or repeal the regulations, restrictions, and boundaries or classifications of property.

5.102 Initiation of Zoning Amendments.

Amendments to this resolution may be initiated in one of the following ways.

- A. By adoption of a resolution by the Board of Township Trustees.
- B. By adoption of a motion by the Township Zoning Commission.
- C. By the filing of an application by at least one (1) owner or lessee of property within the area proposed or affected by said amendment.

5.103 Contents of Application.

The application for amendment shall contain at a minimum the following information.

- A. Name, address, and phone number of the applicant.
- B. Proposed amendment to the text or legal description of the property affected.
- C. Present use and district.
- D. Proposed use and district.

- E. A vicinity map at a scale approved by the Zoning Inspector showing property lines, streets, existing and proposed zoning and such other items as the Zoning Inspector may require.
- F. A list of all property owners within, contiguous to, and directly across the street from the parcel(s) proposed to be rezoned and their address as appearing on the county auditor's current tax list. The requirement for addresses may be waived by the Zoning Inspector when more than ten (10) parcels are proposed to be rezoned.
- G. A fee as established by the Board of Township Trustees.

5.104 Transmittal to Zoning Commission.

Immediately after the adoption of a resolution by the Board of Trustees or the filing of an application by at least one (1) owner or lessee of property, said resolution or application shall be transmitted to the Zoning Commission.

5.105 Public Hearing by Zoning Commission.

The Zoning Commission shall schedule a public hearing after the adoption of their motion, transmittal of a resolution from the Board of Township Trustees, or the filing of an application for zoning amendment. Said hearing shall not be less than twenty (20) nor more than forty (40) days from the date of adoption of such motion, transmittal of such resolution or the filing of such application.

5.106 Notice of Public Hearing in Newspaper.

Before holding the public hearing as required in Section 5.105, notice of such hearing shall be given by the Zoning Commission by at least one (1) publication in one (1) or more newspapers of general circulation of the Township at least fifteen (15) 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.

5.107 Notice of Property Owners by Zoning Commission.

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 twenty (20) days before the date of the public hearing to all owners of property within, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list. The failure to deliver the notice, as provided in this section, shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers as specified in Section 5.106.

5.11 RECOMMENDATION BY ZONING COMMISSION.

Within thirty (30) days after the public hearing required by Section 5.105, 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 requested, or it may recommend that the amendment be not granted.

5.111 Public Hearing by Board of Township Trustees.

Upon receipt of the recommendation from the Zoning Commission, the Board of Township Trustees shall schedule a public hearing. The date of said hearing shall be not more than thirty (30) days from the receipt of the recommendation from the Zoning Commission.

5.112 Notice of Public Hearing.

Notice of the public hearing required in Section 5.111 shall be given by the Board of Township Trustees by at least one (1) publication in one (1) or more newspapers of general circulation in the Township affected. Said notice shall be published at least fifteen (15) days before the date the date of the required hearing. The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment.

5.113 Notice of Property Owners by Board of Township Trustees.

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 may be mailed by the Clerk of the Board of Township Trustees, by first class mail, at least twenty (20) days before the day of the public hearing to all owners of property within, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the to the address of such owners appearing on the County Auditor's current tax list and to such other list or lists that may be specified by the Board of Township Trustees. The notice shall contain the same information as required of notices published in newspapers as specified in Section 5.112.

5.114 Action by Board of Township Trustees.

Within twenty (20) days after the public hearing required in Section 5.111, 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 modified the recommendation of the Commission the unanimous vote of the Board of Township Trustees is required.

5.115 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 amendment there 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 or part thereof included in the zoning plan equal to not less than eight (8) percent of the total votes 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 amendment. Upon certification by the Board of Election that the amendment has been approved by the voters it shall take immediate effect.

5.2 PROCEDURE AND REQUIREMENTS FOR APPEALS AND VARIANCES.

Appeals and variances shall conform to the procedures and requirements of Section 5.201 - 5.211 inclusive.

5.201 Appeals.

Appeals to the Board of Zoning Appeals concerning interpretation or administration of this resolution may be taken by any officer of the legislative authority of the Township affected by any decision of the Zoning Inspector.

5.202 An Appeal shall stall all proceedings in furtherance of the action appealed from, unless the Zoning Inspector certifies to the Board of Zoning Appeals, after notice of appeal shall have been filed with him, that by reason of facts stated in the application a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may, on due cause shown, be granted by the Board of Zoning Appeals after notice to the Zoning Inspector, or by judicial proceedings.

5.203 Variance.

The Board of Zoning Appeals shall have the power to authorize upon appeal in specific cases, filed as hereinafter provided, such variances from the provisions or requirements of this resolution as will not be contrary to the public interest, but only in the case of exceptional conditions, involving irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby strict application of such provision or requirements would result in practical difficulty and unnecessary hardship that would deprive the owner of the reasonable use of the land and buildings involved, but in no other case. Provided, however, no variances from the strict application of any provision of this resolution shall be granted by the Board unless it finds, beyond reasonable doubt, that all the following facts and conditions exist:

- A. That there are special circumstances or conditions, fully described in the Board's decision, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that strict application of the provisions of this code would result in practical difficulty and unnecessary hardship and deprive the applicant of the reasonable use of the land and building.
- B. That the variance as granted by the Board is the minimum variance that will accomplish the reasonable use of the subject land or building.
- C. That the granting of the variance will be in harmony with the general purpose and intent of this resolution and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of adjoining buildings and those in the vicinity, the Board, in determining its findings shall take into account the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.
- D. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought (one or the other or in combination) is not of so general or recurrent a nature as to make reasonable practicable the formulation as a part of this code of a general regulation for such condition or situation.
- E. The variance will in no way change the use of the land.

5.204 Application for Variance and Appeals: Procedure.

Any person owning or having an interest in property may file an application to obtain a variance or appeal a decision of the Zoning Inspector. An application for a variance or an appeal shall be filed in triplicate with the Zoning Inspector who shall forward without delay a copy to the Board of Zoning Appeals.

5.205 Contents of Application.

The application for a variance or an appeal shall contain the following information.

- A. Name, address, and phone number of the applicant.
- B. Legal description of property.
- C. Each application on an appeal shall refer to the specific provisions of this resolution.
- D. Each application for a variance shall set forth:
 1. The use for which special exception is sought.
 2. Details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.
 3. The application for variance must also be addressed to answering provisions (A), (B), (C), and (D), of Section 5.203.

5.206 Supplementary Conditions and Safeguards.

In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this resolution. Violation 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 resolution and punishable under Section 2.08 (D) of this resolution. 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 resolution in the district involved, or any use expressly or by implication prohibited by the terms of this resolution in said district.

5.207 Public Hearing by the Board of Zoning Appeals.

The Board of Zoning Appeals shall hold a public hearing within thirty (30) days after receipt of an application for an appeal or variance from the Zoning Inspector or an applicant.

5.208 Notice of Public Hearing in Newspaper.

Before holding the public hearing required in Section 5.207, notice of such hearing shall be given in one or more newspapers of general circulation in 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 or variance.

5.209 Notice of Parties or Interest.

Before holding the public hearing required in Section 5.207, written notice of such hearing shall be mailed by the Secretary of the Board of Zoning Appeals, by first class mail, at least ten (10) days before the day of the hearing to all parties of interest. The notice shall contain the same information as required of notices published in newspapers as specified in Section 5.208. Parties of interest shall include owners of property contiguous to, and directly across the street from the property being considered.

5.210 Adjournment of Hearings.

Upon the day for hearing any application or appeal, the Board may adjourn the hearing in order to permit additional information to be secured, or to cause such further notice as it deems proper to be served upon such other property owners as it decides may logically be concerned with said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the Board so decides.

5.211 Decisions of the Board of Zoning Appeals.

The Board shall decide all applications and appeals within sixty (60) days after completion of the hearing thereon, and such decision shall become effective upon certification of the Resolution of the Board. A certified copy of the Board's decision shall be binding upon the Zoning Inspector and observed by him, and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is

authorized by the Board. After the Board by Resolution certifies its approval of any application or appeal there shall be no further hearings upon such case. However, when the Board has denied an application or appeal a new application or appeal may be filed subject to the same procedure as an original application or appeal. If a new application or appeal is filed within one (1) year of the date of the Board's decision the secretary shall not schedule any hearing until the Board has received the application or appeal and decided that there is new matter, evidence, or facts to be heard by the Board.

SECTION VI
USE DISTRICTS

6.01 A-1 RESTRICTED AGRICULTURAL DISTRICT.

6.011 Intent.

It is the intent of the A-1 Restricted Agricultural District to provide large tracts of land for present agricultural activity and to protect land from urban encroachment to provide and preserve adequate areas for future agriculture activity.

6.012 Principle Permitted Uses.

A building or lot in the A-1 District shall be used only for the following purposes:

A. Agriculture and the usual agricultural buildings and structures

B. One-family detached dwellings.

1. Size of dwelling shall be a minimum of 700 square feet with a permanent foundation.
2. The set back line to the front of the house and other buildings shall be 50 feet from the street.
3. No buildings shall be placed less than ten (10) feet from side and rear property lines.
4. Each lot shall be equiped with a septic tank or similar sewage disposal unit to comply with the County Health Department Regulations.

C. Mobile Homes.

All temporary or movable structures shall not be permitted except by approval of Buffalo Township Board of Zoning Appeals. House trailers and mobile homes shall be permitted for use as dwellings subject to the following regulations.

1. Size to be minimum of 700 square feet.

2. The set back line to the front of the house trailer or mobile home and other buildings shall be 50 feet from the center of the street.
 3. No building shall be placed less than ten (10) feet from side and rear property lines.
 4. Each lot to be equipped with a septic tank or similar sewage disposal until to comply with the County Health Department Regulations.
 5. Enlargement of existing structures are subject to approval of the Buffalo Township Zoning Appeals Board.
 6. Each trailer must be on permanent foundation and anchored securely with a poured footer with pillars or block walls with wheels and tongue removed.
 7. All trailers must be fully skirted within 90 days after their placement.
- D. Private garage and parking space.
- E. Transformer stations, booster stations, sewage pumping stations, pressure regulating stations, and other similar utility stations when operating requirements necessitate, provided there are no storage buildings or storage yards in connection therein.

6.013 Accessory Uses.

- A. Roadside stands, offering for sale only products owned by the owner of the premises.
- B. Extraction of coal, oil, gas, or other minerals, by any means. Any permits required by the Federal or State government must be shown to the Zoning Inspector before beginning any extraction activities.
- C. Kennels and animal hospitals for the raising, breeding, treatment, and boarding of dogs, or other small animals, provided that all buildings and outside runs be at least two hundred (200) feet from any other lot.

- D. Riding academies, provided that such buildings or stables shall be two hundred (200) feet from any other lot.
- E. Churches or other places of worship, Sunday school buildings and parish houses; provided, that churches and other places of worship and Sunday school buildings shall be located not less than one hundred (100) feet from any other lot.
- F. Public and parochial school provided that no building intended for such use shall be located less than one hundred fifty (150) feet from any other lot.
- G. Public parks, playgrounds, recreational and community center buildings and grounds, golf courses, tennis courts, country clubs, and swimming pools, provided that any principle building, tennis court or swimming pool shall be located not less than two hundred (200) feet from any other lot.
- H. Radio, television, or other transmission tower or mast, and the usual accessory buildings, only after their height and location have been approved by the governmental agency charged with the responsibility for maintaining air safety and provided there is a yard area with a radius of half the height of the tower or mast.
- I. Airports.
- J. Cemeteries, including mausoleums and crematorias, provided that any mausoleum or crematorium shall be a distance of at least two hundred (200) feet and burial sites at least one hundred (100) feet from any other lot, street, and highway lines, and provided further that any new cemetery shall contain an area of five (5) acres or more.
- K. Private swimming pools, to be used primarily for the enjoyment of the occupants of the property on which it is located.
- L. Temporary buildings for uses incidental to construction work which buildings shall be removed upon completion or abandonment of the construction work.

- M. A structure for storage incidental to a permitted use.
- N. The keeping of animals and/or fowl as pets or for domestic use.
- O. Any business or occupation may be operated, provided that the business owner or a co-owner is the owner of the premises.
- P. A child's playhouse or tree house.
- Q. Statuaries, arbors, trellises, barbecue equipment, flag poles, fences, play equipment, laundry drying equipment, walls, hedges, radio and television antennae, and satellite antennae.
- R. Fallout shelters.

6.014 Lot Measurements; Depth to Width Ratio.

- 1. The depth of any lot shall not be less than 100 feet.
- 2. The depth of any lot, at its maximum depth, shall not be greater than 1 1/2 times its minimum depth. The width of a lot at its maximum width, shall not be greater than 1 1/2 times its minimum width.
- 3. For any lot of 10 acres or less, the lot depth shall not exceed 2 times the lot width.
- 4. For any lot of 25 acres or less, but more than 10 acres, the lot depth shall not exceed 3 times the lot width.

6.015 General Provisions.

- A. Waste and sewage landfills shall not be permitted in township.
- B. Only EPA approved sewage products will be permitted to be applied for soil fertility in township.
- C. Camping trailers will not be left unattended for a period of more than 30 days consecutive days.

- D. No one-family detached dwelling, house trailer, or mobile home shall be erected on a lot of less than 10,000 square feet in area.
- E. On lots of 20,000 square feet or more in area, if more than one one-family detached dwelling, house trailer, or mobile home is erected:
 - 1. No one-family detached dwelling, house trailer, mobile home, or associated private garage shall be located closer than 20 feet to any other one-family detached dwelling, house trailer, mobile home, or private garage.
 - 2. The shape of the 10,000 square feet of area on which each one-family detached dwelling, house trailer, or mobile home is erected, shall conform to the depth to width ratio as set forth in section 6.014.
- F. No person shall sell, transfer, or otherwise convey a lot of property that fails to meet the requirements of section 6.014, unless:
 - 1. The sale is of the whole parcel that was in existence as of the date this resolution became effective.
 - 2. The sale is to a person who owns other property adjacent to the lot being sold, and after the transfer, the lot sold plus secured adjacent property, forms a lot that does not fail to meet the requirements of said section 6.014.
- G. Existing structures within the fifty (50) foot set back area from the street may be repaired, remodeled, or replaced, on the same location, provided all other zoning requirements are met.

SECTION VII

DEFINITIONS

ACREAGE - Any tract of parcel of land which has not been subdivided and/or platted.

ACCESSORY USE OR STRUCTURE - A use or structure subordinate to the principle use of a building on the same lot and serving a purpose customarily incidental to the use of the principle building or use.

AGRICULTURE - The use of land for agricultural and forestry purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, silviculture, and animal and poultry husbandry, and the necessary accessory used for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural and silvicultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

BUILDING AREA - The buildable area of a lot is the space remaining after the minimum open space requirements of this ordinance have been complied with.

BUILDING - Building means a combination of materials to form a construction that is safe and stable, and adapted to permanent or continuous occupancy for public, institutional, residence, business, or industry purposes.

BUILDING, HEIGHT OF - The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip, or gambrel roofs.

CERTIFICATE OF OCCUPANCY - A document issued by the Zoning Inspector which indicates that buildings, structures, or uses are consistent with this ordinance.

DISTRICT - A portion of the territory of the Township within which certain regulations and requirements or various combinations thereof apply under the provisions of this ordinance.

DWELLING - Any building or portion thereof designed or used as the residence of one or more persons, but not including a tent, trailer, or trailer coach, or a room in a hotel or motel.

DWELLING, SINGLE FAMILY - A building designed for or used for residence purposes by one family.

FAMILY - A person living alone, or two (2) or more persons living together as a single housekeeping unit, in a dwelling unit.

GARAGE, PRIVATE - A detached accessory building or a portion of the principle building used only for the storage of self-propelled vehicles and incidental residential storage.

LOT - A parcel of land occupied or intended to be occupied by a principle building or a group of such buildings and accessory buildings, or utilized for a principle use and used accessory thereto, together with the open space as required by this ordinance and having frontage on a public street. Thus, the lot boundary may or may not coincide with the boundary of a lot of record.

LOT AREA - The computed area contained within the lot lines.

LOT, DEPTH - The mean horizontal distance between the front and the rear lot lines.

LOT LINES - The property lines bounding the lot.

LOT, WIDTH - The mean width of the lot measured at right angles to its depth.

NON-CONFORMING USE - A building, structure, or premises legally existing and/or use at the time of adoption of this ordinance or any amendment thereto, and which does not conform with the use regulations of the district in which located.

OWNER - Owner of record according to records contained in the County Offices.

STREET - A public right-of-way which provides a public means of access to abutting property. The term street shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare, or any other similar term. A major street shall be any street so designated on the approved Noble County Highway Department.

STRUCTURE - Anything constructed, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground.

STRUCTURAL ALTERATION - Any change in the structural members of a building, such as wells, floors, columns, beams, or girders.

YARD, FRONT - An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward as hereinafter specified.

YARD, REAR - An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified.

ZONING INSPECTOR - The Zoning Inspector or his authorized representative, appointed by the Township Trustees.

ZONING CERTIFICATE - A document issued by the Zoning Inspector authorizing the construction or alteration of buildings, structures, or uses consistent with the terms of this resolution.