

**ARTICLE 2
ADMINISTRATION AND ENFORCEMENT**

Section 2.01 Purpose

This Article sets both the powers and duties of the Township Board of Trustees, Zoning Commission, the Board of Zoning Appeals and the Zoning Administrator with respect to the administration of the provisions of this Resolution.

Section 2.02 Township Board of Trustees

For the purpose of this Resolution, the Board of Township Trustees shall have the following duties:

- A. Initiate proposed amendments to this Resolution.
- B. Review and decide on all proposed amendments to this Resolution.
- C. Perform all other duties as specified in Chapter 519 of the Ohio Revised Code and as specified in this Resolution.

Title 5 of the Ohio Revised Code shall regulate the election of the Trustees; establish their rules of meetings, meeting times, and quorum.

Section 2.03 Zoning Administrator

The Zoning Administrator, as established by Section 519.16 of the Ohio Revised Code, shall have the following responsibilities and powers:

- A. Enforce the provisions of this Resolution and interpret the meaning and application of its provisions.
- B. Receive, review and make determinations on applications for Zoning Permits and Certificates of Occupancy.
- C. Issue Zoning Certificates as provided by this Resolution, and keep a record of same with notations of special conditions involved.
- D. Review and process plans pursuant to the provisions of this Resolution.
- E. Make determinations as to whether violations of this Resolution exist, determine the nature and extent thereof, and notify the owner in writing, specifying the exact nature of the violation and the manner in which it shall be corrected by the owner, pursuant to the procedures in this Resolution.
- F. Conduct inspections of buildings and uses of land to determine compliance or non-compliance with this Resolution.
- G. Maintain permanent and current records required by this Resolution, including but not limited to the Official Zoning Map, Zoning Certificates, inspection documents and records of all variances, amendments and Conditional Uses. These records shall be made available for use of the Board of Township Trustees, Zoning Commission, the Township Board of Zoning Appeals and to the public.

- I. Revoke a Zoning Permit or approval issued contrary to this Resolution or based on a false statement or misrepresentation on the application.
- J. Document non-conforming uses and structures.
- K. Such other duties as specified from time to time by the Board of Township Trustees.

Section 2.04 Zoning Commission

The Township Board of Trustees, for the purpose and intentions of this Resolution, hereby creates and establishes the Bethel Township Zoning Commission, hereafter referred to as the Zoning Commission. The Zoning Commission shall be appointed and organized as established under Section 519.04, Township Zoning Commission, of the Ohio Revised Code.

A. Powers and Duties

The Zoning Commission shall have all the appropriate power and duties prescribed by law and by this Resolution. The Zoning Commission shall have the following duties and powers:

1. Initiation of Zoning Resolution and Map Amendments

To initiate proposed amendments to this Resolution. Any proposed amendment that is denied by the Zoning Commission shall not be resubmitted for a period of less than twelve (12) consecutive months. All amendments shall be reviewed and recommendations made to the Board of Township Trustees.

2. Other Duties

Perform all other duties as specified in Chapter 519 of the Ohio Revised Code and as specified in this Resolution.

B. Alternates

1. The Township Board of Trustees may appoint two (2) alternate members to the Zoning Commission, for terms to be determined by the Township Board of Trustees as identified in Section 519.04 of the Ohio Revised Code.

2. An alternate member shall take the place of an absent regular member at any meeting of the Zoning Commission to guarantee a quorum.

3. An alternate member shall meet the same appointment criteria as a regular member.

4. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter on which the absent member is authorized to vote. If the hearing is tabled for vote where the alternate member is present, the alternate shall be required to attend the next meeting scheduled for vote on the tabled matter.

Section 2.05 Board of Zoning Appeals

The Township Board of Trustees, for the purpose and intentions of this Resolution, hereby creates and establishes the Bethel Township Board of Zoning Appeals, hereafter referred to as the Board of Zoning Appeals. The Board of Zoning Appeals shall be appointed and organized as established under Sections 519.13, through 519.15 of the Ohio Revised Code.

A. Powers and Duties

The Board of Appeals shall have all the appropriate power and duties prescribed by law and by this Resolution. The Board shall have the following duties and powers:

1. Administrative Review

To hear and decide appeals only in such cases where it is alleged there is an error in any order, requirements, decision, or determination made by the Zoning Administrator/Enforcing Officer in the enforcement of this Resolution. The concurring vote of a majority of those members of the Board present and voting shall be necessary to reverse any order, requirements, decision, or determination of the Zoning Administrator/Enforcing Officer or to decide in favor of the applicant on any matter upon which the Board is required to pass under the terms of this Resolution.

2. Determination of Similar Uses

To determine if uses not specifically mentioned in this Resolution are similar to uses permitted within a district.

3. Determination of District Boundary Location

To determine the exact location of any district boundary if there is uncertainty as to exact location thereof. In making such determination the Board shall be guided by the provisions of this Resolution.

4. Conditional Use Permits

To hear and decide only such conditional uses as the Board of Appeals is specifically authorized to pass on under the terms of this Resolution or to deny Conditional Use Permits when not in harmony with the intent and purpose of this Resolution or the Strategic Development Plan. The following requirements shall be complied with prior to any approval or denial of a conditional use permit by the Board of Appeals.

- a. A written application for a conditional use is submitted indicating the section of this Resolution under which the conditional use is sought and stating the grounds on which it is requested.

- b. A public hearing shall be held as required under Section 519.15 of the Ohio Revised Code.
- c. The Board of Appeals shall determine:
 - 1. Authority: If it has the authority to grant the request.
 - 2. Adverse Affect: That the granting of the conditional use will not adversely affect the neighborhood in which the conditional use is to be located.
 - 3. Strategic Development Plan: That the conditional use is not one which is contrary to the Strategic Development Plan of Bethel Township and the Miami County Comprehensive Plan, where applicable.
 - 4. Conditions: In granting any Conditional Use Permit, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity to the provisions of this Resolution. The Board of Zoning Appeals shall require a performance bond or letter of credit to assure conformance to such conditions and safeguards as may be necessary. Violation of such conditions and safeguards shall cause the aforementioned performance bond to be forfeited or a draft to be drawn on the full amount of the letter of credit and shall be deemed a violation of this Resolution and punishable under Article _40, Violations and Corrective Actions.

A Conditional Use Permit shall expire in one (1) year after it is issued unless actual construction has taken place or is underway except as provided elsewhere in this Resolution. A conditional use permit issued for other than construction shall expire in six (6) months after it is issued unless the actual use has been established. The validity of a Conditional Use Permit will continue until such use is terminated by the discontinuance of the use, by special conditions set forth by the Board of Zoning Appeals, or by change of ownership of the property on which such use is located. However, change of property ownership shall not invalidate a conditional use permit issued for a dwelling constructed as a second residence in the A-2 and A-1 Agricultural Districts.
- d. In every instance where approval has been granted by the Board of Appeals for the development of a Mobile Home Park as a Conditional Use under Section 30.16,

all requirements of the Mobile Home Park Regulations of Bethel Township, Ohio shall be complied with.

5. Variances
 - a. To vary the strict application of any of the requirements of this Resolution in the case of exceptionally irregular, narrow, shallow or deep lots or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship - not economic in nature - that would deprive the owner of the reasonable use of the land or building involved but in no other case. The fact that another use would be more profitable is not a valid basis for legally granting a variance. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance. No variance in the strict application of this Resolution shall be granted by the Board of Zoning Appeals unless and until the applicant submits, and the Board concurs with the following:
 1. Conditions and Circumstances: That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 2. Property Rights: That literal interpretation of the provisions of this Resolution would deprive the applicant of property rights commonly enjoyed by other properties in the same district under the terms of this Resolution.
 3. Applicant Not at Fault: That the special conditions and circumstances do not result from the actions of the applicant, his agents, or prior property owners.
 4. No Special Privilege: That granting the variance requested will not confer on the applicant any special privilege that is denied by this Resolution to other lands, structures, or buildings in the same district.
 5. Harmony with Locality: That the variance requested shall not alter the essential character of the locality nor be in conflict with the Strategic Development Plan.
 - b. Procedure for Consideration of Petitions for Variance:
 1. The Board of Zoning Appeals shall make a finding that the reasons set forth in the application are valid and justify the granting of the variance. The Board shall also determine if the variance is the minimum variance that will

make possible the reasonable use of land, building, or structure.

2. Under no circumstances shall the Board of Appeals grant a variance, which will permit a use, which is not permitted in the district involved.
3. Conditions: The Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Resolution. The Board of Zoning Appeals shall require a performance bond or irrevocable letter of credit to assure conformance to such conditions and safeguards as the Board may require.
4. Violation: Violation of such conditions and safeguards when such are made a party of the terms under which a variance is granted, shall cause the aforementioned performance bond to be forfeited or a draft to be drawn on the full amount of the letter of credit and shall be deemed in violation of this Resolution punishable under Article 40, Violations and Corrective Actions.
5. Public Hearings: Prior to taking action on a request for a variance, the Board of Appeals shall hold a public hearing and give notice to property owners as in Section 2.05 A. 4. b., of this Resolution.

c. Effective Date:

The decision of the Board of Zoning Appeals shall not become final until the expiration of five (5) days from the date of entry of such order unless the Board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

B. Withdrawal Procedure

Any application for a variance, conditional use, change of use, and expansion of a non-conformity or appeal may be withdrawn by the applicant up to seven (7) days before the scheduled public hearing thereon. Such request must be in writing, signed by the applicant and filed in the office of the Zoning Administrator holding such hearing. Such withdrawal shall void said application and cancel all future proceedings upon said application. If said withdrawal is not properly and timely filed, Article 2.05 C, Application Frequency Limitations shall apply to any future applications. In no case shall application fees be refunded, either in part or in whole, regardless of the proceedings or lack thereof, after the filing of any such application for a variance, conditional use or appeal.

C. Application Frequency Limitations

For any parcel of property or portion thereof only one (1) of each of the following applications shall be filed for consideration during any consecutive twelve (12) month period: Conditional Use Permit, Change of Use Permit or Variance.

D. Regulation of Conditional Uses

The provisions of this Section of this Resolution apply to the location and maintenance of any and all conditional uses.

1. Purpose

In recent years the characteristics and impacts of an ever increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, and safety of the community. Towards these ends, it is recognized that this Resolution should provide for more detailed evaluation of each use conditionally permissible in a specific district with respect to such considerations as location, design, size, and method of operation, intensity of use, public facilities requirements, traffic generation, impact and effect on surrounding properties. Accordingly, conditional use permits shall conform to the procedures and requirements of this Resolution.

2. Contents of Conditional Use Permit Application

Any owner or agent thereof, of property for which a conditional use is proposed shall make an application for a conditional use permit by filing it with the Zoning Administrator. The application shall contain the following information:

- a. Name, address and phone number of the applicant;
- b. Legal description of the property or the tax map of the property;
- c. Zoning district;
- d. Description of existing use;
- e. Description of proposed conditional use;
- f. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading areas, streets and traffic access ways, open spaces, refuse and service areas, utilities, signs, yards, landscaping features, and such information as the Board of Zoning Appeals may require;
- g. A narrative statement discussing the compatibility of the proposed use with the existing uses of adjacent properties to include an evaluation of the effects on adjoining properties of such elements as traffic circulation, noise, glare, odor, fumes and vibration.
- h. A fee established by Resolution.

3. General Standards For All Conditional Uses

In addition to the specific requirements for conditionally permitted uses, the Board shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

- a. Is in fact a conditional use as established under the provisions of this Resolution and appears on the list of conditionally permitted uses adopted for the district involved;
- b. Will be in accordance with the general objectives, or with any comprehensive plan and/or the zoning resolution;
- c. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intending character of the general vicinity and that such use will not change the essential character of the same area;
- d. Will not be hazardous or disturbing to existing or future neighboring uses;
- e. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer; and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
- f. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- g. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
- h. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;
- i. Will not result in the destruction, or loss of a natural, scenic, or historic feature of major importance.

4. Invalidation of Conditional use Permit

For the purposes of this Resolution, a conditional Use Permit shall cease to be valid at such time as the premises for which it was issued is no longer occupied by the holder of said permit or a change of ownership has occurred or until such use is

terminated by the discontinuance of the use. A Conditional Use Permit shall also be immediately invalidated upon conduct in any manner not approved by the Board of Zoning Appeals.

5. Specific Criteria for Conditional Uses.

The following are specific conditional use criteria and requirements for those uses conditionally permitted in this Resolution. Nothing in this shall prohibit the Board of Zoning Appeals from prescribing supplementary conditions and safeguards in addition to these requirements in accordance with this Resolution.

j. Sexually Oriented Businesses.

In every instance where a conditional use permit has been applied for in the I-1 Light Industrial District or I-2 Heavy Industrial District for a Sexually Oriented Business, the applicant shall comply with the following conditions:

1. No Sexually Oriented Business shall be established within 1000 feet of any area zoned as a Residential District or as an Office-Residential District. No Sexually Oriented Business shall be located within 1000 feet of the right-of-way on any divided, limited access highway.
2. No Sexually Oriented Business shall be established within 1000 feet of any school, library, teaching, educational facility, whether public or private, governmental or commercial, that is attended by persons under eighteen (18) years of age. The term "school" includes any school grounds.
3. No Sexually Oriented Business shall be established within 1000 feet of any park or recreational facility attended by persons less than eighteen (18) years of age. The term park or playgrounds, nature trails or recreational trails, swimming pools, reservoirs, athletic fields, basketball or tennis courts, pedestrian or bicycle paths, wilderness areas, park districts, or other similar public land.
4. No Sexually Oriented Business shall be established within 1000 feet of any permanently established place of religious services or worship which is attended by persons less than eighteen (18) years of age or day care centers of Type A or B family care home as defined by the Ohio Revised Code.

5. No Sexually Oriented Business shall be established within 1000 feet of any other Sexually Oriented Business or any of the following;
 - a. Establishments for the sale of beer or intoxicating liquor for consumption on the premises.
 - b. Pawn shops.
 - c. Pool or billiard halls.
 - d. Pinball palaces, halls or arcades.
 - f. Dance halls or discotheques.
 - g. Video arcades or establishments known by other descriptions but which provide video game and/or other games or entertainment attended or participated by persons under (18) years of age
 - h. Tattoo parlors/body piercing operations, excluding ear-piercing operations.
6. Distances shall be measured by a straight line distance without regard for intervening structures from the property lines or the zoning boundaries of any lot or parcel of land which includes or which is operated or used in connection with a building in which a Sexually Oriented Business is located or in which any activity described referred to in this section is located. If property lines cannot be clearly established, measurements shall be taken from the closest exterior structural wall or section of wall enclosing the sexually oriented business to the nearest property line or zoning boundary of the other use in question.
7. All building openings, entries, windows, and the like at any sexually oriented business shall be located, covered, or screened in such a manner as to protect any public or semi-public area, sidewalk or street. For new construction, the building shall be oriented so as to minimize any possibility of viewing the interior from public or semi-public areas, any sidewalk, or any street.
8. No screens, loudspeakers or sound equipment shall be used by a sexually oriented business that can be seen, heard or discerned by the public from public or semi-public areas, any discerned by the public from public or semi-public areas, any sidewalk, or any street.

9. Off street parking shall be provided in accordance with Article 35, Off-Street Parking and Loading, of this Resolution for similar uses, as well as all other standards for permitted uses within the I-1 Light Industrial District and I-2 Heavy Industrial District.

Section 2.06 Zoning Certificate

A. Applicability

A Zoning Certificate shall be required for any of the following:

1. New construction or structural alteration of any building or structure, including accessory buildings;
2. Change in use of an existing building, accessory building, lot, or portion thereof, to a use of a different classification, excluding changing to any agricultural use;
3. Grading, excavation, or modification of any lot requiring an Earth Movement Permit from the Ohio Department of Natural Resources.
4. Occupancy and use of vacant land excluding agricultural land;
5. Change in the use of land to a use of a different classification; or
6. Any change in the use of a nonconforming use.

B. Zoning Certificates for Nonconforming Uses

1. A Zoning Certificate shall be required for all lawful nonconforming uses of land or buildings created by adoption of this Resolution.
2. Application for such certificate for a nonconforming use shall be filed with the Zoning Administrator by the person with legal authority to file for a Zoning Certificate.
3. Such applications shall be made within one (1) year of the effective date of this Resolution.

C. Exemptions from Zoning Certificates

1. Essential Services

Essential services shall be permitted as authorized and regulated by law and other resolutions of the Township and County, it being the intention to exempt such essential services from the application of this Zoning Resolution.

2. Agricultural Uses

- a. Agricultural structures and uses on lots with a lot area of five (5) acres or more shall be exempt from the requirements of this Resolution and property owners shall not be required to obtain a Zoning Certificate for such uses per Section 519.21 of the ORC.

- b. For any platted subdivision approved under Section 711.05, 711.09 or 711.10 of the ORC, or in any area consisting of 15 or more lots approved under Section 711.131 (711.13.1) of the ORC 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, the Township shall require a Zoning Certificate for:
 - 1. Agriculture uses on lots of one (1) acre or less;
 - 2. Setbacks, heights and sizes of buildings or structures incident to the use of land for agricultural purposes on lots greater than one acre but not greater than five (5) acres.
 - 3. Dairying and animal and poultry husbandry on lots greater than one acre but not greater than five (5) acres when at least 35% 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 ORC. After 35% of the lots are so developed, dairying and animal and poultry husbandry shall be considered a nonconforming use of land and buildings or structures pursuant to Section 519.19 of the ORC.

D. Review Procedure

1. Step 1 – Application

- a. The applicant shall submit two (2) copies of the application to the Township Zoning Administrator prior to submitting for a Miami County Building Permit.
- b. The application shall include all such forms, maps, and information, as may be prescribed for that purpose by the Bethel Township Zoning Department to assure the fullest practicable presentation of the facts for the permanent record. A list of minimum submittal requirements may be adopted by the Board of Township Trustees.
- c. Payment of all required fees as established in the Bethel Township fee schedule.

2. Step 2 – Review

The Township Zoning Administrator shall review the application for conformance with the provisions of this Zoning Resolution.

3. Step 3 – Decision
 - a. Within three (3) business days of the application (Step 1), the Township Zoning Administrator shall approve and issue the Zoning Certificate or deny the application and in so doing state, in writing, the reasons for the action taken.
 - b. Upon approval, the Zoning Administrator shall return one, signed copy of the application and maintain the second copy of the application for Township records.
 - c. If the application is denied, the applicant may submit a revised application and sketch plan for review in accordance with the review procedure, or the applicant may appeal the decision to the Board of Zoning Appeals in accordance with Section 2.05 A. 1., Administrative Review, of this Zoning Resolution.

E. Review Criteria

All applications for a Zoning Certificate shall demonstrate conformity with the applicable provisions of this Zoning Resolution.

F. Expiration

1. If the work described in the Zoning Certificate has not begun within twelve (12) months from the date of issuance, the Zoning Certificate shall expire, and written notice thereof shall be given to the person(s) affected.
2. If the work described in any Zoning Certificate has not been substantially completed within one (1) year from the date of issuance, the Zoning Certificate shall expire and written notice thereof shall be given to the person(s) affected, together with notice that further work as described in the canceled Zoning Certificate shall not proceed unless and until a new Zoning Certificate is obtained or an extension is granted by the Zoning Commission for good cause shown by the applicant.
3. Upon expiration of a Zoning Certificate, a new Zoning Certificate application, including all applicable fees, shall be required. Failure to complete construction within a reasonable period of time may cause an expiration of the Zoning Certificate.

Section 2.07 Nonconformities

In the interest of the promotion of the public health, safety and general welfare, Bethel Township realizes that it is necessary to regulate legal nonconforming uses and parcels of land.

A. General Provisions

Nonconformities must comply with the following general provisions:

1. Any nonconforming use, building, structure, site, lot or sign lawfully existing on the effective date of this Zoning Resolution, or subsequent amendment, may be continued except as provided herein and so long as it remains otherwise lawful.
2. No nonconformity shall be enlarged, expanded, or extended unless such alteration is in full compliance with all requirements of this Zoning Resolution. However, nothing in this Section shall be deemed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who could declare such structure to require repair or restoration in accordance with applicable codes or regulations regulating the safe condition of structures in Bethel Township.
3. No nonconformity shall be moved in all or part for any distance, to any other location on the same or on any other lot unless the entire structure and use shall thereafter conform to the regulations of the zoning district in which it is located after being moved.
4. No use, structure, building or sign which is accessory to a principal nonconforming use or structure shall continue after such principal use or structure has ceased or has been terminated under the provisions of this Zoning Resolution unless it shall thereafter conform to all regulations of this Zoning Resolution.
5. In all enforcement proceedings, the person who claims the benefit of nonconformity shall have the burden to prove that they lawfully existed on the effective date of this Zoning Resolution.
6. Nothing contained in this Section shall require any changes to be made in plans, construction, or designated use of any building, structure or use for which an application for a building permit was filed prior to the effective date of this Zoning Resolution or any amendment which would make the use nonconforming.

B. Regulation of Nonconforming Uses

Nonconforming uses shall be subject to the following regulations:

1. Right to continue

A nonconforming use lawfully established prior to the effective date of this Zoning Resolution, or prior to any subsequent amendment which creates such nonconformity, may be continued and maintained unless the nonconforming use is abandoned for a period of six (6) months or more. The right to continue the nonconforming use continues even though there is a change of ownership or change of occupant or change of management where there is no change in the operation of the nonconformity. The Board of Zoning Appeals is authorized to modify a nonconforming use if the Board of Zoning Appeals determines that the modification of the nonconforming use would promote the public health, safety and welfare of the neighborhood in which the nonconformity exists through improvement of property values, avoidance of blighting influences, reduction of traffic, lowering of noise, improvement of the maintenance of the nonconforming structure, or enhancement of services necessary by the occupants of nearby properties.

2. Termination of nonconforming uses

A nonconforming use shall terminate if it has ceased to operate for a period of six (6) months or more or in the event that any building or structure that is devoted in all or part to a nonconforming use is destroyed by any means to an extent more than fifty (50) percent of the appraised value based on the county tax duplicate for the subject property prior to the time of damage of such structure, exclusive of foundations. In the event the nonconforming use is terminated by means of destruction of the structure as described in this section, the owner may either demolish the rest of the structure and clear the lot or remodel the structure for a use that does conform to the zoning of the district in which the structure is located.

3. Termination of non-structural nonconforming use

Any nonconforming use of land that does not involve any building or structure may be continued for a period of two (2) years after the enactment of this ordinance or any amendment to it that creates the nonconformity, at the end of which period such nonconforming use shall cease or be changed to a conforming use.

C. Nonconforming Structures and Buildings

A nonconforming structure or building shall not be modified in any manner which increases the degree of nonconformity unless it is to bring the structure or building fully into compliance with all the provisions of this Zoning Resolution, except as otherwise specified in this Section.

1. Nonconformity with residential development regulations

Any residential structure or building that is nonconforming in regard to minimum side or rear yard width may be expanded provided such expansion does not increase the degree of nonconformity along a particular lot line or violates any other provision of this Zoning Resolution. The Zoning Administrator/Enforcing Officer shall determine that the expansion is necessary to avoid hardship on the owner or occupant, to promote property values in the neighborhood, or to avoid blighting influences in the neighborhood.

2. Termination by failure to restore damaged structures

In the event that any nonconforming structure or building is destroyed by any means to the extent of more than fifty (50) percent of the assessed value as shown on the tax duplicate prior to the time of damage of such structure, exclusive of foundation, shall not be rebuilt, restored or reoccupied for any use unless it conforms to all regulations of this Zoning Resolution, the building code and any other applicable codes. The owner shall have the option of either clearing the lot of the damaged structure or building or restoring the structure or building for a use that conforms with the regulations of this Resolution.

When such a nonconforming structure or building is damaged or destroyed to the extent of fifty (50) percent or less of the assessed value as shown on the tax duplicate prior to the time of damage, no repairs or rebuilding shall be permitted except in conformity with this Section and other applicable regulations of this Zoning Resolution and the following conditions:

- a. A zoning certificate in regard to the restoration or reconstruction shall be applied for no later than six (6) months after the destruction, and rebuilding or restoration shall be completed within two (2) years.
- b. Such restoration shall not cause a new nonconformity nor shall it increase the degree of nonconformance or noncompliance existing prior to the damage or destruction.

D. Nonconforming Sites

Nonconforming items on a site shall not be modified, expanded or altered in any manner which increases the degree of nonconformity unless brought fully in conformance with all the provisions of this Zoning Resolution except as otherwise specified in this section.

1. Nonconforming Bufferyards

In the event that the nonconformity is a result of non-compliance with the bufferyards required by this Zoning Resolution, and when the land area of the subject property and location of existing structures precludes provision of the required bufferyards, the nonconformity shall, as a pre-condition to issuance of a permit, be required to comply fully with conditions determined by the Zoning Administrator/Enforcing Officer that will accomplish substantially the same effect as would be accomplished if the nonconforming site did comply to the buffering standards of this code as provided in Article 38, Landscape and Buffer Regulations.

2. Nonconforming Landscaping and Screening

In the event that a site or structure is nonconforming as a result of the landscaping and screening requirements of this Zoning Resolution, the following standards shall be met:

- a. All required vehicular use area perimeter screening and screening for service and storage areas shall be provided for all new or additional parking, service or storage areas being added to the structure or site.
- b. When the land area of the subject property and location of existing structures precludes provision of the required landscaping and screening, the nonconformity shall, as a pre-condition to the issuance of a permit, be required to comply fully with conditions determined by the Zoning Administrator/ Enforcing Officer that will accomplish substantially the same effect as would be accomplished if the nonconforming use did comply to the landscaping and screening standards of this Zoning Code as provided in Article 38, Landscape and Buffer Regulations.

3. Nonconforming Parking.

Where an existing structure or site is nonconforming with regard to off-street parking and loading, a new permitted use may be substituted or an existing permitted use may be expanded if the following conditions are met:

- a. The requirements of the code for off-street parking and loading shall be met for the existing structure, as well as for any expansion.

- b. If the Zoning Administrator/Enforcing Officer finds that the constraints of physical features or size of the site preclude meeting the requirements of subsection (3.a.) above, then, where the new or expanded use is required by this Zoning Resolution to have a greater number of spaces than the existing use, then the number of new parking and loading spaces required to be provided shall be the difference between those required for the new or expanded use and those that would be required for the existing use.

4. Nonconforming Street Access

Where an existing nonconforming site is nonconforming in regard to street access, the site shall be brought into conformity with the provisions of this Zoning Resolution for street access or shall be brought as close to conformity as the physical circumstances make possible through the following devices:

- a. Elimination of multiple curb cuts on individual street frontages of the site;
- b. Elimination of access from non-residential uses to residential streets;
- c. Combination of access points with those of adjoining sites; or
- d. Realignment of access points to meet standards set forth elsewhere in this Zoning Resolution or other applicable code.

The Zoning Administrator/Enforcing Officer shall determine the application of this Subsection in accordance with the standards and criteria set forth in this Section.

5. Nonconforming Vehicular Use Areas

A non-conforming vehicular use area, including any off-street parking and driveway for a single family use, shall not be modified in any manner which increases the surface area of the vehicular use area unless the surface pavement is brought fully into compliance with all the provisions of this Zoning Resolution and the following:

Vehicular use areas, nonconforming due to curbing, shall be curbed in accordance with the provisions of this Zoning Code upon the following:

- a. Whenever a nonconforming vehicular use area is expanded, the edge of the expanded pavement area shall be separated from adjoining, non-paved surfaces with curbing in accordance with the provisions of this Zoning Resolution, except as may be otherwise specified in this Zoning Resolution.

- b. At such time a nonconforming vehicular use area is eventually expanded in area equal to twenty-five (25) percent of the area of the initial nonconforming portion, then the entire nonconforming section shall be curbed in accordance with the provisions of this Zoning Resolution.
- c. Whenever a nonconforming vehicular use area is modified to accommodate required bufferyards and landscaping in accordance with Article 38, Landscape and Buffer Regulations, the edges where pavement is removed shall be curbed in accordance with the provisions of this Zoning Regulations, except as may be otherwise specified in this Zoning Regulations.
- d. The edges of portion of a nonconforming vehicular use area that are reconstructed shall be curbed in accordance with this Zoning Resolution. The term “reconstructed” shall, as a minimum, include the removal of the surface pavement and its subsequent replacement.

E. Nonconforming Lots of Record

A nonconforming lot of record may be used for the development of a single family residential use in any district in which such use is permitted. Where the lot of record is smaller than the minimum lot size for the district in which the lot is located, development shall occur by determining, as a percentage, how much smaller the nonconforming lot of record is smaller than the minimum lot size and proportionally applying that percentage to the side and rear setback requirements. For example, if the subject lot is twenty-five (25) percent smaller than the minimum required for the lot, up to a twenty-five (25) percent reduction in the setbacks may be permitted upon approval by the Zoning Administrator/Enforcement Officer. The front yard setback shall not be reduced.

All other development standards and regulations shall conform to all the standards of the zoning district in which the lot is located.

F. Nonconforming Signs

Nonconforming signs are subject to the provisions contained in Article 36, Sign Regulations.

G. Nonconformity Due to Lack of a Permit or Certificate

For any nonconformity which is nonconforming only because of the absence of the appropriate permit or certificate, the nonconformity shall not be enlarged, altered or extended to occupy a greater land area without first securing the issuance of the required permit or certificate. The nonconformity shall be deemed to be conforming upon the issuance of the permit or certificate. Any nonconforming use which is designated as a conditional use in the district wherein it is located shall remain a nonconforming use until such conditional use permit or certificate has been obtained. If a permit or certificate is not obtained within thirty (30)

days after an order is issued by the Zoning Administrator/Enforcement Officer, Bethel Township shall pursue such means as it deems necessary to achieve compliance with this Zoning Resolution.

Section 2.08 Amendments

The Zoning Resolution text or map may be amended according to the provisions of this Section:

A. Powers of Township Trustees

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Township Trustees may, by resolution, after receipt of a recommendation thereon from the Zoning Commission and subject to the procedures provided by law, amend, supplement or change the regulations, district boundaries or classifications of property now or hereafter established by this Zoning Resolution or amendments hereof. The Zoning Commission shall submit its recommendations regarding all applications or proposals for amendments or supplements to the Township Trustees for action.

B. Initiation

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

1. By referral of a proposed amendment to the Zoning Commission by the Trustees;
2. By adoption of a motion by the Zoning Commission; or
3. By the filing of an application by at least one (1) owner of record within the area proposed or affected by such amendment.

C. Application

An application for an amendment, if filed by property owners pursuant to subsection (B) hereof, shall be transmitted to the Zoning Administrator and shall contain, at a minimum, the following information where applicable:

1. The applicant's name, address, e-mail address (if applicable), and telephone number;
2. The proposed amendment to the text or map of this Zoning Resolution;
3. An accurate legal description of the property involved;
4. Existing and proposed uses and districts;
5. A map, drawn to scale, showing property lines, ownership, street addresses when known, streets and existing and proposed zoning. The map shall also depict all land within 200 feet of the boundaries of the area to be zoned and such other items as may be required by the Zoning Commission.
6. Any deed restrictions, easements, covenants and/or encumbrances to be imposed to control the use, development and maintenance of the area to be zoned;

7. A list of all property owners within 200 feet, contiguous to and directly across the street from the parcel proposed to be rezoned and their addresses as appearing on the County Auditor's current tax list. The requirement for addresses may be waived when more than ten parcels are proposed to be rezoned.
8. Estimates of the utility requirements of the area (including sewer, water and electricity requirements) and potential traffic generation, if requested by the Zoning Commission;
9. A statement as to how the proposed amendment relates to the Strategic Plan and to neighboring properties;
10. The application shall be signed by the applicant, or the applicant's agent, attesting to the truth and exactness of all information supplied by the application, provided that an individual signing as the applicant's agent shall furnish proof of his authority to act for the applicant; and
11. A fee as established by the Township Trustees.

D. Transmittal of Application to the Zoning Commission

Upon referral by the Township Trustees or the filing of an application by at least one (1) owner of property, the proposed amendment or application shall be transmitted to the Zoning Commission.

E. Recommendations by Zoning Commission

Within thirty (30) days after the first regular meeting of the Zoning Commission after the receipt of the proposed amendment, the Zoning Commission shall recommend to the Township Trustees that the amendment be approved as requested or that the amendment be denied. A public hearing shall be held by the Zoning Commission prior to its recommendation to the Township Trustees. Notice of the time, place and purpose of such hearing shall be given by publication at least once in a newspaper of general circulation in the Township. The publication shall be not less than ten (10) days prior to the hearing date.

In addition, where the proposed amendment is to effect a change in the Zoning Map and ten (10) or fewer parcels are to be rezoned, written notice of the hearing shall be mailed by the Zoning Administrator, by first-class mail, at least ten (10) days prior to the hearing date, to the owners of all property within 200 feet of the boundaries of the area to be rezoned. Failure of delivery of such notice shall not invalidate the proceedings or findings of the Zoning Commission.

F. Action by the Township Trustees

No amendment shall be deemed to pass or take effect without the concurrence of at least a majority vote of those present at the Township Trustees meeting.

If the Township Trustees do not grant a public hearing (Second Reading) for a zone change or, if upon a public hearing a zone change is not

passed by the Trustees, the applicant, or any other person seeking the zone change in reference to the same property, shall not be permitted to apply for a zone change for at least six (6) months. If the applicant is refused the zone change upon application after the expiration of the six (6) month period, no new application from him or her shall be considered until the expiration of one (1) year from the date of the second refusal.

G. Standards for Zoning Map Amendments

Only recommendations made by the Zoning Commission shall be considered for map amendments. All recommendations by the Zoning Commission for Zoning Map amendments shall be consistent with the Township's adopted plans, goals, and policies and with the intent of this Resolution.

Prior to making a recommendation on a proposed rezoning, the Zoning Commission shall make a finding to determine if the following conditions exist. No rezoning of land shall be approved prior to specific findings of at least one (1) of the following:

1. There is an error in the Resolution text or Zoning Map as enacted.
2. The proposed rezoning is not inconsistent with the Future Land Use Plan in the adopted Strategic Plan or any subsequent amendment thereof.

In addition to the findings required to be made by subsections (2), findings shall be made by the Zoning Commission on each of the following matters based on the evidence presented.

1. The extent to which the proposed amendment and proposed use are in compliance with and deviate from adopted plans, goals and policies.
2. The suitability of the property in question for the uses permitted under the proposed zoning.
3. The adequacy of public facilities such as transportation, utilities, and other required public services to serve the proposed use.
4. The effect of the proposed rezoning on surrounding uses.
5. The effect of the proposed rezoning on the economic viability of existing developed and vacant land within the Township.

The Zoning Commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and not solely for the interest of the applicant.

Section 2.09 Conformance with Miami County Sanitary Engineer Standards

All sanitary sewer or on-site decentralized sanitary sewer systems serving two or more parcels of land shall be submitted for review and approval by the Miami County Sanitary Engineers Office prior to any Zoning Certificate being issued.

Such submissions and review shall occur during any site plan review process or Planned Development review process in Bethel Township. On-site systems serving one parcel of land and/or commercial and industrial projects shall be reviewed and approved by the Miami County Health District and the State of Ohio EPA.