

ARTICLE 1 AUTHORITY, ADMINISTRATION & ENFORCEMENT

CHAPTER 1 TITLE, PURPOSE & APPLICABILITY

SEC. 1.101 TITLE

The Salem Township Zoning Resolution, consisting of this text document and the accompanying Official Zoning Map, as amended, shall be known as the "Salem Township Zoning Code", or "Zoning Code" to the same effect.

SEC. 1.102 PURPOSE

To promote public health, safety, public convenience, comfort, prosperity, and general welfare; to secure the most appropriate use of land; to facilitate adequate but economical provision of public improvements, all in accordance with the provisions of Section 519 of the Ohio Revised Code.

SEC. 1.103 APPLICABILITY

1.103.1 Jurisdiction

The provisions of this Resolution shall apply to all land, land development, use of all structures, and uses of land within the unincorporated areas of Salem Township, Warren County, Ohio.

When a parcel of land is partially located within another jurisdiction, outside of unincorporated Salem Township, this Zoning Resolution shall only apply to that portion of the parcel that is within unincorporated Salem Township.

1.103.2 Adoption and Effective Date

This resolution was adopted on **XXXX** and shall therefore be effective on **XXXX**. Any amendments to this Zoning resolution shall be in full force and effect as provided in ORC Section 519.12.

1.103.3 Interpretation

The specifications in this Resolution are held as minimum or maximum requirements, as applicable, with the intent to achieve the purposes stated in ORC Section 519.02, et seq., or as may be amended.

When the provisions of this Zoning Resolution are inconsistent with one another or with the provisions found in another adopted Resolution, the most restrictive provision shall govern as determined by the Salem Township Zoning Inspector.

Where this Zoning Resolution imposes a greater restriction than imposed or required by other provisions of law or by other rules, regulations, or Resolutions, the provisions of this Zoning Resolution shall control provided it complies with the ORC.

1.103.4 Required Conformance

Unless otherwise provided herein, no building or structure shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building structure or land be used unless conforming with: the specified uses allowed in the zoning district in which located; the height limits and dimensional requirements established for the zoning district where located; and all other supplemental regulations herein specified applicable.

1.103.5 Non-Conformities

Any legal non-conformity that exists at the time of the enactment of this Zoning Resolution shall continue to be a legal non-conformity under this Resolution, as long as the situation that resulted in the non-conforming status under the previous Resolution continues to exist. Such non-conformities shall be subject to the provisions of Section 1.308 (Non-Conforming Provisions).

If a legal non-conformity that exists at the time of the enactment of this Zoning Resolution becomes conforming because of the adoption of this Resolution, then the situation will be considered conforming and shall no longer be subject to the non-conformities regulations of Section 1.308 (Non-Conforming Provisions).

1.103.6 Limitations and Exceptions

- A) This Resolution shall have no power to prohibit the use of any land within the zoning jurisdiction for agriculture (as defined herein), or the construction or use of buildings or structures incident to the agricultural use of land on which such buildings or structures are located, and no Zoning Permit shall be required for any such building or structure, except that the following may be regulated in any platted subdivision approved under Sections 711.05, 711.09, or 711.10 of the Ohio Revised Code, or in any area consisting of 15 or more lots approved under Section 711.131 of the Ohio Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road:
- 1) Agriculture on lots of one (1) acre or less;
 - 2) Buildings or structures incident to the use of land for agricultural purposes on lots greater than one (1) acre but not greater than five (5) acres: by building setback lines, height, and size; and,
 - 3) Dairying and animal and poultry husbandry on lots greater than one (1) acre but not greater than five (5) acres when at least 35 percent of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or to the tax on manufactured and mobile homes under ORC Section 4503.06. After 35 percent of the lots are so developed, dairying and animal and poultry husbandry shall be considered nonconforming use of such land, buildings or structures pursuant to ORC Section 519.19.

- B) However, the above divisions (1), (2), and (3) confer no zoning power to regulate agriculture, such buildings or structures, and dairying and animal and poultry husbandry on lots greater than five (5) acres, nor to prohibit any land for a farm market where 50 percent 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, but per ORC Section 519.02, zoning may regulate such factors pertaining to farm markets as size of the structure, size of the parking areas that may be required, building setback lines and egress or ingress, where such regulation is necessary to protect the public health and safety.
- C) Per ORC Section 519.211(A), this Resolution shall have no power with respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of any public utility or railroad, whether publicly or privately owned, or the use of land by any public utility or railroad for the operation of its business, except as specified in ORC Section 519.211 (B) or (C), respectively pertaining to the potential regulation of telecommunications towers and transportation service businesses, excepting transport of farm supplies and/or products.
- D) Per ORC Section 519.211(D), this Resolution shall have no power to prohibit the sale or use of alcoholic beverages in areas where the establishment and operation of any retail business, hotel, lunchroom, or restaurant is permitted.
- E) Per ORC Section 519.212, this Resolution shall have no power to prohibit or restrict the location of a permanently sited manufactured home (as defined herein) in any district or zone in which a single-family home is permitted, except that zoning authority is not limited with respect to the following:
- 1) Requirements that a permanently site-manufactured home comply with all zoning requirements that are uniformly imposed on all single-family residences in the district or zone in which it is to be located, excepting requirements that specify a minimum roof pitch and that do not comply with the standards established pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401; and,
 - 2) Prohibiting travel trailers, park trailers, and mobile homes (as defined herein) from location in any residential district or zone, as these terms are defined in 5 ORC Section 4501.01, and manufactured homes that do not qualify as permanently site-manufactured homes.
- F) Per ORC Section 519.213, this Resolution, notwithstanding division (A) of ORC Section 519.211, shall have no power to govern the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any small wind farm, as defined in this Code same as ORC Section 519.213(A), whether

publicly or privately owned, or the use of land for that purpose, more strict than the regulations prescribed in rules adopted under division (C)(2) of ORC Section 4906.20 pursuant to economically significant wind farm.

1.103.7 Severability

Should any article, chapter, section, paragraph, sentence, phrase, word, table, exhibit, or provision of this Resolution be declared by a Court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect any of the remainder of the Zoning Code.

ARTICLE 1

CHAPTER 2 ZONING ADMINISTRATION

SEC. 1.201 ZONING OFFICIALS, RESPONSIBILITIES AND OPERATIONS

Per Ohio Revised Code (ORC) Chapter 519, or as amended, the administration and enforcement of this Zoning Code is vested in the Board of Salem Township Trustees to be carried out by the duly-authorized representatives whom it appoints to do so. Accordingly, the Salem Township Zoning Inspector and their respective duties, responsibilities, operations, and actions are specified in the rest of this Chapter.

SEC. 1.202 SUMMARY TABLE OF REVIEW BODIES

- A. Table 1.02 (Summary Table of Review Bodies) summarizes the review and decision-making responsibilities of the entities that have roles in the procedures set forth in Article 1. Other duties and responsibilities of the entities are set forth in subsequent sections of this article.

TABLE 1.02: SUMMARY TABLE OF REVIEW BODIES						
H = HEARING (ADMINISTRATIVE) R = REVIEW AND/OR RECOMMENDATION			D = DECISION (RESPONSIBLE FOR FINAL DECISION) P = PRE-SUBMITTAL MEETING			
Procedure	Section	Board of Township Trustees	Zoning Commission	Board of Zoning Appeals (BZA)	Regional Planning Commission (WCRPC)	Zoning Inspector
Zoning Resolution Text or Map Amendment	1.304	H-D	H-R			P-R
Planned Unit Development – Stage 1	1.305	H-D	H-R		R-R	R
Planned Unit Development – Stage 2	1.305	H-D	R-R		R-R	P-R
Site Plan Review	1.303	H-D				P-R
Site Plan Review with Conditional Use	1.303			H-D		R
Conditional Use	1.306			H-D		R
Appeals	1.310			H-D		
Variance	1.307			H-D		P-R
Zoning Permit	1.302			H-D		R-D

- B. Even though not referenced in this article, other boards, commissions, government agencies, and nongovernment agencies may be asked by the zoning inspector, the Salem Township Zoning Commission, the Salem Township Board of Zoning Appeals, or the Salem Township Board of Township Trustees, to review some applications, including, but not limited to, map amendments (rezonings), text amendments, appeals, variances, conditional uses, and planned unit developments.

SEC. 1.203 BOARD OF SALEM TOWNSHIP TRUSTEES

1.203.1 Duties and Responsibilities

- A) Initiate proposed amendments to this Zoning Resolution;
- B) Review and decide on all proposed zoning text and map amendments to this Zoning Resolution;
- C) Review and decide on site plans;
- D) Review and decide on Stage 1 and Stage 2 applications as they relate to a proposed PUD District; and
- E) Perform all other duties as specified in ORC Chapter 519 and as specified in this Zoning Resolution.

1.203.2 Operating Rules and Records

All Township Trustees meetings regarding zoning matters shall be open to the public pursuant the Ohio Open Meetings Act. The Board of Township Trustees shall keep minutes of its meetings and record of its actions and decisions, which shall all be maintained as public record.

1.203.3 Action

Formal action of the Board of Township Trustees shall be taken by resolution.

SEC. 1.204 ZONING COMMISSION

The Board of Township Trustees, for the purpose and intent of this Zoning Resolution, hereby creates and establishes the Salem Township Zoning Commission, hereafter referred to as the TZC.

1.204.1 Duties and Responsibilities

The TZC may organize and adopt the rules for it to operate in keeping with ORC Chapter 519, or as amended, and elect the Chair and Vice Chairpersons from its members as membership changes and/or upon call of the commission through a motion.

1.204.2 Member Appointments, Terms and Removal

- A) The TZC shall be composed of five (5) members who reside in the unincorporated area of Salem Township, to be appointed by the Board of Township Trustees.

- B) Members shall serve five (5) year terms with the term of one (1) member expiring each year.
- C) Each member shall serve until his or her successor is appointed and qualified. Members may be reappointed.
- D) Vacancies shall be filled by appointment by the Board of Township Trustees and shall be for the time remaining in the unexpired term.
- E) Members of the TZC shall be removable for nonperformance of duty, misconduct in office, or other cause, by the Board of Township Trustees, upon written charges being filed with the Board, and after a public hearing has been held regarding such charges, a copy of charges having been served upon the member so charged at least ten (10) days prior to the hearing, either personally or by registered mail, or by leaving the same at the member's usual place of residence. The member shall be given the opportunity to be heard and answer such charges.
- F) The Board of Township Trustees may appoint up to two (2) alternate members to the TZC for a term of five (5) years each.
 - 1) An alternate member may take the place of an absent regular member at any meeting of the TZC. An alternate member shall not take the place of an absent regular member if such alternate has not been present to hear all testimony regarding the matter at hand.
 - 2) Whenever an alternate takes the place of an absent regular member in a matter that requires a vote, the alternate member shall take the place of the absent regular member for all meetings and hearings related to such issue.
 - 3) An alternate member shall meet the same appointment criteria as a regular member.
 - 4) When attending a meeting on behalf of an absent regular member, the alternate member may vote on any matter on which the absent member is authorized to vote.

1.204.3 Organization and Operating Rules and Records

- A) The TZC shall convene public meetings or hearings to:
 - 1) Initiate proposed amendments to this Zoning Resolution;
 - 2) Review all proposed zoning text and map amendments to this Zoning Resolution and make recommendations to the Board of Township Trustees; and
 - 3) Review and make recommendations to the Board of Township Trustees regarding PUD Stage 1 applications.

- B) Perform all other duties as specified for Township zoning commissions in ORC Chapter 519 and as specified in this Zoning Resolution.
- C) Meetings shall be held at the call of the Chair, Vice Chair, or acting Chair, and at such other times as the TZC may determine. The Chair, or, if absent, the Vice Chair or acting Chair as otherwise determined by the TZC, may call a TZC meeting to order.
- D) All meetings shall be open to the public, except as exempted by law.
- E) The TZC shall keep minutes of its proceedings showing sufficient facts and information to permit the public to understand and appreciate its actions, the vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be a public record, unless exempted by law, and be filed in a timely manner in the Township offices.
- F) Any combination of three (3) regular or alternate members of the TZC shall constitute a quorum.

1.204.4 Recommendation

The TZC shall act when a majority of a quorum concurs and every decision shall be accompanied by written findings specifying the reason for granting or denying the application or making its recommendation.

SEC. 1.205 BOARD OF ZONING APPEALS (BZA)

The Board of Township Trustees, for the purpose and intent of this Zoning Resolution, hereby creates and establishes the Salem Township Board of Zoning Appeals, hereafter referred to as the BZA.

1.205.1 Duties and Responsibilities

- A) The BZA shall convene public meetings or hearings to:
 - 1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Inspector in the enforcement of this Zoning Resolution;
 - 2) Authorize, upon appeal, in specific cases, such variance from the terms of the Zoning Resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of this Resolution will result in unnecessary hardship, and so that the spirit of the Resolution shall be observed and substantial justice done;
 - 3) Approve or deny issuance of a zoning permit for a conditional use specified in this Code, in accordance with Sections 519.14 or 519.141 of the ORC, as applicable;
 - 4) Revoke any variance or conditional use granted for the extraction of minerals, if any approval condition thereof has been violated;

- B) In exercising the above-mentioned powers, the Board may, in conformity with such sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end has all powers of the administrative official from whom the appeal is taken.
- C) All other powers conferred upon the BZA in Section 519.14 of the ORC, or as authorized by the Board of Salem Township Trustees in compliance with state law.

1.205.2 Member Appointments, Terms and Removal

- A) The BZA shall consist of five (5) members and two (2) alternates, to be appointed by the Board of Salem Township Trustees.
- B) Members shall be residents of the unincorporated area of Salem Township, Warren County, Ohio.
- C) Members shall serve five (5) year terms with the term of one (1) member expiring each year.
- D) Each member shall serve until their successor is appointed and qualified. Members may be reappointed.
- E) Vacancies shall be filled by appointment by the Board of Salem Township Trustees and shall be for the time remaining in the unexpired term.
- F) Members of the BZA shall be removable for nonperformance of duty, misconduct in office, or other cause, by the Board of Salem Township Trustees, upon written charges having been filed with the Board, and after a public hearing has been held regarding such charges, a copy of the charges having been served upon the member so charged at least ten (10) days prior to the hearing, either personally or by registered mail, or by leaving the same at the member's usual place of residence. The member shall be given an opportunity to be heard and answer such charges.

1.205.3 Organization, Operating Rules and Records

The BZA shall adopt rules for its own governance pursuant to this Code and ORC Chapter 519, or as amended, and annually elect the Chair and Vice Chairpersons from its members. All BZA meetings are to be held at the call of the BZA Chair, with notification to members and the public. The Chair; Vice Chair; or acting Chair may call a meeting to order, administer oaths, and compel the attendance of witnesses. All BZA meetings are open to the public pursuant to the Ohio Open Meetings Act, unless exempted. The BZA shall keep minutes of its proceedings with sufficient facts and information to permit the public to understand and appreciate its actions indicating the vote of each member or if absent or failing to vote and keep record of its examinations, actions, and public input, which shall all be maintained and made available as a public record in the Zoning Department.

1.205.4 Quorum and Decisions

- A) The BZA shall conduct a quasi-judicial hearing prior to rendering its decision on an application for an appeal, variance, or conditional use certificate, or revoking of an unauthorized variance or conditional use certificate.
- B) Any combination of three or more regular or alternate members of the BZA shall constitute a quorum.
- C) Action by the BZA requires a majority vote by a quorum. The BZA shall document its decisions in writing and shall include findings of relevant fact based on evidence, and statement of applications of relevant zoning code provisions and law.
- D) Upon closing a hearing, the BZA may deliberate its decision off the record in private (a quasi-judicial hearing is not a meeting and is not subject to the Open Meetings Act). Upon completing deliberations, the BZA shall deny; approve; or approve with conditions an application.

SEC. 1.206 ZONING INSPECTOR

A Zoning Inspector, as appointed by the Salem Township Board of Trustees, along with any assistant(s) as deemed necessary, shall be responsible for administering and enforcing the Salem Township Zoning Code.

1.206.1 Duties and Responsibilities

- A) Maintain the Zoning Code text and map, and the record of all amendments thereto.
- B) Provide information regarding the Zoning Code and all related matters so involving.
- C) Assist applicants for a zoning permit, site plan review, conditional use, variance, rezoning, or other zoning matter by explaining how to complete required applicable forms and procedures.
- D) Review proposed subdivision plats and parcel splits submitted for approval to the Warren County Regional Planning Commission (RPC), or as otherwise submitted for recording not needing RPC approval, to determine compliance with the requirements of this Code.
- E) Review zoning permit applications, ensuring compliance with the requirements of this Code, as well as any additional applicable case-specific Resolution conditions, and accordingly, either approve or deny said permit and maintain record thereof.
- F) Determine, if the event arises, whether a proposed use not listed in this Code shall be a permitted or conditional use, in accordance with Section 2.203 (Permitting Designation for a Use Not Listed).
- G) Perform periodic inspections of zoning permit sites to confirm that requirements are being met.
- H) Investigate complaints of alleged zoning violations as specified in this Code.

- I) Process, and maintain record of all zoning violations as specified in this Code. Issue written order via certified mail to the person(s) responsible for said zoning violation(s), to discontinue use of any land, building or structure, and/or to stop work and/or remove any building or structure, in whole or in part, that has been found in violation of any requirement(s) of this Zoning Code, informing them of their right to appeal the order should they might otherwise object or refuse to comply with said order.
- J) Maintain records of legal non-conforming uses, structures, and lots that existed before the effective date of this Zoning Code and update the record as necessary when applicable conditions or amendments of the zoning regulations eliminate the nonconforming status.
- K) Forward complete applications submitted in accordance with this Code for zoning cases requiring review and recommendation and/or action in determination of approval, denial or modification to the Warren County RPC, TZC, BZA, and/or Board of Township Trustees, as required by this Zoning Code.
- L) Schedule, provide information for, attend, and oversee TZC and BZA meetings and attend and provide information at meetings of the Board of Township Trustees involving zoning matters.
- M) Maintain public records regarding all zoning matters, inclusive of all information submitted and formal decisions made regarding each case.
- N) Make grammatical, numerical, and section reference corrections to the Salem Township Zoning Code without such changes being subject to the review process of Section 1.304 (Zoning Amendments) and provided that such changes do not alter the meaning of the Code.
- O) Perform other related duties as required to administer and enforce this Zoning Code.
- P) Approve or deny zoning permit requests for completion, restoration, reconstruction, in whole or in part, extension, or substitution of a nonconforming use or structure;
- Q) Determine if the event arises, as specified in Section 2.103 (District Boundaries Location and Interpretation), the certain location of a zoning district boundary that is in question or dispute for purposes of regulation in accordance with this Code; and
- R) ~~Make a determination in the event the Zoning Inspector is unable to classify a use not listed in the Code per Section 2.203 (Permitting Designation for a Use Not Listed) of this Zoning Resolution.~~

Commented [DEA1]: These were moved from the BZA's responsibilities. I'm not super sure about R - it corresponds with F.

ARTICLE 1

CHAPTER 3 ZONING ENFORCEMENT

SEC. 1.301 REQUIRED APPLICATIONS AND PROCESSING PROCEDURES

This Chapter specifies the applications and procedures by which requirements of the Zoning Code are enforced or exempted, pursuant to and in accordance with ORC Chapter 519. Enforcement measures applied in the event of a violation are described, along with potential recourse or relief by variance or appeal from requirements of the Code.

SEC. 1.302 ZONING PERMIT APPLICATION

1.302.1 Applicability

A zoning permit is required for all proposed principal, accessory, and temporary use structures unless otherwise specified within this Code. An application for a zoning permit prepared in satisfaction with the requirements of Section 1.301.2 shall be submitted to and approved by the Zoning Inspector before the owner(s) of property or the agent(s) acting in their behalf commence any change in land use or places or begins to erect, construct, reconstruct, enlarge, or alter any building or other structure. Uses/development subject to Section 1.103.7 are exempt. Zoning Code compliance must be determined by the Zoning Inspector prior to issuance of a zoning permit.

1.302.2 Application Requirements

The required zoning permit application form, fee, and accompanying information inclusive of a site plan must be submitted to the Zoning Inspector for evaluation. All site plans shall include the following information, unless the Zoning Inspector determines that certain information is not necessary to meet the intent of this Section:

- A) Name, address, phone number, and e-mail address of the applicant property owner and agent, if applicable or available;
- B) Date submitted to, and accepted complete, by the Zoning Inspector;
- C) The parcel identification number of the parcel(s), the zoning district, site address, and, if applicable, the name of the subdivision and the lot number(s);
- D) Accurate dimensions of the boundary lines (based on a recorded survey), legal description, and square footage or acreage of the site;
- E) The location of each existing and proposed structure, notation of the type, size (square footage area and outer wall footprint dimensions as applicable) of each structure, indication of the respective distances in feet from the outermost edges of each existing and proposed structure to property lines, and identification of structures to be removed;

- F) The total height of the proposed structure, and number of stories;
- G) Proposed residential structure(s) and number of dwelling unit(s) within each, total living space by floor (square footage), and the number and size of bedrooms in each dwelling unit;
- H) Written certification of an approved or anticipated sewage disposal system permit by the approving authority and a plan showing existing and proposed systems for sanitary sewer;
- I) Indication of the existing and/or proposed vehicle access, parking provisions and traffic circulation;
- J) Provisions for landscaping, screening, signage and lighting;
- K) Signature of the applicant attesting to the truth and correctness of all information provided on the application form, the accompanying site plan and other documents submitted. The applicant's acknowledgement that:
 - 1) The zoning permit will expire in one (1) year following the date of approval; and,
 - 2) The permit may be revoked if the use and/or structure is not progressing or
 - 3) completed in a manner consistent with the information provided and approved;
- L) Other applicable information required by the Zoning Inspector to determine compliance of the permit request. This may include, but is not limited to, the location of drainage, public utility, common access, conservation easements, regulatory floodplain and stream protection areas, right-of-way or easement line(s), boundaries of waterways, and finished floor elevations; and,
- M) The permit application fee.

1.302.3 Processing

Each application is consecutively numbered within the year in which it was accepted for processing and is maintained accordingly in a file as a matter of public record available at the Zoning Inspector's office. A signed and dated copy of the application that documents the decision by the Zoning Inspector shall be provided to the applicant. In the event the Zoning Inspector denies issuance, the reasons for the denial will be communicated to the applicant in writing.

After processing, permits required shall be issued through the building department which will assure compliance with all applicable provisions and requirements of the Code and conformance with the decision of other approving authorities.

SEC. 1.303 SITE PLAN REVIEW APPLICATION

1.303.1 Applicability

- A) Review of a site plan by the Salem Township Board of Trustees is required for uses in certain districts where the symbol “S” is shown in the Table of Permitted Uses by Zoning District (Section 2.205), as well as during Stage 2 of a PUD process. In such cases as described, the Board of Trustees shall be considered the Approving Authority.
- B) Site Plan Review by the Board of Zoning Appeals (BZA) is required for all Conditional Uses in certain districts where the symbol “C” is shown in the Table of Permitted Uses by Zoning District (Section 2.205). In such cases as described, the BZA shall be considered the Approving Authority. Site Plan review hearings shall be conducted by the BZA subsequent to a hearing that results in a Conditional Use permit being granted.

1.303.2 Exemptions

Site Plan Review process is not required for the following:

- A) Uses exempt per the Table of Uses;
- B) Change in the ownership of any land or structure;
- C) Exterior or interior maintenance and repair of any existing use structure;
- D) Re-occupancy of any building or re-use of any structure with a previously permitted use;
- E) Construction, removal, or alteration of an agricultural structure for an exempt agricultural use. Structures in a regulatory floodplain must satisfy the Warren County Flood Damage Reduction Regulations;
- F) Construction, removal, or alterations of a single-family or two family dwelling not located in a one-hundred (100) year floodplain or accessory structure containing not more than five hundred seventy-six (576) square feet which is located within the flood fringe;
- G) Interior alteration of a building used for an approved principal or accessory use;
- H) Exterior alteration of a building used for an approved principal or accessory use which does not expand the building footprint by more than twenty-five percent (25%) compared to the building footprint within the past five years;
- I) A change of occupancy within the same use category, provided no modification of the site is proposed or required by the standards of this Code – such as an increase in the number of required parking spaces, landscape buffering – and that such change maintains compliance with all applicable requirements of this Code;
- J) An additional building may be constructed without site plan review if that building:
 - 1) Will not expand the building footprint by more than ten percent (10%) compared to the building footprint within the past five (5) years;

- 2) Will not increase a parcel's acreage;
 - 3) Will not produce concerns regarding the environment or traffic;
 - 4) Has access from a public road; and
 - 5) Meets approval from the Zoning Inspector.
- K) Any use and/or structure which is solely approvable by the Zoning Inspector; and
- L) Land and structures, not including buildings, required in the provision of essential services defined in this Code, public utilities, and/or railroads.

1.303.3 Application Requirements

The required application form, fee, and information to accompany the site plan must satisfy the following:

- A) Site Plan Drawing Format: The site plan shall be drawn to a scale specified appropriate by the Zoning Inspector. Information must be clear and legibly drawn.
- B) Number of Copies: Folded copies of the site plan are required, and the amount needed will be determined by the Zoning Inspector. The site plan must be drawn on sheets no greater than twenty-four (24) inches by thirty-six (36) inches.
- C) Site Plan Minimum Information: The minimum information, which must be provided on the site plan and/or in other documents submitted for site plan review follows:
 - 1) Name, address, phone number and e-mail address of the applicant, site owner, and agent, if applicable. The name, identification number, and seal of the architect, landscape architect, engineer, or surveyor;
 - 2) A title block giving a name for the proposed development, and a legend, notes, and/or labels explaining the content shown on each drawing, and; a legal description, parcel identification number, and address of the property;
 - 3) Notation of the month and year submitted and a place for noting revision date(s);
 - 4) Written and graphic scale of the site plan drawing(s);
 - 5) Vicinity map drawn to scale with a north arrow;
 - 6) Legal and common description of the site boundary and the parcel(s) involved shown on the plan, detailing the bearing and dimension of each course of the boundary line;
 - 7) The acreage and/or square footage of the site;
 - 8) The zoning classification(s) of the site and of all abutting parcels;

- 9) A list of the owners of property within five hundred (500) feet from the parcel lines of each property that is the subject of the hearing and two sets of mailing labels for each property owner;
- 10) Location and dimensions of existing and proposed streets, driveways, and sidewalks/walkways within the site. Notation of the Warren County Thoroughfare Plan specified right-of-way, the pavement type, width, and construction design details depicted for each roadway;
- 11) Schematic depiction of existing and proposed locations of gas, electric, phone, fiber-optic, and other telecommunication lines and terminal facilities, sanitary sewer lines or septic system components, water service lines, wells, fire hydrants and emergency connections, storm water drainage management components, and sewer lines;
- 12) Location and dimensions of existing and proposed easements and notation of the percentage of the site occupied by the easements;
- 13) Existing and proposed topography on and proximate to the site represented with elevation contour lines at intervals not exceeding:
 - a. One (1) foot for zero (0) to six (6) percent slopes;
 - b. Two (2) feet for six (6) to eighteen (18) percent slopes;
 - c. Five (5) feet for slopes over eighteen (18) percent.
- 14) Location of existing surface water features, natural or man-made, including lakes, ponds, runoff control basins, marshes, wetlands, rivers, creeks, streams, or other drainage ways.
- 15) A tree survey that includes information on all existing trees which have a 6" diameter at breast height (DBH) or larger. Information shall include the location, size, and condition of each tree. If the site is heavily wooded and large areas are to be protected, individual trees do not need to be surveyed. The survey shall indicate and distinguish areas based on the intended level of preservation, alteration, and/or disturbance.
- 16) The types of soils found on the site and seasonal wind directions;
- 17) All flood prone areas, using the one-hundred (100) year flood plain as a standard;
- 18) Any additional information that may be deemed necessary for proper and complete review when a proposed development presents difficult or unusual problems.

D) Development Specific Information: The following information, as determined applicable or necessary by the Zoning Inspector, must be provided:

- 1) Existing and proposed land development on and around the site.
- 2) Notation and depiction of any variance from this Code which has been secured.
- 3) A time schedule which indicates the anticipated starting and completion dates for construction. If the development is to be staged, indication shall be made as to how the staging is to proceed.
- 4) The location of each existing and proposed structure with notations of:
 - a. The type, number, and size;
 - b. The respective distances in feet from the boundary lines of the site;
 - c. The lowest foundation opening and first finished floor elevations of each building;
 - d. Existing structures or part(s) thereof that are to be altered or removed;
 - e. For residential proposals: a site summary indicating the number of dwelling unit(s) within each building, the number of bedrooms per unit, floor plans, floor area square feet, density computation, recreation facilities and open spaces;
 - f. For non-residential proposals: the number of offices and number of employees; the number of floors, floor plans, floor area square feet, total square footage, and exterior elevations; and
 - g. The number of floors, floor plans, floor area, total square footage, and exterior elevations.
- 5) The height of each proposed structure as measured in accordance with Section 3.103.4 (Height Measurement and Exceptions).
- 6) Off-street parking provisions: number, typical dimensions; number of handicapped spaces; widths and turning radii dimensions of all driveways, and pavement material.
- 7) Off-street loading/unloading provisions, showing the locations and noting the dimensions and square footage of each space.
- 8) The location of outdoor storage, waste disposal and/or trash containment area along with detailed screened and/or buffered plans for each.
- 9) The location of fences and walls, and cross-section diagram for proposed fences and walls.
- 10) Landscaping plan, with detail plantings for buffers and screening in accordance with requirements of this Code.
- 11) The location, type, size, height, and orientation of all building.

12) Documentation of site lighting, along with a photo-metric analysis.

13) Depiction and description of the location, type, number, and size of display faces, height, setback, and illumination, if any, of all existing and proposed signs.

E) Supplementary Information: Additional information may be required if deemed necessary by the Board of Township Trustees, BZA, or Zoning Inspector. Such additional information may include but is not limited to the requirement of a traffic impact study (TIS), market analysis, environmental assessment, condominium documents, and any study or report in evaluation of the proposed impact on public facilities and services. The following information may be required as determined applicable or necessary by the Zoning Inspector:

- 1) Front, side, and rear elevation drawings of structures; drawn with sufficient details to evaluate visual appearance and function;
- 2) Written certification of the required sewage disposal permits having been issued or able to be issued by the applicable authority;
- 3) Certification by the Warren County Engineer or Ohio Department of Transportation (ODOT), and the Salem Township Fire Department, that the sight-distance, configuration and number of existing and/or proposed street and/or driveway access intersections are acceptable.
- 4) Certification from the Warren County Building Department, Warren County Engineer's Office, and Federal Emergency Management Agency (FEMA) that proposed structure(s) and/or fill within one-hundred (100) year floodplain is compliant with the requirements of the Warren County Flood Damage Reduction Regulations;
- 5) Stormwater drainage quantity and quality management provisions to the approval of the Warren County Engineer's Office and the Warren County Soil and Water Conservation District;
- 6) Soil erosion and sedimentation control measures as required by the Warren County Soil and Water Conservation District. Control measures address pre- and post-development, soil type boundaries, pre-development land cover, clearing 26 limits, wooded areas proposed to remain or be cleared, and soil stockpiling and sediment trap basins;
- 7) Identification of local airport airspace and indication that the proposed development meets Federal Aviation Administration (FAA) and/or the Ohio Division of Aviation standards;
- 8) A statement documenting potential impacts to groundwater and air quality, and other environmental impacts.

1.303.4 Site Plan Requirements for Conditional Use

The applicant shall submit the required application form and fee. The information to accompany the application for conditional use shall be the same as the information required for site plan review application as specified in Section 1.303.3 (Application Requirements).

1.303.5 Site Plan Requirements for PUDs

The applicant shall submit the required application form and fee. The information to accompany the application for a PUD Stage 2 shall be the same as the information required for site plan review as specified in Section 1.303.3 (Application Requirements).

1.303.6 The Review Process

- A) Step 1 - Consultation with Zoning Inspector
 - 1) Prior to submitting a conditional use application, the applicant or property owner shall first consult with the Zoning Inspector.
 - 2) The purpose of this informal consultation is to:
 - a. Discuss applicable standards and technical issues pertinent to the proposal;
 - b. Comment on whether the application is the necessary and appropriate process.
- B) Step 2 - Formal Submittal and Processing
 - 1) The applicant shall formally submit the required application to the Zoning Inspector.
 - 2) The Zoning Inspector has the duty to determine whether such application is complete within ten (10) working days of receipt of the application.
 - 3) If the Zoning Inspector determines that the application is not complete, the applicant shall be notified, in writing, of the specific deficiencies of the application including any additional information that must be supplied. The applicant shall be informed that no further action will be taken by the Township on the application until the deficiencies are corrected.
 - 4) Upon receipt of a complete application, the Zoning Inspector shall notify the applicant of completeness. The Zoning Inspector shall then:
 - a. Notify by first class mail, at least ten (10) days before the date of the hearing, all property owners within five-hundred (500) feet from the parcel lines of each property that is the subject of the hearing. Notification shall be sent to the addresses of the owners appearing on the County Auditor's current tax

list. The failure of delivery of the written notice shall not delay or postpone any such hearing, and shall not invalidate any action taken at such hearing;

- b. Advertise public notice in a newspaper of general circulation within at least ten (10) days of the hearing date;
- c. Provide the application to applicable authorities/departments and allow fifteen (15) days for their review and comments.
- d. Submit the Zoning Inspector's Staff Report to the Board of Zoning Appeals (BZA).

C) Step 3 - Review and Action

- 1) The BZA or Township Trustees shall hold a quasi-judicial hearing to hear sworn testimony and consider evidence regarding the proposed conditional use.
- 2) Upon closing the quasi-judicial hearing, the BZA or Township Trustees shall adopt a resolution to approve; approve with conditions; or deny the site plan application. Conditions may include plan revisions and safeguards to be performed by the applicant. Appeal of the BZA's decision is to the Court of Common Pleas.

1.303.7 Review Criteria

The site plan review is conducted to determine anticipated impacts on the public health and safety, as well as the public convenience, comfort, prosperity, or general welfare, as applicable. Factors to be considered include the following additional criteria:

A) Adequacy of Information and Compliance with Zoning Code

- 1) The site plan contains the Zoning Code required information and is presented in an understandable manner that provides an accurate description of the proposed development, structure(s), site improvements, and impacts.
- 2) The site plan complies with all applicable requirements of the Zoning Code pertinent to the proposal.

B) Design Layout Sufficiency and Compatibility

The design components proposed and used are considered sufficient and compatible with respect to the following features:

- 1) Site topography;
- 2) Drainage;
- 3) Parcel configuration;
- 4) Adjacent properties;
- 5) Traffic operations;

- 6) Adjacent streets and driveways;
- 7) Pedestrian access; and
- 8) The type, size, and location buildings.

C) Design Character, Operational Compatibility, and Coordination

- 1) The appearance and design character of the proposed development and all corresponding operational activities are considered compatible and coordinated with surrounding, existing, and planned developments.
- 2) The proposed structures must also be identified as either primary or secondary and must be coordinated to function with internal operations of the site.

D) Preservation of Significant Features

The plan preserves:

- 1) Architecturally, historically, and/or culturally significant buildings;
- 2) Wetland(s);
- 3) Floodplain(s);
- 4) Streams;
- 5) Aquifer recharge areas;
- 6) Soil(s) areas with severe limitations for use;
- 7) Steep slopes; and
- 8) Tree lines, hedgerows, wooded areas, and trees that are determined valuable to retain.

E) Pedestrian Access and Circulation

The site plan includes provisions of pedestrian circulation and access. Determination of adequacy is based on such provisions being designed to be safe, comfortable, compatible, connected, conflict-free, and compliant with applicable Americans with Disabilities Act (ADA) regulations.

F) Vehicular Access and Circulation Streets

Driveways, parking aisles, and other related elements designed for vehicle access and circulation demands are determined sufficient per evaluation by the Warren County Engineer's Office and Fire/EMS department. These elements are evaluated for safety and function.

G) Parking and Loading

Off-street parking and loading provisions are determined sufficient based upon the proposed number, size, location, and arrangement of parking spaces and provisions for

30 shared-parking and for compliance with Article III, Chapter 3 (Parking, Loading and Circulation Regulations).

H) Signage

Signage is evaluated for compliance with Article III, Chapter 6 (Signage Regulations).

I) Landscaping and Screening

Landscaping and screening are evaluated based on the design and effectiveness of landscaping/building material to screen and mitigate negative visual impacts and for compliance with Article III, Chapter 4 (Landscaping and Screening Regulations).

J) Exterior Lighting

Lighting is evaluated for compliance with Article III, Chapter 5 (Lighting Regulations).

K) Public Service Impact

The impacts to the following public services facilities and utilities are evaluated in terms of their capacity to accommodate the proposed development:

- 1) Water;
- 2) Sanitary sewer;
- 3) Natural gas;
- 4) Electricity;
- 5) Telephone and cable;
- 6) Roadways;
- 7) Police protection;
- 8) Fire and EMS protection;
- 9) Sidewalks and bikeways; and
- 10) Public schools.

L) Stormwater Drainage and Management Plan

The site plan is evaluated based on the quantity and quality of runoff, impact on upstream or downstream property, and a maintenance plan, to the approval of the Warren County Engineer and the Warren County Soil and Water Conservation District.

M) Soil Erosion and Sediment Control

Provisions for minimizing soil erosion during development and preventing sedimentation during and after development are determined acceptable by the Warren County Soil and Water Conservation District.

N) Emergency Access and Service Facilities and Public Safety

The plan provides for emergency access and service facilities (fire lanes, hydrants, and suppression supply connections) within the site as determined necessary per evaluation by the Salem Township Fire/EMS Department in conjunction with the Warren County Building Department. The proposed development does not pose a threat to public safety.

O) Building Design

Building design is found harmonious in character with the surrounding area with regard to scale, mass, and orientation.

P) Compliance with Public Health and Safety

The application must provide plan of procedures to mitigate nuisances to surrounding areas such as, but not limited to, odors, excess noise, and/or unsanitary operations. Any externalities must be with the realm of public health, safety, and wellness.

1.303.8 Post Site Plan Review Requirements

A) Permits or Approvals from Relevant Authorities

The applicant is responsible for obtaining all necessary permits or approvals from other approving authorities before issuance of the zoning permit.

B) Compliance with Approved Site Plan

The property owner is responsible for the improvement and maintenance of the site in accordance with the approved Site Plan and all conditions of approval. Failure to comply with the approved Site Plan and all conditions of approval may result in an enforcement action.

C) Expiration and Extension of Site Plan

If development has not commenced within two (2) years following the Site Plan approval, the approval shall become null and void, requiring re-application. The applicant may only request an extension prior to the expiration date. A written request for an extension shall be submitted to the Zoning Inspector. The Approving Authority may grant up to twelve (12) months in extension of its initial approval of the plan and entertain subsequent extensions thereafter.

D) Modification of an Approved Site Plan

1) Minor Modifications

The following are considered minor modifications for approval by the Zoning Inspector:

- a. Changes made during development to improve safety, protect natural features, and/or accommodate unanticipated site constraints or to comply

with further requirements of other authorities. These changes should not affect surrounding property or the approved plan layout.

- b. Changes in landscaping species that is consistent with the standards of this Code and that do not reduce the total amount of landscaping or buffering required.
- c. Change in the boundary or arrangement of a structure that does not violate minimum zoning required setbacks nor affect locations of other components of the approved site plan requirements or conditions.
- d. Adjustments in the alignment of vehicular and pedestrian access and circulation components for purposes of improved safety or to eliminate conflict with other components in the site which will not create off-site conflicts.
- e. Reduction in signage or changes in lighting which will not affect off-site properties.

2) Major Modifications

- a. Any proposed change to a site plan that does not meet the minor modification qualification criteria specified above in Section 1.303.8(D) shall be considered a major modification.
- ~~b. Approval by the Zoning Inspector is required for any major modification(s) to a Site Plan where the Zoning Inspector was the Approving Authority for the initial site plan application.~~
- c. Approval by the Board of Township Trustees is required for any major modification(s) to a Site Plan where either the Board of Township Trustees or the BZA were the Approving Authority; unless one of the following is true, in which case approval is instead required by the BZA:
 - i. The proposed change necessitates action in determination on a request of variance from an applicable requirement of this Code or expansion of a non-conforming use or structure; or,
 - ii. The original site plan had been approved as a permitted use prior to the effective date of this Zoning Code but is now identified as a conditional use under the regulations of this Zoning Code.

Commented [ED2]: Should this be discussed at the meeting?

SEC. 1.304 CONDITIONAL USE APPLICATION

1.304.1 Purpose and Approval

- A) Conditional use is provided as a category and means of permitting certain uses listed in the Table of Principal Uses by Zoning District (Section 2.203) as potentially acceptable.
- B) Allowance of a conditional use is contingent on the Board of Zoning Appeals (BZA) approval.
- C) A conditional use may only be approved if the BZA finds that the proposal is in accordance with this Section and meets applicable use-specific requirements specified in Article III, Chapter 2 (Use Specific Standards and Requirements), or any additional conditions specified by the BZA.
- D) A conditional use application shall be accompanied by a site plan review application; the site plan review shall be consistent with the requirements of Section 1.304 (Site Plan Review). Site plan approval by the BZA shall be considered a separate decision item from conditional use approval. Conditional use approval shall be considered a prerequisite to site plan approval. Conditional use and site plan review applications pertaining to the same site may be reviewed consecutively by the BZA on the same published date and time.

1.304.2 Requirements

The applicant shall submit the required application form and fee. The application shall include the information required for site plan review as specified in Section 1.304.4 (Application Requirements).

1.304.3 Process

- A) Step 1 - Consultation with Zoning Inspector
 - 1) Prior to submitting a conditional use application, the applicant or property owner shall first consult with the Zoning Inspector.
 - 2) The purpose of this informal consultation is to:
 - a. Discuss applicable standards and technical issues pertinent to the proposal;
 - b. Determine if the conditional use process is the necessary and appropriate process.
- B) Step 2 - Formal Submittal and Processing
 - 1) The applicant shall formally submit the required application to the Zoning Inspector.
 - 2) The Zoning Inspector shall determine completeness of the application within ten (10) working days of receipt.
 - 3) If the Zoning Inspector determines that the application is not complete, the applicant shall be notified, in writing, of the specific deficiencies including any

additional information that must be supplied. The applicant shall be informed that no further action will be taken by the Township on the application until the deficiencies are corrected.

- 4) Upon receipt of a complete application, the Zoning Inspector shall notify the applicant of completeness. The Zoning Inspector shall:
 - a. Notify all property owners within five hundred (500) feet from the property lines of the subject site. Notification by first class mail is required at least ten (10) days before the date of the hearing and shall be sent the addresses of the owners appearing on the County Auditor's current tax list. Failure of delivery of the written notice shall not delay or postpone any such hearing, and shall not invalidate any action taken at such hearing;
 - b. Advertise public notice in a newspaper of general circulation, to be published at least ten (10) days prior to the hearing date;
 - c. Provide the application to applicable review authorities/departments and allow fifteen (15) days to receive comments before a staff report is sent to the Board of Zoning Appeals (BZA).

C) Step 3 - Review and Action

- 1) The BZA shall hold a quasi-judicial hearing to allow sworn testimony and consider evidence regarding the proposed conditional use.
- 2) Upon closing the quasi-judicial hearing, the BZA upon motion may deliberate in public or private, and shall adopt a resolution to approve; or to approve with conditions; or deny the conditional use application. Conditions may include plan revisions and safeguards to be performed by the applicant. Appeal of the BZA's decision is to the Court of Common Pleas.

1.304.4 Requirements Post Approval

- A) The applicant and/or property owner is responsible for obtaining all necessary permits and the property owner is responsibility of developing; improving; operating; and maintaining the site, including the buildings, structures, and all elements in accordance with the approved conditions and restrictions.
- B) Modification of the approved Use(s) requires re-application to the BZA.
- C) Expiration and Extension of Use Approval: If the development and/or conditional use approved by the BZA has not commenced within two (2) years following the approval, the approval shall become null and void, requiring re-application. The applicant may only request an extension prior to the conditional use approval expiration date. A written request for extension shall be submitted to the Zoning Inspector. The BZA may grant up

to twelve (12) months in extension of its initial approval and consider subsequent extensions thereafter.

1.304.5 Modification

- A) **Minor Modification:** The following are considered minor modifications allowable for approval by the Zoning Inspector:
- 1) Changes made during development to improve safety, protect natural features; accommodate unanticipated site constraints or to comply with further requirements of other authorities. These changes should not affect surrounding property or the approved plan layout.
 - 2) Changes in landscaping that are consistent with the standards of this Code and that does not reduce the total amount of landscaping or buffering required by the BZA's decision.
 - 3) Adjustments in alignment of vehicular and pedestrian access and circulation components for purposes of improved safety or to eliminate conflict with other components in the site which will not create off-site conflicts.
 - 4) Reduction or changes in signage or lighting which will not affect off-site properties.
- B) **Major Modifications:** BZA approval is required for any proposed change which does not meet the minor modification requirements specified above.

1.304.6 Review Criteria

In reviewing conditional uses, the BZA shall consider the anticipated impacts on the public health and safety, as well as public convenience, comfort, prosperity, or general welfare, as applicable. The factors to be considered and weighed by the BZA include but are not limited to the following, but no single factor controls in making a decision, nor must all the factors support the decision:

- A) The use complies with applicable requirements of the Warren County Rural Zoning Code, including Use Specific Standards.
- B) The use is consistent with the suggestions of the components of the Comprehensive Plan.
- C) The use will not be detrimental to surrounding properties.
- D) The use is necessary or desirable to provide a service.
- E) The use will not cause a burden to public services, facilities and utilities for water, sanitary sewer, natural gas, electricity, telephone and cable, roadways, police, fire and EMS protection, sidewalks, bikeways, and public schools.
- F) The use will be served adequately by essential public facilities such as highways, streets, police and fire protection, water and sewers, and schools.

- G) The use does not adversely impact traffic conditions in a manner that cannot be mitigated.
- H) The use will be designed to be harmonious in appearance with the existing or allowable uses of the surrounding area.
- I) The use will be operated, maintained, and will function in a manner that is appropriate with the intended character of the surrounding area.
- J) The use will not result in substantial destruction, loss or damage of significant natural, scenic or historic features.
- K) The reasonably anticipated detrimental effects of the use can be sufficiently mitigated by the proposal or by the imposition of conditions for approval.

SEC. 1.305 ZONING AMENDMENTS

Official Zoning Map or Zoning Code text amendments may be proposed at any time in accordance with the requirements and procedures specified in this Section and consistent with provisions of ORC Section 519.12.

1.305.1 Who may Initiate

Amendments or supplements to this Zoning Resolution may be initiated in one of the following ways:

- A) By adoption of a motion by the Salem Township Zoning Commission (TZC);
- B) By adoption of a resolution by the Salem Township Board of Trustees; or
- C) By filing an application with the TZC via the Zoning Inspector from one or more owner(s) or authorized representative(s) of property in the area proposed to be changed or affected by the amendment.

1.305.2 Application Requirements

When an amendment is initiated in the manner as described in Section 1.304.1(C), a complete application form with the following information must be submitted to the Zoning Inspector:

- A) Name, address, and phone number of the owner(s) and authorized representative(s);
- B) Date submitted;
- C) Reason(s) for requesting the proposed text/map amendment;
- D) Signature of the applicant attesting to the truth and correctness of all information provided on the application form and documents submitted;
- E) The submittal fee;
- F) For text amendments: A written description of the proposed text amendment; and

G) For map amendments:

- 1) The parcel identification number of the parcel(s) for which the rezoning is requested;
- 2) A list of owners of property within five hundred (500) feet from the parcel lines of the subject site and two sets of mailing labels;
- 3) Legal description of the subject site;
- 4) Total acreage;
- 5) Indication of the current zoning district(s) and the requested zoning district(s);
- 6) Description of the current and proposed use(s); and
- 7) Statement of how the proposed amendment relates to the goals, objectives, and policies of the Salem Township Comprehensive Plan.

1.305.3 Public Notification

Except for text and map amendments, effecting more than ten (10) parcels, the following notifications shall be required:

- A) The Zoning Inspector shall post a sign on the subject property of the application, stating the public process, the public hearing time, location, and date.
- B) Written notice of the hearing shall be mailed by the Approving Authority, by first class mail, at least ten days before the date of the public hearing to all owners of property within five hundred (500) feet from the parcel lines of each property that is the subject of the public hearing, to the addresses of the owners appearing on the County Auditor's current tax list. The failure of delivery of the written notice SHALL NOT delay or postpone any such public hearing and shall not invalidate any action taken at such public hearing.

1.305.4 Submittal

- A) Step 1 - Consultation with Zoning Inspector
 - 1) A pre-submittal consultation with the Zoning Inspector is required prior to submitting a formal application.
 - 2) The intent of the consultation is to allow the applicant the opportunity to provide an overview of the proposal. The Zoning Inspector and/or other staff will outline plans, policies, and regulations affecting the proposal, identify issues, and discuss applicable zoning requirements and Comprehensive Plan recommendations. The Zoning Inspector will inform applicants of procedural requirements, checklist, timelines, and fees.
 - 3) Discussions that occur during a pre-submittal consultation are not binding on the Township and do not constitute official assurances or representations by Salem

Township or its officials regarding any aspects of the plan or application discussed.

B) Step 2 - Formal Submittal and Processing

Within five (5) days upon the adoption of a motion by the TZC, the certification of a resolution by the Board of Township Trustees to the TZC, or the filing of an application by property owners or lessees, the Zoning Inspector shall do the following:

- 1) Set the date for the public hearing by the TZC on the proposed amendment at not less than twenty (20) days nor more than forty (40) days from the initiation date of the amendment(s);
- 2) Place public notice of the meeting in a newspaper of general circulation, to be published at least ten (10) days prior to the date of the public hearing;
- 3) Provide a copy of the application to the Regional Planning Commission (RPC); and
- 4) For map amendments affecting ten (10) or less parcels:
 - a. Post a sign, at the site, that states the public process and where to get additional information;
 - b. Notify all property owners within five hundred (500) feet from the property lines of the subject site. Notification by first class mail is required at least ten (10) days before the date of the hearing and shall be sent the addresses of the owners appearing on the County Auditor's current tax list. Failure of delivery of the written notice shall not delay or postpone any such hearing, and shall not invalidate any action taken at such hearing

1.305.5 Review Process

A) RPC Recommendation

The RPC shall deliver its report and recommendation to the TZC prior to conclusion of the TZC public hearing.

B) TZC Public Hearing and Recommendation

- 1) The TZC shall open a public hearing on the proposed amendment(s) at its meeting per the advertised date, place, and time specified in the mailed and published notice.
- 2) The TZC, within thirty (30) days after the hearing, shall recommend approval, denial, or the approval with modifications.
- 3) The TZC shall submit their recommendation in the form of a motion; and the recommendation of the RPC to the Board of Township Trustees.

C) Board of Township Trustees Public Hearing and Decision

- 1) Within thirty (30) days of receipt of the TZC's recommendation, the Salem Township Board of Trustees shall:
 - a. Set a date for and conduct a public hearing on the proposed amendment; and
 - b. Submit and have an advertised public notice in a newspaper of general circulation within at least ten (10) days of the public hearing date;
- 2) Upon close of the public hearing and within twenty (20) days thereafter, by at least a majority vote, the Board of Township Trustees shall either approve or deny the TZC's recommendation or approve with modifications.

1.305.6 Decision Record, Delivery, Effective Date, Referendum, Appeal or Reconsideration

Amendments 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 registered electors residing in the unincorporated area of the Township or part of that unincorporated area subject to this Zoning Resolution equal to not less than eight (8) percent of the total vote cast for all candidates for governor in such area at the most recent general election at which a governor was elected, requesting the Board of Township Trustees to submit the amendment to the electors of such area for approval or rejection at a special election to be held on the day of the next primary or general election. Each part of this petition shall contain the number and the full and correct title, if any, of the zoning amendment Resolution, motion, or application, furnishing the name by which the amendment is known and a brief summary of its contents. In addition to meeting the requirements of this Section, each petition shall be governed by the rules specified in Sections 519.12 and 3501.38 of the ORC.

SEC. 1.306 PLANNED UNIT DEVELOPMENT APPLICATION

1.306.1 Initiation

Except as provided, proposals to place a PUD Overlay on a property may be initiated only at the election of the owner(s) or authorized representative(s) of the property owners.

1.306.2 Effect of PUD Designation

No development shall occur in an approved PUD except in conformance with the approved Plan, and any applicable portions of the Salem Township Zoning Code. After the designation of the property as a PUD on the Zoning Map, any approval or disapproval of subsequent use or development of property in the PUD as being in compliance with regulations established as authorized by this Section of the Code or ORC Section 519.022 shall not be considered to be an amendment to the Code for the purpose of ORC Section 519.12 but may be appealed pursuant to Chapter 2506, et seq. of the ORC. Once approved, the PUD Overlay designation for the property

will permanently remain on the Official Zoning Map, unless otherwise removed or modified, per the amendment process in Section 1.305 of this Code.

1.306.3 Review Procedures

The PUD approval process consists of three (3) stages:

PUD Stage 1: PUD Stage 1 is a legislative process to rezone the property in accordance with the zoning amendment requirements and procedures specified in Section 1.304 including a recommendation of the Warren County Regional Planning Commission (RPC); a recommendation of the (TZC) after a public hearing; and, a legislative decision after a public hearing by the Township Trustees. Except as otherwise provided in Section 1.305.12(B), after designation of the site as a PUD on the Official Zoning Map, any subsequent applications for use or development of the site in the PUD, as being in compliance with the PUD regulations, shall not be considered an amendment under ORC 519.12.

PUD Stage 2:

General Review Process: PUD Stage 2 is an administrative process to obtain Preliminary Site Plan approval. Planned Unit Developments that received PUD Stage 1 approval, including those approved prior to the adoption of this code that have not received Stage 2 and Stage 3 approvals, are subject to the current PUD Stage 2 process. The procedure by which the PUD Stage 2 Preliminary Site Plan shall be submitted and processed is as follows:

- A) Pre-Submittal Consultation;
- B) Submittal to and processing by RPC staff and RPC Executive Committee recommendation;
- C) Input from involved authorities, surrounding parcel owners and public; and
- D) Township Trustee Administrative Hearing: the Township Trustees shall on receipt of the RPC recommendation, mail written notice of the date, time and place of an administrative hearing to be conducted by The Township Trustees by first class mail, at least ten days before the date of the administrative hearing to all owners of property within five hundred (500) feet from the parcel lines of each property that is the subject of the administrative hearing, to the addresses of the owners appearing on the County Auditor's current tax list. The failure of delivery of the written notice SHALL NOT delay or postpone any such administrative hearing and shall not invalidate any action taken at such administrative hearing.

Time Limits & Extensions:

- A) Except as provided in paragraph (c), a recommendation from the RPC Executive Committee in the PUD Stage 2 process shall expire after a period of one (1) year if the PUD Stage 2 application has not progressed to the point where it is heard by the Township Trustees at an administrative hearing.

- B) Except as provided in paragraph (c), PUD Stage 2 Preliminary Site Plan approval by the Township Trustees shall expire within two (2) years of the date of approval unless Stage 3 Final Site Plan approval has been granted by the RPC.
- C) An extension may be granted by the Township Trustees for a period not to exceed twelve (12) months provided that a request is submitted to the Zoning Inspector prior to the expiration date.
- D) Approval of PUD Stage 2 or 3 may lapse or be withdrawn upon failure of the applicant, as determined by the Township Trustees, to meet conditions of approval.

PUD Stage 3: Final site plan requires ministerial certification by the Zoning Administrator as follows:

- A) Three (3) copies of the Final Site Plan submitted to the Zoning Administrator;
- B) Zoning Administrator reviews, certifies the Final Site Plan complies with all PUD Stage 1 and PUD Stage 2 requirements, and files the plan;
- C) Applicant receives a certified copy; and
- D) Upon certification, the zoning permit(s) required for the approved PUD use and/or development may be issued upon application to the Zoning Inspector.

1.306.4 Application Requirements

- A) **PUD Stage 1:** The application requirements for a PUD Stage 1 include a rezoning application from the owner(s), development plan and submittal fee to the Zoning Inspector. A development plan shall be submitted for the entire parcel under single ownership (a parcel that is not split zoned) or for one or more lots, tracts, or parcels of land to be developed as a single entity. The application for New District PUDs & Overlay PUDs shall include the following information, in addition to the requirements of Section 2.505:
 - 1) A legible map of the site, drawn at one inch (1") equals two hundred feet (200') or a different scale if specified by the Zoning Inspector, prepared by a registered architect, landscape architect, engineer, surveyor, or other professional planning consultant, which shows all existing property lines, easements, public road centerlines and rights-of-way, contour lines at suitable intervals, regulatory floodplain boundaries if involved, and generalized locations of public and private utilities;
 - 2) A map depicting existing and proposed land use areas and the percentage of the site within each land use category; the location, types, and density or intensity of proposed uses, common open space, and natural resource areas; Definitions of the land-use designations, including density ranges and product types.

- 3) A table setting the maximum total dwelling units and non-residential square footage, and the minimum acreage for common open space, natural resource areas, public uses, and any other planned uses.
 - 4) A map illustrating the proposed layout locations and dimensions of vehicular and pedestrian access and circulations; and type size, number of stories, height and setbacks of buildings and other structures or facilities; parking, loading, trash disposal, lighting, signage and landscaping, impervious surface ratio and implementation phasing of such proposed improvements and alterations of the site;
 - 5) Enough information on land areas adjacent to the proposed PUD to show the relationships between the proposed development and adjacent areas, including land uses, zoning classifications, densities and intensities, circulation systems, public facilities, and flood plains, wetlands, and other natural resource areas.
 - 6) An inventory and map of cultural, historical, and/or environmental features along with narrative documenting preservation efforts; and,
 - 7) For Residential Use: The proposed type, size, and number of dwelling buildings, units and bedrooms in each shall be specified and include calculation of development net-density; and,
 - 8) For Non-Residential Use: Operational characteristics and impacts such as hours of operation; visual, noise, odor, or other environmental impacts; and primary and ancillary activities typical or anticipated with each use; and,
 - 9) A narrative documenting the availability of police, fire, other emergency services, schools, and public services. A community impact statement that addresses the impact to institutional, cultural, social, or environmental aspects of the immediate neighborhood and surrounding community, with the intent being to show that the proposed PUD will be beneficial and without unacceptable adverse impact on any such concern.
 - 10) Proposed design guidelines and development standards.
- B) **PUD Stage 2:** An application from the owner(s) shall be submitted to the RPC for review per the procedures specified in Section 1.304.2. Applications for PUD Stage 2 shall comply with the submittal requirements of Section 1.303.3 and shall include the submittal fee specified by the RPC.
- C) **PUD Stage 3:** An application from the owner(s) shall be submitted to the Zoning Administrator requesting certification of the final site plan by the Zoning Administrator. The plan submitted shall contain and be accompanied by the information specified in Section 1.303.3, along with the submittal fee. Detailed plans for the landscaping, lighting and signage proposed shall also be provided.

1.306.5 Public Notification

The Zoning Inspector shall post a sign stating the public process and where to get additional information. Written notice of the hearing shall be mailed by the Approving Authority, by first class mail, at least ten days before the date of the public hearing to all owners of property within five hundred (500) feet from the parcel lines of each property that is the subject of the public hearing, to the addresses of the owners appearing on the County Auditor's current tax list. The failure of delivery of the written notice SHALL NOT delay or postpone any such public hearing and shall not invalidate any action taken at such public hearing.

1.306.6 Review Criteria

- A) **PUD Stage 1:** In determining whether a PUD Stage 1 application filed pursuant to this Code shall be approved or recommended for approval, the TZC as applicable, and the Township Trustees shall consider the following review criteria, if applicable, but no single criteria controls, nor must all criteria support the decision:
- i. The proposed PUD would not be detrimental to public health, safety, and general welfare and in general results in a better development of uses permitted on the site than would otherwise be possible;
 - ii. Whether modifications of the zoning or other regulations are warranted by the innovative design of the PUD Plan;
 - iii. Consistency with adopted objectives and policies related to land use; development; comprehensive plans; area plans; and other plans;
 - iv. Compatibility with and adequate protection of surrounding property and the adequacy of the provisions for visual and acoustical privacy and the proposed use(s) will not develop hazards and/or nuisances, nor have negative impact on the environment and the public health and safety, or general public welfare;
 - v. Provisions proposed for: vehicular access, parking, loading, and circulation; pedestrian access and circulation; essential services in the form of utilities or other facilities; and drainage runoff and soil erosion control are sufficient or proposed for improvement to support the proposed use(s);
 - vi. The need for separation of vehicular, pedestrian, and/or bicycle traffic lanes; clear and safe internal traffic patterns; the provision of connections to adjacent properties; and traffic mitigation measures.
 - vii. The necessity for active and passive recreational facilities (greenways, sidewalks, and other pedestrian/bicycle circulation networks).

- viii. Impact to public services and infrastructure, and whether the proposed development is served adequately and efficiently by essential public facilities and services which are in existence or are planned;
- ix. Whether significant scenic or historic features, are adequately conserved;
- x. Preservation of open space, natural and cultural areas and whether the development includes an appropriate amount of, and appropriate access to, dedicated open space;
- xi. Placement of structures on most suitable sites with consideration of topography, soils, vegetation, slope, etc.
- xii. The effectiveness of landscaping, buffers, and planting along public rights-of-way, open space/recreational areas, and the overall perimeter of the project.

B) **PUD Stage 2:** A PUD Stage 2 Preliminary Site Plan, for the area proposed to be developed, shall be developed in conformance with the approved PUD Stage 1 Development Plan and in accordance with the approved PUD Stage 1 standards. In addition to the Site Plan review criteria of Section 1.303.6 (B) through (P), the decision to approve a PUD Preliminary Site Plan shall be based on, but not limited to, the following:

- a. Compliance with all applicable regulations of the Zoning Code; the PUD Stage 1 zoning, the Warren County Subdivision Regulations; and conformity to the approved Concept Plan;
- b. Proposed public improvements are found acceptable by the approving authority and are bonded as deemed necessary;
- c. All proposed private aspects and provisions for vehicular access, parking, loading, and circulation; pedestrian access and circulation; essential services in the form of utilities or other facilities; drainage runoff and soil erosion control; landscaping, lighting, signage, and open space; building or other structure size, type, location, use, operation, maintenance, and site impervious surface coverage; and any other items or considerations applicable to PUD site planning, development, and use are found sufficient per discretion of the Township Trustees;
- d. The phasing of each individual section or sub-section of the PUD results in a functionally complete section; and,
- e. Provisions are made to protect, preserve, and incorporate: any existing architecturally and/or historically and/or culturally significant buildings; wetland, floodplain, streams, aquifer recharge areas; soils areas with severe

limitations for use; steep slopes; and tree lines, hedgerows, wooded areas, and trees that are determined valuable to retain.

1.306.7 Post Approval Requirements

- A) **Permits or Approvals:** The applicant is responsible to obtain necessary permits or approvals from any other applicable authority before issuance of the zoning permit.
- B) **Development & Maintenance:** Per the approved Site Plan the property owner is responsible for the improvement and maintenance of the site in accordance with the approved Site Plan and all conditions of approval. Failure to comply with the approved Site Plan and all conditions of PUD approval may result in an enforcement action being brought in a court of competent jurisdiction.

1.306.8 Modification to An Approved PUD

- A) **Minor Modifications:** A modification of an approved PUD Stage 3 plan which does not deviate by more than ten percent (10%) from approved building setback requirements may be approved by the Zoning Inspector. A modification which exceeds this standard but otherwise substantially conforms to the approved PUD plan may be approved by the Zoning Inspector, subject to notice and the procedures of this Section. A proposed modification of the approved PUD Stage 3 Plan that is determined minor by the Zoning Inspector, per Section 1.305.8(D), is permissible for Zoning Inspector approval after completing the following procedures:
 - 1) Notice of intent to permit such modification is provided to the Township Trustees and applicable review agencies.
 - 2) Publication of notice in a newspaper of general circulation available to the affected community and a sign posted on site.
 - 3) After public notice, no written disagreement has been received within two weeks (14 days). Additional time may be required for comments from the applicable review agencies.
 - 4) If written disagreement is expressed, the modification requires Township Trustees approval processed as a PUD Stage 2 amendment.
- B) **PUD Stage 1 Modifications:** The Zoning Inspector may determine that a modification to an approved PUD shall be reviewed at PUD Stage 1 of the review process if the requested amendment:
 - 1) Increases the maximum density or intensity as established at PUD Stage 1.
 - 2) Reduces the minimum open space or natural area as established at PUD Stage 1.
 - 3) Significantly alters a road pattern.
 - 4) Changes allowable uses.

- 5) If the amendment changes any standards or policies specifically established during PUD Stage 1 of the PUD approval process including but not limited to; setback, height of structures, signage, or design standards.

Requested changes to these criteria require a resubmission for PUD Stage 1 approval and shall comply with the applicable process and requirements of Section 1.304 (Zoning Amendment Application).

C) **PUD Stage 2 Revisions:** The Zoning Inspector may determine that a modification to a previously approved PUD is exempt from PUD Stage 1 review and shall be reviewed at the PUD Stage 2 level if the requested amendment:

- 1) Modifies any area of landscaping; buffers; open space; setbacks; structural or signage height; or parking spaces by no more than five percent (10%) provided it does not violate any specific standard established at PUD Stage 1;
- 2) Increases the total number of lots approved at Stage 2 Site Plan Review, but remains in compliance with the number of lots and density approved at PUD Stage 1;
- 3) An increased encroachment within the designated floodplain; wildlife habitat of an endangered or threatened species; any historic or archaeological resource; or any area within a tree survey area as specified in Section 1.303.3 (B) (15); that increases the previously approved encroachment (PUD Stage 1) by less than an twenty percent (20%), provided it does not violate any specific standard established at PUD Stage 1;
- 4) Results in significant adverse offsite impacts, including, but not limited to; traffic impacts, noise or light pollution, or stormwater runoff.

D) **PUD Stage 3 Revisions:** The Zoning Inspector may determine that a modification to a previously approved PUD Stage 2 Site Plan is exempt from PUD Stage 1 and PUD Stage 2 reviews but may be reviewed at Stage 3 Final Site Plan provided the following criteria are met:

- 1) The modification does not exceed any numerically specified requirement of the PUD Stage 2 approval which would result in greater than a ten percent (10%) increase of an approved maximum requirement established at PUD Stage 2 or the same allowance as a decrease of an approved minimum requirement established at PUD Stage 2.
- 2) The change is necessary because of a natural feature or other unanticipated site constraints of the subject property not foreseen by the applicant or the county prior to the approval of the development plan;
- 3) The change made during development improves public safety or is made in order to comply with further requirements of other authorities.

- 4) The changes do not significantly affect surrounding property or the approved plan layout.
- 5) If an addition or expansion has been approved within the preceding twenty-four (24) month period, the combined additions will not add nonresidential floor area that exceeds twenty percent (20%) of existing gross floor area of the development plan.
- 6) Alter any element or design of the PUD Stage 2 Plan which would necessitate re-approval by another involved permitting authority, unless such authority would approve of the modification, once notified as specified in Section 1.305.10 and provided no objection would be raised by any other party of interest with regard to such approval.
- 7) Changes in landscaping species are consistent with the standards of this code and any standards established as part of PUD Stage 1 or PUD Stage 2; changes in landscape standards to not reduce the total amount of landscaping or buffering required as part of stage 1 and do not deduce the total amount of landscaping or buffering required at PUD Stage 2 by more than ten percent (10%).
- 8) Any changes in the boundary or arrangement of a structure does not violation minimum standards established as part of Stage 1 nor significantly affect locations of other components of the approved site plan requirements or conditions established at PUD Stage 2.
- 9) The amendment does not result in structures, vehicle circulation, pedestrian circulation, or parking areas being moved significantly in any direction provided said changes do not violate standards established at PUD Stage 1 or PUD Stage 2 and provided such changes are for purposes of improved safety or to eliminate conflict with other components in the site which will not have negative off-site impacts.
- 10) Changes in signage or lighting which will not affect off-site properties provided they violate no standards established at PUD Stage 1 or any numeric standards established at PUD Stage 2 by more than ten percent (10%).

SEC. 1.307 VARIANCE APPLICATION

1.307.1 Purpose

The variance process provides for an appeal to the Board of Zoning Appeals (BZA) by which a property owner may be granted relief or release from a dimensional and/or numeric requirement of this Zoning Code.

1.307.2 Appropriateness

Applying for variance is inappropriate for any of the following:

- A) Use variances;
- B) Development within a PUD;
- C) Changes to the development density of a property; and,
- D) Before a zoning permit has been denied by the Zoning Inspector.

1.307.3 Requirements

The required application form and information to accompany the request for a variance shall satisfy the requirements of Section 1.303.3 or as determined by the Zoning Inspector.

1.307.4 Processing

The procedure by which a variance application shall be submitted, reviewed, and processed is as follows:

- A) Pre-submittal consultation with the Zoning Inspector;
- B) Formal submittal to, and processing by, the Zoning Inspector (as specified per Section 1.303.5 (B));
- C) Obtain comments from involved authorities;
- D) BZA conducts quasi-judicial hearing; deliberates (may deliberate in private, a quasi-judicial hearing is not a meeting and not subject to the Open Meetings Act); and issues a written decision;
- E) Record: Case files maintained by the Zoning Inspector shall contain all written information submitted, reference the location of audio recording of the proceedings, and include written meeting minutes and findings of fact. The case file is numbered by the year in which the application was reviewed and consecutive to other applications within the same year.
- F) The written decision of the BZA is placed in the case file and provided to the applicant.

1.307.5 Public Notification

The Zoning Inspector shall:

- A) Post a sign on the subject property stating the public process and where to get additional information.
- B) Notify all property owners within five hundred (500) feet from the property lines of the subject site. Notification by first class mail is required at least ten (10) days before the date of the hearing and shall be sent the addresses of the owners appearing on the County

Auditor's current tax list. Failure of delivery of the written notice shall not delay or postpone any such hearing and shall not invalidate any action taken at such hearing.

1.307.6 Review Criteria

The BZA shall document Findings of Fact based on the evidence presented. The criteria for granting a variance are as follows:

- A) That granting the variance will not be contrary to the public interest;
- B) Where, owing to special conditions, a literal enforcement of the zoning code will result in an unnecessary hardship;
- C) That the spirit of the zoning code will be observed if a variance is granted; and substantial justice will be done if a variance is granted.

1.307.7 Post Approval

- A) Permits or Approvals from Other Involved Authorities: The applicant is responsible for obtaining all necessary permits.
- B) Development and Maintenance Per the Approved Variance(s): It is the responsibility of the property owner to develop, improve, operate, and maintain the site, including the buildings, structures, and all elements in accordance with the approved conditions and restrictions.
- C) Modification of the Approved Variance: Modification of the approved variance(s) requires re-application to the BZA.

SEC. 1.308 NON-CONFORMING PROVISIONS

1.308.1 Purpose

- A) The non-conforming provisions of this section permit the continuation of a lawful use, structure, or lot, which exists at the time of enacting the Zoning Code or as an amendment to the Code.
- B) Provisions in this Section, pursuant to ORC 519.19, permit such non-conformities to continue in accordance with certain conditions and restrictions. This Section applies to the following categories of non-conformities:
 - 1) Non-conforming uses of land and structures;
 - 2) Non-conforming lots of record;
 - 3) Non-conforming buildings/structures.

1.308.2 Non-Conforming, Legal/Grandfathered Uses

A non-conforming use of record which would not be permitted by the most recent regulations shall be grandfathered, meaning, it shall be recognized to continue so long as the use remains otherwise lawful in accordance with the following:

- A) The non-conforming use shall not be enlarged, increased in intensity, or extended to occupy a greater area of land on a lot than was occupied on the date when the use became non-conforming.
- B) The non-conforming use may be extended throughout any part of the building(s) in which it existed on the date when the use became non-conforming, but shall not be extended to occupy any more land outside of any such building(s) on the lot where located.
- C) No such non-conforming use shall be moved, in whole or in part, to any other portion or location of the lot or parcel than which was occupied by the use on the effective date of the regulation which made the use non-conforming, unless such would improve conformity with the current regulations.
- D) A non-conforming use shall not be permitted to resume if the building(s) or other structure(s) in which it existed become destroyed beyond fifty percent (50%) of the cost to replace such.
- E) The legal non-conforming status of a use is terminated upon abandonment or discontinuation of the use for more than two (2) years.
- F) No provision of this Code shall render a previously permitted single-family detached dwelling as a non-conforming use except for such use within a floodplain or environmentally sensitive area.

1.308.3 Non-Conforming, Legal/Grandfathered Lots of Record

All lots of record or subdivisions with preliminary plat approval by the RPC prior to the effective date of this Code (which approval has not lapsed by reason of inactivity as provided in the Warren County Subdivision Regulations) shall be considered conforming.

1.308.4 Non-Conforming, Legal/Grandfathered Structure of Record

A building or other structure of record, which predated the adoption or amendment of this Zoning Resolution and is not permitted, by reason of restrictions on type, area, bulk, height, setbacks or other similar requirements. These structures may remain provided they remain lawful in accordance with the following:

- A) Any non-conforming structure may be enlarged, maintained, repaired, or altered provided, however, no such enlargement, maintenance, repair or alteration shall not

create an additional non-conformity or increase the degree of the existing nonconformity of all or any part of such structure or site, unless otherwise specified in this code.

- B) Shall not be moved, in whole or in part, unless for purpose of coming into complete compliance with the zoning requirements;
- C) If the structure becomes damaged or destroyed beyond fifty percent (50%) of the replacement cost, reconstruction shall comply with the current zoning requirements.
- D) Completion of construction and subsequent routine maintenance and repair is permitted.
- E) The principal use of a non-conforming building may be changed to any principal permitted use in the applicable zoning district as long as the new use complies with all regulations of this code specified for such use, except the regulations to which the building did not conform prior to the change in use.

1.308.5 Procedure for Becoming Conforming

In many instances, minor non-conforming uses or buildings/structures are integral parts of the community's fabric. In these instances, the classification "non-conformity" and resulting restriction on investment may not be what the community desires. As such, the use may be made conforming pursuant to this Section. Non-conformities may become conforming as follows:

- A) Types of Situations: The following are two types of situations whereby a nonconforming use, building, structure, or lot can become conforming:
 - 1) Correct the non-conforming situation. Note: Where a proposed change of use is different than the non-conforming use, and a conditional use permit is required, those procedures must be followed.
 - 2) Apply for conditional use permit as conforming. Under this process, where there is no change of use, the non-conforming situation may be mitigated and made conforming through application for and approval by, the BZA for a conditional use permit.
- B) Procedure: Owners of non-conforming uses, buildings, structures, or lots may apply for conditional use permitting to become conforming without changing the use or necessarily modifying the entire physical nature of the nonconformity. The conditional use permitting application is reviewed by staff that then provides a recommendation to the BZA for a final decision. The BZA, at their discretion, may require an operation plan or additional studies and reports from the property owner as part of their consideration.
- C) Review Criteria: In addition to the standards and criteria for Conditional Use review, the applicant shall meet the following requirements:
 - 1) Demonstrate that the nonconformity, as conducted and managed, has minimal incompatibilities that have been integrated into the community's function. Factors to evaluate this criterion include the following:

- a. The area residents patronize or are employed at the use;
 - b. Current management practices that eliminate problems such as noise, waste materials, competition for on-street parking, or similar conflicts;
 - c. The non-conformity's history of complaints against it; and,
 - d. The non-conformity has been maintained in good condition or that the non-conformity represents a disincentive for such maintenance.
- 2) The BZA shall determine that the non-conformity is generally integrated into the community and has minimal adverse impacts. The BZA may require appropriate conditions and safeguards to assure that the non-conformity does not adversely affect orderly development and the value of nearby property, including, but not limited to: required improvement of, or modifications to existing improvements on the property; limitations on hours of operations; and limitations on the nature of operations.

D) The Effect: The granting of a conditional use approval eliminates the non-conformity. The conditional use approval shall be noted on the zoning map.

1.308.6 BZA Additional Authority

The BZA shall have the power to grant the substitution of a non-conforming use, existing at the time of enactment of this Code, by another non-conforming use, if the BZA determines that the substituted use would not be of greater intensity or density than the existing non-conforming use.

SEC. 1.309 VIOLATIONS AND PENALTIES

1.309.1 Enforcing Officer

The zoning inspector is hereby designated as the enforcing officer of this code. The enforcing officer is hereby authorized to enforce, issue orders to prevent and stop violations, and administer the provisions of this code. The zoning inspector may be assisted by other personnel as the board of township trustees may authorize.

1.309.2 Remedies

If any building or land is used, altered, constructed, enlarged or any such action proposed in violation of the provisions of this code or any amendment or supplement thereto, the zoning inspector, any person or any property owner damaged by or subject to damage by such violation in addition to remedies provided by law is hereby empowered or authorized to institute appropriate action or proceedings to prevent such unlawful location, erection, construction, reconstruction, alterations, enlargement, change, maintenance or use.

Per ORC Section 519.23, no building shall be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, and no land shall be used in violation of this resolution, any amendments or supplements thereto. Each day's continuation of violation may be deemed a separate offense.

ORC Section 519.24 provides that in case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, or any land is or is proposed to be used in violation of this Resolution or any amendments or supplements thereto, the Board of Township Trustees, the Prosecuting Attorney, the Zoning Inspector, County Building Inspector, or any adjacent or neighboring property owner who would be specially damaged by such violation, and elects to pursue such action at their own cost and expense, in addition to other remedies provided by law, may institute an action seeking injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful location, erection, construction, enlargement, change, maintenance, or use.

~~The Zoning Inspector may order a violation to cease and desist immediately if the nature of the violation constitutes a readily apparent danger to public health or safety.~~ Nothing herein contained shall prevent the township from taking such other lawful action as is necessary to prevent or remedy any violation including issuing a misdemeanor citation for a continuing zoning code violation.

1.309.3 Notification

Notice of violation made in accordance with requirements of this Section shall be provided by the Zoning Inspector to the violator(s). The notice of violation shall include the following:

- A) The name(s) and address(es) of the violator(s);
- B) The parcel identification number and address of the parcel(s) where the violation exists;
- C) Description of the violation and citation of the zoning requirements being violated;
- D) Statement of the remedy and time period allowed; and,
- E) Statement of violator(s) right to appeal and potential consequences of noncompliance.

The required notice of violation shall be delivered by the Zoning Inspector in any of the following ways:

- A) By Certified Mail addressed to the violator(s) last known address, service shall be deemed complete when a Certified Mail receipt is received ~~or returned undeliverable or refused;~~ ~~or,~~
- B) By Certified Mail and ordinary U.S. mail with a Certificate of mailing simultaneously, addressed to the violator(s) last known address. Service shall be deemed complete when a Certified Mail receipt is received or ordinary U.S. first class mail is not returned after ten (10) days of mailing, ~~or returned undeliverable or unclaimed~~ or refused; or,

- C) By personal delivery to the violator(s) or by leaving the notice at their usual place of residence; or
- D) By posting a copy of the notice in a conspicuous place on the premises of the violation. The notice shall be signed and dated by a witness and a copy retained in the Zoning Department's case file.

1.309.2 Penalties

Any person, firm or corporation violating any regulation, provision, amendment or supplement to this ~~resolution~~code, or failing to obey any lawful order ~~of the zoning inspector~~ issued pursuant ~~there~~ to section 519.01 to 519.25 of the Ohio Revised Code, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500.00 for each offense or the maximum amount allowed by the Ohio Revised Code. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues may be deemed a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, engineer, surveyor, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation may be found guilty of a separate offense and suffer the penalties herein provided.

If under ORC 519.24 an injunction, mandamus, abatement, or any other appropriate action or proceeding is granted to prevent, enjoin, abate, or remove an unlawful building location, erection, construction, enlargement, change, maintenance, use, or any land use, such court orders are enforceable contempt . If the accused is found guilty of contempt, the court may impose may impose fines and imprisonment in jail in accordance with ORC 2705.05.

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SEC. 1.310 ADMINISTRATIVE APPEALS

1.310.1 Purpose

- A) Administrative appeal is provided pursuant to ORC Section 519.14(A), which specifies that a Board of Zoning Appeals (BZA) may hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Inspector in the enforcement of ORC Sections 519.01 to 519.25 or of any resolution adopted pursuant thereto.
- B) Per ORC Section 519.14, the BZA, in exercising this power, may 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 has all powers of the Zoning Inspector from whom the appeal is taken.
- C) Decision by the BZA on such appeal is final appealable administrative decision.

1.310.2 Submittal

An application for administrative appeal may be submitted to determine if the Zoning Inspector has wrongfully imposed a requirement or restriction in accordance with the Zoning Resolution upon a property or use activity of the applicant.

1.310.3 Application Requirements and Fee

The application shall include the owner/agent's name, address, e-mail address, and phone number, in addition to the following:

- A) Date submitted to the Zoning Inspector;
- B) The parcel identification number; site address; and if applicable, the name of the subdivision; and other identifying references to accurately establish the location of the appeal site;
- C) A statement that documents the reasons for submitting an appeal;
- D) Signature of the applicant attesting to the truth and correctness of all information provided;
- E) The applicable fee.

1.310.4 Processing

- A) Upon receipt of the appeal application, the Zoning Inspector shall submit a copy of the application to each member of the BZA along with written notification of the scheduled date, time, and place where the BZA shall hold its hearing on the appeal. The notification shall be published in one or more newspapers of general circulation, at least ten (10) days prior to the hearing and posted on the Salem Township website.
- B) The BZA shall consider and record all testimony received from persons during the hearing regarding the appeal. The BZA, upon closing the hearing concluding their deliberation, shall render its decision on the matter.
- C) The BZA shall have all the powers of the Zoning Inspector with respect to making its decision on the appeal. The concurring vote of the majority of the BZA members present at the hearing shall be necessary to uphold, reverse, or modify the appealed action of the Zoning Inspector. The BZA shall render a written decision on the appeal without unreasonable delay after the close of the hearing, and in all cases, not exceeding thirty (30) days thereafter.

1.310.5 Decision, Determination, and Findings

The Zoning Inspector's order, requirement, decision, or determination appealed shall be upheld unless the BZA determines that the Zoning Inspector action was:

- A) Based on an erroneous or improper interpretation of the Zoning Resolution; or,
- B) Based on an erroneous finding of material fact; or,
- C) Unfounded, indefensible, or inappropriate use of discretion; or,
- D) Arbitrary or capricious and made without necessary basis on the Zoning Resolution.

1.310.6 Recourse to Unfavorable BZA Decision

The applicant may appeal to the Court of Common Pleas.

SEC. 1.311 ADMINISTRATIVE INTERPRETATION

This section shall guide the Zoning Inspector in rendering an official interpretation.

A) Types of Interpretations

- 1) Meaning or Application: When evaluating a section of this Code as to its meaning or application, administrative interpretations shall not lessen protections provided by this Zoning Code.
- 2) Unlisted Uses: When a use is not specifically listed in the Table of Uses by Zoning District (Section 2.203), it shall be understood that the use may be permitted or prohibited if the Zoning Inspector determines that the use is similar to other uses listed. It is further recognized that every conceivable use cannot be identified in the use tables and, anticipating that new uses will evolve over time. This section establishes the Zoning Inspector's authority to compare a proposed use and evaluate its similarities, operation, impacts, or scale to those uses listed. Where a choice of uses exists, after reviewing for adverse impacts, the use should be classified with the similar use that has the most adverse impacts. In determining "similarity" the Zoning Inspector shall make all of the following findings:
 - a. The characteristics of, and activities associated with, the proposed use are equivalent to one or more of the listed uses, and will not involve a higher level of activity or population density than the uses listed in the district;
 - b. The proposed use(s) will be consistent with the purpose of the zoning district; and
 - c. The proposed use(s) shall consider the suggestions of the Comprehensive Plan and any approved area plan.

B) Procedure

The Zoning Inspector shall:

- 1) Request the County Prosecutor's review and recommendation on the interpretation.
- 2) Consider the suggestions of the Comprehensive Plan and any approved area plan, this Code, the Zoning Map, and the recommendations of the County Prosecutor.
- 3) Provide a written determination that contain facts that support the determination. The Department shall maintain all such determinations on record and a written interpretation shall be mailed to the applicant and provided to the RPC within thirty (30) days of receipt of a complete request for an interpretation.
- 4) The Zoning Inspector shall maintain a record of all administrative interpretations rendered. This record shall be available for public inspection in the Zoning Inspector's office, upon reasonable request, during normal business hours.
- 5) To ensure that the intent of this Code is being met, the Zoning Inspector shall report twice yearly to the Township Zoning Commission (TZC) on all administrative interpretations made. The TZC may request the Zoning Inspector and/or the Regional Planning Commission (RPC) to prepare text amendments to the Code.

SEC. 1.312 FEE

- A) Each application specified necessary in this Chapter for zoning enforcement is to be accompanied by the fee required when submitted to the Zoning Inspector for filing and processing.
- B) The dollar amount of the fee required for each application specified in this Chapter is adopted by resolution from the Board of Township Trustees.
- C) The required fee for each application is available as public record upon inquiry to the Zoning Inspector.

SEC. 1.313 REASONABLE ACCOMMODATION REQUEST

1.313.1 Purpose

This section provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the State of Ohio Fair Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures. A request for reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

1.313.2 Applicability

A request for reasonable accommodation may be made by any person with a disability, their representative or any entity, when the application of a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment shall provide evidence of disability. This section is intended to apply to those persons who are defined as disabled under the Acts.

1.313.3 Application Requirements

- A) Requests for reasonable accommodation should be submitted on an application form provided by the Building and Zoning Department, or in the form of a letter, to the Zoning Inspector and should contain the following information:
 - 1) The applicant's name, address, and telephone number.
 - 2) Address of the property for which the request is being made.
 - 3) The current actual use of the property.
 - 4) The basis for the claim that the individual is considered disabled under the Acts.
 - 5) The zoning code provision, regulation or policy from which reasonable accommodation is being requested.
 - 6) Why the reasonable accommodation is necessary to make the specific property accessible to the individual.
- B) Review with other land use applications. If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (including but not limited to; conditional use permit or site plan review, etc), then the applicant shall file the information required together for concurrent review with the application for discretionary approval.

1.313.4 Review Authority and Procedure

Requests for reasonable accommodation shall be reviewed by the Zoning Inspector. The Zoning Inspector shall make a written determination within forty-five (45) days and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with Section 1.313.5 (Findings and Decision).

1.313.5 Findings and Decision

- A) The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:
 - 1) Whether the housing, which is the subject of the request, will be used by an individual disabled under the Acts.

- 2) Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.
 - 3) Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the township.
 - 4) Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a county program or law, including but not limited to land use and zoning.
 - 5) Physical attributes of the property and structures.
 - 6) Alternative reasonable accommodations which may provide an equivalent level of benefit.
- B) In granting a request for reasonable accommodation, the Zoning Inspector may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Section 1.313.5 (A).

1.313.6 Appeal of Determination

A determination by the Zoning Inspector to grant or deny a request for reasonable accommodation may be appealed to the Board of Zoning Appeals in compliance with Section 1.310 (Administrative Appeals) of the Salem Township Zoning Code.