

Palmer, Jeff

From: Terrill, John
Sent: Tuesday, August 20, 2024 11:03 AM
To: Palmer, Jeff
Subject: hvo review

After looking over the newly submitted info I see they still intend to use the two confusing entrance/exit spots in front of the main building. After listening to us they seemed to have just ignored that suggestion of shutting down those two spots of ingress and egress that is problematic. The request to have all traffic enter and exit the property on the southern most end has been ignored. The police department again expresses our desire that they shut down the northern entrance/exit to the property except for maybe emergency services and all traffic regarding entrance/exit move to the southern end of the property.

Palmer, Jeff

From: Agenbroad, Steve
Sent: Monday, August 26, 2024 1:55 PM
To: Palmer, Jeff
Subject: FW: Updated HVO Agritourism Site Plan, Request for Review

Greetings Jeff,

Please see comments below.

I know we have already discussed / addressed some of these items, but these are the items Jeff & Larry identified.

Let me know if you have questions or require further.

-Steve

From: Prass, Jeff <JPrass@clearcreektownship.com>
Sent: Thursday, August 22, 2024 11:04 AM
To: Agenbroad, Steve <Steve.Agenbroad@clearcreektownship.com>
Cc: Carman, Larry <larry.carman@clearcreektownship.com>; Buehler, Justin <Justin.Buehler@clearcreektownship.com>
Subject: Updated HVO Agritourism Site Plan, Request for Review

Chief Agenbroad,

At this point in the process, we have the following comments, questions, and concerns.

COMMENTS:

1. Access :

The roads shown on the plan will need to be usable for emergencies including fires and medic calls to support the proposed activities. The roads on the plan are useable but may need to be widened in spots to be determined as the project moves forward.

The access road running off the east side of the property off Applewood Lane will need to be usable as a secondary access point due on the East side of the covered bridge over the creek for the proposed Apple Barn. The access road shown will need to meet requirements for fire apparatus access roads as specified in section 503 of the Ohio Fire Code.

2. Fire Protection Systems:

The planning process for additional cooking equipment would go through Warren County Building Department but the new owners should anticipate fire protection requirements for commercial cooking equipment like fryers, grills, and ventilation(hood) installations.

3. New Structures:

Construction Permits and plans for the existing and new structures will go through Warren County Building Department and will need to meet additional requirements depending on their intended use. (Example) The Craft barn may be an assembly use, and the Farm Kitchen Building may need fire protection systems.

4. Fire Hydrants:

New fire hydrants may be required to support fire fighting operations near new structures. Dry Hydrant for the pond by the proposed Apple Barn/Chutes and ladders area may provide an alternative.

QUESTIONS AND CONCERNS:

1. Are they planning on having on-site first aid and transport vehicle similar to teams at amusement parks?
2. Fire Pits: What is their plan for monitoring, cleaning, and extinguishing the fire pits if needed?
3. Are the proposed Mobile Food Service Cabins going to be used to prepare or warm food? If so, what type of equipment will be used and how will they be protected.

Please let us know if you have any questions.

Thanks

From: Agenbroad, Steve <Steve.Agenbroad@clearcreektownship.com>

Sent: Monday, August 19, 2024 11:05 AM

To: Prass, Jeff <JPrass@clearcreektownship.com>; Carman, Larry <larry.carman@clearcreektownship.com>

Cc: Buehler, Justin <Justin.Buehler@clearcreektownship.com>

Subject: FW: Updated HVO Agritourism Site Plan, Request for Review

Jeff & Larry,

Please review the attachments and email below and let me know if you have any questions, comments, or concerns about this.

Essentially, the current owners of HVO are looking to sell and the company that may purchase it are planning to make some changes.

They provided this place in Pennsylvania as an example of what they are looking to do, Cherry Crest Farm

Please have your comments back to me by the end of the week.

Thanks,
-Steve

From: Palmer, Jeff <JPALMER@clearcreektownship.com>

Sent: Thursday, August 15, 2024 3:01 PM

To: Terrill, John <jterrill@clearcreektownship.com>; Agenbroad, Steve <Steve.Agenbroad@clearcreektownship.com>

Cc: Carman, Larry <larry.carman@clearcreektownship.com>; Stacy, Wallace <wstacy@clearcreektownship.com>

Subject: Updated HVO Agritourism Site Plan, Request for Reveiw

Greetings:

Please see attached updated site plan and materials for the proposed agritourism activities at the Hidden Valley Orchard properties. This request will be reviewed by the Board of Zoning Appeals on September 10, 2024. Please review the attachments and provide me with an email or letter of your review comments. Please send your comments by the end of the day on August 26, 2024. I plan to distribute my staff report with all exhibits on Tuesday August 27th. I will be out of the office the week of August 19th. Thanks for your assistance.

Respectfully,

Jeff

RECORD OF RESOLUTIONS

Resolution No. 3480 Passed December 10, 2008

CLEARCREEK TOWNSHIP
WARREN COUNTY, OHIO

A RESOLUTION Approve EXHIBIT 2008-1, AN AMENDMENT THAT CLARIFIES DEFINITIONS, AS WELL AS REFINES STANDARDS FOR THE RESIDENTIAL ZONES, LIGHT INDUSTRY, PARKING AND LOADING, BUFFER AND SCREENING, BOARD OF ZONING APPEALS AND SPECIAL PROVISIONS FOR THE CLEARCREEK TOWNSHIP, WARREN COUNTY, OHIO, ZONING CODE.

WHEREAS, all public hearings, public notices, and the recommendation of the Warren County Regional Planning Commission for the Zoning Resolution amendment have been conducted and made pursuant to the Clearcreek Township Zoning Resolution and Section 519.12 of the Ohio Revised Code; and,

WHEREAS the proposed Text Amendment with modifications was APPROVED by the Zoning Commission after the conclusion of their public hearings; and,

NOW THEREFORE BE IT RESOLVED by the Board of Clearcreek Township Trustees that the said amendment that establishes and / or modifies standards in the Zoning Resolution be Approved. Exhibit "2008-1" is attached and deemed a part of this Resolution as if fully rewritten herein.

Mr. Wade moved to adopt the foregoing Resolution. Mr. Lamb seconded the motion and upon the call of the roll the following vote resulted:

Mr. Wade ✓
Dr. McDonald ✓
Mr. Lamb ✓

Resolution adopted at a regular public meeting conducted December 10, 2008.

THE BOARD OF CLEARCREEK
TOWNSHIP TRUSTEES

ADD SEC. 3.021, Definitions:
ADDITION - ANY CONSTRUCTION THAT INCREASES THE SIZE OF THE STRUCTURE IN TERMS OF SITE COVERAGE, HEIGHT, LENGTH, WIDTH OR GROSS FLOOR AREA.

AMEND SEC. 3.0247, Definitions:
Agriculture: The use of land for agricultural purposes, including farming, dairying, pastorage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and accessory uses such as packing, treating, storing or selling produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

ADD SEC. 3.028, Definitions:
AGRICULTURE - ACTIVITIES CONDUCTED ON A FARM AND OFFERED TO THE PUBLIC OR TO INVITED GROUPS FOR THE PURPOSE OF RECREATION, EDUCATION, ENTERTAINMENT, HOSPITALITY, DIRECT SALES OR ACTIVE INVOLVEMENT IN AGRICULTURAL PRODUCTION. THE ACTIVITIES SHALL CO-EXIST WITH THE OPERATION OF THE FARM AND MAY INCLUDE THE FOLLOWING:
1. RECREATION: (FISHING, WILDLIFE STUDY, HORSEBACK RIDING, SLEIGH/CARRIAGE/WAGON RIDES, STARGAZING, HIKING, COMMUNITY GARDENS).
2. EDUCATIONAL EXPERIENCES: (COOKING CLASSES, WINE TASTING, SCHOOL TOURS, CANNERY TOURS, GARDEN/NURSERY TOURS, AGRICULTURAL TECHNICAL TOURS, HISTORIC AGRICULTURAL EXHIBITS, FOOD PROCESSING, DAIRY, CIDER MAKING, GARDENING AND PLANT IDENTIFICATION).
3. ENTERTAINMENT: (HARVEST FESTIVALS, CONCERTS, BARN DANCES, PETTING ZOO, HUNTING/WORKING DOG TRIALS/TRAINING, HAUNTED HOUSE, HAUNTED HAYRIDE, CORN MAZE, PUMPKIN CARVING, EGG PAINTING, MINIATURE GOLF, TODDLER RIDES, PLAY GROUND AREAS, SCAVENGER HUNTS, CRAFT FAIR, ANTIQUE SHOWS, ART SHOWS).
4. HOSPITALITY SERVICES: (BED & BREAKFAST, RETREAT CENTER, ASSEMBLY AREA, COUNTRY WHIDDINGS, PARTY RECEPTIONS, PICNIC, CAMPFIRES, FAMILY REUNIONS, CATERING, COUNTRY STORE, GIFT SHOP, FAIR FOOD, CAMPING).
5. DIRECT SALES: (U-PICK, ROADSIDE FARM MARKET OR NURSERY SALES WITH PARKING SPACES FOR MORE THAN TEN (10) VEHICLES).
6. OTHER USES AS DETERMINED APPROPRIATE BY THE BOARD OF ZONING APPEALS.

ADD SEC. 3.07, Definitions
ASSEMBLY AREA - A DEFINABLE OPEN AREA, A PARTIALLY ENCLOSED STRUCTURE OR A FULLY ENCLOSED STRUCTURE USED OR INTENDED TO BE USED PRIMARILY FOR ENTERTAINMENT EVENTS, EXPOSITIONS AND OTHER PUBLIC GATHERINGS.

ADD SEC. 3.131, Definitions:
BED AND BREAKFAST - AN OWNER-OCCUPIED RESIDENTIAL BUILDING WHEREIN UP TO FIVE (5) ROOMS ARE OFFERED, FOR COMPENSATION, AS LODGING FOR GUESTS AND WHICH MAY PROVIDE ONE MEAL PER DAY FOR OVERNIGHT GUESTS.

ADD SEC. 3.2211, Definitions
DECK - A PLATFORM SUPPORTED BY PILLARS OR POSTS THAT IS EITHER FREESTANDING OR ATTACHED TO ANOTHER STRUCTURE.

AMEND SEC. 3.3101, Definitions:
FARM: A PARCEL OF FIVE OR MORE CONTIGUOUS ACRES THAT IS USED FOR THE PRODUCTION OF AGRICULTURAL PRODUCTS, INCLUDING RELATED STRUCTURES THEREON. THE PARCEL SHALL BE ENROLLED IN THE CURRENT AGRICULTURAL USE VALUE (CAUV) SYSTEM THROUGH THE WARREN COUNTY AUDITOR'S OFFICE.

ADD SEC. 3.3105, Definitions:
FENCE, DECORATIVE: A PHYSICAL BARRIER THAT IS CONSTRUCTED SO THAT THE VERTICAL SURFACE IS OPEN OR CLOSED. THE FENCE MUST CONTRIBUTE TO THE IDENTIFICATION AND AESTHETICS OF PRINCIPAL USE AND COMPRISED OF PVC VINYL, ORNAMENTAL ALUMINUM OR WROUGHT IRON.

AMEND SEC. 3.32, Definitions:
FOREST: A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND OTHER WOODY PLANTS COVERING A LAND AREA OF ONE OR MORE ACRES.

AMEND SEC. 3.352, Definitions:
GROSS FLOOR AREA: THE TOTAL AREA OF A BUILDING MEASURED BY TAKING THE OUTSIDE DIMENSIONS OF THE BUILDING AT EACH FLOOR LEVEL INTENDED FOR OCCUPANCY OR STORAGE.

SEC. 3.57 **Parking Lot:** AN AREA parcel of land devoted to unenclosed parking spaces, EITHER PERMANENT OR TEMPORARY AGRITOURISM IN DESIGN MATERIALS.

AMEND SEC. 3.58, Definitions:
Parking Space, **PERMANENT:** A surfaced area of not less than one hundred eighty (180) square feet, either within a structure or in the open, exclusive of driveways and access drives, reserved for the parking of a motor vehicle.

ADD SEC. 3.5801, Definitions:
PARKING SPACE, TEMPORARY AGRITOURISM: A PERMEABLE AREA RESERVED FOR THE PLACEMENT OF VEHICLES DESIGNATED BY THE OPERATOR OF THE EVENT.

AMEND SEC. 3.605, Definitions:
RECREATION: THE REFRESHMENT OF BODY AND MIND THROUGH FORMS OF PLAY, AMUSEMENT, OR RELAXATION. THE RECREATION EXPERIENCE MAY BE ACTIVE (REQUIRING SOME CONSTRUCTED FACILITIES AND/OR ORGANIZED ACTIVITIES) OR PASSIVE (USING EXISTING NATURAL RESOURCES AND HAS A MINIMAL IMPACT).

ADD SEC. 3.7265, Definitions:
WALL, DECORATIVE: A PHYSICAL BARRIER THAT IS CONSTRUCTED SO THAT THE VERTICAL SURFACE IS CLOSED, THUS PREVENTING THE PASSAGE OF LIGHT, AIR, AND VISION IN A HORIZONTAL PLANE. THE EXTERIOR MATERIALS ADJACENT TO THE ROAD RIGHT-OF-WAY SHALL BE COMPRISED OF BRICK AND/OR STONE.

ADD SEC. 3.7266, Definitions:
WALL, RETAINING: A WALL OR TERRACED COMBINATION OF WALLS USED AT A GRADE CHANGE TO HOLD THE SOIL ON THE UP-HILL SIDE FROM SLUMPING, SLIDING OR FALLING. THE EXTERIOR MATERIALS ADJACENT TO THE ROAD RIGHT-OF-WAY SHALL BE COMPRISED OF ANY COMBINATION OF THE FOLLOWING: BRICK, KEYSTONE CONCRETE BLOCK, STONE.

AMEND SEC. 5.52, OPEN SPACE RURAL RESIDENCE ZONE OSR-1, PERMITTED USES:

F. ~~Clubs, including country clubs, swimming and tennis clubs, provided that any structures, except fences, shall be at least fifty (50) feet from property lines, and any parking areas necessary to the operations shall be at least two hundred (200) feet from any adjoining residential zone, the setback from street or streets shall be the same as for residences.~~

F. E. Publicly owned or operated properties including parks, playgrounds and community centers.

G. ~~Recreation area, private or charitable, provided a minimum of thirty (30) acres is used and fenced on all sides.~~

H. F. Public and private forests and nature reserves or similar conservation projects, including the usual buildings therefor.

G. PRIVATE FORESTS AND NATURE RESERVES, INCLUDING THE USUAL BUILDINGS THEREFOR WHERE PARKING SPACES ARE LIMITED TO TEN (10) VEHICLES.

I. H. Model homes as described in Section 5.752 (4 H).

J. I. A temporary or permanent building for protection from the weather elements, shall be required for animals other than for two (2) dogs, which reside on parcels less than five (5) acres. This building shall be established

as an accessory and located at least eighty-five (85) feet from every property line.

K. J. Roadside FARM MARKET stands, offering for sale only agricultural products of which at least seventy-five FIFTY percent (75 50%) of the GROSS INCOME RECEIVED FROM THE MARKET IS DERIVED FROM PRODUCE RAISED ON FARMS OWNED OR OPERATED BY THE MARKET OPERATOR IN A NORMAL CROP YEAR ~~total value sold are produced upon the premises. A sign advertising such products not exceeding twelve (12) square feet in area may be used. Ample off-street or off-road parking space shall be provided to take care of all vehicles visiting the roadside FARM MARKET stand. PARKING SPACES ARE LIMITED TO TEN (10) VEHICLES. See Chapter 16 and 28.~~

L. ~~Bulletin boards for public, charitable or religious institutions not exceeding twelve (12) square feet of area. See Chapter 28.~~

M. Accessory buildings defined as either temporary or permanent and uses customarily incidental to any permitted uses, provided the primary use or structure has been established or constructed on the same lot.

N. Signage in accordance with Chapter 28.

AMEND SEC. 5524, OPEN SPACE RURAL RESIDENCE ZONE OSR-1, CONDITIONAL USES:

G. AGRITOURISM.

II. CLUBS, INCLUDING COUNTRY CLUBS, SWIMMING AND TENNIS CLUBS, PROVIDED THAT ANY STRUCTURES, EXCEPT FENCES, SHALL BE AT LEAST FIFTY (50) FEET FROM PROPERTY LINES, AND ANY PARKING AREAS NECESSARY TO THE OPERATION SHALL BE AT LEAST TWO HUNDRED (200) FEET FROM ANY ADJOINING RESIDENTIAL ZONE; THE SETBACK FROM STREET OR STREETS SHALL BE THE SAME AS FOR RESIDENCES.

I. RECREATION AREA, NOT FOR PROFIT, PRIVATE OR CHARITABLE, PROVIDED A MINIMUM OF THIRTY (30) ACRES IS USED AND FENCED ON ALL SIDES.

J. PRIVATE FORESTS AND NATURE RESERVES, INCLUDING THE USUAL BUILDINGS THEREFORE WITH PARKING SPACES FOR MORE THAN TEN (10) VEHICLES.

G. K. Signage in accordance with Chapter 28.

AMEND SEC. 5.752, RESIDENCE ZONE R-1, PERMITTED USES:

E. ~~Clubs, including country clubs, swimming and tennis clubs, provided that any structures except fences shall be at least fifty (50) feet from property lines, and any parking areas necessary to the operation shall be at least two hundred (200) feet from any adjoining residential zone; the setback from street or streets shall be the same as for residences;~~

F. E. Publicly owned or operated properties including parks, playgrounds and community centers.

G. ~~Recreation area, private or charitable, provided a minimum of thirty (30) acres is used and fenced on all sides.~~

H. F. Public and private forests and nature reserves or similar conservation projects, including the usual buildings therefor.

G. PRIVATE FORESTS AND NATURE RESERVES, INCLUDING THE USUAL BUILDINGS THEREFOR WHERE PARKING SPACES ARE LIMITED TO TEN (10) VEHICLES.

I. ~~H.~~ Model homes: 1. Shall exist within a subdivision, 2. Shall be located along the primary ingress and egress to the subdivision, 3. Shall be declared to the Clearcreek Township Zoning Department prior to the use being established, 4. Shall be eliminated after ninety (90) percent of the parcels within that subdivision are under construction.

J. I. A temporary or permanent building for protection from the weather elements, shall be required for animals other than for two (2) dogs, which reside on parcels less than five (5) acres. This building shall be established as an accessory and located at least eighty-five (85) feet from every property line.

K. J. Roadside FARM MARKET stands, offering for sale only agricultural products of which at least ~~seventy-five FIFTY~~ percent (75 50%) of the GROSS INCOME RECEIVED FROM THE MARKET IS DERIVED FROM PRODUCE RAISED ON FARMS OWNED OR OPERATED BY THE MARKET OPERATOR IN A NORMAL CROP YEAR ~~total value sold are produced upon the premises. A sign advertising such products not exceeding twelve (12) square feet in area may be used. Ample off-street or off-road parking space shall be provided to take care of all vehicles visiting the roadside FARM MARKET stand. PARKING SPACES ARE LIMITED TO TEN (10) VEHICLES. See Chapter 16 and 28.~~

~~L. Boarding, for public, charitable or religious institutions not exceeding twelve (12) square feet of area. See Chapter 28.~~

M. Accessory buildings defined as either temporary or permanent and uses customarily incidental to any permitted uses, provided the primary use or structure has been established or constructed on the same lot.

N. Signage in accordance with Chapter 28.

AMEND SEC. 5.7524, RESIDENCE ZONE R-1, CONDITIONAL USES:

G. AGRITOURISM.

H. CLUBS, INCLUDING COUNTRY CLUBS, SWIMMING AND TENNIS CLUBS, PROVIDED THAT ANY STRUCTURES, EXCEPT FENCES, SHALL BE AT LEAST FIFTY (50) FEET FROM PROPERTY LINES, AND ANY PARKING AREAS NECESSARY TO THE OPERATION SHALL BE AT LEAST TWO HUNDRED (200) FEET FROM ANY ADJOINING RESIDENTIAL ZONE; THE SETBACK FROM STREET OR STREETS SHALL BE THE SAME AS FOR RESIDENCES.

I. RECREATION AREA, NOT FOR PROFIT, PRIVATE OR CHARITABLE, PROVIDED A MINIMUM OF THIRTY (30) ACRES IS USED AND FENCED ON ALL SIDES.

J. PRIVATE FORESTS AND NATURE RESERVES, INCLUDING THE USUAL BUILDINGS THEREFORE, WITH PARKING SPACES FOR MORE THAN TEN (10) VEHICLES.

K. Signage in accordance with Chapter 28.

AMEND SEC. 6.02, TOWNSHIP RESIDENCE ZONE TR-1, PERMITTED USES:

~~E. Clubs, including country clubs, swimming and tennis clubs, provided that any structures, except fences, shall be at least fifty (50) feet from property lines, and any parking areas necessary to the operation shall be at least two hundred (200) feet from any adjoining residential zone; the setback from street or streets shall be the same as for residences;~~

~~F. E. Publicly owned or operated properties including parks, playgrounds and community centers.~~

~~G. Recreation area, private or charitable, provided a minimum of thirty (30) acres is used and fenced on all sides.~~

~~H. F. Public and private forests and nature reserves, including the usual buildings therefor.~~

~~G. PRIVATE FORESTS AND NATURE RESERVES, INCLUDING THE USUAL BUILDINGS THEREFORE, WITH PARKING SPACES LIMITED TO TEN (10) VEHICLES.~~

~~I. H. Model homes as described in Section 5.752 (1H).~~

~~J. A temporary or permanent building for protection from the weather elements, shall be required for animals other than for two (2) dogs, which reside on parcels less than five (5) acres. This building shall be established as an accessory and located at least eighty-five (85) feet from every property line.~~

~~K. J. Roadside FARM MARKET stands, offering for sale only agricultural products of which at least seventy-five FIFTY percent (75 50%) of the GROSS INCOME RECEIVED FROM THE MARKET IS DERIVED FROM PRODUCE RAISED ON FARMS OWNED OR OPERATED BY THE MARKET OPERATOR IN A NORMAL CROP YEAR total value sold are produced upon the premises. A sign advertising such products not exceeding twelve (12) square feet in area may be used. A single off-street or off-road parking space shall be provided to take care of all vehicles visiting the roadside FARM MARKET stand. PARKING SPACES ARE LIMITED TO TEN (10) VEHICLES. See Chapter 16 and 28.~~

~~L. K. Accessory buildings defined as either temporary or permanent and uses customarily incidental to any permitted uses, provided the primary use or structure has been established or constructed on the same lot.~~

~~M. L. Signage in accordance with Chapter 28.~~

AMEND SEC. 6.024, TOWNSHIP RESIDENCE ZONE TR-1, CONDITIONAL USES:

~~D. AGRITOURISM.~~

~~E. CLUBS, INCLUDING COUNTRY CLUBS, SWIMMING AND TENNIS CLUBS, PROVIDED THAT ANY STRUCTURES, EXCEPT FENCES, SHALL BE AT LEAST FIFTY (50) FEET FROM PROPERTY LINES, AND ANY PARKING AREAS NECESSARY TO THE OPERATION SHALL BE AT LEAST TWO HUNDRED (200) FEET FROM ANY ADJOINING RESIDENTIAL ZONE; THE SETBACK FROM STREET OR STREETS SHALL BE THE SAME AS FOR RESIDENCES.~~

F. RECREATION AREA, NOT FOR PROFIT, PRIVATE OR CHARITABLE, PROVIDED A MINIMUM OF THIRTY (30) ACRES IS USED AND FENCED ON ALL SIDES.

G. PRIVATE FORESTS AND NATURE RESERVES, INCLUDING THE USUAL BUILDINGS THEREFORE WITH PARKING SPACES FOR MORE THAN TEN (10) VEHICLES.

H. Signage in accordance with Chapter 28.

AMEND SEC. 6.52, Suburban Residence Zone, SR-1 Permitted Uses:

F. Model homes as described in Section 5.752 (4 H).

AMEND SEC. 7.02, R-1A PERMITTED USES:

G. Model homes as described in Section 5.752 (4 H).

AMEND SEC. 7.52, Residence Zone R-2, Permitted Uses:

D. MODEL HOMES AS DESCRIBED IN SECTION 5.752 (H).

E. ACCESSORY BUILDINGS DEFINED AS EITHER TEMPORARY OR PERMANENT AND USES CUSTOMARILY INCIDENTAL TO ANY PERMITTED USES, PROVIDED THE PRIMARY USE OR STRUCTURE HAS BEEN ESTABLISHED OR CONSTRUCTED ON THE SAME LOT.

F. Signage in accordance with Chapter 28.

AMEND SEC. 8.02, Residence Zone R-3, Permitted Uses:

C. ACCESSORY BUILDINGS DEFINED AS EITHER TEMPORARY OR PERMANENT AND USES CUSTOMARILY INCIDENTAL TO ANY PERMITTED USES, PROVIDED THE PRIMARY USE OR STRUCTURE HAS BEEN ESTABLISHED OR CONSTRUCTED ON THE SAME LOT.

G. D. Signage in accordance with Chapter 28.

AMEND SEC. 11.02 (P), Light Industry Zone M-1, Permitted Uses:

Circus, ~~annual or seasonal~~ racing meets of aircraft, HORSES, dogs, automobiles, motorcycles, go-carts AND drag strips and the, PROVIDED structure or buildings for same shall be at least five hundred (500) feet from any residence zone.

AMEND SEC. 16.02, PARKING AND LOADING REGULATIONS:

Number of spaces to be provided: In all zones, there shall be provided at the time any building or structure is erected, ~~or~~ structurally altered (except as provided in Section 16.03) OR THE USE IS ESTABLISHED off-street parking spaces in accordance with the following requirements:

USE

Dwelling, one (1) and two (2) family and summer cottages

Multiple dwellings

Rooming or boarding house

Private club or lodge

Religious Institution

School (except high school or college)

College or high school

Country club or golf club

Community center, library, museum or art gallery

USE

Hospital, sanitarium, convalescent home, nursing home, rest home, home for the aged or similar institution

Hotel

Tourist home, cabin or motel

Dance hall, assembly or exhibition hall without fixed seats

Business or professional office,

PARKING SPACE REQUIRED

Two (2) for each dwelling unit

Two (2) for each dwelling unit

One (1) for each two (2) sleeping rooms

One (1) for each ten (10) members

One (1) for each four (4) seats in the main auditorium

One (1) for each ten (10) seats in auditorium or main assembly room; or one (1) for each classroom and office, whichever is greater

One (1) for each eight (8) seats in main auditorium or three (3) for each classroom, whichever is greater

One (1) for each five (5) members

Ten (10) plus one (1) additional for each three hundred (300) square feet of floor area in excess of two thousand (2000) square feet

PARKING SPACE REQUIRED

One (1) for each three (3) beds

One (1) for each three (3) sleeping rooms or suites, plus one (1) for each two hundred (200) square feet of commercial area contained therein

One (1) for each sleeping room or suite

One (1) for each one hundred (100) square feet of floor area used therefore

Three (3) plus one (1) additional

studio, bank, medical or dental clinic	for each four hundred (400) square feet of floor area used therefor
Bowling alley	Five (5) for each alley
Monitory or funeral home	One (1) for each fifty (50) square feet of floor space in slumber rooms, parlors or individual funeral service rooms
Restaurant, nightclub, cafe or similar recreation or amusement establishment	One (1) for each one hundred (100) square feet of floor space
Retail store or personal service establishment except as otherwise specified herein	One (1) for each two hundred (200) square feet of gross floor space
Furniture or appliance store, hardware store, wholesale establishments, machinery or equipment sales and service, clothing or shoe repair or service shop	Two (2) plus one (1) additional for each three hundred (300) square feet of floor area over one thousand (1000) square feet
Printing or plumbing shop or similar service establishment herein	One (1) for each three (3) persons employed
Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse or similar establishment	One (1) for each two (2) employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith
ROADSIDE FARM MARKET	TWO (2) PLUS ONE (1) ADDITIONAL PER EVERY ONE HUNDRED (100) SQUARE FEET OF ASSEMBLY AREA
AGRI TOURISM	TOTAL NUMBER OF PARTICIPANTS TO THE EVENT DIVIDED BY FOUR (4) WILL DETERMINE THE MINIMUM NUMBER OF TEMPORARY AGRICULTURAL PARKING SPACES

AMEND SEC. 16.05 Development and Maintenance of Parking Areas: Every off-street parking space required by these regulations shall be provided with satisfactory access to a street or alley by means of a surfaced driveway and all parking areas shall be developed and maintained in accordance with the following requirements:

- A. **Distances:** No entrance to or exit from a parking area for ten (10) or more vehicles shall be closer than fifty (50) feet to any street intersection.
- B. **Surface and lighting:**
 - A. All PERMANENT off-street parking areas, including any commercial parking lot, for more than ten (10) vehicles shall be graded and permanently surfaced with an asphalt or Portland cement binder pavement so as to provide a durable and dustless surface, and shall be graded for proper disposal of surface water, subject to the review satisfaction of the zoning inspector and the wairen county engineer.
 - B. ALL TEMPORARY AGRITOURISM OFF-STREET PARKING AREAS, THE SPACES MAY BE COMPRISED OF THE FOLLOWING MATERIALS: GRAVEL, DIRT AND/OR GRASS. AT THE TIME OF THE EVENT THE SPACES AND ACCESSWAYS SHALL ALLOW FOR THE UNOBSTRUCTED MOVEMENT OF VEHICLES.
 - C. The design and location of any parking area accessway intersection of a public street is subject to approval by the street authority of jurisdiction.
 - D. Any lighting used to illuminate such parking area, shall be of a type, height, intensity and shielding necessary so not to be spot-glare nuisance or safety hazard to anyone in view thereof. Approval by the aforementioned applicable authorities is also required to ensure that no sight distance obstruction is posed by any lighting as to design or location in and around such parking area.

AMEND SEC. 17.06 (B), BUFFER AND SCREENING, Buffer Areas:

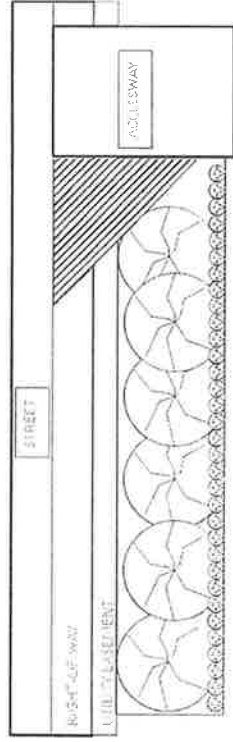
In calculating a buffer, the width of the property must be established. The following examples are based on a lot width of one (100) feet. The minimum buffer width, the number and type of vegetation as well as screening materials are based on this standard. If the width of the property is greater or less than the standard, a percentage shall be established based on the one hundred (100) feet standard. This derived percentage shall be used to compute the requirements for vegetation. The standard width and the maximum percentage of screening materials shall remain constant, regardless of the width, WHEN THE FINAL NUMBER OF REQUIRED TREES IS NOT A WHOLE NUMBER, THE WHOLE NUMBER WILL BE ROUNDED UP IF TENTHS IS GREATER THAN OR EQUAL TO FIVE (5) OR ROUNDED DOWN IF LESS THAN FIVE (5).

AMEND SEC. 17.06, Buffer and Screening, Buffer Areas

OPTION 1B: NON-RESIDENTIAL STREETSCAPE BUFFER PER EVERY ONE HUNDRED (100) FEET OF ROAD FRONTAGE, WHEN THE BUILDING SETBACK IS EQUAL TO OR GREATER THAN FIFTY (50) FEET AND LESS THAN ONE HUNDRED (100) FEET FROM THE EDGE OF THE RIGHT-OF-WAY.

MINIMUM NUMBER OF TREES	6
MINIMUM NUMBER OF EVERGREEN SHRUBS	33

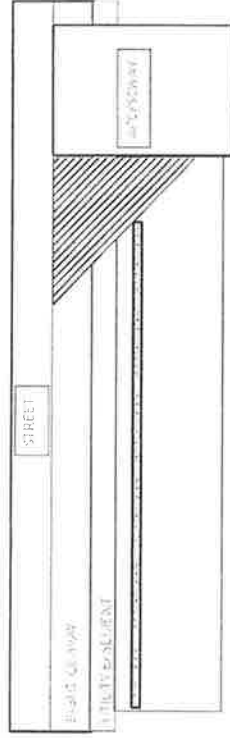
Option 1B: EXAMPLE OF POSSIBLE DESIGN PER EVERY ONE HUNDRED (100) FEET



AMEND SEC. 17.06, Buffer and Screening, Buffer Areas

OPTION 1C: NON-RESIDENTIAL STREETSCAPE BUFFER PER EVERY ONE HUNDRED (100) FEET OF ROAD FRONTAGE, WHEN THE BUILDING SETBACK IS EQUAL TO OR GREATER THAN FIFTY (50) FEET AND LESS THAN ONE HUNDRED (100) FEET FROM THE EDGE OF THE RIGHT-OF-WAY. A CONTINUOUS DECORATIVE WALL, NO LESS THAN FOUR (4) FEET IN HEIGHT AS MEASURED FROM THE ELEVATION OF THE PAVEMENT ON RIGHT-OF-WAY SHALL BE REQUIRED. DECORATIVE WALL SHALL BE LOCATED OUTSIDE OF THE CLEAR SIGHT TRIANGLE. EXISTING ELEVATION WILL BE USED IF NO ROAD IMPROVEMENTS ARE REQUIRED DUE TO THE USE OF THE PROPERTY. IF ROAD IMPROVEMENTS RESULT FROM THE USE OF THE PROPERTY THE FINAL ELEVATION AFTER THE IMPROVEMENT WILL BE USED.

Option 1C: EXAMPLE OF POSSIBLE DESIGN PER EVERY ONE HUNDRED (100) FEET

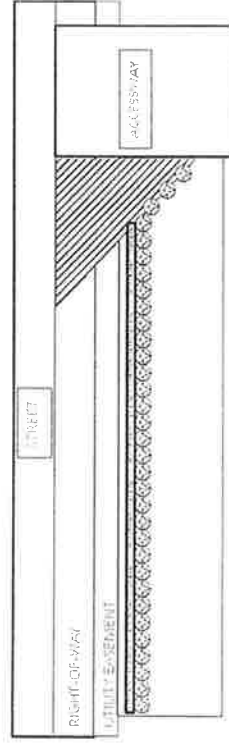


AMEND SEC. 17.06 Buffer and Screening, Buffer Areas

OPTION 1D: NON-RESIDENTIAL STREETSCAPE BUFFER PER EVERY ONE HUNDRED (100) FEET OF ROAD FRONTAGE, WHEN THE BUILDING SETBACK IS EQUAL TO OR GREATER THAN ONE HUNDRED (100) FEET AND LESS THAN ONE HUNDRED FIFTY (150) FEET FROM THE EDGE OF THE RIGHT-OF-WAY, IN ADDITION TO VEGETATION A CONTINUOUS DECORATIVE FENCE NO LESS THAN FOUR (4) FEET IN HEIGHT AS MEASURED FROM THE ELEVATION OF THE PAVEMENT ON RIGHT-OF-WAY SHALL BE REQUIRED. DECORATIVE FENCES SHALL BE LOCATED OUTSIDE OF THE CLEAR SIGHT TRIANGLE. EXISTING ELEVATION WILL BE USED IF NO ROAD IMPROVEMENTS ARE REQUIRED DUE TO THE USE OF THE PROPERTY. IF ROAD IMPROVEMENTS RESULT FROM THE USE OF THE PROPERTY THE FINAL ELEVATION AFTER THE IMPROVEMENT WILL BE USED. REQUIRED VEGETATION CAN BE LOCATED ON EITHER SIDE OF THE DECORATIVE FENCE TO MAXIMIZE BUFFER.

MINIMUM NUMBER OF EVERGREEN SHRUBS	33
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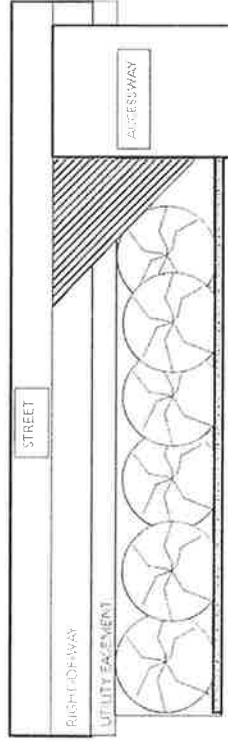
Option 1D: EXAMPLE OF POSSIBLE DESIGN PER EVERY ONE HUNDRED (100) FEET



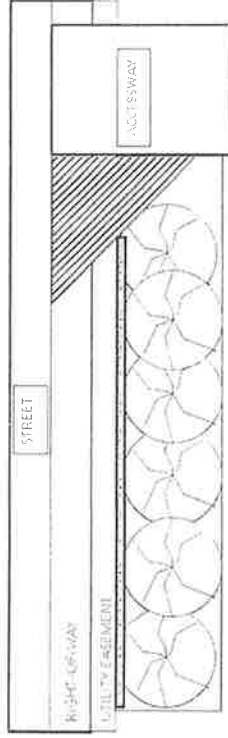
AMEND SEC. 17.06, Buffer and Screening, Buffer Areas
 OPTION 1E: NON-RESIDENTIAL STREETSCAPE BUFFER PER EVERY ONE HUNDRED (100) FEET OF ROAD FRONTAGE, WITHIN THE BUILDING SETBACK IS EQUAL TO OR GREATER THAN ONE HUNDRED (100) FEET AND LESS THAN ONE HUNDRED AND FIFTY (150) FEET FROM THE EDGE OF THE RIGHT-OF-WAY. IN ADDITION TO VEGETATION A CONTINUOUS DECORATIVE WALL NO LESS THAN FOUR (4) FEET IN HEIGHT AS MEASURED FROM THE ELEVATION OF THE PAVEMENT ON RIGHT-OF-WAY SHALL BE REQUIRED. DECORATIVE WALLS SHALL BE LOCATED OUTSIDE OF THE CLEAR SIGHT TRIANGLE. EXISTING ELEVATION WILL BE USED IF NO ROAD IMPROVEMENTS ARE REQUIRED DUE TO THE USE OF THE PROPERTY. IF ROAD IMPROVEMENTS RESULT FROM THE USE OF THE PROPERTY THE FINAL ELEVATION AFTER THE IMPROVEMENT WILL BE USED. REQUIRED VEGETATION CAN BE LOCATED ON EITHER SIDE OF THE DECORATIVE WALL TO MAXIMIZE BUFFER.

MINIMUM NUMBER OF TREES
6

Option 1E: Example of Possible Design per Every One Hundred (100) Feet



OR

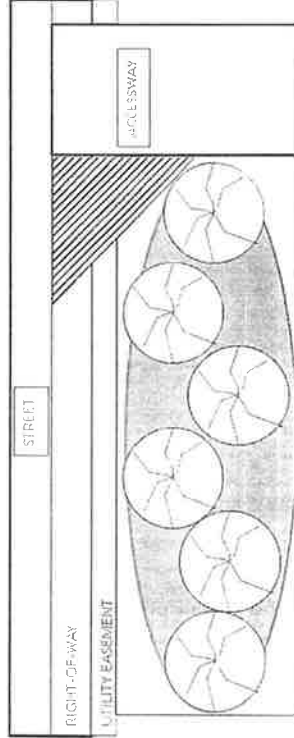


AMEND SEC. 17.06, Buffer and Screening, Buffer Areas

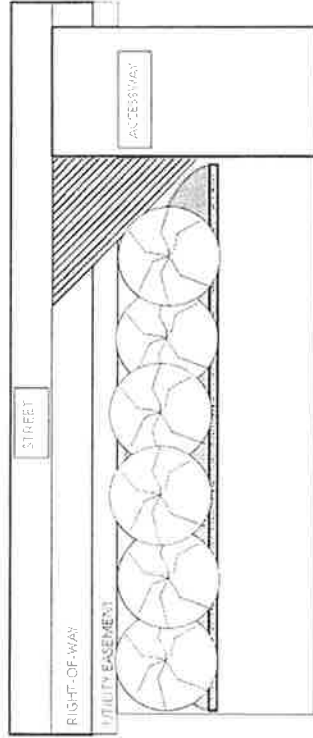
Option 1B: Non-Residential streetscape buffer per every one hundred (100) feet of road frontage, when the building setback is equal to or greater than fifty (50) feet ONE HUNDRED AND FIFTY (150) FEET from the edge of the right-of-way. In addition to vegetation a continuous earth form that is no less than four (4) feet in height as measured from the elevation of the pavement on right-of-way shall be required. Earth forms shall comply with Section 17.08 (a) (2) and shall be located outside of the clear sight triangle. A RETAINING WALL MAY BE USED IN CONJUNCTION WITH THE EARTH FORM. Existing elevation will be used if no road improvements are required due to the use of the property. If road improvements result from the use of the property the final elevation after the improvement will be used. Required vegetation shall be located on the earth form to maximize buffer.

Minimum number of trees
6

Option 1B: Example of Possible Design per Every One Hundred (100) Feet



or



AMEND SEC. 17.07 (C) (1), Buffer and Screening, Landscape Requirements for Buffer Areas:

1. Tree standards for deciduous trees. This requirement shall be satisfied as follows:
 - a. Trees shall be balled and burlapped or in a container prior to installation.
 - b. Trees shall have a minimum caliper size of one and one half (1 1/2) inches for at least one trunk.
 - c. Trees under ~~three and fifteen sixteenths (3-15/16)~~ **four (4) inches** shall have the caliper measurement six (6) inches above the ground.
 - d. Trees **EQUAL TO OR GREATER THAN** ~~over~~ four (4) inches in diameter shall have the caliper measurement twelve (12) inches above the ground.
2. Tree standards for evergreen trees. This requirement shall be satisfied as follows:
 - a. Trees shall be balled and burlapped or in a container prior to installation.
 - b. Trees shall be a minimum of four (4) feet in height at the time of installation.
 - c. The trees shall provide an effective, dense screen with an opacity of eighty (80) percent within four (4) years of planting.

AMEND SEC. 17.07 (C) (2), Buffer and Screening, Landscape Requirements for Buffer Areas:

1. Tree standards for evergreen trees. This requirement shall be satisfied as follows:
 - a. Trees shall be balled and burlapped or in a container prior to installation.
 - b. Trees shall be a minimum of four (4) feet in height at the time of installation.
 - c. The trees shall provide an effective, dense screen with an opacity of eighty (80) percent within four (4) years of planting.

- d. All trees shall be planted according to the following formula: maximum crown diameter minus five (5) feet equals the distance of the planting from the center of any other planting.
- e. It is suggested that a minimum of three (3) tree species be planted in a landscape buffer to increase the resistance to disease.
- f. It is required that a **minimum of three (3) tree species be planted in a landscape buffer to increase the resistance to disease.**
- g. The height at the time of installation shall be measured from the level of the final surface grade to the most vertical height of the tree.

AMEND SEC. 17.08 (A) (1), Buffer and Screening, Screening Materials

A. Screening Materials

1. Walls/FENCES

- a. All walls required by this chapter ~~must be of masonry material or masonry with a stone or textured finish.~~
- b. ~~Decorative openings may be incorporated into the upper twenty (20) percent of an otherwise solid masonry wall located along a street frontage.~~
- a. DECORATIVE FENCES CAN BE USED IN PLACE OF EARTH FORMS WHERE APPLICABLE.
- b. DECORATIVE WALLS CAN BE USED IN PLACE EARTH FORMS WHERE APPLICABLE.
- c. RETAINING WALLS CAN BE USED IN CONJUNCTION WITH EARTH FORMS TO REDUCE THE DEPTH OF THE BUFFER REQUIREMENT WHERE APPLICABLE.

DELETE SEC. 17.08 (A) (3), BUFFER AND SCREENING, Screening Materials:

3. Fences
 - a. ~~The following types of fences will not satisfy the landscape buffer requirement: chain-link fences, metal farm fences, barbed wire, wire stock fence or other wire mesh fencing.~~
 - b. ~~Wood fences, including but not limited to stakes, lattice, close boarding, sheety, or woven sapling shall be applied toward the landscape buffer requirement.~~
 - c. ~~PVC vinyl fence, ornamental aluminum, or wrought iron fabrication may be applied toward the landscape buffer requirement if the opacity threshold is met.~~
 - d. ~~Fences must provide a minimum opacity of eighty (80) percent from grade to the derived height.~~
 - e. ~~Fences may vary in height along the grade, but shall not exceed six (6) feet in height from grade.~~
 - f. ~~The finished side of the fence shall face the adjacent property or the public right-of-way.~~

AMEND SEC. 17.09, Buffer and Screening, Existing Vegetation Credits for Required Landscaping

- A. Existing healthy vegetation shall be retained when possible and may be credited toward landscape requirements.
- 1. Vegetation to be saved shall be located and identified on site plans.
- 2. Credit given for existing, healthy, protected trees shall be a number equal to the value of the diameter in inches of each protected tree divided by one and one half (1 1/2) inches, but no fraction thereof, as measured at four (4) feet above grade.
- 3. Trees so credited must be at least one and one half (1 1/2) inches in caliper and be uniformly encircled by a dripline protection area, shown on the landscape plan.
- 4. The size, type and location of each tree shall be designated on the landscape plan with the zone protection area shown graphically.
- 5. ~~Two existing ornamental trees may substitute for one shade or evergreen tree.~~
- 6-5. One existing deciduous tree may substitute for ten (10) shrubs.
- 7-6. If the tree(s) for which credit was given dies within five years of construction on the preservation site, one tree shall be replaced for each tree credit given.
- 8-7. Vegetation receiving credit is encouraged but not required to be from tables 17.13 and 17.14.
- 9-8. Vegetation receiving credit shall be located parallel to the public right-of-way.

AMEND SEC. 17.11, Buffer and Screening, Administration:

- A. Design and review proceedings. The applicant for development is advised to schedule a pre-submittal conference with the zoning inspector with reference to specific design or review procedures.
- B. Plan submittal. Landscape plans are to be submitted concurrently with the initial submittal of the applicable plan or plans required for development approval.
- C. Review proceedings. Landscape plans are reviewed in the same manner and concurrent with the applicable plan review required for developmental approval. Comments on the landscape plans and requests for corrections, or re-submittals are made in conjunction with responses to the applicable development plan or site plan.
- D. Existing vegetation. If the landscape plan incorporates existing vegetation, the zoning inspector will use the criteria in sections 17.07(a), 17.09 and 17.10 to determine compliance with the vegetation credit standard and to determine the vegetation credit. The vegetation credit will be deducted from the vegetation required per section 17.06.
- E. Enforcement. The zoning inspector enforces the landscaping regulations. In order to determine if a zoning compliance certificate is to be issued, a site inspection will be scheduled with the property owner.

- F. Variances. The board of zoning appeals (BZA) will review variance requests as outlined in section 17.05.
 - G. A zoning compliance certificate will be issued when the following criteria are met:
 - a. The landscape plan is fully implemented, or
 - b. The applicant executes a performance bond or surety bond, certified check, escrow account letter of credit, or other means of security with the township. The assurance shall be equal to the cost of installation plus a twenty (20) percent allowance for administrative costs, inflation and potential damage to existing vegetation or improvements shown on the landscape plans.
- ~~If the landscape plan is not completed within one (1) year from the date of submittal, the township shall complete the plan using the funds posted as security.~~

ADD 21.01(B) (3), BOARD OF ZONING APPEALS, STANDARDS FOR AREA VARIANCES:

IT SHALL BE THE RESPONSIBILITY OF THE APPLICANT FOR AN AREA VARIANCE TO ANALYZE THE FOLLOWING STANDARDS AS PART OF THE APPLICATION AND SITE PLAN:

1. WHETHER THE PROPERTY IN QUESTION WILL YIELD A REASONABLE RETURN OR WHETHER THERE CAN BE ANY BENEFICIAL USE OF THE PROPERTY WITHOUT THE VARIANCE.
2. WHETHER THE VARIANCE IS SUBSTANTIAL.
3. WHETHER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD WOULD BE SUBSTANTIALLY ALTERED OR WHETHER ADJOINING PROPERTIES WOULD SUFFER A SUBSTANTIAL DETRIMENT AS A RESULT OF THE VARIANCE.
4. WHETHER THE VARIANCE WOULD ADVERSELY AFFECT THE DELIVERY OF GOVERNMENTAL SERVICES SUCH AS WATER, SEWER AND GARBAGE.
5. WHETHER THE PROPERTY OWNER PURCHASED THE PROPERTY WITH THE KNOWLEDGE OF THE ZONING RESTRICTION.
6. WHETHER THE PROBLEM CAN BE SOLVED BY SOME MANNER OTHER THAN THE GRANTING OF A VARIANCE.
7. WHETHER THE SPIRIT AND INTENT BEHIND THE ZONING REQUIREMENT WOULD BE OBSERVED AND SUBSTANTIAL JUSTICE DONE BY GRANTING THE VARIANCE.
8. OTHER FACTORS THAT YOU CONSIDER IMPORTANT TO THE JUDGMENT OF YOUR CASE.

AMEND 21.01 (F) (1), BOARD OF ZONING APPEALS, CONDITIONAL USE PERMIT (CUP);

- (h) (i) existing vegetation and tree coverage along with the location, dimensions and other relevant data for all proposed landscaping, fences, walls or similar structures;
- (h) IDENTIFICATION AND LOCATION OF EACH PROPOSED USE;
- (i) any additional information that may be deemed necessary for a complete review of the proposed conditional use.

AMEND 21.01 (F) (4), BOARD OF ZONING APPEALS, STANDARDS FOR CONDITIONAL USE PERMITS;

It shall be the responsibility of the applicant for a conditional use permit to analyze the following standards and to propose conditions consistent with such standards as a part of the application and site plan. STANDARDS SHOULD ENSURE THAT THE USE IS COMPATIBLE WITH THE AREA IN FORM AND FUNCTION, WILL NOT ENDANGER PUBLIC HEALTH OR SAFETY, IS DESIGNED IN SUCH A WAY TO MITIGATE POTENTIAL CONFLICTS WITH ADJACENT AND NEARBY LAND USES AND THAT:

- (a) ~~The proposed use shall not be unsightly or offensive in appearance to abutting or nearby properties.~~
- (b) ~~The proposed use shall be physically suitable for the site on which it is proposed.~~
- (c) ~~The proposed use shall be of a size and/or number of structures that may be completed in a reasonable time.~~
- (d) ~~Buffer space, pedestrian walkways, plantings, mounding and walls shall be used on the periphery of the proposed use to maximize compatibility with adjoining existing land uses.~~
- (e) ~~The proposed use shall provide for adequate pedestrian circulation, vehicular traffic movement and off street parking pursuant to zoning "Parking and Loading Regulations".~~
- (f) ~~The proposed use shall provide for access by public emergency equipment such as fire, ambulance and police vehicles.~~
- (g) ~~If the proposed conditional use will generate estimated off site traffic in excess of the estimated off site traffic generated by the most intensive by-right permitted use for that class of zone, off site road improvements or fees for off site road improvements shall be required to~~

~~accommodate the excess traffic based on a traffic engineering study. (Examples of off site road improvements shall include but are not limited to turn lanes, deceleration lanes, pavement widening and traffic control devices.)~~

(h) ~~When a proposed use includes common or jointly owned space a homeowners association or similar organization shall be formed with the authority and responsibility to maintain and manage such common or jointly owned space in perpetuity.~~

- A. THE PROPOSED USE SHALL MITIGATE THE IMPACT OF NOISE GENERATED BY THE USE.
- B. THE PROPOSED USE SHALL MITIGATE THE IMPACT OF LIGHT POLLUTION GENERATED BY THE USE.
- C. THE PROPOSED BUILDINGS MATERIALS SHALL BE COMPATIBLE TO THE EXISTING STRUCTURES ON THE PROPERTY AND BLEND INTO THE CONTEXT OF THE NEIGHBORHOOD.
- D. THE PROPOSED USES SHALL BE PHYSICALLY SUITABLE FOR THE PARCEL, ON WHICH IT IS PROPOSED.
- E. THE PROPOSED USE SHALL BE OF A SIZE AND/OR NUMBER OF STRUCTURES THAT MAY BE COMPLETED IN A REASONABLE TIME.
- F. THE PROPOSED USE SHALL LOCATE STRUCTURES IN AN AREA THAT LIMITS THE IMPACT TO ADJOINING PROPERTIES.
- G. THE PROPOSED USE SHALL LOCATE OUTDOOR GATHERING PLACES IN AN AREA THAT LIMITS THE IMPACT TO ADJOINING PROPERTIES.
- H. BUFFER SPACE, PLANTINGS AND MOUNDING SHALL BE USED ON THE PERIPHERY OF THE PROPOSED USE OR PROPERTY TO MAXIMIZE COMPATIBILITY WITH ADJOINING PROPERTIES.
- I. WHEN A PROPOSED USE INCLUDES COMMON OR JOINTLY OWNED SPACE AN OWNERS ASSOCIATION OR SIMILAR ORGANIZATION SHALL BE FORMED WITH THE AUTHORITY AND RESPONSIBILITY TO MAINTAIN AND MANAGE SUCH COMMON OR JOINTLY OWNED SPACE IN PERPETUITY.
- J. THE PROPOSED USE SHALL BE SUPPORTED BY ADEQUATE PUBLIC INFRASTRUCTURE AND/OR SERVICES. THE PROPOSED USE SHALL NOT ADVERSELY AFFECT PUBLIC INFRASTRUCTURE AND/OR PUBLIC SERVICES TO THE SURROUNDING AREA OR CONDITIONS SHALL BE ESTABLISHED TO MITIGATE ADVERSE IMPACTS ON SUCH PUBLIC INFRASTRUCTURE AND/OR SERVICES AS IDENTIFIED IN WRITTEN COMMENTS FROM THE FOLLOWING DEPARTMENTS AS APPLICABLE: CLEARCREEK TOWNSHIP FIRE DISTRICT, CLEARCREEK TOWNSHIP POLICE DEPARTMENT, OHIO ENVIRONMENTAL PROTECTION AGENCY, OHIO DEPARTMENT OF TRANSPORTATION, WARREN COUNTY AUDITOR, WARREN COUNTY BUILDING DEPARTMENT, WARREN COUNTY ENGINEER'S OFFICE, WARREN

COUNTY HEALTH DEPARTMENT, WARREN COUNTY SOIL AND WATER CONSERVATION DISTRICT, WARREN COUNTY WATER DEPARTMENT,
 K. THE PROPOSED USE SHALL PROVIDE FOR ACCESS BY PUBLIC EMERGENCY EQUIPMENT SUCH AS: FIRE, AMBULANCE AND POLICE VEHICLES,
 L. THE PROPOSED USE SHALL PROVIDE FOR ADEQUATE PEDESTRIAN CIRCULATION, VEHICULAR TRAFFIC MOVEMENT AND OFF-STREET PARKING.
 M. IF THE PROPOSED CONDITIONAL USE WILL GENERATE ESTIMATED OFF-SITE TRAFFIC IN EXCESS OF THE ESTIMATED OFF-SITE TRAFFIC GENERATED BY THE MOST INTENSIVE BY-RIGHT PERMITTED USE FOR THAT CLASS OF ZONE, OFF-SITE ROAD IMPROVEMENTS OR FEES FOR OFF-SITE ROAD IMPROVEMENTS SHALL BE REQUIRED TO ACCOMMODATE THE EXCESS TRAFFIC ATTRIBUTED TO THE PROPOSED USE OF THE PROPERTY, BASED ON A TRAFFIC ENGINEERING STUDY. (EXAMPLES OF OFF-SITE ROAD IMPROVEMENTS SHALL INCLUDE BUT ARE NOT LIMITED TO: TURN LANES, DECELERATION LANES, PAVEMENT WIDENING AND TRAFFIC CONTROL DEVICES)

ADD 21.01 (G) (5), BOARD OF ZONING, APPEALS, HEARINGS:

APPROVALS FOR AREA VARIANCES AND EXPANSION OF LEGAL NON CONFORMING USES SHALL INCLUDE FINDING OF FACT AND PERFORMANCE CONDITIONS. APPROVALS SHALL EXPIRE AFTER TWELVE (12) MONTHS FROM THE DATE OF APPROVAL IF ANY OF THE FOLLOWING ARE APPLICABLE: 1. A ZONING PERMIT HAS NOT BEEN ISSUED FOR THE PROPERTY, 2. LESS THAN FIFTY (50) PERCENT OF THE APPROVED STRUCTURE(S) ARE CONSTRUCTED, 3. LESS THAN FIFTY (50) PERCENT OF THE APPROVAL CONDITIONS HAVE BEEN ACHIEVED.

AMEND SEC. 22.01 (C) (1), SPECIAL PROVISIONS, Swimming Pools:

In-ground swimming pools shall have a barrier installed to prevent uncontrolled access by children from the street or from adjacent properties.
 l. Fence/wall barrier
 a. Fence/wall shall be not less than four (4) feet in height.
 b. Fence/wall height shall be measured on the side of the fence/wall that faces away from the pool.
 c. The maximum vertical clearance between the bottom of the fence/wall and the ground shall be four (4) inches.
 d. Fence/wall shall be maintained in good condition.
 e. Fences that are composed of horizontal and vertical components shall conform to the following standards:
 i. When the fence design has horizontal components that establish a frame upon which the vertical components are attached, the

horizontal components shall be located on the swimming pool side of the fence.
 ii. When the fence design has vertical components that intersect the horizontal components, the horizontal components shall equally straddle the vertical components.
 iii. When the horizontal components are less than 45" apart the maximum spacing between all vertical components shall be four (4) inches.
 iv. When the horizontal components are greater than 45" apart the maximum spacing between all vertical components shall be four (4) inches.
 f. Fences that are composed of wire mesh and vertical components shall conform to the following standard:
 l. The maximum spacing between all vertical components of the wire shall be two and one quarter (2 1/4) inches.
 g. Pedestrian access gates:
 i. Shall conform to the design standards identified in Section 22.01 (c) (1) (e) or section 22.01 (c) (1) (f).
 ii. Shall be self closing.
 iii. Shall be self latching.
 iv. Shall have the opening mechanism mounted at a height of at least forty-five (45) inches.
 v. Shall open outward away from the pool.
 h. Utility access gates:
 i. Shall conform to the design standards identified in Section 22.01 (c) (1) (c) or section 22.01 (c) (1) (f).
 ii. Are not required to have a self-closing device.
 iii. Are not required to have a self-latching device.
 iv. Shall have a means to secure the gate when not in use.
 i. All required fencing and gate assemblies from this chapter must be installed prior to the pool holding any water for enjoyment of the occupants of the property that use of the property on which it is located.

ADD SEC. 22.06, SPECIAL PROVISIONS, AMATEUR RADIO TOWERS REGULATIONS WITHIN RESIDENTIAL ZONES:
AMATEUR RADIO TOWERS ARE SUBJECT TO THE FOLLOWING REGULATIONS

1. A PUBLIC MEETING BEFORE THE ZONING INSPECTOR IS REQUIRED PRIOR TO THE ISSUANCE OF A PERMIT.
2. ONCE REQUIRED INFORMATION IS SUBMITTED A MEETING DATE WILL BE ESTABLISHED NO LESS THAN TEN (10) DAYS FROM THE DATE OF THE APPEARANCE OF A PUBLIC NOTIFICATION IN A NEWSPAPER OF GENERAL CIRCULATION.
3. WRITTEN NOTICE WILL BE PROVIDED TO ADJUTING AND/OR CONTIGUOUS PROPERTY OWNERS.
4. AMATEUR RADIO TOWERS ARE CLASSIFIED AS ACCESSORY USES.
5. APPLICANT IS REQUIRED TO PROVIDE THE FOLLOWING INFORMATION TO THE CLEARCREEK TOWNSHIP ZONING INSPECTOR:
 - a. NARRATIVE EXPLAINING NATURE OF REQUEST, AS WELL AS MANNER IN WHICH IMPACT UPON ADJOINING PROPERTY WILL BE NEGATED.
 - b. PLOT PLAN OF THE PROPERTY IDENTIFYING THE PROPOSED LOCATION(S) OF THE TOWER(S) WITH ALL SETBACKS IDENTIFIED.
 - c. CONSTRUCTION DRAWINGS/ SPECIFICATIONS/ENGINEERING DRAWINGS FOR THE TOWER(S).
 - d. COPY OF FEDERAL COMMUNICATIONS COMMISSION AMATEUR RADIO LICENSE.

RECORD OF RESOLUTIONS

Warren County, Ohio, Resolution 5050

Form 6001

Resolution No. 5050 Passed September 11, 2017

CLEARCREEK TOWNSHIP WARREN COUNTY, OHIO

A RESOLUTION TO APPROVE AMENDMENTS TO THE ZONING REGULATIONS/ORDINANCES EXHIBIT 2017-1, AN AMENDMENT THAT REFINES STANDARDS FOR CHAPTER 3 DEFINITIONS, CHAPTER 5 GENERAL PROVISIONS, CHAPTER 5.5 OPEN SPACE RURAL RESIDENCE ZONE "OSR-1", CHAPTER 5.75 RESIDENCE ZONE "R-1", CHAPTER 6 TOWNSHIP RESIDENCE ZONE "TR-1", CHAPTER 16 PARKING AND LOADING REGULATIONS AND CHAPTER 21 BOARD OF ZONING APPEALS FOR THE CLEARCREEK TOWNSHIP, WARREN COUNTY, OHIO, ZONING CODE

WHEREAS, all public hearings, public notices, and the recommendation of the Warren County Regional Planning Commission, for the Zoning Resolution amendment have been conducted and made pursuant to the Clearcreek Township Zoning Resolution and Section 519.12 of the Ohio Revised Code; and

WHEREAS the proposed Text Amendment with modifications was APPROVED by the Zoning Commission after the conclusion of their public hearing; and

NOW THEREFORE BE IT RESOLVED by the Board of Clearcreek Township Trustees that the said amendment that refines standards for Chapters 3, 5, 5.5, 5.75, 6, 16 and 21 in the Zoning Resolution be adopted as Exhibit "2017-1" is attached and deemed a part of this Resolution as fully rewritten herein.

Mr. Galbreath moved to adopt the foregoing Resolution. Mr. Galbreath seconded the motion and upon the call of the roll the following vote resulted:

- Mr. Wade - Yea
Mr. Galbreath - Yea
Mr. Muterspaugh - Yea

Resolution adopted at a regular public meeting conducted September 11, 2017.

THE BOARD OF CLEARCREEK TOWNSHIP TRUSTEES

Law Director Bryan Paebco Approved as to form

[Signature]

CHAPTER 3 DEFINITIONS AMEND SEC. 3.028 AGRITOURISM: AGRICULTURALLY RELATED EDUCATIONAL, ENTERTAINMENT, HISTORICAL, CULTURAL OR RECREATIONAL ACTIVITY, INCLUDING YOU-PICK OPERATIONS OR FARM MARKETS, CONDUCTED ON A FARM THAT ALLOWS OR INVITES MEMBERS OF THE GENERAL PUBLIC TO OBSERVE, PARTICIPATE IN OR ENJOY THAT ACTIVITY. ACTIVITIES SHALL BE CONNECTED WITH AGRICULTURAL PRODUCTION AND/OR PROCESSING.

Activities conducted on a farm and offered to the public or to invited groups for the purpose of recreation, education, entertainment, hospitality, direct sales or active involvement in agricultural production. The activities shall co-exist with the operation of the farm and may include the following:

- 1. Recreation: (fishing, wildlife study, horseback riding, sleigh/carrriage/wagon rides, stargazing, hiking, community gardens);
2. Educational experiences: (cooking classes, wine tasting, school tours, country tours, garden/nursery tours; agricultural technical tours; historic/agricultural exhibits; food processing, dairy, oler, making, gardening, and plant identification);
3. Entertainment: (harvest festivals, concerts, barn dances, petting zoo, hunting/working dog trials/training, haunted house, haunted hayride, corn maze, pumpkin carving, egg painting, miniature golf, toddler rides, play ground areas, scavenger hunts, craft fair, antique shows, art shows);
4. Hospitality services: (bed & breakfast, retreat center, assembly area, country weddings, party receptions, picnic, campfires, family reunions, outings, country store, gift shop, fair food, sampling);
5. Direct sales: (apple, roadside farm market or nursery sales with parking spaces for more than ten (10) vehicles);
6. Other uses as determined appropriate by the Board of Zoning Appeals.

ADD SEC. 3.3102 FARM BASED TOURISM: ACTIVITIES CONDUCTED ON A FARM AND OFFERED TO THE PUBLIC OR TO INVITED GROUPS FOR THE PURPOSE OF RECREATION, EDUCATION, ENTERTAINMENT, HOSPITALITY, OR UNABLE TO BE CLASSIFIED AS AGRITOURISM. THE ACTIVITIES SHALL CO-EXIST WITH THE OPERATION OF THE FARM AND MAY INCLUDE THE FOLLOWING:

- 1. RECREATION: (FISHING, WILDLIFE STUDY, HORSEBACK RIDING, SLEIGH/CARRIAGE/WAGON RIDES, STARGAZING, HIKING, COMMUNITY GARDENS);
2. ENTERTAINMENT: (CONCERTS, BARN DANCES, HAUNTED HOUSE, HAUNTED HAYRIDE, MINIATURE GOLF, TODDLER RIDES, PLAY GROUND AREAS, SCAVENGER HUNTS, CRAFT FAIR, ANTIQUE SHOWS, ART SHOWS);
3. HOSPITALITY SERVICES: (BED & BREAKFAST, RETREAT CENTER, ASSEMBLY AREA, COUNTRY WEDDINGS, PARTY RECEPTIONS,

PICNIC, CAMPFIRES, FAMILY REUNIONS, CATERING, COUNTRY STORE, GIFT SHOP, FAIR FOOD, CAMPING).
4. OTHER USES AS DETERMINED APPROPRIATE BY THE BOARD OF ZONING APPEALS.

ADD: SEC. 3.431: LIVE SEX ACT BUSINESS: ANY BUSINESS IN WHICH ONE OR MORE PERSONS MAY VIEW, OR MAY PARTICIPATE IN, A LIVE SEX ACT FOR CONSIDERATION. A "LIVE SEX ACT" IS ANY ACT WHEREBY ONE OR MORE PERSON ENGAGES IN A LIVE PERFORMANCE OR LIVE CONDUCT WHICH CONTAINS ORAL, SEXUAL CONTACT OR SEXUAL INTERCOURSE. "ORAL, SEXUAL CONTACT" MEANS ORAL CONTACT WITH THE PENIS, VULVA OR ANUS. "SEXUAL INTERCOURSE" MEANS PENETRATION INTO THE PENIS, VULVA OR ANUS BY ANY PART OF THE BODY OR BY ANY OBJECT OR MANUAL MASTURBATORY CONTACT WITH THE PENIS OR VULVA. "CONSIDERATION" MEANS THE PAYMENT OF MONEY OR THE EXCHANGE OF ANY ITEM OF VALUE FOR: (A) THE RIGHT TO ENTER THE BUSINESS PREMISES OR ANY PORTION THEREOF; OR (B) THE RIGHT TO REMAIN ON THE BUSINESS PREMISES OR ANY PORTION THEREOF; OR (C) THE RIGHT TO PURCHASE ANY ITEM PERMITTING THE RIGHT TO ENTER, OR REMAIN ON, THE BUSINESS PREMISES OR ANY PORTION THEREOF; OR (D) THE RIGHT TO A MEMBERSHIP GRANTING THE RIGHT TO ENTER, OR REMAIN ON, THE BUSINESS PREMISES OR ANY PORTION THEREOF. LIVE SEX ACT BUSINESS MAY INCLUDE, BUT ARE NOT LIMITED TO, SEXUAL ENCOUNTER ESTABLISHMENTS AND SEXUAL ENCOUNTER CENTERS AS THEY ARE DEFINED HEREIN.

ADD: SEC. 3.64052: SEXUAL ENCOUNTER ESTABLISHMENT AND SEXUAL ENCOUNTER CENTERS: MEANS A BUSINESS OR COMMERCIAL ESTABLISHMENT, THAT AS ONE (1) OF ITS PRIMARY BUSINESS PURPOSES, OFFERS FOR ANY FORM OF CONSIDERATION, A PLACE WHERE TWO (2) OR MORE PERSONS MAY CONGREGATE, ASSOCIATE, OR CONSORT, FOR THE PURPOSE OF "SPECIFIED SEXUAL ACTIVITIES", OR THE EXPOSURE OF "SPECIFIED ANATOMICAL AREAS", OR ACTIVITIES WHEN ONE (1) OR MORE OF THE PERSONS IS IN A STATE OF NUDDY OR SEMI-NUDE. THIS DEFINITION SHALL NOT INCLUDE AN ESTABLISHMENT WHERE A MEDICAL PRACTITIONER, PSYCHOLOGIST, PSYCHIATRIST, OR SIMILAR PROFESSIONAL PERSON LICENSED IN THE STATE OF OHIO, ENGAGES IN MEDICALLY APPROVED AND RECOGNIZED SEXUAL THERAPY.

AMEND SEC. 3.6406

Sexually Oriented Businesses are those businesses defined as:

- (1). Adult Arcade means a commercial Establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors, or similar machines, or other image-producing machine, for viewing by five (5) or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or photographic reproductions characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas".
- (2). Adult Bookstore, Adult Novelty or Adult Video Store means a commercial Establishment which has as a significant or substantial portion of its stock-in-trade, or devices a significant or substantial portion of revenues, or devotes a significant or substantial portion of its interior business or advertising to the sale or rental for any form of consideration, of any one (1) or more of the following:
 - (a). Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, computer software, compact discs, or other visual representations characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas".
 - (b). Instruments, devices, or paraphernalia designed for use or marketed primarily for stimulation of human genital organs, or for sadomasochistic use or abuse.
- (3). Adult Cabaret means a nightclub, bar, restaurant, bottle club, eat wash, or similar commercial Establishment, whether or not alcoholic beverages are served, which regularly features:
 - (a). Persons who appear nude, or in the state of nudity, or semi-nudity;
 - (b). Live performances characterized by the exposure of "Specified Anatomical Areas" or by "Specified Sexual Activities";
 - (c). Films, motion pictures, video cassettes, slides, or other photographic reproductions, characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas".
- (4). Adult Motel is a motel, hotel or similar commercial Establishment which:
 - (a). Offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic

reproductions, characterized by the depiction of "Specified Sexual Activities" or "Specified Anatomical Areas" and which advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television, or

- (b) Offers a sleeping room for rent for a period of time less than ten (10) hours; or
- (c) Allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

(5) Adult Motion Picture Theater means a commercial Establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas" are regularly shown for any form of consideration.

(6) Adult Theater means a theater, concert hall, auditorium, or similar commercial Establishment which, for any form of consideration, regularly features persons who appear in a state of nudity, or performances characterized by exposure of "Specified Anatomical Areas" or by "Specified Sexual Activities".

(7) Escort means a person who, for any form of consideration, agrees or offers to act as a companion, guide or date for another person, or agrees or offers to privately model lingerie or privately performs a striptease for another person.

(8) Escort Agency means a person or business association that, for any form of consideration, furnishes, or offers to furnish an Escort (s), for another person.

(9) Massage Parlor means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as a part of, or in connection with "Specified Sexual Activities", or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "Specified Anatomical Areas". This definition shall not include the practice of massage in a licensed hospital, under the auspices of a licensed hospital, by a licensed physician, surgeon, chiropractor or osteopath, by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, or by trainers for any amateur, semi-professional or professional athletic, or athletic team, or school athletic program.

(10) Nude Model Studio means any place where a person, who regularly appears in a state of nudity, or displays "Specified Anatomical Areas", is provided, for any form of consideration, to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

(11) Sexual Encounters Establishment means a business or commercial establishment that as one (1) of its primary business purposes; offers for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort, for the purpose of "Specified Sexual Activities" or the exposure of "Specified Anatomical Areas", or activities where one (1) or more of the persons is in a state of nudity or semi-nude. This definition shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed in the State of Ohio engages in medically approved and recognized sexual therapy.

CHAPTER 5 GENERAL PROVISIONS

AMEND SEC. 5.09 Deleted AGRITOURISM SHALL BE SUBJECT TO SITE PLAN REVIEW BY THE BOARD OF ZONING APPEALS.

ADD. SEC. 5.19: THE CULTIVATION, PROCESSING AND THE DISPENSARY SALE OF MEDICAL MARIJUANA IS PROHIBITED IN ALL ZONING CLASSIFICATIONS.

ADD. SEC. 5.20: LIVH SEX ACT BUSINESSES ARE PROHIBITED IN ALL ZONING CLASSIFICATIONS.

CHAPTER 5.5 OPEN SPACE RURAL RESIDENCE ZONE "OSR-1" REGULATIONS

AMEND SEC. 5.524(G) Agriculture FARM BASED TOURISM

CHAPTER 5.75 RESIDENCE ZONE "R-1" REGULATIONS

AMEND SEC. 5.7524(G) Agriculture FARM BASED TOURISM

CHAPTER 6 TOWNSHIP RESIDENCE ZONE "TR-1" REGULATIONS

AMEND SEC. 6.024(D) Agriculture FARM BASED TOURISM

CHAPTER 16 PARKING AND LOADING REGULATIONS

AMEND SEC. 16.02 Number of spaces to be provided: In all zones, there shall be provided at the time any building or structure is erected, structurally altered (except as provided in Section 16.03) or the use is established off-street parking spaces in accordance with the following requirements:

USE

Dwelling, one (1) and two (2) family and summer cottages

Multiple dwellings

Rooming or boarding house

Private club or lodge

Religious Institution

Educational Facilities

Country club or golf club

Community center, library, museum or art gallery

Hospital, sanitarium, convalescent home, nursing home, rest home, home for the aged or similar institution

USE

Hotel

Tourist home, cabin or motel

Dance hall, assembly or exhibition hall without fixed seats

Business or professional office, studio, bank, medical or dental clinic

Bowling alley

Draft Text Amendment 2017-1

Initiated by Trustee Resolution 5025

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Amended by the Zoning Commission on August 7, 2017

PARKING SPACE REQUIRED
Two (2) for each dwelling unit

Two (2) for each dwelling unit

One (1) for each two (2) sleeping rooms

One (1) for each ten (10) members

One (1) for each four (4) seats in the main auditorium

One (1) for each eight (8) seats in main auditorium or three (3) for each classroom, whichever is greater

One (1) for each five (5) members

Ten (10) plus one (1) additional for each three hundred (300) square feet of floor area in excess of two thousand (2000) square feet

One (1) for each three (3) beds

PARKING SPACE REQUIRED

One (1) for each three (3) sleeping rooms or suites, plus one (1) for each two hundred (200) square feet of commercial area contained therein

One (1) for each sleeping room or suite

One (1) for each one hundred (100) square feet of floor area used therefore

Three (3) plus one (1) additional for each four hundred (400) square feet of floor area used therefore

Five (5) for each alley

Draft Text Amendment 2017-1

Initiated by Trustee Resolution 5025

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Amended by the Zoning Commission on August 7, 2017

Mortuary or funeral home

Restaurant, nightclub, cafe or similar recreation or amusement establishment

Retail store or personal service establishment except as otherwise specified herein

Furniture or appliance store, hardware store, wholesale establishments, machinery or equipment sales and service, clothing or shoe repair or service shop

Printing or plumbing shop or similar service establishment herein

USE

Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse or similar establishment

Roadside Farm Market

~~Agriculture~~ FARM BASED TOURISM

One (1) for each fifty (50) square feet of floor space in stumber rooms, parlors or individual funeral service rooms

One (1) for each one hundred (100) square feet of floor space

One (1) for each two hundred (200) square feet of gross floor space

Two (2) plus one (1) additional for each three hundred (300) square feet of floor area over one thousand (1000) square feet

One (1) for each three (3) persons employed

PARKING SPACE REQUIRED

One (1) for each two (2) employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith

Two (2) plus one (1) additional per every one hundred (100) square feet of assembly area

Total number of participants to the event divided by four (4) will determine the minimum number of temporary agricultural parking spaces

AMEND SEC. 16.05 (B) Surface and lighting:

A. 1. All permanent off-street parking areas, including any commercial parking lot, for more than ten (10) vehicles shall be graded and permanently surfaced with an asphalt or Portland cement binder pavement so as to provide a durable and dustless surface, and shall be graded for proper disposal of surface water, subject to the review satisfaction of the zoning inspector and the Warren County Engineer.

Draft Text Amendment 2017-1

Initiated by Trustee Resolution 5025

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Amended by the Zoning Commission on August 7, 2017

- B. 2. All temporary agritourism FARM BASED TOURISM off-street parking areas, the spaces may be comprised of the following materials: gravel, dirt and/or grass. At the time of the event the spaces and accessways shall allow for the unobstructed movement of vehicles.
- C. 3. The design and location of any parking area accessway intersection of a public street is subject to approval by the street authority of jurisdiction.
- D. 4. Any lighting used to illuminate such parking area, shall be of a type, height, intensity and shielding necessary so not to be spot-gate nuisance or safety hazard to anyone in view thereof. Approval by the aforementioned applicable authorities is also required to ensure that no sight distance obstruction is posed by any lighting as to design or location in and around such parking area.
- E. 5. Parking and Loading Regulations, Service Equipment
 - f. A. A buffer, specified as follows, shall be required to completely surround service equipment for installation on any property, in the Office "O", Business "B1" or "B-2" and Industrial "M-1" or "M-2" zones.
 - g. 1. A continuous one hundred (100) percent opaque hedge, fence, wall or earth form is required to enclose any service equipment on all sides.
 - h. 2. The buffer shall exceed the height of the service equipment by at least one (1) foot.
 - i. 3. If the service equipment is frequently moved or accessed, three sides shall have a buffer. The fourth side shall have a solid gate, which exceeds the height of the service equipment by at least one (1) foot.

CHAPTER 21 BOARD OF ZONING APPEALS

AMEND 21.01 (G) (H) HEARINGS:

- 1. Public hearings will be held as per Ohio Revised Code Section 519.15.
- 2. In appeals for variances and alleging errors by an administrative official, such appeals shall be taken within twenty (20) days after the administrative decision by filing with the Zoning Inspector a notice of appeal specifying the grounds thereof. The Zoning Inspector shall forthwith transmit to the Board of Zoning Appeals all papers constituting the record upon which the action appealed was taken along with a notice of establishing the date, time and location of the public hearing.
- 3. An application to the Board of Zoning Appeals for a conditional use permit may be taken by any property owner, including a lessee, or by a governmental officer, department, commission, board or bureau or by a member of the Board. Such application shall be filed with the Zoning

Inspector who shall transmit the same to the Board along with a notice establishing the date, time and location of the public hearing.

- 4. Three (3) members of the Board of Zoning Appeals shall constitute a quorum. The Board shall act by resolution; and the concurring vote of three (3) members of the Board shall be necessary to exercise any power of the Board.
- 5. Approvals for area variances and expansion of legal non conforming uses shall include finding of fact and performance conditions. Approvals shall expire after twelve (12) months from the date of approval if any of the following are applicable: 1. A zoning permit has not been issued for the property. 2. Less than fifty (50) percent of the approved structure(s) are constructed. 3. Less than fifty (50) percent of the approval conditions have been achieved.

ADD 21.01 (G) AGRITOURISM SITE PLAN REVIEW:

- 1. THE PARCEL, ON WHICH THE AGRITOURISM USE IS PROPOSED, MUST BE ENROLLED IN THE CURRENT AGRICULTURAL USE VALUE (CAUV) SYSTEM THROUGH THE WARREN COUNTY AUDITOR'S OFFICE.
- 2. THE SITE PLAN SHALL CONTAIN THE FOLLOWING INFORMATION FOR THE PROPOSED/EXISTING AGRITOURISM USE(S):
 - A. LOCATION FROM ALL PROPERTY LINES FOR ALL AGRITOURISM STRUCTURES.
 - B. SIZE DIMENSIONS (LENGTH & WIDTH) OF ALL AGRITOURISM STRUCTURES.
 - C. LOCATION AND SIZE DIMENSIONS (LENGTH & WIDTH) OF AGRITOURISM PARKING AREAS.
 - D. LOCATION AND SIZE DIMENSIONS (LENGTH & WIDTH) OF EXISTING AND PROPOSED DRIVEWAYS UTILIZED FOR THE AGRITOURISM USE.
- 3. **STANDARDS FOR AGRITOURISM SITE PLAN REVIEW:**
STANDARDS SHOULD ENSURE THAT THE USE IS COMPATIBLE WITH THE AREA IN FORM AND FUNCTION, WILL NOT ENDANGER PUBLIC HEALTH OR SAFETY, IS DESIGNED IN SUCH A WAY TO MITIGATE POTENTIAL CONFLICTS WITH ADJACENT AND NEARBY LAND USES AND THAT:
 - A. THE PROPOSED USE SHALL BE PHYSICALLY SUITABLE FOR THE PARCEL ON WHICH IT IS PROPOSED.
 - B. THE PROPOSED USE SHALL LOCATE STRUCTURES IN AN AREA THAT LIMITS THE IMPACT TO ADJOINING PROPERTIES.

- C. THE PROPOSED USE SHALL PROVIDE FOR ACCESS BY PUBLIC EMERGENCY EQUIPMENT SUCH AS FIRE, AMBULANCE AND POLICE VEHICLES.
- D. THE PROPOSED USE SHALL PROVIDE FOR ADEQUATE PEDESTRIAN CIRCULATION, VEHICULAR TRAFFIC MOVEMENT AND OFF-STREET PARKING.

Section 519.21 | Powers not conferred on township zoning commission by chapter.

Ohio Revised Code / Title 5 Townships / Chapter 519 Township Zoning

Effective: August 16, 2016 **Latest Legislation:** House Bill 523 (GA 131), Senate Bill 75 (GA 131)

(A) Except as otherwise provided in divisions (B) and (D) of this section, sections 519.02 to 519.25 of the Revised Code confer no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, including buildings or structures that are used primarily for vinting and selling wine and that are located on land any part of which is used for viticulture, and no zoning certificate shall be required for any such building or structure.

(B) A township zoning resolution, or an amendment to such resolution, may in any platted subdivision approved under section 711.05, 711.09, or 711.10 of the Revised Code, or in any area consisting of fifteen or more lots approved under section 711.131 of the Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road regulate:

(1) Agriculture on lots of one acre or less;

(2) Buildings or structures incident to the use of land for agricultural purposes on lots greater than one acre but not greater than five acres by: set back building lines; height; and size;

(3) Dairying and animal and poultry husbandry on lots greater than one acre but not

greater than five acres when at least thirty-five per cent of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured and mobile homes under section 4503.06 of the Revised Code. After thirty-five per cent of the lots are so developed, dairying and animal and poultry husbandry shall be considered nonconforming use of land and buildings or structures pursuant to section 519.19 of the Revised Code.

Division (B) of this section confers no power on any township zoning commission, board of township trustees, or board of zoning appeals to regulate agriculture, buildings or structures, and dairying and animal and poultry husbandry on lots greater than five acres.

(C) Such sections confer no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for:

(1) A farm market where fifty per cent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. However, a board of township trustees, as provided in section 519.02 of the Revised Code, may regulate such factors pertaining to farm markets as size of the structure, size of parking areas that may be required, set back building lines, and egress or ingress, where such regulation is necessary to protect the public health and safety.

(2) Biodiesel production, biomass energy production, or electric or heat energy production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37 of the Revised Code for real property tax purposes. As used in division (C)(2) of this section, "biodiesel," "biomass energy," and "electric or heat energy" have the same meanings as in section 5713.30 of the

Revised Code.

(3) Biologically derived methane gas production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37 of the Revised Code for real property tax purposes and if the facility that produces the biologically derived methane gas does not produce more than seventeen million sixty thousand seven hundred ten British thermal units, five megawatts, or both.

(4) Agritourism. However, a board of township trustees, as provided in section 519.02 of the Revised Code, may regulate such factors pertaining to agritourism, except farm markets as described in division (C)(1) of this section, as size of a structure used primarily for agritourism, size of parking areas that may be required, setback building lines for structures used primarily for agritourism, and egress or ingress where such regulation is necessary to protect public health and safety.

Nothing in division (C)(4) of this section confers power on a township zoning commission, board of township trustees, or board of zoning appeals to require any parking area to be improved in any manner, including requirements governing drainage, parking area base, parking area paving, or any other improvement.

Nothing in division (C)(4) of this section confers power on a township zoning commission, board of township trustees, or board of zoning appeals to prohibit the use of any land or the construction or use of buildings or structures that are used primarily for vinting and selling wine that are located on land any part of which is used for viticulture as provided in division (A) of this section.

(D) Nothing in this section prohibits a township zoning commission, board of township trustees, or board of zoning appeals from regulating the location of medical marijuana cultivators, processors, or retail dispensaries or from prohibiting such cultivators,

processors, or dispensaries from being located in the unincorporated territory of the township.

(D)(1) As used in division (C)(3) of this section, "biologically derived methane gas" has the same meaning as in section 5713.30 of the Revised Code.

(2) As used in division (C)(4) of this section, "agritourism" has the same meaning as in section 901.80 of the Revised Code.

The Legislative Service Commission presents the text of this section as a composite of the section as amended by multiple acts of the General Assembly. This presentation recognizes the principle stated in R.C. 1.52(B) that amendments are to be harmonized if reasonably capable of simultaneous operation.

Last updated June 29, 2022 at 3:03 PM

Available Versions of this Section

June 4, 2012 – House Bill 276 - 129th General Assembly

August 16, 2016 – House Bill 523 (GA 131), Senate Bill 75 (GA 131)

Section 901.80 | Immunity from liability for agritourism providers.

Ohio Revised Code / Title 9 Agriculture-Animals-Fences /
Chapter 901 Department Of Agriculture

Effective: August 16, 2016 Latest Legislation: Senate Bill 75 - 131st General Assembly

(A) As used in this section:

- (1) "Agricultural production" has the same meaning as in section 929.01 of the Revised Code.
- (2) "Agritourism" means an agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity.
- (3) "Agritourism provider" means a person who owns, operates, provides, or sponsors an agritourism activity or an employee of such a person who engages in or provides agritourism activities whether or not for a fee.
- (4) "Farm" means land that is composed of tracts, lots, or parcels totaling not less than ten acres devoted to agricultural production or totaling less than ten acres devoted to agricultural production if the land produces an average yearly gross income of at least twenty-five hundred dollars from agricultural production.
- (5) "Participant" means an individual, other than an agritourism provider, who observes or participates in an agritourism activity.
- (6) "Risk inherent in an agritourism activity" means a danger or condition that is an integral part of an agritourism activity, including all of the following:

- (a) The surface and subsurface conditions of land;
 - (b) The behavior or actions of wild animals not kept by or under the control of an agritourism provider;
 - (c) The behavior or actions of domestic animals other than vicious or dangerous dogs as defined in section 955.11 of the Revised Code;
 - (d) The ordinary dangers associated with structures or equipment ordinarily used in farming or ranching operations;
 - (e) The possibility of contracting illness resulting from physical contact with animals, animal feed, animal waste, or surfaces contaminated by animal waste;
 - (f) The possibility that a participant may act in a negligent manner, including by failing to follow instructions given by the agritourism provider or by failing to exercise reasonable caution while engaging in the agritourism activity that may contribute to injury to that participant or another participant.
- (B) In a civil action, an agritourism provider is immune from liability for any harm a participant sustains during an agritourism activity if the participant is harmed as a result of a risk inherent in an agritourism activity. Nothing in this section requires an agritourism provider to eliminate risks inherent in agritourism activities.
- (C) An agritourism provider is not immune from civil liability for harm sustained by a participant if any of the following applies:
- (1) The agritourism provider acts with a willful or wanton disregard for the safety of the participant and proximately causes harm to the participant.
 - (2) The agritourism provider purposefully causes harm to the participant.

(3) The agritourism provider's actions or inactions constitute criminal conduct and cause harm to the participant.

(4) The agritourism provider fails to post and maintain signs as required by division (D) of this section.

(5) The agritourism provider has actual knowledge or should have actual knowledge of an existing dangerous condition on the land or regarding facilities or equipment on the land that is not an inherent risk and does not make the dangerous condition known to the participant, and the dangerous condition proximately causes injury or damage to or the death of the participant.

(D) An agritourism provider shall post and maintain signs that contain the warning notice specified in this division. The provider shall place a sign in a clearly visible location at or near each entrance to the agritourism location or at the site of each agritourism activity. The warning notice shall consist of a sign in black letters with each letter to be a minimum of one inch in height. The signs shall contain the following notice of warning: "WARNING: Under Ohio law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if that injury or death results from the inherent risks of that agritourism activity. Inherent risks of agritourism activities include, but are not limited to, the risk of injury inherent to land, equipment, and animals as well as the potential for you as a participant to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity."

Available Versions of this Section

August 16, 2016 – Senate Bill 75 - 131st General Assembly