TATE TOWNSHIP ZONING RESOLUTION ARTICLE 10 ADMINISTRATION & PROCEDURES

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ARTICLE 10. ADMINISTRATION & PROCEDURES

10.01. PURPOSE

The purpose of this article is to identify the roles, responsibilities, and duties of various elected and appointed boards, and the township staff, used in the administration of this Zoning Resolution; and to identify the development review procedures used in the administration of this Zoning Resolution.

10.02. SUMMARY TABLE OF APPROVAL BODIES

Table 10.02-1 summarizes the review and decision-making responsibilities of the entities that have roles in the procedures set forth in this article.

Table 10.02-1: Summary Table of Approval Bodies

Procedure	Reference	Zoning Inspector	Board of Zoning Appeals	Zoning Commission	Board of Township Trustees	Court of Common Pleas
Zoning Map and Resolution Amendment	10.06.A	R		H | R	H | D	
Conditional Use	10.06.B	R	H | D			A
Variance	10.06.C	R	H | D			A
Administrative Appeal	10.06.D	R	H | D			
Zoning Certificate	10.06.E	R | D	A			
Site Plan Review	10.06.F	R | D	A			
PD Map Amendment & Preliminary PD Plan	9.01.F.2	R		H | R	H | D	
PD Final Development Plan	9.01.F.3	R		H | R	H | D	
PD Major Modification	9.01.G.1	R		H | R	H | D	
PD Minor Modification	9.01.G.2	R		H | D	A	

H = Public Hearing Required
M = Public Meeting Required
R = Review and/or Recommendation
D = Final Decision-Making Body
A = Appeal Body
Shaded Box = No Review / Approval Authority

10.03. REVIEW AND DECISION-MAKING BODIES

10.03.A. Court of Common Pleas

For the purpose of this Zoning Resolution, the appeal body for decisions made by the Board of Zoning Appeals is the Clermont County Court of Common Pleas.

10.03.B. Board of Township Trustees

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

10.03.B.1. Initiate proposed amendments to this Zoning Resolution and/or the official Zoning Map;

10.03.B.2. Review and decide on all proposed zoning text and map amendments to this Zoning Resolution;

10.03.B.3. Review and decide on Preliminary PD Plans, Final PD Plans, or combined Preliminary / Final PD Plans as they relate to a proposed PD; and

10.03.B.4. Perform all other duties as specified in Chapter 519 of the Ohio Revised Code as specified in this Zoning Resolution.

10.03.C. Zoning Commission

10.03.C.1. Appointment

The Zoning Commission shall be appointed by the Board of Township Trustees for five-year terms and shall consist of five (5) members, who shall be residents of the unincorporated territory of Tate Township.

10.03.C.1.a. The terms of all members shall be of such length and so arranged that the term of one (1) member shall expire each year.

10.03.C.1.b. Each member shall serve until his or her successor is appointed and qualified.

10.03.C.1.c. Members of the Zoning Commission shall be removable for non-performance of duty, misconduct in office, or other cause, in accordance with ORC 519.04.

10.03.C.1.d. Vacancies shall be filled by appointment by the Board of Trustees and shall be for the time remaining in the unexpired term.

10.03.C.2. Alternates

10.03.C.2.a. The Board of Township Trustees may appoint two (2) alternate members to the Zoning Commission for a term of five (5) years each.

10.03.C.2.b. An alternate member shall take the place of an absent regular member at any meeting of the Zoning Commission.

10.03.C.2.c. An alternate member shall meet the same appointment criteria as a regular member.

10.03.C.2.d. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter that the absent member is authorized to vote.

10.03.C.3. Assistance

The Zoning Commission may call upon Township and County Departments for assistance in the performance of their duties, and it shall be the duty of such department to render such assistance as may reasonably be required.

10.03.C.4. Bylaws

The Zoning Commission may organize and adopt bylaws for its own governance provided they are consistent with law or with any other resolution of the township.

10.03.C.5. Roles and Powers

The Zoning Commission shall have the following roles and powers:

10.03.C.5.a. Initiate proposed amendments to this Zoning resolution and/or the official Zoning Map.

10.03.C.5.b. Serve as the architectural review authority, as granted by ORC Section 519.171 in such cases as may be defined in this Zoning Resolution.

10.03.C.5.c. Review all proposed Zoning Text and Map Amendments to this Zoning Resolution and make recommendations to the Board of Trustees.

10.03.C.5.d. Review and make recommendations to the Board of Township Trustees regarding Preliminary PD Plans and combined Preliminary / Final PD Plans as they relate to a proposed PD.

10.03.C.5.e. Review and make recommendations on Final PD Plans as they relate to a proposed PD where the Final PD Plan is not part of a combined Preliminary / Final PD Plan application.

10.03.C.5.f. Perform all other duties as specified for township Zoning Commissions in Chapter 519 of the ORC and as specified in this Zoning Resolution.

10.03.C.6. Procedures

10.03.C.6.a. The Zoning Commission shall organize and adopt rules for the transaction of business and keep a record of its actions and determinations.

10.03.C.6.b. Meetings shall be held at the call of the chair, or the acting chair, and at such other times as the Zoning Commission may determine.

10.03.C.6.c. The Zoning Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact, and shall keep record of its examinations and other official actions, all of which shall be filed with the Township Zoning Office and kept as public record.

10.03.C.6.d. The Commission members shall be required to disqualify themselves from the deliberations and voting on case in which they are among the notified property owners.

10.03.C.6.e. All meetings shall be open to the public, except as exempted by law.

10.03.C.7. Hearings

Hearings of the Zoning Commission regarding district changes and resolution amendments shall be held in accordance with Section 519.12 of the Ohio Revised Code.

10.03.C.8. Meetings

The Commission shall schedule a regular meeting once per month. At the beginning of each year, the Zoning Inspector shall publish a schedule of the regular monthly meetings times and filing deadlines for the year. All complete applications filed by the deadline shall be heard at the following month's meeting.

10.03.C.9. Quorum

Three (3) members of the Commission shall constitute a quorum. The Commission acts by motion or resolution; and the majority vote of the quorum shall be necessary to exercise any power of the Commission.

10.03.D. Board of Zoning Appeals

10.03.D.1. Appointment

The Board of Zoning Appeals shall be appointed by the Board of Township Trustees for five-year terms and shall consist of five (5) members, who shall be residents of the unincorporated territory of Tate Township.

10.03.D.1.a. The terms of all members shall be of such length and so arranged that the term of one (1) member shall expire each year.

10.03.D.1.b. Each member shall serve until their successor is appointed and qualified.

10.03.D.1.c. Members of the BZA shall be removable for non-performance of duty, misconduct in office, or other cause, in accordance with ORC 519.13.

10.03.D.1.d. Vacancies shall be filled by the Board of Township Trustees and shall be for the time remaining in the unexpired term.

10.03.D.2. Alternates

10.03.D.2.a. The Board of Township Trustees may appoint two (2) alternate members to the Board of Zoning Appeals for a term of five (5) years each.

10.03.D.2.b. An alternate member shall take the place of an absent regular member at any meeting of the Board of Zoning Appeals.

10.03.D.2.c. An alternate member shall meet the same appointment criteria as a regular member.

10.03.D.2.d. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter that the absent member is authorized to vote.

10.03.D.3. Assistance

The BZA may call upon Township and County Departments for assistance in the performance of its duties, and it shall be the duty of such department to render such assistance as may reasonably be required.

10.03.D.4. Bylaws

The BZA may organize and adopt bylaws for its own governance provided they are consistent with law or with any other resolution of the township.

10.03.D.5. Roles and Powers

10.03.D.5.a. Conditional Uses

The BZA shall have the power to authorize upon application, condition use, or special exemption Zoning Certificates for those uses which are specified as such by this Zoning Resolution. The BZA shall have the power to impose requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Zoning Resolution for the particular conditional use, as the BZA may deem necessary for the protection of adjacent properties and the public interest. Conditional uses are subject to the provisions of Section 10.06.B. Conditional Use.

10.03.D.5.b. Variances

The BZA shall have the power to authorize upon application in specific cases, such dimensional variances from the provisions or requirements of this Zoning Resolution as will not be contrary to the public interest, where, owing to special conditions pertaining to a specific piece of property, the literal enforcement of the provisions or requirements of this Zoning Resolution would cause practical difficulties. The BZA shall also have the power to authorize use variances from the provisions or requirements of this Zoning Resolution where the literal enforcement of said provisions or requirements would result in unnecessary hardship. Variances are subject to the provisions of Section 10.06.C. Variances.

10.03.D.5.c. Administrative Appeals

The BZA shall have the power to hear and decide where it is alleged by the appellant that there is error in any order, requirement, decision, grant or refusal made by the Zoning Inspector, or a designated subordinate in the interpretation or enforcement of the provisions of this Zoning Resolution. Appeals are subject to the provisions of Section 10.06.D. Administrative Appeals.

10.03.D.6. Procedures

10.03.D.6.a. The BZA shall organize and adopt rules in accordance with the provisions of this Resolution.

10.03.D.6.b. Meetings of the BZA shall be held at the call of the chair, or the acting chair, and at such other times as the BZA may determine.

10.03.D.6.c. The chair, or in their absence, the acting chair, may administer oaths and the BZA may compel the attendance of witnesses per Section 519.15 of the Ohio Revised Code.

10.03.D.6.d. The BZA shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent, or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Township Zoning Office and shall be public record.

10.03.D.6.e. All meetings shall be open to the public, except as exempted by law.

10.03.D.7. Meetings

The board shall meet once per month. At the beginning of each year, the Zoning Inspector shall publish a schedule of the regular monthly meeting times and filing deadlines for the year. All complete applications and appeals filed by the deadline shall be heard at the following month's meeting.

10.03.D.8. Quorum

Three (3) members of the Commission shall constitute a quorum. The Commission acts by resolution; and the majority vote of the quorum shall be necessary to exercise any power of the Commission.

10.03.D.9. Decisions

10.03.D.9.a. Any party in interest or person adversely affected by the decision of the Board

may appeal to the Court of Common Pleas of Clermont County as provided in the Ohio Revised Code.

10.03.D.9.b. In grating an appeal or application, the Board may impose on the applicant such requirements and conditions, including posting of bond, with respect to location, construction, maintenance and operation, as the Board may deem necessary for the protection of adjacent properties and the public interest. Any noncompliance with such requirements or conditions on the part of the owner shall be considered a violation of this Resolution.

10.03.D.10. Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector certifies to the BZA, after notice of appeals shall have been filed with them, that by reasons of facts or conditions existing, a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by an order which may, on due cause shown, be granted by the BZA or judicial proceedings on application after notice of the Zoning Inspector.

10.03.E. Zoning Inspector

The Tate Township Board of Trustees shall appoint a Zoning Inspector who shall have the following roles and powers:

10.03.E.1. It shall be the duty of the Zoning Inspector, or his/her designee, to review applications for Zoning Certificates and to ensure compliance with this Zoning Resolution in accordance with Section 10.06.E. Zoning Certificates.

10.03.E.2. It shall be the duty of the Zoning Inspector to keep adequate records of all applications and decisions on said applications.

10.03.E.3. It shall be the duty of the Zoning Inspector, or his/her designee, to issue citations of zoning violations and keep adequate records of all violations in accordance with Section 10.07. Violations and Penalties. In enforcement of this Zoning Resolution, the Zoning Inspector may:

10.03.E.3.a. Investigate suspected violations;

10.03.E.3.b. Issue compliance or cease-and-desist orders;

10.03.E.3.c. Refer unresolved violations to the township for consideration of legal or civil court action.

10.03.E.4. The Board of Trustees may also appoint additional Zoning Inspector personnel to assist the Zoning Inspector in such roles and powers.

10.04. COMMON REVIEW REQUIREMENTS

10.04.A. Purpose

The purpose of this section is to identify procedures and applicable requirements that apply to all applications and procedures subject to development review under this Zoning Resolution, unless otherwise stated.

10.04.B. Authority to File Applications

Unless otherwise specified in this Zoning Resolution, zoning applications may be initiated by:

10.04.B.1. The owner(s) of the property(ies) that is (are) the subject of the application;

10.04.B.2. The owner's authorized agent; or

10.04.B.3. Tate Township, Clermont County, Ohio.

10.04.C. Fees

10.04.C.1. Fees shall be determined by the Board of Township Trustees from time to time and presented via an adopted "Fee Schedule", copies of which shall be available from the Zoning Inspector.

10.04.C.2. No fee shall be required to be paid by any public agency for applications to Tate Township.

10.04.C.3. No application shall be processed, or certificate issued, until the established fee has been paid by the applicant.

10.05. PUBLIC HEARING REQUIREMENTS

10.05.A. Applicability

Applications for Zoning Map and Text Amendments, Conditional Use Permits, Variances, Planned Development Preliminary Development Plan and Zone Change, and Planned Development Final Development Plan shall be subject to the Public Hearing Requirements contained within this section.

10.05.B. Mailed Notice

10.05.B.1. Mailed notice shall be sent out no less than 10 days prior to the date of the hearing to all property owners within 500 feet of any part of the property.

10.05.B.2. Mailed notice shall meet or exceed the notice standards required by the Ohio Revised Code.

10.05.B.3. Notice shall be sent to the person or entity identified as the tax mailing recipient in the Clermont County Auditor's records. Failure to receive notice shall not be grounds to invalidate a decision.

10.05.C. Published Notice

Published notice shall occur in compliance with Chapter 519 of the Ohio Revised Code, including but not limited to Section 519.06; 519.12; and 519.15.

10.05.D. Notice Content Requirement

The published and mailed notices shall contain information set forth by Section 519.12 of the Ohio Revised Code.

10.05.E. Computation of Time

10.05.E.1. In computing any period of time prescribed or allowed by this Zoning Resolution, the date of the application, act, decision, or event, from which the designated period of time begins shall not be included. The last date of the period of time to

be computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which case the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday as observed by Tate Township where the township offices are closed for the entire day.

10.05.E.2. When the township offices are closed to the public for the entire day which constitutes the last day of the period of time, then such application, act, decision, or event may be performed on the next succeeding day which is not a Saturday, a Sunday, or a legal holiday observed by Tate Township in which the township administrative offices are closed for the entire day.

10.05.F. Representatives at the Hearing.

At the hearing, any party may appear in person, by attorney or authorized agent.

10.06. SPECIFIC PROCEDURES

10.06.A. Zoning Map and Resolution Amendments

The Zoning Map and Resolution Amendment process shall follow the specific procedure outlined in this section, which is also summarize on the following flow chart.



Figure 10-1: Zoning Map and Resolution Amendment Process Flow Chart

10.06.A.1. Initiation

Amendments to the zoning map or zoning resolution may be initiated in one (1) of the following ways:

10.06.A.1.a. By motion of the Tate Township Zoning Commission;

10.06.A.1.b. By the passage of a resolution by the Tate Township Board of Trustees; or

10.06.A.1.c. By the filing of an application by one (1) or more owners or lessees of property within the area proposed to be changed or affected by the proposed amendment with the Tate Township Zoning Commission.

10.06.A.2. Application Requirements

All applications to amend the zoning resolution or zoning map shall include the following:

10.06.A.2.a. Description and location of the property;

10.06.A.2.b. Description of proposed use and/or buildings or structures;

10.06.A.2.c. The reason for change;

10.06.A.2.d. A map of the area including all lots within 500 feet of any part of the property involved, and the location and use of the building(s) or structure(s) thereon;

10.06.A.2.e. The names and addresses of owners and lots shown on said map;

10.06.A.2.f. Verification by the applicant attesting to the truth and accuracy of all facts and information presented in the application.

10.06.A.2.g. Filing fee, as established by the Tate Township Trustees and made payable to the Tate Township Trustees; and

10.06.A.2.h. Any other information as requested by the Board of Trustees and/or Zoning Commission.

10.06.A.3. Approval Process

The following is the approval process for a zoning map or zoning resolution amendment.

10.06.A.3.a. Pre-Application Meeting

i. If initiated by the property owners, the applicant is required to meet with the Tate Township Zoning Inspector to discuss the initial concepts of the proposed amendment and general compliance with the applicable provisions of this Zoning Resolution and the Tate Township Comprehensive Plan, prior to the submittal of any application.

ii. Discussions that occur during a preapplication conference or a preliminary meeting with township staff are not binding on the township and do not constitute official assurances or representations by Tate Township or its officials regarding any aspects of the plan or application discussed.

10.06.A.3.b. Submit Completed Application

i. Uon receipt of an application, the Zoning Inspector shall determine whether the application is complete. If it is not complete, the applicant shall be notified of the additional materials or information that are needed.

ii. When the application is deemed complete, if the proposed amendment intends to rezone or redistrict ten (10) parcels of land or less notification shall be given in accordance with ORC Section 519.12 and Section 10.05. Public Hearing Requirements.

10.06.A.3.c. Referral to Clermont County Planning Commission

i. Within five (5) days upon the receipt of a complete application, adoption of a motion, or certification of a resolution, the township shall transmit a copy of the proposed amendment to the Clermont County Planning Commission;

ii. The County Planning Commission shall recommend the approval or denial of the proposed amendment or supplement or the approval of some modification thereof and shall submit such recommendation to

the Township Zoning Commission.

iii. Such recommendation shall be considered at the public hearing held by the Township Zoning Commission on such proposed amendment.

10.06.A.3.d. Zoning Commission Public Hearing

i. Notification shall be given in accordance with ORC Section 519.12 and Section 10.05. Public Hearing Requirements.

ii. Following the Zoning Commission public hearing, the Zoning Commission shall provide a recommendation to the Township Trustees for their consideration.

10.06.A.3.e. Zoning Commission Recommendation

The Zoning Commission shall, within 30 days after such hearing, recommend the approval or denial of the proposed amendment, or the approval of some modifications thereof and submit such recommendation together with such application or resolution, the map and text pertaining thereto and the recommendation of the Clermont County Planning Commission to the Township Trustees.

10.06.A.3.f. Township Trustees Public Hearing

i. The Township Trustees, upon receipt of such recommendation, set a time for a public hearing on such proposed amendment, which date shall not be more than 30 days from the date of the receipt of such recommendation from the Zoning Commission.

ii. Notification shall be given in accordance with ORC Section 519.12 and Section 10.05. Public Hearing Requirements.

10.06.A.3.g. Action of Township Trustees

Within 20 days after such public hearing, the Trustees shall either adopt or deny the recommendation of the Zoning Commission or adopt some modification thereof.

10.06.A.4. Review Criteria for Zoning Amendments

The following criteria shall be used in decisions regarding zoning amendments:

10.06.A.4.a. The amendment is in accordance with this Zoning Resolution as adopted by the Board of Township Trustees;

10.06.A.4.b. The amendment has been reviewed to determine the consistency with the Tate Township Comprehensive Plan; and

10.06.A.4.c. Where more than one (1) zoning district is available to implement the land use designation, the applicant must justify the particular zoning being sought and show that it is best suited for the specific site, based upon the policies of the township.

10.06.A.5. Planned Developments

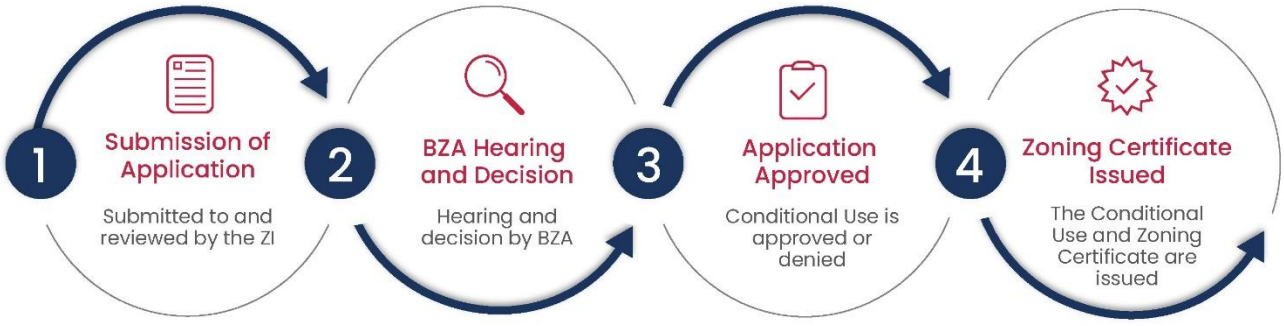
Planned Developments (PDs) shall be subject to the review procedures established in Section 9.01.F. Approval Process.

10.06.A.6. Effective Date

Such amendment adopted by the Trustees shall become effective 30 days after the date of such adoption unless within 30 days after the adoption of the amendment, there is presented to the Trustees, a petition, in accordance with ORC Section 519.12.

10.06.B. Conditional Use

The Conditional Use process shall follow the specific procedure outlined in this section, which is also summarize on the following flow chart.



ZI = Zoning Inspector | BZA = Board of Zoning Appeals

Figure 10-2: Conditional Use Process Flow Chart

10.06.B.1. Approval Process

10.06.B.1.a. Submit Completed Application

The property owner or owner's representative shall submit to the Zoning Inspector an application for a conditional use permit, on a form that may be obtained from the Zoning Inspector. The application and site plan shall address applicable site plan features and considerations applicable to the request, including but not limited to:

- **i.** The location of all adjoining properties;
- **ii.** The size of the subject property;
- **iii.** The location and setback of existing and proposed structures;
- **iv.** The location and setbacks of all existing and proposed off-street parking and loading areas;
- **v.** The location of all existing and proposed open spaces;
- **vi.** The location of all existing and proposed refuse and service areas;
- **vii.** The location of all existing and proposed utility lines; and
- **viii.** The location and size of all existing and proposed signage.

10.06.B.1.b. Board of Zoning Appeals Public Hearing

- **i.** Once the Zoning Inspector determines that the conditional use application is complete, the application will be forwarded to the Board of Zoning Appeals.
- **ii.** The Zoning Inspector shall cause notice of the public hearing to be

given in accordance with ORC Section 519.15 and Section 10.05. Public Hearing Requirements.

10.06.B.1.c. Action of the Board of Zoning Appeals

i. The Board of Zoning Appeals shall review the application and the evidence presented during the public hearing to determine if the requested use complies with the review criteria, the intent, and any other applicable standards.

ii. Following review of the application, the Board of Zoning Appeals shall approve or disapprove the request for a conditional use. The Board of Zoning Appeals may impose additional conditions, stipulations, and safeguards it finds necessary for the protection of nearby property and the public health, safety, morals, and general welfare of the community.

10.06.B.1.d. Conditional Use Approval

i. The conditional use approval shall be void if the applicant has not received a zoning permit, within 12 months of the date of the conditional use approval.

ii. The breach by the applicant of any condition, safeguard, or requirement expressed or referred to on the conditional use approval shall render the use void and shall constitute a violation of this Resolution.

10.06.B.2. Review Criteria for Conditional Use

10.06.B.2.a. In hearing applications for conditional uses, the Board of Zoning Appeals shall give due regard to the nature and condition of all adjacent uses. In authorizing a conditional use or special exception, the Board of Zoning Appeals shall impose requirements and conditions with respect to location, construction, maintenance, and operation that are deemed necessary to mitigate the special characteristics of the use in order to make it compatible with adjacent properties, and for the properties of adjacent properties and the public interest.

10.06.B.2.b. In reviewing an application for a conditional use, the Board of Zoning Appeals shall use the following standards in reaching a decision:

i. Will the proposed use adversely affect the health, safety, security, morals or general welfare of the residents, visitors, or workers in the area;

ii. Will the proposed use be consistent with the general plan for the physical development of the zoning district;

iii. Will the proposed use be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activities, traffic and parking conditions and number of similar uses;

iv. Will the proposed use be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the

general neighborhood; and will it cause objectionable noise, vibration, fumes, odors, dust, glare, or physical activity;

v. Will the proposed use have a detrimental impact on vehicular or pedestrian traffic;

vi. Will the proposed use, in conjunction with the existing development in the area and the development permitted under the existing zoning, overburden existing public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public improvements.

10.06.C. Variances

The Variance processes shall follow the specific procedure outlined in this section, which is also summarize on the following flow chart.



Figure 10-3: Variance Process Flow Chart

10.06.C.1. Approval Process

10.06.C.1.a. Submit Completed Application

The property owner or owner's representative shall submit to the Zoning Inspector an application for a variance, on a form that may be obtained from the Tate Township Zoning Inspector. The application and site plan shall address applicable site plan features and considerations applicable to the request, including, but not limited to:

i. The location of all adjoining properties;

ii. The size of the subject property;

iii. The location and setbacks of existing and proposed structures;

iv. The location and setbacks of all existing and proposed off-street parking and loading areas;

v. The location of all existing and proposed open spaces and landscape treatments;

vi. The location of all existing and proposed refuse and storage areas;

vii. The location of all existing and proposed utility lines; and

viii. The location and size of all existing and proposed signage.

10.06.C.1.b. Board of Zoning Appeals Public Hearing

i. Once the Zoning Inspector determines that the variance application is complete, the application will be forwarded to the Board of Zoning Appeals.

ii. The Zoning Inspector shall cause notice of the public hearing to be given in accordance with ORC Section 519.15 and Section 10.05. Public Hearing Requirements.

10.06.C.1.c. Action of the Board of Zoning Appeals

i. The Board of Zoning Appeals shall review the application and the evidence presented to determine if the request complies with the review criteria, the intent, and the specific standards contained herein.

ii. Following the review of the application, the Board of Zoning Appeals shall approve or disapprove the request for a variance. The Board of Zoning Appeals may impose additional conditions, stipulations, and safeguards it finds necessary for the protection of nearby property and the public health, safety, morals, and general welfare of the community.

10.06.C.1.d. Variance Approval

i. No order of the Board of Zoning Appeals permitting the erection or alteration of a building or the use of a building or premises, shall be valid for a period longer than 12 months, unless a zoning permit for such erection or alteration is obtained and the work is started within such period, or where no erection or alteration is necessary, the permitted use is established within such period.

ii. The breach by the applicant of any condition, safeguard, or requirement of the approval shall render the use void and shall constitute a violation of this Resolution.

10.06.C.2. Review Criteria for Variances

10.06.C.2.a. A dimensional variance may be granted where a literal enforcement of this zoning resolution will result in a practical difficulty. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of the property shall be the burden of the applicant to demonstrate.

10.06.C.2.b. The factors to be demonstrated include, but are not limited to:

i. Whether the property will yield a reasonable return without the variance or whether there can be beneficial use of the property;

ii. Whether the variance is substantial;

iii. 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;

iv. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, waste collection);

v. Whether the property owner purchased the property with knowledge of the zoning restrictions;

vi. Whether the owner's predicament can feasibly be addressed through some method other than variance;

vii. Whether the variance preserves the spirit and the intent behind the resolution and whether substantial justice would be done by granting the variance.

10.06.C.2.c. To obtain a use variance, the applicant must show by clear and convincing evidence an "unnecessary hardship" – meaning that, without the use variance, the property could not be put any economically viable use under current zoning restrictions.

10.06.C.2.d. No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

10.06.D. Administrative Appeals

The Zoning Certificate process shall follow the specific procedure outlined in this section, which is also summarized on the following flow chart.



ZI = Zoning Inspector | BZA = Board of Zoning Appeals

Figure 10-4: Administrative Appeals Process Flow Chart

10.06.D.1. Applicability

Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer of the township affected by any decision of the Zoning Inspector. The Board may hear and decide appeals, filed as herein provided, where it is alleged that there is an error in any order, requirement, decision, or determination made by the Zoning Inspector or other administrative official in the enforcement of Sections 519.02 to 519.25 of the Ohio Revised Code, or this Zoning Resolution. Such an appeal shall be taken within 20 days after the decision by filing with the Zoning Inspector and with the Board a notice of appeal specifying the grounds thereof. The Zoning Inspector shall forthwith transmit to the Board all the papers constituting the record upon with the action appealed was taken.

10.06.D.2. Appeal Process

10.06.D.2.a. Submit Completed Application

Except as otherwise permitted in this Resolution, no appeal shall be considered by the Board of Zoning Appeals unless the Board shall find that the written application for the requested appeal contains the following requirements:

- **i.** A completed appeals application;
- **ii.** A description of the nature of the appeal requested;
- **iii.** A narrative statement establishing and substantiating the justification of the grounds for appeal; and
- **iv.** Payment of a fee as established by the Board of Trustees, which shall not be refundable.

10.06.D.2.b. Board of Zoning Appeals Public Hearing

- **i.** The Zoning Inspector shall transit to the Board of Zoning Appeals all papers constituting a record upon which the action appealed from was taken.
- **ii.** The Zoning Inspector shall cause notice of the public hearing to be given in accordance with ORC Section 519.15 and Section 10.05. Public Hearing Requirements.
- **iii.** Before making any decision on an appeal, the Board of Zoning Appeals shall hold a public hearing in which the Board shall review the application materials.
- **iv.** The Board of Zoning Appeals may reach a decision on the appeal at the hearing and shall reach a decision on the appeal within a reasonable amount of time. The Zoning inspector shall notify the applicant in writing of the decision of the Board and shall maintain a detailed report of the proceedings and decision of the Board.
- **v.** The decision of the Board of Zoning Appeals may be appealed to the Court of Common Pleas of Clermont County, Ohio, as per the Ohio Revised Code.

10.06.D.2.c. Action of the Board of Zoning Appeals

- **i.** Upon application, the BZA shall fix a reasonable time for the public hearing on any appeal, give at least 10 days of notice in writing to the parties of interest, and give notice of such public hearing in accordance with Section 10.05. Public Hearing Requirements.
- **ii.** Any party may appear in person or by an appointed representative at a hearing for an application.
- **iii.** Upon the day for hearing any appeal, the BZA may, by motion setting the date, time, location, and cause, continue the hearing in order to obtain additional information, or to cause further notice, as it deems proper, to facilitate the discussion and decision on said application. In the case of an continued hearing, persons previously notified and

persons already heard need not be notified of the time of resumption of said hearing unless the BZA so decides.

10.06.D.3. Review Criteria for Appeals

An order, decision, determination, or interpretation shall not be reversed or modified by the BZA unless there is competent, material, and substantial evidence in the record that the order, decision, determination, or interpretation fails to comply with either the procedural or substantive requirements of this Zoning Resolution, state law, or federal law.

10.06.D.4. Expiration

There is no expiration period associated with a granted appeal; however, any action authorized by the Board of Zoning Appeals as a result of a successful appeal must comply with all applicable timelines, permits, or subsequent approvals required under this Zoning Resolution. Failure to act on the relief granted within one (1) year of the decision may result in the approval becoming null and void unless otherwise specified by the Board.

10.06.E. Zoning Certificates

The Zoning Certificate process shall follow the specific procedure outlined in this section, which is also summarize on the following flow chart.



Figure 10-5: Zoning Certificate Process Flow Chart

10.06.E.1. Applicability

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

10.06.E.1.a. New construction or structural alteration of any building or structure, including accessory buildings;

10.06.E.1.b. Change in use or occupancy of an existing building (including tenant finishes), accessory building, lot, or portion thereof, excluding changing to any agricultural use;

10.06.E.1.c. Change in the use of land to a use of a different classification;

10.06.E.1.d. Occupancy and use of vacant land or building, excluding agricultural land or buildings;

10.06.E.1.e. Decks and porches;

10.06.E.1.f. Fences, and walls (including development entrance walls);

10.06.E.1.g. Retaining walls that require a building permit from Clermont County;

10.06.E.1.h. All pools with a water depth greater than 18 inches, except for temporary pools that are removed or emptied within 24 hours;

10.06.E.1.i. Home occupations, accessory uses, and temporary uses;

10.06.E.1.j. Any change in the use of a non-conforming use;

10.06.E.1.k. Permanent or temporary signs unless exempted in Section 8.03.C. Exempted Signs;

10.06.E.1.l. Any structure or improvement that is required to obtain a Zoning Certificate prior to the issuance of a Clermont County Building Permit;

10.06.E.1.m. Any other structure or use not listed as determined by the Zoning Inspector.

10.06.E.2. Certificate of Zoning Compliance – Final Inspection

It shall be unlawful to use or occupy any land, building, or structure, or portion thereof, for which a Zoning Certificate has been issued, until a final Certificate of Zoning Compliance is granted by the Zoning Inspector. To ensure compliance with the approved site plan, the development process shall include the following inspection milestones as determined applicable by the Zoning Inspector:

10.06.E.2.a. Pre-Excavation

Prior to any excavation, grading, or construction, the applicant shall flag or stake the property lines and the footprint of the proposed structure. The Zoning Inspector shall conduct a site inspection to verify setback and site plan compliance before work begins.

10.06.E.2.b. Final Inspection

Upon completion of the work authorized by the Zoning Certificate, the applicant shall notify the Zoning Inspector to request a final inspection.

10.06.E.2.c. Issuance

If the Zoning Inspector finds the completed work complies with the provisions of this Zoning Resolution and the approved site plan, a Certificate of Zoning Compliance shall be issued.

10.06.E.3. Approval Process

10.06.E.3.a. Submit Completed Application

The applicant shall submit the proper zoning certificate application form, signed by the property owner or authorized agent, together with the appropriate plan sets, as determined by the Zoning Inspector. Plans shall be drawn to scale in blackline or blueline showing the following:

i. The actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part, including the width of the lot and the setback lines;

ii. The exact location and size of any building or structure, existing and/or to be erected or altered, and the location and dimensions of all yards, driveways, and off-street parking spaces; and, if required, paring area diagrams, district buffer strips, drainage, landscaping, lighting, and the location and dimensions of refuse areas;

iii. The front, side, and rear elevations of the building or structure as it will appear when completed;

iv. When no buildings or structures are involved, the location of the present use and proposed use to be made of the lot;

v. Any other requirements listed under General Regulations;

vi. The existing and intended use of each building or structure or part thereof, and a statement that proposed use will meet every requirement of this Resolution;

vii. If a residential building, the number of dwelling units the building is designed to accommodate; and

viii. Any other information as requested by Tate Township.

10.06.E.3.b. Review and Approval

i. The Zoning Inspector shall act upon such applications within 30 days after the application is filed in full compliance with all the applicable requirements.

ii. The Zoning Inspector shall either issue the zoning certificate within 30 days or shall notify the applicant of disapproval of such certificate and the reason thereof.

iii. Upon approval, the Zoning Inspector shall issue a signed Zoning Certificate and maintain a copy of the application for township records.

iv. If the Zoning Inspector denies an application, the inspector shall state in writing the reasons for the action taken.

v. If the application is denied, the applicant may submit a revised application and sketch plan for review in accordance with this review process, or the applicant may appeal the decision to the Board of Zoning Appeals, in accordance with Section 10.06.D. Administrative Appeals of this Zoning Resolution.

vi. Zoning Certificate applications submitted for a site subject to an approved moratorium shall not be reviewed, and no decision made within the period of time that the moratorium is in place.

vii. No Zoning Certificate shall be issued to any applicant or for any property that is in violation of any provision of this resolution until such violation is correct or eliminated to the satisfaction of the Zoning Inspector unless said application is being made to bring the property into compliance with this Zoning Resolution.

10.06.E.4. Review Criteria for Zoning Certificates

The standards by which the zoning certificate application is evaluated shall include the following:

10.06.E.4.a. The comprehensive plan of the township;

10.06.E.4.b. The applicable county thoroughfare plan;

10.06.E.4.c. Any applicable resolutions relative to access and traffic control;

10.06.E.4.d. The Zoning Resolution; and

10.06.E.4.e. Any other applicable resolution(s) of the Township.

10.06.E.5. Temporary Certificates and Permits

Temporary Zoning Certificates and certificates of zoning compliance for a period of 60 days or less with specific expiration dates may be issued by the Zoning Inspector for any permitted use of a temporary nature upon payment of a fee and after data is furnished as required by the Zoning Department. Such certificates and permits for more than 60 days, but not more than 12 months, shall require review and approval by the Board of Zoning Appeals.

10.06.E.6. Nonconforming Use Zoning Certificate

The Zoning Inspector may issue a non-conforming use zoning certificate for any building or premises legally existing prior to the effective date of this Zoning Resolution. Said certificate shall be issued pursuant to the provisions established by Section 10.06.G. Pre-Existing Developments and Nonconformities.

10.06.E.7. Amendments or Modifications

10.06.E.7.a. Insignificant changes from an approved Zoning Certificate are permissible and the Zoning Inspector may grant changes, provided such change has no discernible impact on neighboring properties or the general public. Amendments or modifications to an approved Zoning Certificate may require the payment of a fee as established in the township's fee schedule.

10.06.E.7.b. All other requests for changes will be processed as a new application, which require the resubmittal of a new fee.

10.06.E.7.c. An applicant or property owner requesting changes shall submit a written request to the Zoning Inspector, itemizing the proposed changes.

10.06.E.8. Expiration

10.06.E.8.a. Construction shall commence within 12 months and shall be substantially completed within 24 months of the date upon which the Zoning Certificate was issued unless the owner of the property has established a vested right under the laws of Ohio to the use for which the original Zoning Certificate was issued.

10.06.E.8.b. Construction shall not be required to comply with the time limits established by Section 10.06.E.8.a (above) if the Zoning Inspector has authorized an alternative commencement or substantial completion date as part of the Zoning Certificate application review process. If the Zoning Inspector has authorized an alternative commencement or substantial completion date as part of the

Zoning Certificate application review process, construction shall commence and be substantially completed within those time limits established by the Zoning Inspector.

10.06.E.8.c. For the purposes of Subsection 10.06.E.8.a and 10.06.E.8.b (above), construction shall not be deemed to have commenced until the excavation necessary for placement of the structure's foundation is no less than 100% complete, as determined by the Zoning Inspector.

10.06.E.8.d. Failure to commence construction within 12 months and substantially complete construction within 24 months or any alternative time limits established by the Zoning Inspector shall result in the expiration of the Zoning Certificate unless the applicant requests and receives an extension from the Zoning Inspector. Applications shall be required to apply for an extension no later than 30 days prior to the date of expiration of the original Zoning Certificate. Factors to be considered by the Zoning Inspector when determining whether to grant an extension shall include:

- **i.** The length of additional time necessary to complete construction;
- **ii.** The reason for the delay;
- **iii.** Good faith on the part of the applicant;
- **iv.** The existence of or potential for any substantial detriment to adjoining property as a result of the extension; and
- **v.** Conformance with this Zoning Resolution.

10.06.E.8.e. Upon expiration of a Zoning Certificate, a new Zoning Certificate application, including all applicable fees, shall be required before construction or resumption of construction can begin.

10.06.E.9. Revocation

The Zoning Inspector shall hereby have the authority to revoke an approved Zoning Certificate if the information submitted as part of the application is found to be erroneous or fraudulent after the certificate has been issued.

10.06.F. Site Plan Review

It is the purpose of this section to ensure that all developments are reviewed for compatibility with the regulations and intent of this Zoning Resolution.

10.06.F.1. Applicability

Site plan review and approval shall be required for any use in Tate Township with the exception of agricultural, single- and two-family dwellings, or developments approved as a Planned Development pursuant to Section 9.01. "PD" Planned Developments of this Zoning Resolution.

10.06.F.2. Approval Process

10.06.F.2.a. Pre-Application Meeting

An informal meeting may be held to discuss the proposed project prior to application submittal. In addition to the Zoning Inspector, as determined appropriate, a pre-application meeting may include:

- **i.** Representatives from appropriate township, county, and state reviewing agencies;
- **ii.** One (1) member of the Board of Zoning Appeals;
- **iii.** One (1) member of the Zoning Commission; and
- **iv.** One (1) member of the Board of Trustees.

10.06.F.2.b. Submit Completed Application

The applicant shall submit the required number of copies of the site plan review application and associated plans as established Section 10.06.E. Zoning Certificates, and the following Articles established by this Zoning Resolution:

- **i.** Article 4. Dimensional Standards;
- **ii.** Article 5. Outdoor Lighting;
- **iii.** Article 6. Landscaping & Buffering;
- **iv.** Article 7. Parking, Loading, and Circulation;
- **v.** Article 8. Signage.

10.06.F.2.c. Review

The Zoning Inspector, appropriate Township reviewing officials, and appropriate County and State review agencies shall review the site plan and prepare a report identifying compliance or non-compliance with the regulations of this Resolution and other applicable regulations.

10.06.F.2.d. Decision

The Zoning Inspector shall within 30 working days of receipt of the reports and recommendations, either approve or deny the site plan application. If approved, a Zoning Certificate may be issued. If denied, the Zoning Inspector shall state the reasons for the action taken. If the application is denied, the applicant may submit a new site plan for review in accordance with this Section or the applicant may appeal the decision to the Board of Zoning Appeals in accordance with Section 10.06.D. Administrative Appeals.

10.06.F.3. Waiver of Site Plan Requirements

Depending on the nature of the site plan review application, one (1) or more of the site plan requirements as established by this Zoning Resolution may be waived by the Zoning Inspector. To obtain a waiver, the applicant must submit a statement to the Zoning Inspector indicating reasons why the requirements should be waived. The Zoning Inspector may grant waivers only when the material supplied by the applicant clearly demonstrates that the required information is unnecessary for a full and adequate review of the existing character of the neighborhood and / or the spirit of the Zoning Resolution. The decision of the Zoning Inspector with respect to the waiver is subject to review upon appeal to the Board of Zoning Appeals.

10.06.F.4. Review Criteria

In reviewing the site plan, the Township Zoning Inspector shall determine whether the proposed development meets all requirements of the Zoning Resolution, including but not limited to, those of the particular zoning district in which the development would be located, and supplemental regulations, off-street parking and loading regulations, signs, landscaping and other provisions.

10.06.F.5. Revisions of Site Plan After Approval

No changes, erasures, modification, or revisions shall be made to any site plan after approval has been given unless said changes, erasures, modifications or revisions are first submitted to and approved by the Zoning Inspector. In determining whether to permit revision of the site plan after approval, the Zoning Administrator shall proceed as follows:

10.06.F.5.a. Minor Modifications

Minor Modifications are defined as a 10% percent change in approved building floor area, height, setbacks, and any change regarding open space, green areas, grading and drainage, circulation, lighting, or buffering. The Zoning Inspector may permit these changes upon determination that the change does not adversely impact upon the adjacent property owners. The Zoning Inspector cannot grant reductions in development standards that require Board of Zoning Appeal review and approval.

10.06.F.5.b. Major Modifications

Major modifications shall include all other changes not addressed in subsection 10.06.F.5.a above and shall require the applicant to submit a new site plan for review in accordance with the procedures in Section 10.06.F.2. Approval Process.

10.06.F.5.c. For developments that are designed to be built in phases and for which the final site plan was approved under these provisions, further review of the site plans shall be in accordance with these provisions.

10.06.F.6. Expiration

If construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the site plan, said site plan shall be deemed null and void. The Zoning Inspector may extend the construction period if sufficient proof can be demonstrated that the applicant's control and that prevailing conditions have not changed appreciably to render the approved site plan obsolete. Such extension shall be requested in writing by the applicant.

10.06.G. Pre-Existing Developments and Non-Conformities

The use of any non-conforming use, building, or structure may be continued as it existed at the time it became non-conforming. Any such use may be extended through any part of a use, building, or structure which was arranged or designed for such use at the time it became non-conforming, provided however, that the maximum extension in size of any non-conforming use within an existing building or

structure shall be limited to 25 percent of the total area of the building or structure. No extension in size of a non-conforming use within an existing building or structure that is greater than 25 percent of the total area of the building or structure shall be permitted, unless approved as an area variance by the Board of Zoning Appeals.

10.06.G.1. Non-Conforming Uses

10.06.G.1.a. Non-conforming uses shall not be enlarged, extended, or increased to increase the degree of non-conformity or occupy an area of land greater than occupied at the date of adoption or amendment of this Zoning Resolution.

10.06.G.1.b. Additional structures shall not be constructed on a lot containing a non-conforming use unless the new structure complies with all requirements of this Zoning Resolution.

10.06.G.1.c. Changes to Non-Conforming Uses.

If a non-conforming use has been changed to a conforming use, it is prohibited for such property to be returned to the former nonconforming use.

10.06.G.2. Non-Conforming Structures

10.06.G.2.a. Non-conforming structures may be altered, maintained, or repaired if the alteration, maintenance, or repair does not increase the structure's degree of non-conformity or creates an additional non-conformity.

10.06.G.2.b. Changes to Non-Conforming Structures

The principal use of a non-conforming structure may be changed to any permitted use in the zoning district in which it is located as long as the new use complies with all requirements of this Zoning Resolution.

10.06.G.2.c. Damage or Destruction of a Non-Conforming Structure

No non-conforming structure which has been damaged by fire, flood, or other causes to the extent of 50 percent or more of its reproduction cost shall be repaired, reconstructed, or used except in conformity with the provisions of this Resolution. Any structure that has been damaged less than 50 percent may be repaired, reconstructed, or used as before, provided it is done within 24 months, and after issuance of a Zoning Certificate for the repairs.

10.06.G.3. Non-Conforming Lots of Record

10.06.G.3.a. Buildings that meet the requirements of this Zoning Resolution and occupy a non-conforming lot of record, may be altered, maintained, or repaired, provided that:

- **i.** The building is not enlarged in floor area, unless in compliance with the requirements of this Zoning Resolution.
- **ii.** The number of dwelling units are not increased unless in compliance with the requirements of this Zoning Resolution.

10.06.G.3.b. In any residential district, a single-family dwelling and its customary accessory uses may be erected on a vacant single lot of record provided the buildings comply with the minimum setbacks.

10.06.G.4. Discontinuance of a Non-Conforming Use or Structure

If any non-conforming use, building, or structure has been voluntarily discontinued for two years or more, any future use of the land, building, or structure shall be in compliance with this Zoning Resolution..

10.06.G.5. Burden of Proof

The burden of establishing that any use or structure is lawfully non-conforming under the provisions of this Resolution shall in all cases be upon the owner of such non-conformity and not upon the Township.

10.06.G.6. Repair or Maintenance

10.06.G.6.a. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the footprint and height of the structure as it existed, when it became nonconforming, shall not be increased.

10.06.G.6.b. Nothing in this section shall be deemed to prevent the strengthening or restoring to safe condition of any building, or part thereof, declared to be unsafe by any official charged with protecting the public safety, upon order of such official. Where appropriate, a building permit for such activities shall be required.

10.06.G.7. Zoning Certificates for Legal Non-Conformities

10.06.G.7.a. The owner of any non-conforming use, structure, or lot may at any time apply to the Zoning Inspector for a Zoning Certificate of Non-Conformance to establish the legality of such non-conformity as of a specified date. Such an application shall be filed and processed pursuant to the provision of Section 10.06.E. Zoning Certificates.

10.06.G.7.b. If, upon reviewing an application for a Zoning Certificate of Non-Conformance, the Zoning Inspector shall determine that the use, structure, or lot in question was lawfully existing at the time of the effective date of the provision creating the non-conformity in question. And remains lawfully existing subject only to such non-conformity at the time of such application, and that any required affidavit is in order, the Zoning Inspector shall issue a Zoning Certificate of Non-Conformance, evidencing such facts and setting forth the nature and extent of the non-conformity. Otherwise, the Zoning Inspector shall refuse to issue such certificate and shall declare such use, structure, or lot to be in violation of this Resolution.

10.07. VIOLATIONS AND PENALTIES

10.07.A. Applicability

No land, building, structure, or premises shall hereafter be used, and no building or part thereof or other structure shall be located, erected, constructed, maintained, used, moved, reconstructed, extended, enlarged, or altered except in conformity with

the regulations herein specified for the district in which it is located and in conformity with all other regulations herein. Any person who violates any provision of this Zoning Resolution or any amendment thereto is subject to enforcement action as provided herein.

10.07.B. Penalties

Pursuant to ORC 519.99, each violation constitutes a separate offense and may be enforced via civil action. A civil penalty of up to $500 per day, per violation, may be assessed in the Court of Common Pleas in the county where the property is located.

10.07.C. Separate Offenses

Each day a violation continues shall constitute a separate offense, thus cumulative penalties may be applied for continuing non-compliance, unless otherwise specified by the Court of Common Pleas.

10.07.D. Enforcement

Enforcement may be initiated by the Board of Trustees, the Zoning Inspector, or the County Prosecuting Attorney. In case any building or structure is, or is proposed to be, located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, or any land is or is proposed to be used in violation of this Zoning Resolution, the Board of Township Trustees, special counsel, the Zoning Inspector, or any adjacent or neighboring property owner who would be especially damaged by such violation, may institute an action for injunction, mandamus, abatement, or other appropriate proceeding to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use, pursuant to ORC 519.24.

10.07.E. Collection of Fines

Civil penalties recovered under this section are collected through actions in the court of common pleas.

10.07.F. Legal Counsel

The Board of Township Trustees may retain special counsel to pursue court actions to prevent or abate persistent zoning violations.