

**CHAPTER FIVE**  
**REGULATIONS APPLICABLE TO ALL DISTRICTS**

**Section 500.00      Purpose**

The purpose of this chapter is to provide for requirements that address health and safety concerns and other types of issues that are the same for all zoning districts, or for more than one district.

**Section 501.00      Compliance with These Requirements**

- A. No building shall be erected, placed, converted, enlarged, demolished, reconstructed, or structurally altered, nor shall any building or land be used, arranged to be used, or designed to be used, in a manner, which does not comply with all of the district requirements established by these Regulations for the districts in which the building or land is located, unless otherwise stated in Section 502.
- B. Uses, not specifically permitted/conditionally permitted in these regulations, but may be defined in Section 1001.00 of this Resolution, shall be considered prohibited until, by amendment, such uses are incorporated into these regulations. (3/14/2008, Motion #2008-100).
- C. Determination of whether or not a use is specifically permitted by virtue of being similar in character to a specified permitted use in the district shall be made by the Board of Zoning Appeals based on the purpose of the district, adopted policies regarding development and this Zoning Resolution.

**Section 502.00      Uses Exempt from Regulations**

A. Agricultural Uses

- 1. Nothing contained in this Resolution shall prohibit the use of land, buildings or structures and/or the location or construction of buildings and structures for agricultural purposes, except as specified in Section 550.00.
- 2. A zoning certificate shall not be required for any agricultural use as specified in Subsection A. I . However, a signed affidavit stating that the purpose of the building is for agricultural use only is required, prior to construction. The affidavit must be authorized by the Zoning Inspector.
- 3. Farm dwellings and other non-farm accessory buildings and structures shall conform to the requirements of the applicable zoning district.

B. Public Utilities and Railroads

Public utilities will be governed in accordance with Ohio Revised Code, Section 519.211 and any amendments made thereto. Wireless Telecommunications Service Facilities classified as a public utility located in any residential zoning district are subject to Section 400.10.B.61, if applicable.

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**Section 505.00 Dangerous/Objectionable/Prohibited Uses**

- A. No use shall be permitted or authorized to be established that may become hazardous, noxious, offensive, injurious, harmful, or objectionable or which may otherwise adversely affect surrounding areas or adjoining premises. At a minimum, the occupation or use of any land or building in any district shall be in violation of the Resolution if one or more of the following conditions is found to exist at any time:
1. The use or storage of flammable or explosive materials is not adequately protected by fire fighting and fire protection equipment or by such safety devices as are normally required for such activities.
  2. Activities involving the use and/or storage of flammable and explosive materials are not removed far enough from adjacent facilities and/or activities to be compatible with the potential danger involved.
  3. Radioactivity or air pollution is present in violation of the regulations of the Ohio Environmental Protection Agency.
  4. Hazardous wastes are present in violation of the regulations of the Ohio Environmental Protection Agency.
  5. Direct or reflected glare is present which is visible from any street or from any property not within a manufacturing district.
  6. Erosion caused by wind or water is carrying objectionable substances onto any adjacent lot or property.
  7. Water pollution or containment is present in violation of the regulations of the Ohio Environmental Protection Agency.

B. Assurance Requirements and Plans:

Prior to the issuance of a Zoning Certificate the applicant may be required to provide written assurances and plans indicating the manner in which dangerous and objectionable aspects or elements of processes, operations involved in certain uses or occupations shall comply with the requirements of this Resolution.

C. Enforcement Provisions:

Any occupancy, use, conditions or circumstances existing in violation of this Resolution shall be subject to the enforcement procedures contained in Section 206.00 of this Resolution.

D. Prohibited Uses

The following specific uses are prohibited in any zoning district:

1. Storage, sale, or manufacture of fireworks, or any other explosive(s) or any material of an unstable nature, which may be or may come to be or is harmful to the environment.
2. Dumping, storing, burying, reducing, disposing or burning of garbage, refuse, scrap metal, rubbish or dead animals (except household pets in own yard), except as specifically permitted in Chapter 3 and except for composting yard wastes and kitchen scraps (no meat, dairy or fat wastes) if properly maintained. Guidelines of the Portage County Solid Waste District are adhered to.
3. Processing of organic, solid, and infectious waste, including tires, rubber products, biomass and all similar materials and bi-products. (8/14/2009) (#2009-155)
4. Use of any vehicle for dwelling unit purposes.
5. Junk motor vehicles, junk yards, auto graveyards or places for the collection of scrap metal, paper, rags, glass, or junk for sale, salvage, or storage purposes or for dismantling used vehicles, except as otherwise specifically permitted in Chapter 3.
6. Slaughter houses and fertilizer manufacturers.
7. Unless exempt as an agricultural use in compliance with all applicable state and federal regulations, the keeping, or maintaining of a wild and dangerous animal by any person shall be deemed a public nuisance due to the health and safety risk to the public and to domesticated animals, and such use shall not be considered an accessory use within any zoning district.

## **Section 506.00 Environmental Protection Requirements**

### **Section 506.01 Purpose**

The purpose of these requirements is to ensure that the development of any parcel of land and/or use of building and/or structure within the township is compatible with the environment and to protect the quality of the environment in any location where the characteristics of the environment are of significant public value and are vulnerable to damage. The environmental protection requirements are designed to protect the public and property owners in the following manner:

- A. From blighting influences, which could cause adverse impacts to the quality of sensitive environmental areas.
- B. From unsafe buildings or unstable land, which would be caused by uncontrolled development.
- C. From significant damage or destruction of prominent hillsides and/or valleys caused by improper development thereof.
- D. From significant damage to the economic value and efficiency of operation of existing properties and/or new developments.

- E. From soil erosion and stream siltation.
- F. From the destruction of mature and/or valuable trees and other vegetation.
- G. From damage/destruction of nontidal wetlands, which will involve the following nuisance/hazardous activities:
  - 1. Blocking flood flows, destroying flood storage areas, or destroying storm barriers, thereby raising flood heights or velocities on other land and increasing flood damages.
  - 2. Causing water pollution through any means, including location of wastewater disposal systems in wet soils; unauthorized application of pesticides, herbicides and algacides; disposal of solid wastes or storm water runoff at inappropriate sites; or the creation of unstabilized fills.
  - 3. Increasing erosion.
  - 4. Increasing runoff sediment and storm water. In addition, activities in or affecting nontidal wetlands shall not destroy natural wetland functions important to the general welfare by:
    - a. Decreasing breeding, spawning, nesting, wintering, feeding or other critical habitat for fish and wildlife including rare, threatened and endangered plant and animal species and commercially and recreationally important wildlife.
    - b. Interfering with the exchange of nutrients needed by fish and other forms of wildlife.
    - c. Decreasing groundwater recharge.
    - d. Destroying sites needed for education and scientific research as outdoor biophysical laboratories, living classrooms and training areas.
    - e. Interfering with public rights in waters and the recreation opportunities for hunting, fishing, boating, hiking, bird watching, photography, camping and other activities in nontidal wetlands.
    - f. Destroying aesthetic and property values.

**Section 506.02      Applicability**

Where applicable by provisions of this Resolution, requirements imposed herein shall be in addition to those of the zoning district. Areas of applicability shall be based on the following at a minimum:

- A. Areas with (on site inspection may also be required) soils with hydric inclusions from U.S. Soil Conservation Service, Soils Survey of Portage County.

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- B. Flood plains/flood hazard areas: from Federal Emergency Management Agency, Community Flood Hazard Maps, 2008, or more recent data.
- C. Wetlands: National Wetlands Inventory, U.S. Department of Interior, 1977, or more recent data.
- D. Areas of steep slopes: U.S. Soil Conservation Service, Soil Survey of Portage County; U.S.G.S. Topographic Quadrangle Maps.
- E. Forested/Wooded areas: 2000 and 2010 Aerial Photos of Brimfield Township and corresponding Land Use Inventory conducted by AMATS, or more recent data.
- F. Ponds, lakes, streams, ditches: U.S. Soil Conservation Service, Soils Survey of Portage County; Portage County Highway Map, Portage County Engineer; 2000 & 2010 Aerial Photos, or more recent data.

**Section 506.03      General Standards**

Prior to the commencement of any development subject to this Resolution, plans and other information reasonably necessary to identify and verify the existence of any of the natural resource features noted above shall be submitted to the Zoning Inspector. All plans for development shall account for such features and shall fully comply with the environmental protection standards applicable to each feature of Section 506.06. Site alterations, regrading, filling and clearing of vegetation prior to the submission and approval of such plans shall be a violation of this Resolution.

**Section 506.04      Development Regulated with the Environmental Protection**

- A. Any use/activity of land or buildings/structures that may be detrimental to the natural, scenic and environmental characteristics described herein are regulated by the provisions of this Resolution and subject to the review process set out below.
- B. If any of the above uses/activities construction involves site plan review, as indicated under Chapter 2, then environmental review shall occur in conjunction with the site plan review in addition to the underlying district regulations and other sections of this Resolution as appropriate.
- C. All other activities/uses not subject to site plan review of land or structures posing a detriment to environmental resources and in violation of the regulations of this Resolution shall require review of the Zoning Inspector to determine the extent of potential or existing environmental impacts.

The Zoning Inspector may utilize other governmental agency resources to assist in this determination such as Soil & Water Conservation District office, County Engineer or Regional Planning. If negative, detrimental impacts are proposed or occurring, the Zoning Inspector may order corrective actions be taken to assure the above environmental resources will not be negatively impacted.

**Section 506.05      Uses of Nontidal Wetlands**

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The following uses shall be allowed as a right within a nontidal wetland to the extent that they are not prohibited by any other Resolution or law and provided they do not require structures, grading, fill, draining or dredging except as provided herein or authorized by special permit.

- A. Conservation or preservation of soil, water, vegetation, fish, shellfish and other wildlife;
- B. Outdoor recreational activities, including hunting, fishing, trapping, bird watching, hiking, boating, horseback riding, swimming, canoeing, skeet and trap shooting;
- C. The harvesting of wild crops, such as march hay, ferns, moss, wild rice, berries, tree fruits and seeds in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require alteration of the nontidal wetland by changing existing nontidal wetland water conditions or sources, tilling of soil or planting of crops;
- D. Forestry practices limited to the thinning and harvesting of native timber in accordance with a forest management plan that incorporates best management practices approved by the State Forester or Soil & Water Conservation Office pursuant to regulations or guidelines;
- E. The continued cultivation of agricultural crops, provided no nontidal wetlands are subject to cultivation where no such use existed five years prior to the effective date of application;
- F. The occasional pasturing of livestock;
- G. Commercial fishing, trapping; and
- H. Education, scientific research and nature trails;
- I. Uses by right that do not require a special permit that may involve filling, flooding, draining, dredging, ditching or excavating to the extent specifically provided below:
  - 1. Maintenance or repair of lawfully located roads or structures and of facilities used in the service of the public to provide transportation, electric, gas, water, telephone, telegraph, telecommunication or other services, provided that such roads, structures or facilities are not materially changed or enlarged and written notice prior to the commencement of work has been given to the zoning office and provided the work is conducted using best management practices to ensure that flow and circulation patterns and chemical and biological characteristics of the wetland are not impaired and that any adverse effect on the aquatic environment will be minimized.
  - 2. Limited ditching, tiling, dredging, excavating or filling done solely for the purpose of maintaining or repairing existing drainage systems necessary for the cultivation of agricultural crops, provided the maintenance or repair activity does not result in the impairment, alteration or loss of nontidal wetlands not previously, subject to agricultural use under the terms and provisions of Section 506.05.

3. Limited excavating and filling necessary for the repair and maintenance of piers, walkways, observation decks, duck blinds, wildlife management shelters, boat houses and other similar water related structures, provided that they are built on pilings to allow unobstructed flow of water and preserve the natural contour of the nontidal wetland, except as authorized by special permit.
4. Uses other than those cited in Section 506.05.D.3 may only be considered after the U.S. Army Corps of Engineers determines jurisdiction and appropriate course of action.

## **Section 506.06 Environmental Protection Standards**

### **A. Flood Hazard Areas:**

#### **1. Permanent open space:**

All floodplains shall be permanent open space and may include non-intensive recreational uses.

#### **2. Floodway Protection.**

No buildings or structures are permitted to be located within a floodway. The types of uses permitted in the floodway are listed below:

- a. Agriculture;
- b. Public or private parks and outdoor recreational facilities which should be limited to playfield\* ball fields, trails, and other similar unimproved amenities;
- c. Fencing that allows the passage of water
- d. Off-street parking areas accessory to the above uses provided that such areas are improved with pervious pavement materials, such as pervious asphalt or pervious concrete or combinations of geotextiles with sand, gravel, and sod.

### **B. Steep Slopes:**

Eighteen (18) percent to twenty-five (25) percent: At least seventy (70) percent of such areas shall remain as permanent open space. No more than 30% of such areas shall be developed and/or regraded or stripped of vegetation.

### **C. More than twenty-five (25) percent slope:**

At least eighty-five (85) percent of such areas shall remain as permanent open space. No more than fifteen (15) percent of such areas shall be developed and/or regraded or stripped of vegetation. Erosion control plans shall be approved by Portage Soil & Water Conservation District Office and must then be followed if affecting those slopes.

D. Wetlands:

1. Definition

The U.S. Fish and Wildlife Service has developed a wetland definition and classification system for the primary purpose of inventorying the nation's wetlands. This definition emphasizes three key attributes of wetlands: wetland vegetation (hydrophytes); hydrology (the degree of flooding or soil saturation); and hydric soils (periodically flooded and/or saturated soils). The service has developed a list of plants occurring in the nation's wetlands, and the U.S.D.A. Soil Conservation Service has prepared a list of hydric soils to help further define wetlands. The National Wetlands Inventory, completed in 1977 is also used to define wetland areas.

2. Activities Regulated:

Dredging, filling, grading, draining, unnatural flooding, excavation or construction in a wetlands area, or on lands immediately abutting, adjoining or affecting said area if such activity upon these adjacent areas is incompatible with the preservation of those wetlands in their natural state is prohibited. Wetlands are regulated by the U.S. Army Corps of Engineers and the U.S. EPA through Section 404 of the Clean Water Act. Prior to conducting any of the above activities affecting a wetland, the Army Corps of Engineers response shall be required to be submitted to the Zoning Inspector. The response will determine the action that will be allowed. Violation of this regulation could be considered a violation of federal law as well as township law and subject to both federal and township penalties.

If the U.S. Army Corp of Engineers does not respond in a timely manner the Zoning Inspector may require the owner/lessor to obtain verification of wetland/boundary through field assessment of a qualified biologist, botanist, etc.

3. Wetlands Protection.

Wetlands that are required by the Army Corp of Engineers or the Ohio EPA to be retained shall be protected by the following:

- a. A buffer area having a width not less than twenty-five (25) feet, measured from the edge of the designated wetland. The area within this buffer shall not be disturbed and shall be retained in its natural state; and
- b. A minimum building and pavement setback of forty (40) feet, measured from the edge of the designated wetland.

E. Unstable Soils:

Soils which are indicated as unstable and/or subject to slippage shall not be built upon to protect personal and real estate property and lives. On site testing borings may be utilized to verify exact extent of such soil units.



F. Forested/Wooded Areas

1. Purpose of regulation/protection:

To provide for the protection, preservation, proper maintenance and use of woodlands located in this township in order to minimize disturbance to them and to prevent damage from erosion and siltation, a loss of wildlife and vegetation and air quality, and/or from the destruction of the natural habitat.

2. Regulated Activities:

No more than seventy-five (75) percent of any forest/wood lot shall be cleared for timber sale within a ten (10) year period. No more than sixty (60) percent of any wooded lot shall be cleared for development purposes.

G. Rivers, Lakes, Ponds, Drainage Ways:

Purpose of regulating:

To provide for the protection, proper maintenance, and use of rivers, perennial streams, ponds, ditches and other drainage ways streams in order to minimize disturbance to them and to prevent damage from erosion, turbidity or siltation, unnatural flooding, a loss of fish or other beneficial aquatic organisms or a loss of wildlife and vegetation.

I. Regulations:

a. Rivers and Perennial Stream Channels:

A riparian buffer shall be provided along the entire length and on both sides of a river or perennial stream channel. The buffer area shall have a width not less than twenty-five (25) feet, measured from the river or stream bank. Small streams without clearly defined high water marks can be measured from the centerline. This buffer may be required to be increased based upon the type of stream, slope of the stream banks, surrounding soils, vegetation, land uses, and the function of the stream, but in general shall not exceed threehundred (300) feet. In making a determination on the appropriate buffer width, the Zoning Commission may consult with technical experts such as the Soil and Water Conservation District Staff, Portage Park District Staff, County Engineer, Regional Planning Commission, or others qualified to provide a recommendation to the reviewing authority.

b. Lakes and Ponds:

All such areas shall be permanent open space. No development or diversion of these bodies of water shall be pennitted except to provide required roads. Filling shall be permitted only in conjunction with the deepening of a lake or pond and shall be permitted only if surface area and flood retention capabilities remain unchanged or are enlarged and such activity within the lake or

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pond is not considered subject to provisions and federal law under jurisdiction of the U.S. Army Corps of Engineers or any other state or federal laws.

c. Lake Shorelines:

The shoreline of lakes, consisting of the area within one-hundred (100) feet from the shorelines, shall contain no more than fifteen (15) percent impervious surfaces. At least seventy-five (75) percent of all such areas shall be permanent open space.

d. Pond Shorelines:

The shorelines of ponds consisting of the area within fifty (50) feet from the shoreline shall contain no more than fifteen (15) percent impervious surfaces. At least seventy-five (75) percent of all such areas shall be permanent open space.

e. Drainage Ways/Ditches:

There shall be no alteration, filling, dredging or damming of any stream or drainage way without submission and review of such plan to: Township Trustees, County Engineer, Portage Soil and Water Conservation District Office, U.S. Army Corps of Engineers. Proof of the positive impacts on such action will be required to be submitted. No such action shall occur until approvals have been granted by the appropriate above authorities.

Section 510.00      General Regulations

Section 510.01      Lots, Yards and Open Space Areas

A. Required Lots, Yards, and Open Space

No area of land that has been counted or calculated as part of a side yard, rear yard, front yard, or other open space that is required by this Resolution may be counted or calculated to satisfy the yard or other open space requirement of or for any other building.

B. Usable Open Space

Whenever required by this Resolution, usable open space shall be unobstructed to the sky and shall not be used as service driveways or off-street parking and/or loading areas.

C. Substandard Lots

See Section 520.00.

D. Projections Into Yard Areas

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1. Terraces, porches, platforms or other ornamental features, whether covered or uncovered, which do not extend more than two (2) feet above the level of the ground, may project into a required side yard, provided these projections remain a distance of at least twelve (12) feet from the adjacent property lot line to allow passage of emergency vehicles and fire apparatus.
2. The ordinary projections of balconies, chimneys or flues, and similar architectural projections shall be considered parts of the building to which they are attached and shall not project into the required minimum front, side, or rear yard.

## E. Reduction of Area or Space

1. No lot, yard, parking area, or other space shall be reduced in area or dimension if such reduction has the effect of making the lot, yard, parking area, or other space less than the minimum required by this Resolution.
2. Any lot, yard, parking area, or other space which is already less than the required minimum shall not be reduced further.
3. Nothing contained in this Section shall be interpreted to limit the powers of the Board of Zoning Appeals for granting variances under this Resolution.

## F. Construction in Easements

1. Easements for installation, operation and maintenance of utilities and drainage facilities are to be reserved as shown on each plat when recorded or otherwise established.
2. Within these easements, no permanent building or structure shall be placed or permitted which may damage or which may interfere with the installation, operation, and maintenance of such utilities or which may change the normal direction of flow of drainage channels within the easement.
3. The easement area of each lot, and any improvements within it, shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or a utility is responsible.

## G. Comer Lots or Lots with Any Number of Yards Fronting on a Street

## 1. Required Yards Facing Streets

On a corner lot or a lot with any number of yards fronting on a street, the principal building and its accessory structures shall be required to have the same setback distance from all street rightofway lines as required for the front yard in the zoning district for which such structures are located.

## 2. Visibility at Comer Lots

No obstruction to view in excess of two (2) feet in height shall be placed on any corner lot within a triangular area formed by the street right-of-way lines and a line connecting them at points thirty (30) feet from the intersection of the street lines, except that shade trees which are pruned at least eight (8) feet above the established grade of the roadway so as not to obstruct clear view by motor vehicle drivers (See Figure 510.01.G.2).

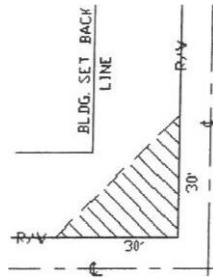


Figure 510.01.G.2

**H. Side and Rear Yard Requirements for Nonresidential Uses Abutting Residential Districts**

Unless otherwise specified in this Resolution, any nonresidential building or use that is located or conducted on a commercially or industrially zoned parcel of land shall be no closer than forty (40) feet to any lot line of a residential district of which at least twenty (20) feet shall be landscape buffer.

1. (Deleted 7/5/2006) (#2006-249)

**J. Maximum Lot Coverage**

Except as otherwise specified in this Resolution, the maximum lot coverage per parcel to be covered by buildings and impervious surfaces shall not exceed the following percentages of the total lot area. The balance of the lot shall be grassy yards and landscaped.

1. Lots less than 1/2 acre in size: 50% Lot Coverage.
2. Lots of 1/2 acre to 1 acre in size: 40% Lot Coverage.
3. Lots over 1 acre to 1-1/2 acres in size: 30% Lot Coverage.
4. Lot over 1 1/2 acres in size: 20% Lot Coverage.
5. On major traffic arterials, State Route 43 and Tallmadge, within the Town Center District, the maximum lot coverage per parcel covered by buildings and other impervious surfaces shall not exceed

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eighty (80) percent of the total lot area, providing all yard set back distances and landscape requirements are satisfied. Yard areas to be grassy and landscaped (11/27/2004) (#2004-427).

**Section 510.02 Principal Buildings**

- A. Every principal building, regardless of use, shall be located on a lot having the required frontage on a public street, or private street built to Portage County Subdivision Regulations standards.
- B. Except as otherwise specified in this Resolution, no more than one principal residential building shall be permitted on any individual lot.
- C. Minimum Distance for Buildings intended for Human Habitation from Oil and Gas Facilities.

All buildings intended for human habitation shall be located at least 200 feet from any well head, separator units, storage tank and tank battery.

**D. Manufactured Homes and Modular Homes**

- 1. All manufactured and modular homes shall be located on a permanent foundation in compliance with rules and the regulations per the Ohio Manufactured Homes Commission and all Portage County Building Department Resolutions. (11/10/2015) (#2015-318)
- 2. All Manufactured Homes and Modular Homes shall be skirted from the ground to the floor with material that has no more than ten (10) percent openings to prevent small children and animals from crawling underneath.
- 3. All Manufactured Homes and Modular Homes shall have adequate health facilities available, including running water and toilet facilities connected to an approved sewerage system.
- 4. Manufactured Homes and Modular Homes not used as dwellings shall not be permitted to remain on the lot.
- 5. Manufactured Home or a Modular Home may be permitted for use as a temporary building (home), subject to Section 530.03.

**Section 510.03 Regulations of Accessory Buildings and Structures**

- A. Except as otherwise specified in this Resolution, all lots shall be permitted a maximum of two accessory buildings or structures in association with a principal building provided that:
  - 1. It shall not be located closer than fifteen (15) feet to any principal building and 5 feet from all other non-inhabitable buildings and from side and rear property line.

3. It shall not exceed eighteen (18) feet in height.
4. It shall not be located in the front yard area of a lot.
5. It shall not contain or be used as a dwelling unit.
6. It shall be made of durable all-weather materials.
7. Additional requirements for accessory buildings and structures with any dimensions greater than 200 total square feet shall comply with the following requirements. (1 1/10/2015) (#2015-320)
  - a. A Zoning Certificate is required.
  - b. The building or structure shall be placed on a permanent frost-free foundation.
9. Additional requirements for accessory buildings and structures with any dimensions equal to or less than 200 total square feet shall comply with the following requirements. (1 1/10/2015) (#2015-320)
  - a. It shall not exceed twelve (12) feet in height.
  - b. It shall be located in the rear yard area of a lot.
  - c. It may be placed as close as five (5) feet from the property lines comprising the rear yard area, if it is for the residents use.

(Intentionally left blank)

- B. A temporary seasonal tent is permitted on any property in association with the principal residential building and does not require a Zoning Certificate for its use provided the following requirements are met:
1. A maximum of two (2) temporary seasonal tents are permitted on a parcel of land having a principal residential building on it.
  2. A temporary seasonal tent shall be permitted for a maximum of one-hundred-twenty (120) days of any calendar year;

3. The total floor area of the temporary seasonal tent(s) shall not exceed a total of one hundred-twenty (120) square feet; and,
4. A temporary seasonal tent shall be required to conform to all accessory structure setback requirements of the zoning district;
5. The temporary seasonal tent shall be used for recreational activities only and shall not be used as a storage facility

**Section 510.04      Height Regulations**

Except as otherwise specified in this Resolution, the maximum building height shall be measured from finished grade to the eaves.

**Section 510.05      Exception to Height Regulations**

The height limitations contained in the district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances. Such structures may exceed the height limit of the district provided:

- A. Such structures shall not exceed the permitted height by more than fifteen (15) feet.
- B. Such structures shall not have an area greater than twenty-five percent (25%) of the ground floor area of the building.
- C. Such structures shall be incidental to the principal use.
- D. Radio, TV antennas may be erected to any height provided they do not become hazardous.

**Section 510.06      Fences, Walls, Hedges**

Fences, walls and hedges or in combination are permitted in any required yard or edge of any yard provided:

- A. All fences, walls, hedges and berms or in combination must be located on and able to be maintained on the owners property. The use of berms shall be in compliance with the design requirements as specified in Section 800.10.
- B. All fences and walls require a zoning certificate.
- C. All fences and walls or in combination shall be constructed of durable materials and shall be installed to withstand the natural weather conditions. Fences and walls shall be maintained in good condition at all times.

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- D. All hedges and/or other vegetative plants shall be maintained in good condition at all times. All dead or diseased plants must be replaced or removed. Failure to replace or remove dead or diseased plants constitutes a zoning violation subject to the penalty provisions of this Resolution.
- E. All fences and walls or in combination shall have the finished side facing out, with no structural supports visible from adjoining properties, or public street right-of-way unless the fence or wall is designed so that such supports are visible from both sides.
- F. Except as otherwise specified in this Resolution, fences, walls, hedges and berms or any combination along any side or rear property line of any property within any zoning district in accordance with the following standards:
1. No fence, wall, hedge or berm or any combination shall exceed six feet, six inches (6'-6") in height above the finished grade in all zoning districts, except districts designated for industrial uses. Decorative posts shall not exceed a height of eight (8) feet.
  2. In districts designated for industrial uses, fences, walls, hedges and berms or any combination shall not exceed twelve (12) feet in height above the finished grade, including decorative posts.
- G. Fences, walls, hedges and berms or any combination shall be permitted within the front yard of any property within in any zoning district in accordance with the following standards:
1. No fence, wall hedge and berm or any combination shall exceed four feet - six inches (4'-6") in height above the finished grade of the front yard.
  2. Fences shall be of a decorative design to include chain link, but to exclude barbed wire, chicken wire and similar type fences, and shall be designed to have an opacity of fifty (50) percent or more. Decorative posts shall not exceed a height of five (5) feet in height.
- H. No fence wall, hedge and berm or any combination can be located within a public right-of-way, nor can it be located in an area that will obstruct the sight triangle for any motorist or pedestrian.
- I. All fences,, walls, hedges and berms or any combination and informal plantings shall not become hazardous to neighboring uses or obstruct vision of motorists at intersections.
- J. Informal plantings (e.g. Deciduous or Evergreen trees) may be higher than six (6) feet in height.
- K. Fences or walls used for agricultural purposes are exempt from the requirements of this Section.

**Section 510.07****Driveways**

Driveways are permitted in any required yard or edge of any yard provided:



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- A. A driveway may be constructed at least two (2) feet from the property line, unless otherwise specified in this Resolution.
- B. A driveway shall have a minimum apron width of sixteen (16) feet and a minimum width of ten (10) feet the entire length, in order to accommodate fire apparatus and safety/emergency vehicles.
- C. See Chapter 6 600.05 — Design Specifications and Standards

**Section 510.08 Private Roadways**

- A. All private roadways shall have a minimum improved surface of twenty-two (22) feet in width for the safe passage of emergency vehicles and fire apparatus, unless otherwise governed by the Portage County Subdivision Regulations.
- B. All private roadways that are dead-end must have adequate space for all types of fire equipment to turn around at the end.

**Section 510.09 Parking and Storage of Vehicles and Trailers**

- A. One commercial vehicle to include tractor (highway) or tractor (highway) and trailer, that is used in the current occupation, may be parked on any property used as a residence by the owner of the vehicle if the gross weight is less than nine-thousand (9,000) pounds and the combined length is less than thirty (30) feet. Said vehicle(s) shall not be parked in the street nor in the front yard.
- B. A maximum of one (1) boat or one unoccupied recreational vehicle may be stored in a yard of a residentially zoned property if it meets the requirements of this Resolution for setbacks of structures.
- C. Any motor vehicle or trailer that is parked or stored on any residential property must have a current license, unless it is in a completely enclosed building.

**Section 510.10 Swimming Pools**

Except as otherwise specified in this Resolution, all swimming pools require a zoning certificate.

**A. Private Family Swimming Pools**

A private swimming pool, shall be permitted in any residential district or commercial district as an accessory use in accordance with the following requirements:

1. The pool is intended for the sole enjoyment of the occupants of the property on which it is located and their guests.

2. The pool may be located anywhere on the property except in the required front yard and the structure associated with the pool be no closer than five (5) feet to any property line or easement.
3. The swimming pool, or the entire property upon which it is located, shall be secured by a screen or glass enclosure, wall, fence or similar construction in such a manner as to prevent uncontrolled access, especially by children. The method used to secure the pool shall not be less than four (4) feet in height and shall be maintained in good condition with a gate and a self-latching lock. (1/6/2016) (#2016-040)
4. Portable swimming pools with a diameter of less than twelve (12) feet or with an area of less than one-hundred (100) square feet and not more than two and one-half (2-1/2) feet deep are exempt from the requirements of this section.

#### B. Private Community or Club Swimming Pools

A community or club swimming pool shall be any pool constructed by an association of property owners, or by a private club or association, for use and enjoyment by members and their families. Such swimming pools shall comply with the following requirements:

1. The pool is intended for the sole enjoyment of the members, families and guest of members of the association or club under whose ownership or jurisdiction the pool is operated.
2. The pool and accessory structures, including the area used by the bathers, shall not be located closer than fifty (50) feet to any property line or easement.
3. The swimming pool, or the entire property upon which it is located, shall be secured by a screen or glass enclosure, wall, fence or similar construction in such a manner as to prevent uncontrolled access, especially by children. The method used to secure the pool shall not be less than four (4) feet in height and shall be maintained in good condition with a gate and a self-latching lock. (1/6/2016) (#2016-040)
4. An outdoor pool facilities shall not be operated prior to 9:00 a.m. in the morning or after 10:00 p.m. in the evening.

#### C. Public Pools

All public pools shall comply with the rules of the Ohio Department of Health, Ohio Administrative code, Chapter 3701-31.

Any outdoor storage areas, utility and mechanical equipment and trash collection or compacting areas of any commercial, industrial, institutional or multi-family residential use shall be completely screened from the view of any public street right-of-way and from view of any adjoining property.

- A. The required screening may be accomplished by a continuous solid closed fence, masonry wall, earthen berm, hedging, evergreen plant materials or combination, which is high enough to effectively screen the above mentioned items from view.
- B. The design must allow convenient access for trash collection vehicles.
- C. The storage of hazardous or toxic materials or wastes shall not be permitted without documented approval of the Ohio Environmental Protection Agency.
- D. Materials or wastes which might cause fumes or dust or otherwise constitute a fire hazard, or which may attract rodents or insects, shall be stored only in closed containers constructed of impervious materials.
- E. Construction Dumpsters — Combustible debris, rubbish and waste material generated on the construction site shall be stored in a dumpster or container located outside of the structure (Ohio Fire Code). Dumpsters and containers shall be located no closer than fifteen (15) feet from combustible walls, openings or combustible roof eave lines. Containers and lids shall be constructed on noncombustible materials. (7/31/2007) (#2007-311).

### **Section 511.00      Organic Hydronic Furnaces**

#### A. Organic Hydronic Furnaces

A typical Outdoor Hydronic Furnace (a minimum of EPA Phase II emission levels or comparable emissions or less) burns wood to heat water that is piped underground to a nearby building and/or structure (i.e. residence, accessory building). An Outdoor Hydronic Furnace resembles a small shed with a smokestack, and is located on the outside of the building or structure to be heated.

A number of studies recognized by the Environmental Protection Agency have determined that emissions of particulate matter from an Outdoor Hydronic Furnace can be a health hazard. These studies have indicated that the heavy smoke released close to the ground, where it often lingers, exposes people to health risks and the smoke is reported as causing other nuisances as well. Therefore, in order to mitigate the harmful effects associated with the use of the Outdoor Hydronic Furnace, no person shall operate an Outdoor Hydronic Furnace, except in full compliance with the following requirements:

- 1. A zoning certificate is required.
- 2. A permitted use in all Residential Districts.
- 3. A prohibited use in office, commercial and industrial zones including OR and RO zoning districts (GC, HC, IC, TC, RO, OR, LI, HI)

4. No person shall operate an Outdoor Hydronic Furnace in such a manner to create a nuisance.
5. The Outdoor Hydronic Furnace shall be located in the rear yard.
6. The Outdoor Hydronic Furnace shall be located at least seventy-five (75) feet from the nearest property line.
7. Except for the principal building(s) being served, an Outdoor Hydronic Furnace shall be at least four-hundred (400) feet from the nearest building intended for human habitation, place of assembly, education, occupancy by the public on the surrounding properties.
8. More than one (1) building and/or structure on the site may be serviced from a single Outdoor Hydronic Furnace. An Outdoor Hydronic Furnace shall be located at least twenty-five (25) feet from any building or structure.
9. Time of Operations:
  - a. An Outdoor Hydronic Furnace may only operate between September 1 and May 31.
10. Allowable Fuel Material

No person that operates an Outdoor Hydronic Furnace shall use a fuel other than the following:

- a. Clean dry wood that has no paint, stains, or other types of coating and wood that has not been treated with but not limited to copper chromium arsenic, creosote or pentachlorophenol.
  - b. Wood pellets made from clean wood.
  - c. Home heating oil in compliance with the applicable sulfur content limit of natural gas may be used as a starter fuel for dual-fuel for Outdoor Hydronic Furnaces.
  - d. If a corn burner then corn may be used as a fuel.
  - e. Or as recommended by the manufacturer.
11. Visible Emission Standards
    - a. No person shall cause or allow visible emissions from any Outdoor Hydronic Furnace to exceed an average of twenty percent (20%) opacity for six (6) consecutive minutes in any one-hour (1) period of normal operations.
    - b. No person shall cause or allow visible emissions from any Outdoor Hydronic Furnace to exceed forty percent (40%) opacity for twenty (20) consecutive minutes during the startup

period. This only includes initial firing of the Outdoor Hydronic Furnace. This does not apply to refueling.

12. Smoke Stack Height

All Outdoor Hydronic Furnaces shall have a permanent smoke stack/chimney that is at least five (5) feet higher than the peak of any roof within four-hundred (400) feet of its location.

(11/22/2010) (#2010-293)

**Section 514.00 Minimum Residential Living Floor Area per Dwelling Unit**

Unless otherwise specified, the minimum residential living floor area per dwelling unit is as follows:

A. Single-Family

- |                |   |
|----------------|---|
| 1. One story   | 1 ,250 sq.ft. measured at the foundation.   |
| 2. 1-1/2 story | 1 ,000 sq.ft. measured at the foundation,<br>plus 500 sq.ft. on the additional story. |
| 3. 2 story     | 1,500 sq.ft. total not less than 750 sq.ft. I <sup>st</sup> floor                     |
| 4. 2-1/2 story | 1,500 sq.ft. total not less than 750 sq.ft. I <sup>st</sup> floor                     |

B. Two-Family, Three-Family, and  
Multi-family 4 units or less

- |              |   |      |
|--------------|---|------|
| 1. One story | I ,000 sq.ft. per dwelling unit measured at the foundation        | 2. 2 |
| story        | 1,500 sq.ft. total not less than 750 sq.ft. 1 <sup>st</sup> floor |      |

- C. Multi-family over 4 units
- |  |                                       |
|--|---------------------------------------|
| 1. Efficiency - 500 square feet and all Apartments | 2. One                                |
| (1) Bedroom - 600 square feet                      |                                       |
| 3. Two (2) Bedroom - 700 square feet               |                                       |
| 4. Three (3) Bedroom - 800 square feet             | 5. Four (4) Bedroom - 900 square feet |

**Section 515.00 Home Occupations**

Home occupations that are inconspicuous and incidental to the residential use of property are permitted in any residential dwelling subject to the following requirements:

A. Permitted Types of Home Occupations

Any home occupation that has minimal customer or client visits and no on premise employees.

B. Administration

1. A zoning permit is required.
2. In addition to the standard information required on the application, the applicant shall also include:
  - a. The property owners name and address if different than the resident.
  - b. The type of business and business activity.
  - c. The vehicles, if any, that are to be used in association with the home occupation.

**C. Operating Standards**

1. The use shall be secondary in importance to the use of dwelling for residential purposes.
2. Such use shall be conducted entirely within a residential dwelling unit and/or permitted accessory building(s) and no use of yard space shall be permitted.
3. The basis of calculation for total area that may be used for the home occupations is twenty-five (25) percent of the gross floor area of the residential dwelling unit.
4. There shall be no storage of materials, supplies or equipment outside the principal location of the home occupation.
5. There shall be no evidence of the home occupation that is detectable from any road or adjacent property.

**Section 516.00      Ponds or Lakes**

Public or private ponds and lakes COhtaining over one and one-half (1-1/2) feet of water depth -shall conform to all required yard and setback requirements. In no case shall a pond or lake be located closer than ten (10) feet from a building. Ponds or lakes shall meet the standards and specifications of the Natural Resource Conservation Service.

The applicant shall submit two copies of the proposed pond and/or lake plan to the Portage County Soil and Water Conservation District for the department's review and approval. When applying for a Zoning Certificate to the Zoning Inspector, the applicant must include one copy of the approved plan and review comments from the Portage County Soil and Water Conservation District Department.

**Section 520.00      Non-Conforming Uses and Structures**

**Section 520.01      Purpose**

The purpose of this Section is to provide for the continuing use of land, buildings, and structures that do not conform to this Resolution, but which were in existence, as described in Sections 520.03, 520.04 and 520.05

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before the adoption of this Resolution and any subsequent amendments. Additionally, any use that is or was established in nonconformity with the requirements of Township's Zoning Resolution that were in effect at the time of the establishment of the use shall not become a legal nonconforming use due to an elapse of time.

**Section 520.02 Buildings and Structures Under Construction**

On the effective date of this Zoning Resolution or any amendment thereto, no changes are required in the plans, construction or designated uses of a building and structures that do not comply with the requirements of the district in which it was located, provided that:

- A. Construction is commenced within ninety (90) days after the issuance of the Zoning Certificate.
- B. The entire building or structure shall be completed within two (2) years after the issuance of the Zoning Certificate.
- C. For the purposes of this Zoning Resolution, such building or structure shall be deemed a nonconforming use.
- D. Where demolition or removal of an existing building has been substantially begun in preparation to rebuilding, such demolition or removal shall be deemed to be actual construction provided that such work shall be completed within two (2) years of issuance of the zoning certificate.

**Section 520.03 Nonconforming Lots of Record**

On the effective date of this Zoning Resolution or any amendment thereto, a lot of record that does not comply with the lot area or width requirements in which the lot is located may be used as follows:

**A. Occupied Lots**

If already occupied by a building, such building shall be maintained and may be repaired, modernized, altered or enlarged provided that the building complies with the front, side and rear yard setbacks, and all other requirements of the district, except those that pertain to the lot area and lot width requirements.

**B. Single Nonconforming Lots of Record**

If a nonconforming lot is in separate ownership and not contiguous with other lots in the same ownership, the following provisions shall apply.

- I. Any lawfully existing lot recorded prior to the enactment of this Resolution, or amendment thereto, that does not comply with the minimum area requirements, may be developed for a permitted use, provided that:
  - a. The proposed use can be located on the lot in compliance with the front, side and rear yard setbacks.

b. The lot meets all other requirements of the district, except those that pertain to the lot area and lot width requirements.

2. The Board of Zoning Appeals shall review and approve uses, buildings and structures proposed for single vacant nonconforming lots that do not meet the criteria set forth in Subsection 1 above.

C. Increasing Nonconformity of Lots

The nonconformity of lots shall not be increased in any manner, nor shall any division of any parcel be made which results in the creation of a lot not in compliance with the requirements of this Resolution.

**Section 520.04 Nonconforming Building or Structures**

Where a lawful structure/or building exists at the effective date of the adoption of this Resolution or amendments thereto, that could not otherwise be built under the terms of this Resolution, such building or structure may continue to be used or occupied by a use permitted in the district so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

A. Maintenance and Repair

A nonconforming building or structure shall be maintained and repaired provided that the cubic/content area existing when it became nonconforming shall not be increased. Nothing in these Regulations shall prevent the strengthening or restoring to safe condition any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

B. Change in Principal Use of Building

The principal use in a nonconforming building may be changed to any other use permitted in the district so long as the new use complies with all of the requirements of the this Zoning Resolution, except the requirements that the building did not conform to prior to the change in use.

C. Additions, Alterations and Restoration of Damaged Buildings or Structures

If a nonconforming building or structure is damaged or destroyed by any means, it may be restored or reconstructed to its original footprint and floor area provided that:

1. A zoning certificate shall be applied for and issued within one year of destruction/damage.
2. If a nonconforming use residential building or structure is damaged, or destroyed by any means, it may be restored, or reconstructed and may follow the existing area requirements of the current Zoning District and the residential use must remain the same.
3. If a nonconforming industrial building or structure is damaged, or destroyed by any means, it may be restored, or reconstructed to its original footprint, floor area and use provided that:



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- a. The expense of such work does not exceed fifty (50%) percent of the replacement cost of the building or structure at the time such damage occurred and the extent of damage is more than fifty (50%) percent of the county's auditor's current value.
  - b. It shall not be rebuilt, restored or reoccupied for any use unless authorized by the Board of Zoning Appeals.
4. If a nonconforming retail/commercial building or structure is damaged, or destroyed by any means, it may be restored, or reconstructed to its original footprint, floor area and use provided that:
- a. The expense of such work does not exceed fifty (50%) percent of the replacement cost of the building or structure at the time such damaged occurred and the extent damage is more than fifty (50%) percent of the county's auditor's current value.
  - b. It shall not be rebuilt, restored, or reoccupied for any use unless authorized by the Board of Zoning Appeals.
5. Restoration and reconstruction of the building and structure shall only be restored/reconstructed in conformity with the regulations of this Resolution.

**D. Moving Structures**

If any nonconforming building/structure is moved, it shall be required to conform to the requirements for the district in which it located.

(4/4/2014) (2014-083)

**Section 520.05 Continuance of a Nonconforming Use of Buildings and Land**

A nonconforming use may continue in the district in which it is located so long at it remains otherwise lawful and does not constitute a public nuisance.

**Section 520.06 Change of a Nonconforming Use of Buildings and Land to another Nonconforming Use**

A nonconforming use of a building, structure or land shall not be changed or substituted to another nonconforming use unless the Board of Zoning Appeals decides that the proposed nonconforming use is in less conflict with the character and use of the applicable zoning district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accordance with other provisions of this Resolution.

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**Section 520.07 Change From Nonconforming Use**

A nonconforming building or use shall cease to be considered as such whenever it first comes into compliance with the regulations of the district in which it is located. Upon such compliance, no previous nonconforming use shall be made, resumed or reinstated.

**Section 520.08 Abandonment of a Nonconforming Use of Buildings and Land**

A nonconforming use that has been discontinued for a period of two (2) or more continuous years shall be deemed abandoned, except when government action impedes access to the premises, and shall thereafter be used in conformity with the regulations of the district in which it is located.

**Section 520.09 Certificate of a Nonconforming Use**

If a use of property/structures was legally created or established and has since become nonconforming because of the establishment of or amendment to this Zoning Resolution, the Zoning Inspector shall issue a "Certificate of Nonconforming Use" to all known owners.

- A. No use of land, buildings or structures shall be made other than that specified on the "Certificate of Nonconforming Use" unless the use shall be in compliance with the requirements of the zoning district in which the property is located.
- B. A copy of each "Certificate of Nonconforming Use" shall be retained by the Zoning Inspector and who shall maintain a record of all such certificates.
- C. The certificate shall specify the reason why the use is a nonconforming use, including a description of the extent and kind of use made of the property in question, the portion of the structure or land used for the nonconforming use, and the extent that dimensional requirements are nonconforming, or other facts that substantiate the nonconformity. The purpose is to protect owners of lands/structures that are or become nonconforming.

**Section 530.00 General Regulations of Temporary Buildings, Structures and Uses****Section 530.01 Temporary Buildings**

Temporary buildings for use incidental to construction work may be erected in any of the districts herein established; however, such temporary buildings shall be removed upon the completion or abandonment of the construction work.

**Section 530.02 Temporary/Replacement Housing**

The following requirements apply to temporary and replacement housing in the Township.

- A. New Construction

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A zoning permit for residential construction may be issued for a second dwelling on approved lots, only upon the condition that the new dwelling will ultimately replace the existing dwelling upon completion of construction of the new dwelling, in accordance to the requirements of Section 530.02.B. 2, 3, 4, 5, 6, and 7.

## B. Repair/Reconstruction

Where a structure, used for residential purposes, is destroyed or rendered unfit for human habitation due to fire, windstorm, flood, lightning, explosion or other Acts of Nature or due to an unintentional catastrophe, temporary housing shall be permitted for a period not to exceed one (1) year while repairing, rebuilding, or replacing the damaged dwelling providing the following requirements are met:

1. The Zoning Inspector shall take into consideration County Board of Health and/or Building Department recommendations in determining whether a dwelling is unfit for habitation due to catastrophic causes.
2. The applicant shall submit in writing the method to be used to remove the waste water from the temporary dwelling. If on-site septic is to be used then the applicant will need to submit evidence in writing that permission has been obtained from the Portage County Health Department.
3. A permit for temporary housing shall be issued for an initial term of one (1) year. Applicant must submit a work schedule for permanent dwelling construction within ninety (90) days of being issued a permit. Upon satisfactory proof of work in progress the permit may be renewed by the Zoning Inspector for an additional period of one (1) year. In no case shall the permitted use for temporary housing exceed a period of two (2) years.
4. A permit for temporary housing shall be separate from and have no bearing on any other permits or structures that may be required to conform to this Zoning Resolution.
5. All temporary housing shall be removed within thirty (30) days after the principal dwelling is fit for habitation or within thirty (30) days of the permit for temporary housing expiring, whichever shall come first.
6. The location of the temporary housing must meet all side yard requirements, but may encroach into the front or rear yard setback area by not more than fifty percent (50%) of that area.
7. Temporary housing shall be exempt from minimum square footage requirements.

**Section 530.03 Other Temporary Buildings and Uses**

Temporary buildings, shipping/storage containers, construction trailers, equipment, and material used in conjunction with construction work only may be permitted in any district during the period construction work is in progress, but such temporary facilities shall be removed upon completion of the construction work.

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Storage of such facilities or equipment beyond the completion date of the project shall require a zoning permit authorized by the Zoning Inspector. (1/6/2016) (#2016-040)

**Section 540.00 Temporary Use Permits**

Temporary uses, such as fairs and other temporary sales and services, where permitted in appropriate districts, shall be permitted upon compliance with the plan requirements below:

## Temporary Zoning Certificates

A. Two site plans shall be provided to the Zoning Inspector no later than two (2) weeks in advance of activities containing the following:

1. Location and use of existing buildings.
2. Intended ingress and egress of traffic; width of driveways and aisles and the location of any barriers;
3. Dimensions, location and width between any and all temporary buildings, signs, structures or tents on the premises;
4. First aid facility;
5. Litter containers;
6. Location of all vendors;
7. Location of the office;
8. Location and identification of permanent and temporary parking facilities; and
9. Location of restroom facilities.
10. Signs must be in compliance with Section 700.12: Temporary/Special Event

B. The following information shall be provided on the site plan:

1. The name, address and telephone number of the property owner;
2. The name, address and telephone numbers of the chairman, manager or operator of the temporary event;
3. The address and township zoning of the property upon which the activities are held, and
4. The dates and times of operation of the activity;

C. The following permits shall be obtained prior to commencement of the activities:

1. A temporary zoning permit shall be required for the activity, structures, buildings, tents and signs related thereto.
2. Approval from Brimfield Police and Fire Chiefs must be obtained prior to zoning certificate approval.

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Appropriate permits from the Portage County Combined General Health District, Portage County Auditor's Office, or other county offices, as necessary

**Section 545.00 Business Displays/Outdoor Storage**

All business services and merchandise displays shall be conducted within an enclosed building except as otherwise provided in this Resolution. There shall be no outdoor storage of materials, stock, merchandise, etc., related to any business or industrial use unless otherwise permitted in these regulations.

**Section 550.00 Agricultural Uses**

- A. For the purposes of this Resolution, "Agriculture" shall include farming; ranching; aquaculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; production of field crops, tobacco, fruits, vegetable, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timer; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production.
- B. Farm markets/roadside stands may be located on a premises for the purpose of selling primarily agricultural products, providing the following requirements are met:
1. There shall only be one (1) farm market structure permitted per farm, which shall be located on the same property as the farm owner or operator.
  2. The structure complies with side yard setback requirements of the district.
  3. The structure shall be located at least thirty (30) feet from the road right-of-way.
  4. The height of the structure shall not exceed fifteen (15) feet.
  5. The floor area of a farm market sales structure shall not exceed fifty (50) percent of the principal building floor area if on the same lot or one-thousand (1000) square feet, whichever is less.
  6. Adequate ingress and egress and parking facilities are provided to allow cars to get off of the street and be able to turn around without creating a safety hazard or blocking oncoming traffic.
  7. Construction materials of the farm market shall be of materials that would blend with the principal building.
  8. At least fifty (50) percent of the gross income received is derived from produce raised on the farm owned or operated by the market operator.

9. Signs as regulated in Chapter 7.

C. In such areas, on lots comprised of five (5) acres or less, agriculture uses shall comply with the following requirements: (11/10/2015) (#2015-321)

1. Accessory Buildings Used for Agricultural

Accessory buildings used for agricultural purposes shall comply with the requirements as set forth in Subsection 510.03.

2. Animals

a. On lots of less than three (3) acres normal household pets shall be permitted. All state, county and local health and safety requirements must be followed and no nuisance be created for neighboring property owners or residents within -the Township. This includes the proper disposal of waste and control of odor and noise. (11/10/2015) (#2015-321)

b. On lots of three (3) acres up to five (5) acres shall comply with ORC Agriculture use.

a. Lots of three (3) to five (5) acres are not subject to agricultural exemptions. (11/10/2015) (#2015-321)

3. Shelter for Animals

The following regulations are established for the keeping of animals in accordance with Section 550.00.C.2.b.

a. Whenever one (1) or more animals are kept outdoors on a lot, an accessory building for their shelter shall be constructed on the lot.

b. The area of the accessory building which is intended to provide shelter for one or more animals shall not exceed three (3) percent of the lot area.

c. Animal shelters and enclosures must be maintained and well drained away from the building lot area and animals to prevent ponding of water, insect breeding areas, and health hazards for animals and humans. The premises and shelters shall conform to the sanitary code of the Portage County Health District.

d. Animal shelters shall be located no closer than:

1. Sixty (60) feet to street right-of-way.

2. Twenty-five (25) feet to a side or rear lot line.
3. One-hundred (100) feet from any water well.

4. Fencing of Animals

Whenever one (1) or more animals are kept outdoors on a lot, the following regulations are established for the keeping of animals in accordance with Section 550.00.C. 2.B.

a. Fencing for Large Animals:

1. A fence shall be required for large animals such as, but not limited to horses, mules, donkeys, swine, cattle, buffalo, alpacas, and llamas.
2. A letter from the OSU Extension Office shall be provided by the applicant stating that the intended fenced area will provide at least the minimum grazing area for grazing livestock in compliance with the latest "animal units" per acre standards set forth by OSU Extension Service, based on the applicant's intended use and types of pasture grasses to be planted.

b. Fencing for Small Animals:

1. A fenced area is optional for small animals such as, but not limited to, poultry, goats, sheep, mini breeds of horses, cattle and swine.

(Intentionally left blank)

**Section 555.00 Oil & Gas Well Drilling and Associated Activities**

**Section 555.01 Purpose**

The purpose of these regulations is to preserve the health and safety of the Brimfield Township citizens and the natural resources of the Township from potentially damaging effects of gas and oil well operations, the extraction of oil, natural gas, and hydrocarbons, any operations involving exploration for such substances or storage thereof, and the drilling, reopening, operation, maintenance and plugging back of oil and gas wells shall not be permitted without compliance with this Zoning Resolution and such compliance shall be necessary even though no zoning certificate is necessary to be obtained from Brimfield Township.

**Section 555.02 Pre-Construction Requirements**

- A. All well drilling, production and transmission operations and facilities for oil and gas shall comply and conform with all the requirements of this Resolution, the Ohio Revised Code, Chapter 1509, the

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Ohio Administrative Code, Chapter 1501 and the requirements of the Ohio and U.S. Environmental Protection Agencies (EPA) and any other state or federal requirements.

B. No gas or oil well shall be drilled unless the permittee, owner, producer and/or contractor complies with all the requirements set forth in this Resolution. The owner shall have primary responsibility for filing the information required.

C. Registration and Compliance Application Form:

While no zoning certificate is required for the drilling, operation, production, plugging or abandonment of any gas or oil well; the permit holder must complete an application form for Oil/Gas Well Registration and Compliance and submit all information required in this resolution. The information shall be filed with the Township Zoning Inspector and Fire Chief at least thirty (30) days prior to the date upon which any construction is scheduled to begin, including site preparation for the purpose of drilling, re-opening of an oil or gas well, and other associated activities and uses.

The Registration and Compliance Form shall include:

1. The name, address and telephone number of each signatory on the application including the owner of record of the property and the same information for each operator and contractor responsible for operation and all maintenance of well site.
2. A copy of a valid permit for the activity proposed from Division of Mineral Resource Management, Ohio Department of Natural Resources
3. A list of all emergency phone numbers of all parties responsible for any work on the tract.
4. A copy of the state-approved brine and waste disposal plan.
5. A copy of the spill prevention, control and countermeasure plan as required by Title 40 Code of Federal Regulations, Part 112.
6. A schedule of proposed starting date and dates of drilling operations.
7. A copy of the bond for overweight vehicles from the Portage County Engineer.
8. A map drawn to scale of the township lot, showing the location of the following proposed items:
  - a. Ingress and egress points.
  - b. Oil or Gas or Brine Injection Well(s)
  - c. Storage tanks and separator units



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- d. Schematic of all pipelines, connections and all shut off valves for emergency purposes.
  - e. Power shut off mechanisms.
  - f. Permanent and temporary pits.
  - g. Access Drives.
  - h. All dikes and swales for erosion control and spill prevention.
  - i. The lot lines of all properties within one-thousand (1 ,000) feet of the proposed well site.
  - j. The location of all buildings and structures within one-thousand (1 ,000) feet of the proposed well site.
  - k. Landscaping plan.
9. Other information as required by the Zoning Inspector to determine compliance with these requirements.
- D. At least thirty (30) days prior to the date upon which any construction is scheduled to begin as noted in 555.02C, the permit holder shall notify all property owners within the drilling unit and property owners immediately adjacent to the drilling unit of their intended uses and activities.
- E. No owner, producer, contractor, operator shall move any drilling equipment or any equipment onto a township road without provision of proof the road bond noted in item 555.02.C.7. has been filed with and approved by the County Engineer. Such bond shall be in effect until the oil/gas well is plugged.
- F. Protection of Fresh Water Wells:
- 1. It shall be the duty of the permittee to protect fresh water wells from salt water or other pollution or contamination from their operations. Prior to commencing drilling operations, the owner shall test the water in all fresh water wells situated on parcels of land contiguous to the drilling unit or within a radius of one thousand feet (1,000') of the proposed wellhead, whichever is greater, for calcium, chloride, magnesium, total hardness, chlorides, sodium, potassium, iron, strontium, manganese, total dissolved solids, barium, sulfates, nitrates, nitrites, lead, mercury, cadmium, benzene, toluene, xylene and ethyl. Such tests shall be conducted by an EPA certified laboratory. Such tests shall be done provided the owner of each water well consents. Copies of such tests shall be sent to the Township Zoning Inspector and each property owner. If any fresh water wells are disturbed or altered by permittee or any contractors, a new test will need to be conducted and results provided to the Township Zoning Inspector, testing the same items

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2. The permittee, his driller and contractors shall establish contingency plans for the immediate furnishing of potable water to affected residents for such period as may be required to reestablish proper potability on any polluted or contaminated well or wells. The permit holder and driller shall be jointly and severally responsible for the obligation to provide potable water without cost to the residents receiving the same. The drillers responsibility shall include covering the cost of drilling new wells or extending public water service, including tap-in fees should that be necessary. Permanent corrective solutions to affected wells shall be in place within thirty (30) days of disturbing or altering the fresh water well unless extending a public water line, in which case, the pennittee may have up to 120 days to have the permanent corrective solution in place for the affected party(ies).
- G. The applicant shall submit information to the Zoning Inspector with satisfactory proof that the applicant has the ability to remove all brine, drilling material, sludge, and other materials required to be removed. The Applicant shall submit evidence to the Zoning Inspector that the applicant has available a brine injection well with sufficient capacity to accept all materials to be removed and that said injection well or wells have been inspected and approved by the State of Ohio, ODNR, Division of Mineral Resource Management. Records of the disposal of all brine and waste water during the operating life of the well shall be repofled to the Township Zoning Inspector at the time such disposal occurs.
  - H. The applicant shall provide the Zoning Inspector with a map of all buried transmission lines, for which the applicant must have written and recorded easements or leases. All buried transmission lines crossing or intersecting any Township road shall be marked by a permanent marker on both sides of the road in a location and format acceptable to the Township Road Supervisor. The minimum depth of such lines below roads, perennial or intermittent streams and ditches shall be established by the Township Road Supervisor and Zoning Inspector prior to the excavation to install such lines. No transmission lines intended for burial under Township roads shall be covered until the installed line is inspected by the Township Road Supervisor. The applicant shall also coordinate the laying of transmission lines with all public utilities servicing the Township.
  - I. The name of the company, address, names of responsible individuals, all twenty four (24) hour emergency telephone numbers for each well, tank, and separator sites shall be given to the Zoning Inspector who in turn shall provide a copy of such information to the Fire and Sheriff Departments.
  - J. Signage:

Before construction or production begins, a permanent sign at least two (2) square feet shall be posted at the access road entrance by the public road and at each wellhead, storage tank and separator unit (fenced areas) stating the owner, producer, lease name, well number, state permit number, all emergency telephone numbers and street address of site.

Any change of ownership or change in any other information stated on the sign shall be shown at the wellhead, storage tank(s), separator unit and access road entrance no later than thirty (30) days after the date of the assignment or transfer or change in status.
  - K. After submission of the Oil and Gas Well Registration and Compliance Form and after providing all required information, the owner, producer and/or contractor may commence site preparation for and

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drilling of a gas and oil well within the Township after the Zoning Inspector has determined the owner to be in compliance prior to commencement of activities and uses proposed and based on the information provided.

**Section 555.03 Construction Requirements**

- A. It shall be the responsibility of the Owner, Producer and/or contractor to cause the public roads to be free of all debris, mud and other materials that accumulate as a result of drilling, production, transmission, hauling or abandonment proceedings.
- B. No unloading or loading of oil, brine or water is to be made from the road.
- C. The blocking of roads is prohibited.
- D. The owner, producer and/or contractor shall provide off street parking to accommodate all vehicles during construction and production.
- E. Truck routes in and out of the site shall be approved in written form by the Township Road Supervisor. The Supervisor shall require that truck routes through Township Roads be limited to roads that can accept the load based on load limits and the Road Supervisor shall consider routes that will minimize wear on public streets and which would prevent hazards and damage to other properties in the Township.
- F. The owner, producer and/or contractor shall provide toilet facilities to accommodate workers on the site and they shall be maintained in a clean and sanitary condition during construction operations. Such facilities shall be in accordance with standards of the Portage County Health Department.
- G. Equipment Safety Requirements:
  - 1. All crude oil storage tanks shall be above ground and constructed and treated to prevent leakage and painted to prevent corrosion.
  - 2. All crude oil storage tanks must be equipped with hatch (lid) seals and a flame arrestor or two way pressure relief valve installed on the vent stack. The hatch must be closed and locked when unattended. All electric panels and loading valves must be locked when unattended.
  - 3. All shut off valves shall be painted in florescent orange.
  - 4. All power, storage and transmission line shut-off valves shall be secured by locks or similar devices to prevent unauthorized access or usage.
  - 5. If the well is located in a flood plain, on a steep slope or in an environmentally sensitive area, no open storage pits shall be used.
  - 6. All tanks shall be adequately and permanently anchored to resist slippage or flotation.

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7. During production of a well, the applicant shall make regular fluid level checks of all oil, gas, brine, waste and other elements removed from any well, shall check on a regular basis the condition of all equipment and shall ensure that all equipment required to be secured or locked is so secured or locked. Any joint or connection under pressure and above ground which carries fluids or gases under pressure shall be inspected and maintained to ensure no leakage or equipment failure.
- H. All pipelines shall be buried a minimum of twenty-four (24) inches under the surface.
- I. As required by the land/property owner, the electric line to the well head may be either an overhead electric line or an underground electric line. The overhead electric line must have a minimum overhead clearance of fourteen (14) feet. The underground line must be buried a minimum of twenty four (24) inches under the surface.
- J. Access Drives:
1. The applicant shall provide ingress and egress drives to all well and storage tank sites. Such drive(s) shall be constructed in accordance with plans submitted to the Zoning Inspector with the application. Drives to storage tank sites shall be installed prior to the installation of storage tanks.
  2. All access drives shall be maintained so as to be passable in all seasons and weather conditions. The driveway is to be free of deep ruts and positive drainage shall be maintained along this driveway at all times. The permanent access driveway width is to be a minimum of ten (10) feet. The minimum requirement for the permanent driveway material is to be a graded aggregate of a size, and placed to a thickness sufficient to prevent displacement under Fire Department trucks. The permanent driveway may serve both the well and tank sites. Drives may be paved with asphalt or concrete as an alternate to aggregate.
  3. Drive entrance gates shall be set back from the road right of way a distance sufficient to permit trucks servicing the well or tank battery to pull completely off the road right of way when entering the property or stopping to close the gate when exiting.
  4. Not more than two (2) access points shall be established from any public road to any well or tank site.
  5. Access drives shall have a turnaround of sufficient size to accommodate fire and rescue and other emergency vehicles servicing the Township.
  6. Where access drives connect with Township roads a drive permit shall be obtained prior to construction and culvert construction and any necessary ditching shall be done under the supervision of Brimfield Township Road Supervisor who shall be notified before construction or ditching operations begin. The Road Supervisor shall inspect and approve culvert, drive, and related drainage installations before construction or production begins. A driveway permit shall be obtained from the County Engineer for access on to county roads, and from ODOT for access on to State Roads.
- K. Blow Out Prevention:

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During drilling of a well, the applicant shall install a blowout preventer with a remote manual preventer control for use in shutting down the system. The blowout preventer must be in good working condition and of sufficient size and rating to control such hydrostatic pressure as would be expected for the deepest pool to be penetrated. Such blowout preventer must be installed on the surface casing prior to drilling below the surface casing. The applicant shall also install a gas detector meter on the drilling apparatus to determine if a gas pocket has been hit during drilling. The applicant or his agents shall be on site during all phases of drilling and the applicant shall insure that knowledgeable and experienced drillers will be on site during all phases of drilling.

## L. Diking:

1. A system of dikes shall be installed around all tank sites and separators to prevent discharge of liquid from endangering adjoining property or reaching waterways.
2. All dikes shall be continuous with no openings.
3. The size and design of such dikes shall be sufficient to contain at least one-hundred-thirty-three percent (133%) of the material stored in the tanks and separators within the dike.
4. All dikes shall be constructed of material so as to be watertight and afford adequate protection. If made of concrete or masonry, it shall be properly reinforced and shall have footings below the frost line.
5. Before production begins, the Zoning Inspector and Fire Chief must approve the installation of the completed dike system.

## M. Pits for Drilling Fluids and Wastes:

Prior to drilling, the applicant shall have steel pits located at the site sufficient in size to contain all liquids produced as a result of anticipated drilling procedures. The steel pit shall have a capacity not to exceed ten-thousand (10,000) gallons. Each pit shall be constructed of steel and regardless of whether or not said steel pits are buried in the ground or entirely on the surface, there shall be a minimum of one-inch (1 ") clay seal underneath said steel pit. During drilling, the drilling fluids and other materials in said steel pits shall not be permitted to exceed a level of eighteen-inches (18") from the top of said steel pit and shall be removed from the steel pit prior to being placed back into use. Further, said steel pits shall not become filled to a capacity that will cause a substantial probability of overflowing.

Earthen pits for the containment of drilling cuttings shall be lined with a State approved nonpermeable liner to prevent leaching and shall be of sufficient size to contain all effluents.

## N. Fencing:

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Storage tanks, separators, drainage pits, well pumps and all other installations of equipment used at well installations shall be entirely enclosed by a six (6) feet high fence with three (3) strands of barbed wire above. The fence shall be located a minimum of five (5) feet outside of all tanks, pumps, separators, and any related miscellaneous apparatus. All gates shall have a minimum opening of four (4) feet or such opening as the Fire Chief determines necessary to facilitate orderly and safe fire fighting access and operations. All fences and gate installations shall be inspected by the Fire Chief and Zoning Inspector before producing operations begins. All gates shall be locked and keyed the same and a key shall be given to the Township Fire Department. Fences and gates shall be kept in a good state of repair until the well is abandoned and tanks, separators, and pump equipment are removed.

- O. At any reasonable hour, the Township Zoning Inspector after identifying him/herself, may enter upon the premises during the site preparation and drilling stages, to ensure compliance with this resolution. Additionally, at any time the Township Zoning Inspector may enter upon the premises where an oil and/or gas well is to be or is being drilled whenever an emergency is believed to exist on said tract.

P. Pollution Prevention and Control:

Any applicant for a gas and/or oil well or brine disposal well whose well shall be within two thousand (2,000) feet of any lake or pond, whether natural or man made, river, stream, creek, wetland or other such bodies of surface water within Brimfield Township shall indicate the same on the Registration and Compliance Form. It shall be the responsibility of the applicant to assure that any said body of water shall not be exposed during drilling, fracturing, production and operation of the well to any danger of erosion, siltation, pollution, contamination or alteration.

The registration and compliance application for any oil and/or gas well or any brine disposal well proposed to be drilled within two-thousand (2,000) feet of such lakes and water bodies shall include measures to be taken to avoid any damage to said water bodies and their habitats.

Adequate contingency plans shall be made to avoid contamination of the waters of the Township in the event that any oil, gas, brine, waste, toxic material or other such contaminant spills during the drilling, production or abandonment of any oil and/or gas well. If any well site is to be located within two-thousand (2,000) feet of waters of the Township, the applicant shall submit with the application, a proposed procedure to control spills and reduce the risk of contamination.

No person, firm, or corporation shall conduct any well drilling, production, or transmission operation that contaminates or pollutes the land surface, or any surface or subsurface water. The waste disposal plan or method initially submitted shall not be changed without prior approval of the Zoning Inspector. The owner shall maintain a record at the drill site of the name, address and telephone number of the person, corporation or firm disposing of waste, the location of the disposal sites being used and dates of waste removal and license numbers of waste haulers. Such records shall be available to the Zoning Inspector if requested.

Q. Setback from Road Right of Way:

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In order to protect the public health and safety, wells and tank batteries should be setback from the road right of way at least one-hundred (100) feet where feasible.

**Section 555.04 Post Construction Requirements**

- A. Within ninety (90) days of the commencement of production, the owner, producer and/or contractor shall remove all drilling equipment, temporary tanks and other materials not intended to be permanently placed at the well site.
- B. The owner, producer, and or contractor must restore all areas disturbed by construction. Areas are to be fine graded and seeded and mulched or covered with straw as required by the land owner. Best practices for erosion control shall be utilized. Restoration shall be completed within thirty (30) days after drilling is complete, and all landscaping required shall be completed within sixty (60) days (weather permitting).
- C. Landscaping/screening shall be located around the perimeter of oil and gas wells, storage tanks and other facilities that will remain after the drilling as follows:
  - 1. An evergreen screen shall be planted and maintained that consists of evergreen trees planted five (5) feet on center maximum or evergreen hedge planted three (3) feet on center maximum.
  - 2. All new landscaping shall be a minimum of six (6) feet in height at planting.
  - 3. No landscaping shall impede the access to any facilities or equipment for ongoing maintenance and fire fighting.
  - 4. All landscaping shall be maintained. Any materials that die shall be immediately replaced.

## D. Abandonment:

All storage tanks, apparatus and other equipment located above ground at a well site shall be removed and abandonment completed within one-hundred-eighty (180) days after a well stops producing and the ground shall be restored to the extent possible, to its original condition or better prior to drilling of said well, within said one-hundred-eighty (180) day period.

## E. Capping Wells:

In the event an applicant at any time determines to cap a well, the applicant shall notify the Zoning Inspector, and shall also notify the Zoning Inspector in advance when the capped well will be made productive again.

## F. Maintenance/Repairs:

The applicant shall at all times maintain, repair, repaint, and replace any storage tank on the drilling unit and shall adequately maintain, repair and replace all fences required under this Resolution.

G. Reporting:

The Zoning Inspector shall be provided with a copy of the report required in March of each year by Ohio Department of Natural Resources, Division of Mineral Resource Management, of the oil, gas, and brine removed from each well.

H. Road Right of Way Repairs:

Any damage to the public road, the berm or any other part of the right of way shall be repaired to preconstruction condition or better. The Township Road Supervisor shall make the determination as to needed repairs during the final inspection.

**Section 555.05      Distance of Fires from Wells and Tanks**

No open fires shall be permitted within two-hundred (200) feet of any gas or oil well or storage tank.

**Section 560.00      Pedestrian and Bicycle Circulation System**

**Section 560.01      Purpose**

The purpose of these regulations is to link residential areas, commercial and employment centers, parks and open space areas with pedestrian and bicycle facilities in order to enhance non-motorized transportation opportunities for the community's residents, workforce and visitors.

**Section 560.02      Pedestrian and Bicycle Circulation System**

These requirements are applicable to any Planned Residential Developments and/or any type of Planned Unit Development. Furthermore, these requirements are also applicable to any development occurring in areas of the Township that have been identified by a Board of Township Trustees Resolution as within an area of the Township that Pedestrian and Bicycle Circulation Systems are required.

Facilities shall be provided to ensure that a pedestrian and bicycle circulation system is safely incorporated within a proposed development. The development should be designed in such a manner as to ensure that pedestrians can walk safely and easily throughout the entire development and the necessary bicycling improvements are provided to ensure linkages between destinations. The circulation systems are to be designed in such a manner as to link the proposed development with the Township's pedestrian and bicycle circulation system as follows:

1. The pedestrian system shall provide connections between properties, and activities, special features within the open space system and/or the Township's pedestrian circulation system by the establishment of sidewalks and/or improved bike paths.



2. The bicycle circulation system shall include connections with any local, county, and State existing or proposed circulation system through the establishment of bike routes, bike lanes, and/or bike paths. Trails for which public right of passage has been established should be incorporated in the pedestrian circulation system.

**Section 560.03      Pedestrian Facility Requirements:**

A sidewalk shall be provided for the protection of the public safety. Typically, sidewalks shall be four (4) foot wide and made of concrete. The evaluation of an alternative sidewalk design and design would be based on the ultimate connection points, topography, environmental constraints, proximity to planned structures, and the safety of the persons using the sidewalk system, especially at night.

**Section 560.04      Bike Routes, Lanes, Paths, and Parking Facility Requirements:**

1. Bike Routes

Bike routes can be established as part of a street system that normally carries a low volume of motorized vehicles, usually less than one-thousand (1,000) ADT (average daily motorized traffic volume), at low speeds. Signs are to be posted to designate the roadway as a bicycle route to complete connections between other facilities.

2. Bike Lanes

Bike lanes, wide curbs lanes, or paved shoulders that are a minimum of four (4) feet in width and located on both sides of the roadway, are to be utilized whenever possible. This type of facility is the preferred on any roadway of under ten-thousand (10,000) ADT.

3. Bike Paths

Bike paths are required for roadways with motorized traffic volumes exceeding ten-thousand (10,000) ADT or where traffic usually operates at high speeds. The off-road bicycle paths shall be a minimum of eight (8) feet in width.

4. Bicycle Parking Space Requirements:

In order to encourage non-motorized transportation facilities, all bicycle parking facilities will be required for all proposed developments. The bicycle parking requirements shall be linked to the type of land use being considered and the amount of required automobile parking, per the local zoning requirements, as set forth in Schedule 600.06

