

ARTICLE 1**GENERAL PROVISIONS**

Section

100.0 Title

This resolution shall be known as “The Zoning Resolution of Burton Township, Geauga County, Ohio” and may be hereinafter referred to as “this resolution.”

101.0 Jurisdiction

This resolution shall apply to all of the unincorporated territory of Burton Township, Geauga County, Ohio.

102.0 Purpose of Zoning Resolution

This resolution has been enacted, *pursuant to O.R.C. 519.02*, in order to protect and promote the public health, safety, and morals, *and general welfare* in accordance with a comprehensive plan. Additional purposes of this resolution are:

- A. To divide the township into zoning districts and to provide uniform regulations for each class or kind of buildings, structures, and uses within such zoning districts.
- B. To regulate the location, height, bulk, number of stories, and size of buildings and other structures and the percentage of lot coverage by buildings, structures, and impervious surfaces.
- C. To regulate building setback lines (yards) and other open spaces.
- D. To regulate the density of population by establishing minimum lot size, frontage, and width requirements in each zoning district.
- E. To regulate the use of buildings and structures in each zoning district and to ensure that appropriate utilities, sewage treatment and water supply facilities, and other matters related to public health and safety are adequately addressed to serve such uses.
- F. To conserve and protect the natural resources of the township, including the supply of groundwater.

- G. To ensure that development is in accord with the capability and suitability of the land to support it.
- H. To provide regulations that advance balanced and orderly growth and development in the township as well as preserve sensitive environmental resources.

103.0 Provisions of Resolution Declared to be Minimum Requirements

In their interpretation and application, the provisions of this resolution shall be held to be minimum requirements.

104.0 Powers Not Conferred by Chapter 519 of the Ohio Revised Code or this Resolution

- A. This resolution does not 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. No zoning certificate shall be required for any such building or structure. However, this resolution shall regulate the use of 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 in accordance with R.C. 519.214 (B).
- B. This resolution does not apply in respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement of any buildings or structures of any public utility or railroad, whether publicly or privately owned, or the use of land by any public utility or railroad, for the operation of its business. However, subject to R.C. 519.211 (B)(4)(a), the provisions of this resolution shall apply with respect to the location, erection, construction, reconstruction, change, alteration, removal, or enlargement of a wireless telecommunication tower and appurtenant facilities.
- C. This resolution does not prohibit the sale or use of alcoholic beverages in areas where the establishment and operation of any retail business, hotel, lunchroom or restaurant is permitted by this resolution.

~~This resolution does not prohibit the use of any land owned or leased by an industrial firm for the conduct of oil or natural gas well drilling or production activities or the location of associated facilities or equipment when such oil or natural gas obtained by the industrial firm is used for the operation of its own plants.~~

- D. This resolution does not prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for a farm market where fifty percent (50%) or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year.***
- E. This resolution does not prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for a farm market where fifty percent (50%) or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year.
- F. This resolution does not apply with respect to a building or structure of, or the use of land by, a person engaged in the transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants. However, this resolution does apply with respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of a public utility engaged in the business of transporting persons or property, or both, or providing or furnishing such transportation service, over any public street, road, or highway in this state, and with respect to the use of land by any such public utility for the operation of its business, to the extent that any exercise of such power is reasonable and not inconsistent with Chapters 4901., 4903., 4905., 4909., 4921., and 4923. of the Revised Code.
- G. This resolution does not apply with respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any economically significant wind farm, whether publicly or privately owned, or the use of land for that purpose having wind turbines and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of five (5) megawatts or more.***
- H. Pursuant to O.R.C. Section 5502.031, this resolution does not preclude amateur radio service communications and does not restrict the height or location of amateur station antenna structures in such a way as to prevent effect amateur radio service communications and shall comply with 47 C.F.R. 9715.***
- I. This resolution does not prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for 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 Section 5713.30 to 5713.37 of the Ohio Revised Code for real property tax purposes. As used herein, “biodiesel,” “biomass energy,” and “electric or heat energy” have the same meanings as in Section 5713.10 of the Ohio Revised Code.

J. This resolution does not prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for biologically derived methane gas production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under Section 5713.30 to 5713.37 of the Ohio 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 (17,060,710) British thermal units, five (5) megawatts, or both. As used in this section, “biologically derived methane gas” has the same meaning as in Section 5713.30 of the Ohio Revised Code.

K. This resolution does not prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for agritourism as defined in this resolution.

105.0 Schedule of Fees, Charges, and Expenses; and Collection Procedure

- A. The board of township trustees shall, by resolution, establish a schedule of fees, charges, and expenses and a collection procedure for zoning certificates, amendments, appeals, conditional zoning certificates, and other matters pertaining to the administration and enforcement of this resolution requiring investigations, inspections, legal advertising, postage, and other expenses. The schedule of fees shall be posted in the office of the zoning inspector and township clerk **Fiscal Officer**, and may be altered or amended only by resolution of the board of township trustees.
- B. Each application for a zoning certificate, amendment, or conditional zoning certificate and notice of appeal shall be accompanied by the fee so established.
- C. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

106.0 First Day Excluded and Last Day Included in Computing Time: Exceptions; Legal Holiday Defined

- A. The time within which an act is required by law to be done shall be computed by excluding the first and including the last day; except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day which is not Sunday or a legal holiday.
- B. When a public office in which an act, required by law, is to be performed is closed to the public for the entire day which constitutes the last day for doing such act or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not a Sunday or legal holiday as defined in R.C. 1.14.
- C. "Legal holiday" as used in this section means the days set forth in R.C. 1.14. If any day designated in R.C. 1.14 as a legal holiday falls on Sunday, the next succeeding day is a legal holiday.

107.0 Computation of Time

If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

108.0 Specific Provision Prevails Over General; Exception

If a general provision conflicts with a specific provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the specific provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevails.

109.0 Irreconcilable Amendments

If amendments are enacted at the same or different times, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. The fact that a later amendment restates language deleted by an earlier amendment, or fails to include language inserted by an earlier amendment, does not of itself make the amendments irreconcilable. Amendments are irreconcilable only when changes made by each cannot reasonably be put into simultaneous operation.

110.0 Continuation of Prior Amendment

A provision or regulation which is re-enacted or amended is intended to be a continuation of the prior provision or regulation and not a new enactment, so far as it is the same as the prior provision or regulation.

111.0 Effect of Amendment

The amendment of this resolution does not:

- A. Affect the prior operation of this resolution or any prior action taken there under;
- B. Affect any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred there under;
- C. Affect any violation thereof or penalty, forfeiture, or punishment incurred in respect thereto, prior to the amendment or repeal;
- D. Affect any investigation, proceeding, or remedy in respect to any such privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the resolution had not been amended.

112.0 Annexed Territory

Upon annexation of township territory to an existing municipal corporation the zoning regulations then in effect shall remain in full force and shall be enforced by the township officials until the legislative authority of said municipal corporation shall either officially adopt the existing zoning regulations or new regulations for such territory.

113.0 Severability

If any provisions or regulations of this resolution or an amendment thereof or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions, regulations, applications, or amendments of this resolution which can be given effect without the invalid provision, regulation, application or amendment; and to this end the provisions, regulations, and amendments are severable.

END OF ARTICLE I