

**ARTICLE 10  
SPECIAL REGULATIONS**

**1000 GENERAL**

It is the purpose of these special regulations to promote the public health, safety, and welfare and to establish regulations affecting uses and practices which, were they to be established and maintained without any guidance or restriction or control, tend to result in dangerous situations threatening the safety of citizens, to contribute to circumstances undermining the morals of the youth of the community, or to generate conflicts in uses or practices upsetting the harmony of the community and impinging upon the property rights of others.

**1000.10 REGULATION OF SATELLITE DISH ANTENNAS<sup>1</sup>**

**1000.11 PURPOSE<sup>1</sup>**

**1000.12 ZONING PERMIT REQUIRED<sup>1</sup>**

**1000.13 GROUND-MOUNTED SATELLITE DISH ANTENNAS<sup>1</sup>**

**1000.14 ROOF-MOUNTED SATELLITE DISH ANTENNAS<sup>1</sup>**

**1000.15 VARIANCES ON LOCATIONAL CHARACTERISTICS<sup>1</sup>**

**1000.20 REGULATION OF AMUSEMENT ARCADES**

The following regulations shall apply to amusement arcades as defined in Article 2.

**1000.21 PURPOSE**

The purpose of Sections 1000.20 to 1000.28 inclusive of this Resolution is to promote the public health, safety, and welfare by regulating amusement arcades where mechanically or electronically operated amusement devices are kept, operated, or maintained.

**1000.22 CONDITIONAL USE PERMIT REQUIRED**

No amusement arcade shall be established, operated or maintained in any place of business or on any premises unless authorized by the issuance of a conditional use permit in accordance with the provisions of Article 5 of this Resolution. In addition to said provisions, amusement arcades shall comply with the following conditional use criteria:

1. Amusement arcades shall comply with the district regulations applicable to all properties in any zoning district in which they are located;
2. Amusement arcades shall have an adult who is 18 years of age or over on the premises and supervising the amusement arcade at all times during its hours of operation;
3. Amusement arcades shall have necessary security personnel as required by the appropriate law enforcement agency to police the interior and exterior of the premises;
4. The interior of the amusement arcades shall provide a minimum area per coin-operated amusement device equal to the size of the device plus two (2) feet of area on each side plus an area of four (4) feet in front of the device;
5. Prior to the issuance of a conditional use permit the applicant shall provide evidence that the structure meets the minimum requirements of the appropriate electrical and fire codes;
6. If the place of business or premises for which an amusement arcade is proposed is a freestanding building, the application for the conditional use permit shall include an approvable exterior lighting plan;

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<sup>1</sup>Sections 1000.10-1000.15 Deleted 8/15/19

7. In establishments which serve alcoholic beverages, any area containing amusement devices shall be visually separated from that portion or portions of the establishment wherein alcoholic beverages are served or sold for carrying out of the premises;
8. No amusement arcade may be established, operated or maintained in any place of business or on any premises which is within 500 feet of any adult entertainment business.
9. The application for the conditional use permit shall be accompanied by a copy of the applicant's license to operate and exhibit amusement devices, and a notarized statement that the applicant shall not permit any person 14 years of age or younger to operate any devices on the premises before 4:00 p.m. on days when school is in session.

#### **1000.23 ZONING OF AMUSEMENT ARCADES**

Amusement arcades shall be conditionally permitted uses only in the NC, RC, and AC Districts.

#### **1000.24 MAINTENANCE OF A NUISANCE PROHIBITED**

It shall be the obligation of the exhibitor of an amusement arcade to maintain peace and quiet and order in and about the premises. Failure to do so shall constitute a nuisance, which shall be a minor misdemeanor.

#### **1000.25 RESTRICTED ACCESS TO CERTAIN MINORS**

No amusement arcade exhibitor shall permit, on days when school is in session, any person 14 years of age or younger to operate any mechanical or electrically operated amusement device or to be or remain in an amusement arcade before 4:00 p.m. This provision does not apply to juke boxes, mechanical musical instruments, or other mechanical amusement devices designed to be ridden, such as mechanical horses, automobiles, and carousels. Violation of this provision shall be a minor misdemeanor.

#### **1000.26 COMPLAINTS REGARDING AMUSEMENT ARCADES**

Any resident of the Township may submit a written notice of complaint regarding the operation of any amusement arcade to the Zoning Administrator. The notice of complaint shall include the name and address of the complainant, the address of the location of the amusement arcade, and the specific reasons why the individual is complaining.

If the Zoning Administrator determines, after interviewing both the complainant and the amusement arcade exhibitor, that the specific reasons in the complaint appear to be proper grounds for suspension or revocation of the conditional use permit, he shall refer the matter to the Board of Zoning Appeals.

#### **1000.27 REVOCATION OF CONDITIONAL USE PERMIT**

The Zoning Administrator shall revoke the conditional use permit for any amusement arcade in the event that the license to operate such amusement arcade is revoked. In addition, the Zoning Administrator shall revoke the conditional use permit for any amusement arcade if so determined pursuant to the action of the Board of Zoning Appeals, or to the final decision from appeal to the Township Board of Trustees according to the provisions of Section 1000.28.

### **1000.28 PROCEDURE FOR REVOCATION<sup>2</sup>**

The Zoning Administrator shall notify in writing the Board of Zoning Appeals whenever there is reason to believe that the operation of an amusement arcade has resulted in a violation of any provision of this Resolution. Within ten (10) days from said notification the Board of Zoning Appeals shall hold a public hearing to determine whether the conditional use permit should be revoked. Notice of this hearing shall be served on the amusement arcade exhibitor and, if the Zoning Administrator's referral to the Board of Zoning Appeals originated from a complaint by any resident, similar notice shall be served on the complainant at least five (5) days before the hearing. The Board of Zoning Appeals may also give such other notice as it deems appropriate, including notice to property owners and notice in a newspaper of general circulation. The Board of Zoning Appeals shall make a decision within five (5) days after the hearing and shall notify the amusement arcade exhibitor and, if applicable, the complainant. If the permit is revoked by the Board of Appeals, the applicant may seek relief through the Court of Common Pleas.

### **1000.30 REGULATION OF ADULT ENTERTAINMENT BUSINESSES**

The following regulations shall apply to adult entertainment business as defined in Article 2.

### **1000.31 PURPOSE<sup>3</sup>**

The purpose of Sections 1000.30 to 1000.37 is to address and establish reasonable and uniform regulations for Adult Entertainment Businesses in order to promote the public health, morals, safety and general welfare of the residents within Austinburg Township. It is also meant to protect property values as well as preserve the quality of life and character of surrounding neighborhoods. These sections are not intended to effect or suppress any activities protected by the First Amendment, but to enact a content-neutral regulation which addresses the secondary effects of Adult Entertainment Businesses.

### **1000.32 FINDINGS<sup>3</sup>**

Because of their nature, Adult Entertainment Businesses have created secondary effects in other political subdivisions throughout the state of Ohio and the United States. Research has provided substantial evidence concerning adverse secondary effects of adult uses on a community in such cases as: *City of Renton v. Playtime Theatres, Inc.* (1986), 475 U.S. 41; *Young v. American Mini Theaters*, (1976), 426 U.S. 50; *Barnes v. Glen Theatre, Inc.*, (1991), 501 U.S. 560; and on studies in other communities throughout the U.S.

### **1000.33 LOCATION AND RESTRICTIONS OF ADULT ENTERTAINMENT BUSINESSES<sup>3</sup>**

1. No adult entertainment business may be established in any zoning district other than an Industrial district, and in such district may not be established within 500 feet of:
  - a. A church, Kingdom Hall, shrine, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
  - b. A public or private educational facility including, but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, colleges, and universities; school includes the school

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<sup>2</sup> Section 1000.28 Amended 3/10/97

<sup>3</sup> Section 1000.31-1000.34 Amended 6/16/05

- grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
- c. A boundary of a residential district as defined in the zoning code;
  - d. A public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian bicycle paths, wilderness areas, or other similar public land within the township which is under the control, operation, or management of the township or county recreation authorities, or social service agency;
  - e. The property line of a lot devoted to a residential use as defined in the zoning code;
  - f. An entertainment business which is oriented primarily towards children or family entertainment; or
  - g. ANY ESTABLISHMENT, licensed pursuant to the alcoholic beverage control regulations of the State of Ohio.
2. No adult entertainment business may be established, operated or enlarged within 500 feet of another adult business entertainment.
  3. Not more than one adult entertainment business shall be established or operated in the same building, structure, or portion thereof.
  4. For the purpose of Subsection (1) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where an adult entertainment business is conducted, to the nearest property line of the premises of a use listed in Subsection (1). Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.
  5. For purposes of Subsection (2) of this Section, the distance between any two ADULT ENTERTAINMENT BUSINESSES shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.
  6. Any adult entertainment business lawfully operating on or before the adoption of this Resolution that is in violation of Subsections 1 through 5 of this Section shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use.
  7. No adult entertainment business may display the merchandise or activities of the adult entertainment business to be visible from a point outside the adult entertainment business.
  8. No adult entertainment business shall allow the exterior portion of the adult entertainment business to have flashing lights, or any sexually explicit words, lettering, photographs, silhouettes, drawings or pictorial representation of any manner.
  9. No adult entertainment business shall be permitted in a location which is within 200 feet of any boundary of any residential district in a local unit of government abutting Austinburg Township.
  10. Hours or operation: no adult entertainment business shall operate between the hours of 1:00 a.m. and 8:00 a.m. This Resolution is not intended to be in conflict with any provision in Ohio Revised Code §4303, or with any rule adopted by the division of liquor control pursuant to that chapter, that regulates establishments that hold a liquor permit.

### **1000.34 SEVERABILITY<sup>3</sup>**

If any section, subsection, or clause of this Resolution shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

All sections of Austinburg Township's Zoning Resolution 1993 or part of Austinburg Township's Zoning Resolution 1993 in conflict with the provisions of this Resolution are hereby repealed.

All formal actions concerning changes of Section 1000.30 through and including Section 1000.27 were adopted in an open meeting of the Austinburg Zoning Commission and the Austinburg Township Trustees and all deliberations were in a meeting open to the public in compliance with all legal requirements including Ohio Revised Code §121.22, as amended.

### **1000.35 COMPLAINTS REGARDING ADULT ENTERTAINMENT BUSINESSES**

Any resident of the Township may submit a written notice of complaint regarding the operation of any adult entertainment business to the Zoning Administrator. The notice of complaint shall include the name and address of the complainant, the address of the location of the adult entertainment business, and the specific reasons why the individual is complaining.

If the Zoning Administrator determines, after interviewing both the complainant and the adult entertainment business, that the specific reasons in the complaint appear to be proper grounds for suspension or revocation of the conditional use permit, the Zoning Administrator shall refer the matter to the Board of Zoning Appeals.

### **1000.36 REVOCATION OF CONDITIONAL USE PERMIT**

The Zoning Administrator shall revoke the conditional use permit for any adult entertainment business in the event that the license to operate such adult entertainment business is revoked. In addition, the Zoning Administrator shall revoke the conditional use permit for any adult entertainment business if so determined pursuant to the action of the Board of Zoning Appeals, or to the final decision from appeal to the Township Board of Trustees according to the provisions of Section 1000.37.

### **1000.37 PROCEDURE FOR REVOCATION<sup>4</sup>**

The Zoning Administrator shall notify in writing the Board of Zoning Appeals whenever there is reason to believe that the operation of an adult entertainment business has resulted in a violation of any provision of this Resolution. Within ten (10) days from said notification the Board of Zoning Appeals shall hold a public hearing to determine whether the conditional use permit should be revoked. Notice of this hearing shall be served on the adult entertainment business and, if the Zoning Administrator's referral to the Board of Zoning Appeals originated from a complaint by any resident, similar notice shall be served on the complainant at least five (5) days before the hearing. The Board of Zoning Appeals may also give such other notice as it deems appropriate, including notice to property owners and notice in a newspaper of general circulation. The Board of Zoning Appeals shall make a decision within five (5) days after the hearing and shall notify the adult entertainment business and, if applicable, the complainant. If

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<sup>4</sup> Section 1000.37 Amended 3/10/97

<sup>3</sup>Section 1000.31-1000.34 Amended 6/16/05

the permit is revoked by the Board of Appeals, the applicant may seek relief through the Court of Common Pleas.

#### **1000.40 REGULATION OF TELEVISION, RADIO, AND MICROWAVE TOWER AND TELECOMMUNICATIONS EQUIPMENT SITING**

Sections 1000.40 to 1000.45 inclusive shall apply to the location and maintenance of TV, radio, microwave tower and telecommunications equipment as a principal use.

#### **1000.41 PURPOSE**

1. To minimize adverse visual effects of towers through careful design, siting, and vegetative screening;
2. To avoid potential damage to adjacent properties from tower failure and falling ice through engineering and careful siting of tower structures;
3. To lessen traffic impacts on surrounding residential areas;
4. To limit radiation emitted by telecommunications equipment so that it will not adversely affect human health;
5. To maximize use of any new transmission tower to reduce the number of towers needed; and
6. To allow new transmission towers in residential areas only if a comparable site is not available outside residential areas.

#### **1000.42 ZONING PERMIT REQUIRED**

No person, firm or corporation shall undertake the construction, erection or installation of the following without a permit:

1. VHF and UHF television towers and transmission facilities;
2. FM and AM radio towers and accessory facilities;
3. Two-way radio towers;
4. Common carriers;
5. Cellular telephone, and;
6. Fixed-point microwave.

#### **1000.43 APPROVAL STANDARDS FOR A NEW TRANSMISSION FACILITY**

*All* uses listed in 1000.42 *must* meet *all* of the following standards:

1. Existing or approved towers cannot accommodate the telecommunications equipment for the proposed tower.
2. The site of existing and approved towers cannot practicably accommodate the proposed tower.
3. A tower for the proposed use cannot be sited outside the residential districts.
4. Structures will be set back from abutting residential district parcels, public property, or road right-of-ways a sufficient distance to:
  - a. Contain on-site substantially all ice-fall or debris from tower failure;
  - b. Protect the general public from Non-Ionizing Electromagnetic Radiation (NIER) at levels generally found to be dangerous;
  - c. Preserve the privacy of adjoining residential property by assuring that accessory structures comply with the district regulations and that sufficient vegetative screening is planted (with earthen mounds if necessary) to screen structures to a height of eight (8) feet;

- d. Maintain a setback of tower bases from abutting residential parcels, public property or road right-of-ways by a distance of 20% of the tower height or the distance between the tower base and guy wire anchors, whichever is greater;
  - e. Maintain tower setbacks from abutting land in other districts by the rear and sideyard setback required in that district; and
  - f. Restrict placement of guy wire anchors to setback 25 feet from abutting residential district property lines, public property or road right-of-ways and the rear yard setback from abutting land in other districts.
5. The tower is set back from other on-and off-site towers and supporting structures far enough so one tower will not strike another tower or support structure if a tower or support structure fails.
  6. At least two off-street parking spaces must be provided.
  7. Existing on-site vegetation shall be preserved to the maximum extent practicable.
  8. Fencing necessary for safety or security shall be developed in conjunction with the landscaping and screening and shall be constructed to be unobtrusive in color and design.
  9. Accessory facilities in a residential district may not include offices, long term vehicle storage, other outdoor storage, or broadcast studios, except for emergency purposes, or other uses that are not needed to send or receive transmissions, and in no event may exceed 25% of the floor area used for transmission equipment and functions.

#### **1000.44 ZONING PERMIT REQUIRED**

An antenna, tower and supporting structure for the following uses are permitted in any district if accessory to a permitted use and if they comply with applicable regulations of the district in which situated:

1. Ham radio;
2. Citizens' Band radio;
3. A telecommunication device that only receives a Radio Frequency (RF) signal; and
4. A sole-source emitter with more than one (1) kilowatt average output.

#### **1000.45 ZONING PERMIT NOT REQUIRED**

The following uses are exempt from this Resolution:

1. Portable, handheld, and vehicular transmissions;
2. Industrial, scientific, and medical equipment operating at frequencies designated for that purpose by the FCC;
3. A source of Non-Ionizing Electromagnetic Radiation (NIER) with an effective radiated power of seven (7) watts or less;
4. A sole-source emitter with an average output of one (1) kilowatt or less if used for amateur purposes;
5. Marketed consumer products, such as microwave ovens, Citizens' Band radios, and remote control toys; and
6. Goods in storage or shipment or on display for sale, provided the goods are not operated, except for occasional testing or demonstration.

#### **1000.50 REGULATION OF SWIMMING POOLS AS ACCESSORY USES**

Sections 1000.50 to 1000.53 inclusive shall apply to the location and maintenance of swimming pools.

### **1000.51 PURPOSE**

It is the purpose of sections 1000.50 to 1000.53 inclusive to promote the public health, safety, and welfare through the regulation of swimming pool facilities which are constructed, operated or maintained as an accessory use.

### **1000.52 PRIVATE SWIMMING POOLS <sup>5</sup>**

No private swimming pool, exclusive of portable swimming pools with a diameter of less than 12 feet or with an area of less than 100 square feet, or of a farm pond, shall be allowed in any residential district or commercial district except as an accessory use, and shall comply with the following requirements:

1. The pool is intended to be used and is used solely for the enjoyment of the owner or tenant of the property on which it is located and their guests;
2. In ground pools or the entire property on which they are located shall be enclosed by a fence or wall of at least four (4) feet in height above the elevation of the ground before completion of the swimming pool. All gates in said fence or wall shall be self-latching.
3. Above ground pools that have a wall of at least thirty (30) inches in height above the elevation of the ground shall ensure the prevention of unintentional access to the swimming pool by *either*:
  - a. Providing an enclosure to block all direct access points to the swimming pool, meeting the fencing or wall requirements of at least four (4) feet in height above the elevation of the ground with all gates of said fence or wall being self-latching, *or*
  - b. Preventing unintentional access to the swimming pool by other means including, but not limited to, the removal of the ladder entrance to the swimming pool when not in use and/or the installation and use of a secure pool cover.

### **1000.53 COMMUNITY OR CLUB SWIMMING POOLS**

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

1. The pool is intended solely for and is used solely for the enjoyment of the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated;
2. The pool and accessory structures thereto, including the area used by the bathers, shall not be located closer than 75 feet to any property line or easement;
3. The swimming pool, its accessory facilities, and all of the area used by the bathers shall be so walled or fenced as to prevent uncontrolled access by children from the street or adjacent properties. The said fence or wall shall not be less than six (6) feet in height and maintained in good condition with a gate and lock. The area surrounding the enclosure, except for the parking spaces, shall be suitably landscaped with grass, hardy shrubs, and trees and maintained in good condition;
4. Exterior lighting shall be so shaded or directed that it does not cast light directly upon adjacent properties;
5. Such pool facilities shall not be operated prior to 9:00 a.m. in the morning or after 10:00 p.m. in the evening.

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<sup>5</sup> Section 1000.52(1-3) Amended 10/19/11

## **1000.60 REGULATION OF LONG-TERM PARKING FACILITIES**

Sections 1000.60 to 1000.63 inclusive shall apply to the location and operation of any long-term parking facility.

### **1000.61 PURPOSE**

It is the purpose of Sections 1000.60 to 1000.63 inclusive to regulate long-term parking facilities constructed, operated, or maintained in order to promote the public health, safety, and welfare.

### **1000.62 CONDITIONAL USE PERMIT REQUIRED**

No person shall establish, operate or maintain on any premises as a principal or an accessory use a parking facility where any vehicles, to include tractors, trailers, boats, campers, recreational vehicles, buses, trucks, or automobiles, are to be parked for a continuous period exceeding six (6) days without obtaining a conditional use permit for such use.

### **1000.63 PERMIT REQUIREMENTS**

In addition to complying with all other provisions of this Resolution, particularly the requirements of Articles 5 and 11, the applicant for the conditional use permit shall give evidence that the premises proposed for such use complies with the following conditions:

1. That no boundary of the proposed parking area is within 50 feet of a residential district boundary;
2. That the proposed parking area will not prevent access to adjacent properties by fire safety equipment;
3. That the proposed parking area will be screened in such a manner that the vehicles thereon parked will not be visible from the ground level of any adjacent residential properties;
4. That fencing and lighting of the facility will be sufficient to provide for its reasonable security;
5. That no service work, maintenance work, repair work, painting work, or other vehicular work shall take place on the premises.

## **1000.70 REGULATION OF HOME OCCUPATIONS**

Sections 1000.70 to 1000.74 inclusive shall apply to the location, operation, and maintenance of home occupations.

### **1000.71 PURPOSE**

It is the purpose of Sections 1000.70 to 1000.74 inclusive of this Resolution to promote the public health, safety, and welfare through the regulation of home occupations. It is further the intent of these Sections to allow limited non-residential uses in residential structures which are compatible with the residential character of their surroundings.

### **1000.72 HOME OCCUPATION AS A PERMITTED USE**

A home occupation shall be a permitted use if it complies with the following requirements:

1. The external appearance of the structure in which the use is conducted shall not be altered, and not more than one (1) sign no larger than four (4) square feet shall be mounted flush to a wall of the structure;
2. No internal or external alterations, construction, or reconstruction of the premises to accommodate the use shall be permitted;

3. There shall be no outside storage of any kind related to the use, and only commodities produced on the premises may be sold on the premises; no display of products may be visible from the street;
4. Not more than 25% of the gross floor area of the dwelling shall be devoted to the use;
5. No equipment, process, materials or chemicals shall be used which create offensive noise, vibrations, smoke, dust, odor, heat, glare, x-rays, radiation, or electrical disturbances;
6. No additional parking demand shall be created;
7. No person who is not a resident of the premises may participate in the home occupation as an employee or volunteer.

#### **1000.73 HOME OCCUPATION AS A CONDITIONALLY PERMITTED USE**

A person may apply for a conditional use permit for a home occupation which does not comply with the requirements of Section 1000.72. The criteria for the issuance of such a permit for a home occupation are as follows:

1. There shall be no more than two (2) non-residential employees or volunteers to be engaged in the proposed use;
2. Sales of commodities not produced on the premises may be permitted, provided that the commodities are specified in the application and are reasonably related to the home occupation;
3. The home occupation may be permitted to be conducted in a structure accessory to the residence, provided the application so specifies;
4. There shall be no outside storage of any kind related to the use;
5. Not more than 30% of the gross floor area of any residence shall be devoted to the proposed home occupation;
6. The external appearance of the structure in which the use is to be conducted shall not be altered, and not more than one (1) sign no larger than four (4) square feet shall be mounted flush to the wall of the structure;
7. Minor or moderate alterations in accordance with Ashtabula County Building Department regulations may be permitted to accommodate the proposed use, but there shall be no substantial construction or reconstruction;
8. No equipment, process, materials or chemicals shall be used which create offensive noise, vibration, smoke, dust, odor, heat, glare, x-rays, radiation, or electrical disturbances;
9. No more than two (2) additional parking places may be proposed in conjunction with the home occupation, which shall not be located in a required front yard;
10. No traffic shall be generated by a home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in this Resolution and shall not be located in a required front yard.

#### **1000.74 INVALIDATION OF HOME OCCUPATION CONDITIONAL USE PERMIT**

For the purposes of this Resolution, a conditional use permit issued for a home occupation 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. Such conditional use permit shall also be immediately invalidated upon the conduct of the home occupation in any manner not approved by the Board of Zoning Appeals.

## **1000.80 REGULATION OF GROUP RESIDENTIAL FACILITIES**

Sections 1000.80 to 1000.84 inclusive shall apply to the location, operation, and maintenance of group residential facilities.

## **1000.81 ADULT FAMILY HOMES<sup>6</sup>**

Adult Family Homes are permitted by right in the districts noted in Article 8, and shall comply with the following requirements:

1. Adult family homes shall comply with all regulations that apply to single-family dwellings in the applicable district, and with local fire safety and building code requirements for the use and level of occupancy.
2. Persons residing in a small group home shall live as a single housekeeping unit in a single dwelling unit and maintain said home as their sole, bona fide, permanent residence. The term "permanent residence" means (a) the resident intends to live at the dwelling on a continuing basis; and (b) the resident does not live at the dwelling in order to receive counseling, treatment, therapy or medical care.
3. The applicant shall provide proof of certification, licensing or other required approval of the facility obtained from the State of Ohio before a zoning certificate is issued.

## **1000.82 ADULT GROUP HOMES - CONDITIONAL USE PERMIT REQUIRED<sup>7</sup>**

Adult Group Homes are permitted as a conditional use in the districts noted in Article 8. No Adult Group Home shall be established, operated or maintained on any premises unless authorized by the issuance of a conditional use permit in accordance with the provisions of Article 5 of this Resolution. In addition to said provisions, such adult group homes shall comply with the following conditional use criteria:

1. Evidence is presented that the proposed facility meets the certification, licensing, or approval requirements of the appropriate state agency;
2. Evidence is presented that the proposed facility meets local fire safety requirements for the proposed use and level of occupancy;
3. Evidence is presented that the proposed facility complies with the parking regulations and provides adequate on-site parking spaces for visitors and home supervisor(s). Parking areas shall be located behind the front building line;
4. Such facilities shall comply with the district regulations applicable to multi-family dwellings in the zoning district in which they are located;
5. No such facility may be located within 600 feet of another such facility. The distance shall be measured from the nearest property line of the property from which spacing is required to the nearest property line on which the adult group home will be located, using a straight line, without regard to intervening structures of public rights-of-way;
6. All activities, programs and other events shall be listed in the application and related to the conditional use. A change from the approved conditional use shall be reviewed and approved by the Board of Zoning Appeals according to the procedure in Article 5;

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<sup>6</sup> Section 1000.81 PURPOSE Deleted; ADULT FAMILY HOMES Added 9/15/22

<sup>7</sup> Section 1000.82 ADULT GROUP HOMES - CONDITIONAL USE PERMIT REQUIRED Amended 9/15/22

7. The exterior of all such facilities shall not be altered in character but shall be compatible with other residential dwellings. However, any improvement required by code or necessitated by licensing requirements shall not be deemed incompatible;
8. Such facility shall be reasonably accessible, by virtue of its location or transportation provided by the applicant, to medical, recreational, and retail services required by its residents, and to employment opportunities, if applicable;
9. The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents, to include a structured procedure whereby their grievances may be filed and resolved;
10. The applicant shall provide documentation indicating the need for the facility, the specific clientele it will serve, and the location and type of similar facilities operated by the applicant.

#### **1000.83 ZONING OF GROUP RESIDENTIAL FACILITIES<sup>8</sup>**

#### **1000.84 VARIANCE TO DISTANCING REQUIREMENT**

The Board of Zoning Appeals may grant a variance with respect to the distancing requirement contained in Section 1000.82(5) if the applicant clearly demonstrates that the proposed location has unique advantages with respect to proximity to employment opportunities, social services, public transportation, or similar amenities.

#### **1000.85 UNIFORMITY WITH RESPECT TO GRANTING OF CONDITIONAL USE PERMITS**

The granting of conditional use permits for the establishment of Group Residential Facilities shall be uniformly and equitably done, irrespective of considerations beyond the scope of these regulations.

#### **1000.90 APPEARANCE AND DESIGN STANDARDS FOR SINGLE FAMILY HOUSING**

Sections 1000.90 to 1000.92 inclusive of this Resolution shall apply to the location, construction, and maintenance of all single family housing in all districts.

#### **1000.91 PURPOSE**

These standards are created to ensure the health, safety, and general welfare of the Township. They will further the equitable treatment of all housing construction types and provide affordable housing for a larger segment of the Township population. Additionally, these regulations will improve the overall appearance of the housing stock and ensure more durable and safer homes for all residents.

#### **1000.92 STANDARDS<sup>9</sup>**

These regulations apply to all single family and multi-family housing units in all districts including Manufactured Homes, Modular Homes and Site Built Homes.

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<sup>8</sup> Section 1000.83 ZONING OF GROUP RESIDENTIAL FACILITIES Deleted 9/15/22

<sup>9</sup> Section 1000.92 STANDARDS Amended 10/19/11 and 9/15/22

1. The minimum floor area of the single family dwelling unit shall be at least 1400 square feet of living area<sup>10</sup>. The garage portion of the structure is not included in the living area total calculation.
2. The minimum width of all single family dwelling units shall be at least 20 feet.
3. All dwelling units shall have a minimum roof overhang of at least 12 inches.
4. All dwelling units be double pitched and have a pitch of at least 3 in 12, as well as have roof material that is generally used in residential construction.
5. Exterior siding of all dwelling units and accessory buildings cannot have a high-gloss finish (such as polished metal, but not semi-gloss paint) and must be residential in appearance, including but not limited to, clapboards, simulated clapboards such as conventional vinyl or metal siding, wood shingles, shakes, or similar material, but excluding smooth, ribbed or corrugated metal or plastic panels. The materials are applicable to all primary buildings, accessory buildings and garage, (excluding CARPORTS) and must be in compliance with the Ashtabula County Department of Building Regulations.
6. The home must be placed on a permanent foundation that complies with the BOCA Basic Building Code and be inspected by the Ashtabula County Department of Building Regulations.
7. The hitch, axles and wheels of any manufactured home must be removed.
8. The dwelling unit must be oriented on the lot so that its long axis is parallel with the road right of-way. A perpendicular or diagonal placement may be permitted if there is a building addition or substantial landscaping so that the narrow dimension of the unit, as so modified and facing the street, is no less than 50% of the unit's long dimension.
9. The lot must be landscaped to ensure compatibility with the surrounding properties.
10. All fuel oil supply systems shall be constructed and installed meeting all applicable building and safety codes. Any fuel supply tanks or bottled gas tanks must be fenced or screened so as not to be clearly visible from the street or abutting properties. All fuel supplies must be located in the side or rear of the lot.

#### **1000.96 UNIFORMITY WITH RESPECT TO GRANTING OF VARIANCES**

The granting of variances from the requirements of this Resolution with respect to the siting of single-family housing, their design or appearance, shall be uniformly and equitably done, irrespective of the fact that the structure proposed for such siting is a site-built structure, modular or manufactured home, and shall be guided by the provisions of Article 4 of this Resolution.

#### **1000.100 REGULATION OF SELF-SERVICE STORAGE FACILITIES<sup>11</sup>**

The following regulations shall apply to Self-Service Storage Facilities as defined in Article 2.

#### **1000.101 PURPOSE<sup>11</sup>**

The purpose of Sections 1000.100 to 1000.105 inclusive of this Resolution is to promote public health, safety, and welfare through the regulation of Self-Service Storage Facilities, which are constructed, operated, and maintained within Austinburg Township. The intent of these sections is to regulate Self-Service Storage Facilities in such a manner as to preserve the rural character of

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<sup>10</sup> Section 1000.92(1) Amended 3/10/97 to 1200 square feet; Amended 7/21/04 to 1400 square feet

<sup>11</sup> Sections 1000.100-1000.105 Added 5/5/99

the surrounding community, and maintain compatibility with other uses within that district and/or the adjoining districts.

#### **1000.102 CONDITIONAL USE PERMIT REQUIRED<sup>11</sup>**

No building shall be erected, constructed, or developed, and no existing building or premises shall be reconstructed, remodeled or rearranged for use as Self-Service Storage Facilities, unless authorized by the issuance of a Conditional Use Permit in accordance with the provisions of Article 5 of the Resolution.

#### **1000.103 USE REGULATIONS<sup>11</sup>**

A Self-Service Storage Facility shall be subject to the following requirements:

1. Limited to dead storage use only.
2. No activities other than rental of storage units and pick-up and deposit of dead storage shall be allowed on the premises.
3. Examples of prohibited activities include but are not limited to the following:
  - a. Auctions, commercial wholesale or retail sales, or miscellaneous or garage sales.
  - b. The servicing, repair, or fabrication of motor vehicles, watercraft, trailers, lawn mowers, appliances, or other similar equipment.
  - c. The operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment.
  - d. Any use that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.
  - e. The storage of hazardous, explosive, radioactive, flammable materials, which could endanger the health, safety and welfare of the Township residents, shall not be allowed on the premises.
4. Maintenance / Management: A full time manager shall be designated for the area, who can be contacted at a specified address and telephone number. The function of the manager includes but is not limited to the following:
  - a. Provide proper policing of the area for trash, debris, vandalism, etc.
  - b. Report to the Ashtabula County Sheriff evidence of storage of dangerous, hazardous or contraband property or materials unlawfully possessed.
  - c. All Self-Service Storage Facilities shall be maintained in a safe and sound structural condition as determined by the Ashtabula County Building Department.
5. Fire protection shall be provided on the premises in accordance with the Ohio Fire Code and the Ohio Basic Building Code.
6. Due to the type of storage and layout of buildings, traffic shall be limited to two (2) axle vehicles.

#### **1000.104 DEVELOPMENT STANDARDS<sup>11</sup>**

1. All dimensional requirements, except for maximum building heights (see Section 1000.105) and maximum lot size, shall be in accordance with the regulations as defined by the text in Article 8 for the pertinent and adjoining districts.
2. Self-Service Storage Facilities' lot size shall not exceed a maximum of three (3) acres.
3. Internal Driveways and Circulation Patterns:
  - a. All one-way driveways shall provide for one 10 foot parking lane and one 15 foot travel lane.
  - b. All two-way driveways shall provide for one 10 foot parking lane and two 12 foot travel lanes.

<sup>11</sup> Sections 1000.100-1000.105 Added 5/5/99

- c. The parking lanes may be eliminated when the driveway does not serve storage cubicles.
- d. Traffic direction, parking, and loading shall be designated by signing or painting.
- 4. In/Out driveways for vehicular ingress/egress shall be limited to one (1) point for each side of the property abutting any street lot line, and shall provide two-way traffic (minimum width of 20 feet).
- 5. Multiple buildings of the same or similar size shall be permitted on a single lot in Self-Service Storage Facilities.
- 6. The applicant/owner shall make provisions for the drainage of storm water runoff from the buildings and grounds. It shall also be compatible with drainage of the surrounding area.

**1000.105 PERFORMANCE STANDARDS<sup>11</sup>**

- 1. No building shall exceed one (1) story or eighteen (18) feet in height.
- 2. Total lot coverage by structures shall be limited to 50% of the total lot area.
- 3. All storage on the property shall be kept within an enclosed building.
- 4. Signage shall be limited to one (1) sign for each property line abutting or adjoining a street right-of-way. Signs identifying the nature of the Self-Service Storage Facilities shall not exceed 20 feet in height or 40 square feet in area. No additional advertising signs will be permitted on the property.
- 5. All outdoor lights shall be shielded to direct light and glare only into the Self-Service Storage Facilities premises and may be of sufficient intensity to discourage vandalism and theft. Said lighting and glare shall be deflected, shaded, and focused away from all adjoining property.
- 6. Fencing, screening, and landscaping / buffer areas shall be prescribed by the Board of Zoning Appeals as supplementary conditions as required by safety, privacy, and the surrounding land use.

**1000.200 REGULATION OF AUCTIONS<sup>12</sup>**

The following regulations shall apply to Auctions defined in Article 2.

**1000.201 PURPOSE<sup>12</sup>**

The purpose of Sections 1000.200 to 1000.205 inclusive of this Resolution is to promote public health, safety, and welfare through the regulations of auctions, which are constructed, operated, and maintained within Austinburg Township. The intent of these sections is to regulate auctions in such a manner as to preserve the rural character of the surrounding community and maintain compatibility with other uses within that district and/or the adjoining districts.

**1000.202 CONDITIONAL USE PERMIT REQUIRED<sup>12</sup>**

No building shall be erected, constructed, or developed, and no existing building or premises shall be reconstructed, remodeled or rearranged, or used as an auction, unless authorized by the issuance of a Conditional Use Permit in accordance with the provisions of Article 5 of the Resolution.

**1000.203 USE REGULATIONS<sup>12</sup>**

An auction shall be subject to the following requirements:

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<sup>12</sup> Sections 1000.200-1000.205 Added 8/1/02

<sup>12</sup> Sections 1000.200-1000.205 Added 8/1/02

1. Shall be restricted by the definition of “Auction” in Ohio Revised Code §4707.01(A) <sup>13</sup>.
2. No activities other than pick-up and deposit of items to be sold shall be allowed on the premises.
3. Examples of prohibited activities include but are not limited to the following:
  - a. The servicing, repair, or fabrication of motor vehicles, watercraft, trailers, lawn mowers, appliances, or other similar equipment prior to the sale.
  - b. The operation of power tools, spray-painting equipment, power saws, lathes, compressors, welding equipment, kilns, or other similar equipment.
  - c. Any use that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.
  - d. The storage of hazardous, explosive radioactive, flammable materials, which could endanger the health, safety and welfare of the Township residents, shall not be allowed on the premises.
  - e. All auctions shall be conducted within a permanent enclosed structure.
4. Fire protection shall be provided on the premises in accordance with the State of Ohio Fire Code and the Ohio Basic Building Code.

#### **1000.204 DEVELOPMENTAL STANDARDS<sup>12 14</sup>**

1. All dimensional requirements, except for maximum building heights and maximum lot size shall be in accordance with the regulations as defined by the text in Article 8, for the pertinent and adjoining district.
2. The number of parking spaces required shall be equal to or greater than the maximum occupancy standards set forth by the County Building Official.
3. Traffic direction, parking, and loading shall be designated by signing or painting.
4. In/Out driveways for vehicular ingress/egress shall be limited to one (1) point for each side of the property abutting any street lot line, and shall provide two-way traffic (minimum width of 20 feet).
5. The applicant/owner shall make provisions for the drainage of storm water runoff from the buildings and grounds. It shall also be compatible with drainage of the surrounding area.

#### **1000.205 PERFORMANCE STANDARDS<sup>12</sup>**

1. No building shall exceed two (2) stories in height.
2. Total lot coverage by structures shall be limited to 50% of the total area.
3. All storage on the property shall be kept within an enclosed building. No outside storage is permitted.
4. Signage shall be limited to one (1) sign for each property abutting or adjoining a street right-of-way. Signs identifying the nature of the auction shall not exceed 20 feet in height or 40 square feet in area. No additional advertising signs will be permitted on the property.
5. All outdoor lights shall be shielded to direct light and glare only into the auction premises and may be of sufficient intensity to discourage vandalism and theft. Said lighting and glare shall be deflected, shaded, and focused away from all adjoining property.

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<sup>13</sup> Section 1000.203(1) Amended 10/19/11

<sup>14</sup> Section 1000.204 Developmental Standards Amended 8/7/14

<sup>12</sup> Sections 1000.200-1000.205 Added 8/1/02

6. Fencing, screening, and landscaping/buffer areas shall be prescribed by the Board of Zoning Appeals as supplementary conditions as required by safety, privacy, and the surrounding land use.

#### **1000.206 BUILDING SETBACK ADJACENT TO A RIVER OR STREAM <sup>15</sup>**

1. This regulation shall apply to the Grand River, Mill Creek and Coffee Creek.
2. This regulation shall apply to front, side and rear setbacks
3. The building or permanent structure setback shall be the greater of:
  - a. 50 feet from the normal stream bank or
  - b. 30 feet from a major hill, cliff or incline adjacent to a stream.

#### **1000.207 AGRICULTURE USES, PROHIBITIONS AND LIMITATIONS <sup>16</sup>**

According to Ohio Revised Code, a township shall have the authority to regulate agricultural uses in any platted subdivision approved under Section 711.05, 711.09, or 711.10 of the ORC, or any area consisting of 15 or more lots approved under section 711.131 of the ORC. In such areas agriculture shall comply with the following:

1. On lots of ½ acre or less and within a platted subdivision, only the raising of fruits, vegetables, or nursery stock for private use, consumption or incidental sale shall be permitted. All buildings in conjunction with that use must adhere to size and setbacks regulations.
2. On lots of more than ½ acre and less than 5 acres, when one or more animals are kept outdoors on a lot for agricultural uses, an accessory building shall be constructed on that lot for their shelter. Those buildings must adhere to all size setback regulations set forth in the district where the building is located.
3. A fence suitable for keeping the animals in the lot must be constructed.

#### **1000.208 STORAGE CONTAINER, STORAGE TRAILER<sup>16</sup>**

1. In the R1 and R2 districts one (1) storage container is allowed for a period not to exceed 30 days for the purpose of moving in or moving out. This container shall not exceed twenty (20) feet in length.
2. In the NC and RC districts one (1) storage container per occupancy is allowed for a period not to exceed sixty (60) days.
3. In the IOP and AC districts a container or a storage trailer is allowed under the following conditions:
  - a. Only two storage containers or storage trailers per lot.
  - b. Must not be connected to any other structure.
  - c. No utilities are allowed to be connected.
  - d. No storage of hazardous materials.
  - e. Merchandise, pallets, furniture, tires, equipment, fixtures, products, trash, debris, or other material shall not be stacked under or on top of any storage container or storage trailer. Such items shall not be placed in a fire lane or within ten (10) feet of a storage trailer or storage container.
  - f. Storage containers or storage trailers shall only be placed in the rear yard and with a side yard and rear yard setback of ten (10) feet each.

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<sup>15</sup> Section 1000.206 Added 10/19/11

<sup>16</sup> Section 1000.207-1000.208 Agriculture Uses..., Storage Container, Storage Trailer Added 8/7/14

- g.
- h. Storage containers and storage trailers shall be maintained in a neat and orderly manner.
- i. Storage trailers and storage containers shall not be lived in or occupied.

#### **1000.210 PRIVATE ROADS<sup>17</sup>**

A private road must be built and maintained to current county subdivision standards by a private party.

#### **1000.300 REGULATION OF MEDICAL MARIJUANA<sup>18</sup>**

The following regulation shall apply to Medical Marijuana as defined in Article 2.

#### **1000.301 PURPOSE<sup>18</sup>**

The purpose of Sections 1000.300 to 1000.302 inclusive of the Resolution is to promote public health, safety, and welfare through the regulation of medical marijuana cultivation, processing, and dispensing facilities, which are to be duly state licensed facilities and which are constructed, operated, and maintained within Austinburg Township.

#### **1000.302 LOCATION AND RESTRICTIONS OF MEDICAL MARIJUANA FACILITIES<sup>18</sup>**

1. No medical marijuana cultivator, processor, retail dispensary, or laboratory that tests medical marijuana shall be located within five hundred feet of the boundaries of a parcel of real estate having situated on it a school, church, public library, public playgrounds, or public park. This does not apply to research related to marijuana conducted at a state university, academic medical center, or private research and development organization as part of a research protocol approved by an institutional review board or equivalent entity.
2. Medical marijuana facilities, are to be duly state licensed facilities and are allowable in the following Districts by RES.444-17, June 14, 2017:
  - a. Medical marijuana cultivation, processing and dispensing facilities may be established in the Industrial/Office Park District per Section 8, I/OP Requirements.
  - b. Medical marijuana dispensaries may be established in the Accommodating Commercial District per Section 8, AC Requirements.
3. A buffer of a minimum of 200 feet is required for any cultivation, processing or dispensing facility that is established by a residential district.

#### **1000.400 SOLAR PANEL/SYSTEMS FOR RESIDENTIAL USE<sup>19</sup>**

The following regulations shall apply to Solar Panel/Systems for Residential Use defined in Article 2.

#### **1000.401 Purpose**

The purpose of this section is to establish setback requirements for the installation of solar panels in R-1, R-2, and NC districts to promote safe and efficient use of solar energy while minimizing potential visual and structural impacts on adjacent properties.

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<sup>17</sup> Section 1000.210 Private Roads Added 8/15/19

<sup>18</sup> Sections 1000.300 – 1000.302 MEDICAL MARIJUANA PURPOSE, LOCATION, ETC. Added 9/21/17

<sup>19</sup> Section 1000.400-407: SOLAR PANEL / SYSTEMS Added 7/16/25

**1000.402 Allowable Districts:** R-1, R-2, and NC.

**1000.403 General Setback Requirement**

- (a) All ground-mounted and rooftop solar panel installations must maintain a minimum setback of **30 feet** from all property boundaries adjacent to residential properties.
- (b) Placement of solar panels must be **50 feet** from a road right of way.

**1000.404 Height Limitations**

- (a) The maximum height of ground-mounted solar installations shall not exceed **20 feet** when measured from the natural grade to the highest point of the structure, including panels and any associated installed equipment.
- (b) For rooftop installations, a roof-mounted solar energy system must be installed parallel with the roof surface or, if tilted, may not exceed a maximum tilt of five percent (5%) steeper than the existing roof pitch while maintaining alignment with the roof's slope.

**1000.405 Compliance with Additional Regulations**

- (a) All solar installations must comply with applicable building codes, electrical codes, and any other relevant local, state, or federal regulations - and must be maintained and cleaned to industry / company / manufacturer standards.
- (b) Non-functional solar energy systems and all associated equipment must be fully removed from the property within 12 months of ceasing electricity production, becoming damaged, discontinued, or inoperable. Any ground disturbance resulting from the removal of a ground-mounted solar energy system must be properly graded and reseeded within 30 days, weather permitting, of removal to restore the site to its original condition.
- (c) Screening Required for NC District When Bordering Residential (*See Section 940 SCREENING*)
  - i. A visual barrier to partially or completely obstruct the view of structures or activities;
  - ii. Screening may consist of one (1) of the following, or a combination of two (2) or more:
    - a. A wall of decorative landscaped blocks;
    - b. A solidly-constructed decorative fence;
    - c. A louvered fence;
    - d. A dense vegetative planting;
    - e. A landscaped mound.

**1000.406 Exceptions and Variances**

Property owners may request a variance for a reduced setback in cases where strict adherence to the **30 foot** setback would impose an undue hardship. This may occur due to lot size being less than 2 acres. Such requests will be reviewed by the Zoning Board of Appeals and must demonstrate that alternative measures will provide adequate safety and visual protection.

**1000.407 Permit is Required for Placement of All Types of Solar Panel/Systems**

- (a) A site plan must be submitted at the time of application for a permit. A site plan must include the following: property lines, setbacks, dimensions and location of placement for solar panels, and manufacturer specifications to include make and model.
- (b) No solar panels shall be mounted or placed until all zoning, and building permits have been approved and issued by the Zoning Administrator and Ashtabula County Building Department.

<sup>19</sup>Section 1000.400-407: SOLAR PANEL / SYSTEMS Added 7/16/25