
ARTICLE IV

USE, AREA, HEIGHT REGULATIONS

Section 401-1 R-2 RESIDENTIAL DISTRICT (Rev. 6/28/01)

This district is composed of land being used for residential use, agricultural activities, open recreational uses, and other open land uses, and is adjacent to the urban areas. Sub-marginal lands having no principal use also are included in this district.

Nothing contained in this Zoning Resolution shall prohibit the use of any land for agricultural purposes, or the construction or use of buildings or structures incident to the use for agricultural purposes of the land upon which said buildings or structures are located, and no zoning certificate fee shall be charged for such use, building, or structure. (Rev. 10/24/01)

Section 401-2 PERMITTED USES

- A. One-family residential uses.
- B. Signs as regulated by Article VI, Section 601-1, 601-2, 601-3 of this Resolution.
- C. Home Occupations - Type 1 Criteria
 - 1. Such use shall be conducted by persons residing on the premises, with a maximum of 3 non-resident employees;
 - 2. Such occupation shall be carried on within the dwelling;
 - 3. Such occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than twenty-five percent (25%) of the living area of the dwelling unit shall be used in conduct of a home occupation. If the basement of a residence is used in the conduct of a home occupation, not more than fifty (50%) of the floor area of the basement shall be used for such purposes;
 - 4. No activity, materials, goods or equipment indicative of the occupation shall be visible from the public way or adjacent property;
 - 5. The proposed use shall not constitute primary or incidental storage facilities for a business, industrial or agricultural activity conducted elsewhere;
 - 6. No traffic shall be generated by such occupation in greater volume than would normally be expected in a residential neighborhood.

Any need for parking generated by the home occupation shall meet the off-street parking requirements as specified in this Resolution and shall be provided on-site;

7. No alteration to the exterior of the residential building shall be made which changes its character as a dwelling;
 8. No equipment or process shall be used in such home occupation which would cause a nuisance to neighbors such as noise, vibration, glare, fumes, odors, or electrical interference;
 9. Signs shall be permitted subject to Article VI, Sections 601-2 and 601-6 of this Resolution.
- D. Outdoor Wood-Burning Furnace Structures/ Hydronic Heater Structures (Adopted 5/26/2010)

PURPOSE

Conclusive evidence exists that uncontrolled wood-burning devices including Outdoor Wood-Burning Furnaces and Outdoor Wood-Fired Hydronic Heaters emit particulate matter, carbon monoxide, and other pollutants known to be detrimental to the health of the public; exposure to these pollutants can cause adverse short-term health effects such as eye, nose, throat, and lung irritation, coughing, as well as shortness of breath; and long term exposure to these pollutants can cause asthma, heart and lung disease as well as cancer.

Reference Sources: <http://www.epa.gov/burnwise> and Akron Regional Air Quality District

The Board of Homer Township Trustees recognizes that Outdoor Wood-Burning Furnaces (OWBFS) and Outdoor Wood-Fired Hydronic Heaters (OWFHHS) can be substantially dirtier and less efficient than most other home heating technologies. With their smoldering fires and short smokestacks (usually no more than six to ten feet tall), Outdoor Wood-Burning Furnaces and Outdoor Wood-Fired Hydronic Heaters may create heavy smoke and release it close to the ground, where it often lingers and exposes people in the area to nuisance conditions and health risks.

Reference Source: Akron Regional Air Quality District, 146 So. High St. -Suite 904, Akron, Ohio 44308

The installation of any Outdoor Wood-Burning Furnace or Outdoor Wood-Fired Hydronic Furnace Structure, hereinafter referred to as OWBFS and OWFHHS, shall require a Homer Township Zoning Permit, and may likely require a building permit from the Medina County

Building Dept. All OWBFS or OWFHHS furnaces shall meet the following requirements:

1. An OWBFS or OWFHHS is an accessory use and is considered to be a structure.
2. No person shall operate an OWBFS or OWFHHS in such a manner as to create a nuisance.
3. The location of an OWBFS or OWFHHS shall be in accordance with the following requirements:
 - a. No more than one (1) OWBFS or OWFHHS per parcel shall be permitted.
 - b. Shall be located only in the rear yard;
 - c. Shall comply with all district setback requirements;
 - d. If located fifty feet (50') or less from any residence not served by the furnace, the stack must be at least five (5) feet higher than the peak of any residence not served by the OWBFS or OWFHHS.
 - e. More than one building on the parcel may be serviced from a single OWBFS or OWFHHS.

4. Fuel Materials

Fuels as approved by the Environmental Protection Agency shall be utilized. The Zoning Inspector shall, among other actions, report alleged violations to the Akron Regional Air Quality Management District and/or the Ohio EPA for enforcement.

- E. Accessory uses provided such uses are incidental to the principal use and do not include any activity conducted as a business. Such uses must be situated on the same lot as the principal building.
- F. An **Accessory Structure** is a structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building use, and shall comply in all respects with the requirements of this Resolution. **(Added 5/26/2010)**

Section 401-3 CONDITIONALLY PERMISSIBLE USES

The Zoning Board of Appeals may issue conditional zoning permits for uses listed herein subject to Sections 801 and 802 of Article VIII and other sections of Article VIII referred to below:

- A. Basement dwelling subject to Subsection 116.
- B. Mobile Homes and Trailers subject to, Subsection 118. (Rev. 10/22/2008)
- C. Rooming and Boarding Houses subject to Subsections 106 and 110.
- D. Bed and Breakfast Homes subject to Subsections 106,110 and 123.
- E. Churches and other buildings for the purpose of religious worship subject to Subsections 101, 107, and 110.
- F. Publicly owned and/or operated buildings and facilities subject to Subsections 101, 105, and 110.
- G. Government owned and/or operated parks, playgrounds, golf courses subject to Subsections 101, 105, and 110.
- H. Private and commercial recreational uses other than those government owned and/or operated subject to Subsections 101, 102, 105, 106, and 107, and 110.
- I. Strip or open pit mining or extraction operations for sand, clay, gravel, and other natural resources subject to Subsections 107, 110, 112, 113, 114, and 115.
- J. Saw, planing or woodworking mill, cabinet making, carpenters shop subject to Subsections 101 and 107.
- K. Welding, machine shop, tin shop, exhaust system repair subject to Subsections 101, 104, and 107.
- L. Dairy and locker plant subject to Subsections 104 and 107.
- M. Lumber yard, coal and coke yards subject to Subsections 104 and 107.
- N. Temporary buildings for uses incidental to construction work subject to Subsections 107, 108, and 109.
- O. Stone yard, monument works subject to Subsections 101 and 107.
- P. Blacksmith, harness and buggy shop subject to Subsections 101 and 107.
- Q. Feed stores, mill or grain elevator subject to Subsections 101 and 107.
- R. Signs as regulated by Article VI of this Resolution.

- S. Veterinary Clinic/Animal Hospital subject to Article VIII of this Resolution.
- T. Home Occupations-Type 2 subject to Article VIII of this Resolution.
- U. Telecommunications Facilities subject to procedures and criteria as outlined in Article VIII. (Adopted 7/29/98)
- V. Wind/Solar Energy Generating Devices (non-commercial) as an Accessory Use Structure (Eff. 10-27-10)

Please read this entire section carefully!

This section provides setback, height, noise, and location standards for such energy generating devices as wind generators and solar panels, which are considered structures for the purpose of this Zoning Resolution, in order to protect the health, safety, and welfare of the surrounding residential properties.

Ohio Revised Code, Section 519.213 -- Township small wind farm zoning regulations.

(A) As used in this section, “small wind farm” means wind turbines and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of less than five megawatts.

(B) Notwithstanding division (A) of section 519.211 of the Revised Code, sections 519.02 to 519.25 of the Revised Code confer power on a board of township trustees or board of zoning appeals with respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any small wind farm, whether publicly or privately owned, or the use of land for that purpose, which regulations may be more strict than the regulations prescribed in rules adopted under division (B)(2) of section 4906.20 of the Revised Code.

(C) The designation under this section of a small wind farm as a public utility for purposes of sections 519.02 to 519.25 of the Revised Code shall not affect the classification of a small wind farm or any other public utility for purposes of state or local taxation.

(D) Nothing in division (C) of this section shall be construed as affecting the classification of a telecommunications tower as defined in division (B) or (E) of section 519.211 of the Revised Code or any other public utility for purposes of state and local taxation. Effective Date: 2008 HB562 09-22-2008

1. Definitions

Definitions of the various devices addressed in this Section can be found in Article II-Definitions listed under “Energy Generating Devices (Wind and Solar.”

2. General Regulations

- a. All Wind Facilities must be located behind the principle structure on the lot.
- b. A WECS shall not exceed 140 feet (or 42.7 meters) in height.
- c. A WECS shall not be located closer than 1.1 feet for each foot of height measured from the natural grade to the tip of the rotor blade at its highest point, or the highest point of a vertical axis rotor, to a place of dwelling, property line, street right-of-way, utility wires and/or guy wires, or above electric lines.
- d. All WECS shall be equipped with automatic and manual over-speed controls to limit the rotational speed to correspond with the design limits of the rotor.
- e. A Zoning Certificate is required for both WECS and Solar Facilities (also refer to Article IX-Sec. 901-4 of this Resolution). In addition to those requirements established in Article IX-Sec. 910-4 of this Resolution, the Applicant shall provide:
 - 1. A plot plan drawn to scale showing the exact dimensions of the lot to be built on;
 - 2. The location, dimensions, height and bulk of structures to be erected;
 - 3. Any other pertinent data as may be necessary to determine and provide for the enforcement of this Resolution;
 - 4. Structural Plans of the Wind or Solar Facility drawn by a professional engineer;

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5. Proof of compliance with all applicable building code requirements;
 6. Proof of compliance with all applicable electrical code requirements; and
 7. Proof of compliance with all applicable Federal Aviation Administration regulations.
- f. All Wind and Solar Facilities shall conform to all applicable building code requirements. Evidence of compliance or non-applicability shall be submitted with the application.
- g. All Wind and Solar Facilities shall conform to all electrical code requirements. Evidence of compliance or non-applicability shall be submitted with the application.
- h. Noise levels generated from any wind facility shall not exceed 62 decibels (dBA) between the hours of 7:00 A.M. and 10:00 P.M., and shall not exceed 52 decibels (dBA) between the hours of 10:00 P.M. and 7:00 A.M.

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Sources:

- American Speech-Language-Hearing Assoc. article, “Noise and Hearing Loss”
<http://www.asha.org/public/hearing/disorders/noise.htm>
- Dangerous Decibels
<http://www.dangerousdecibels.org/hearingloss.cfm>
- National Wind Coordinating Collaborative - “Permitting of Wind Energy Facilities-A Handbook”
<http://www.nationalwind.org/assets/publications/permitting2002.pdf>

Copies of the above source references can be found in Appendix D of this Resolution.

- i. Emergency contact information shall be posted on the structure, listing any emergency contact personnel and 24-hour emergency phone numbers so that emergency responders can locate the responsible parties.

- j. Access to a wind facility should be secured to provide maximum safety.
- k. Solar Panels located on the roof of any structure may not extend above the highest point of the existing roof.

Exemption – Any solar panel attached or located on the roof or wall of a building that lies parallel to that surface is exempt from obtaining a zoning certificate.

- l. Solar Panels detached from any structure shall not exceed fifteen (15) feet in height.
- m. Solar Panels detached from any structure shall not occupy more than thirty percent (30%) of the rear or side yard.
- n. Solar panels not mounted on a building or structure shall be considered an accessory use structure.
- o. A WECS shall comply with all applicable Federal Aviation Administration regulations. Evidence of compliance or non-applicability shall be submitted with the application.

3. De-Commissioning

Any WECS or Solar Panel that is non-operational for a continuous period of twelve (12) months shall be considered abandoned and Owner of such structure shall remove same within ninety (90) days.

- W. Wholesale/retail produce markets and produce auctions shall be permitted subject to the conditions hereinafter imposed: **(Added 2/25/16)**
 - 1. All loading and parking areas shall be confined within the boundaries of the site, and shall not be permitted to spill over onto adjacent public rights-of-way.
 - 2. The establishment must meet the lot and setback requirements of Section 401-4.
 - 3. Driveway access to wholesale/retail produce markets and produce auctions shall be at least 100 feet from the intersection of any two streets or shall conform to state and county regulations.

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4. The location or operation of the wholesale/retail produce market or produce auction shall not impair the continued enjoyment, use, and future development of nearby properties. The use shall not generate excessive noise, odors, dust, or other impacts. The Zoning Commission/Board of Zoning Appeals may specify hours of operation and stricter screening mechanisms to assure compatibility with adjacent uses.
 5. There shall be no Sunday produce auctions and no more than three (3) auctions per week.
 6. No storage of products or containers and no major repair or major refinishing is permitted outside of the wholesale/retail produce market or produce auction.
 7. All lighting shall be shielded from adjacent residential properties and public rights-of-way and shall be restricted to hours of operation.
 8. Adequate utilities, access roads, drainage, and necessary facilities shall be provided.
 9. An off-street loading and unloading rear entrance shall be provided.
 10. Requirements of the Ohio Revised Code regarding pawn and secondhand goods, consignment, auction, and trading establishments shall be met.
 11. Signage shall be limited to one (1) on premises sign not to exceed twenty-four (24) square feet:
 - a.) Maximum height of five (5) feet
 - b.) Minimum setback of ten (10) feet from the right-of-way
 - c.) Shall be restricted to hours of operation
 12. Business owner must own the property or live on the property.

X. Auction House (**Added 2/25/16**)

For the purpose of this section, “auction house” shall be defined as:

An enclosed place or establishment conducted or operated for compensation or profit as a private or public market where items are offered for sale through competitive bidding. The term “auction house” shall not include on premises estate, foreclosure or For Sale property or property belonging to the personal

property owner. The term “auction house” shall not include flea markets, yard sales or livestock markets defined or regulated elsewhere or Sheriff’s or bank repossession sales.

An auction house shall be permitted subject to the conditions hereinafter imposed:

1. All loading and parking areas shall be confined within the boundaries of the site, and shall not be permitted to spill over into adjacent public rights-of-way. Wheel stops shall separate parking areas from adjacent rights-of-way.
2. The establishment must meet the lot and setback requirements of Section 401-4.
3. All areas of a front yard or street side yard which are not landscaped shall be provided with a concrete or plant-mixed bituminous surface and shall be graded and drained so as to dispose of all surface water accumulated within the area.
4. Driveway access to an auction house shall be at least 100 feet from the intersection of any two streets, and shall conform to state and county regulations.
5. Driveway access to an auction house shall only be from a state route or county highway, and shall conform to state and county regulations.
6. The location or operation of the auction house shall not impair the continued enjoyment, use, and future development of nearby properties. The use shall not generate excessive noise, odors, dust, or other impacts. The Zoning Commission/Board of Zoning Appeals may specify hours of operation and stricter screening mechanisms to assure compatibility with adjacent uses.
7. There shall be no Sunday auctions and no more than three (3) auctions per week.
8. An auction house shall only be located within an existing structure or constructed within the foundation footprint of a previously existing structure.
9. No storage of products or containers and no major repair or major refinishing is permitted outside of the auction house.

- 10. With the exception of sales of estates, which may include up to five (5) automobiles/trucks, automobiles and/or trucks may not be sold at an auction house.
 - 11. All lighting shall be shielded from adjacent residential properties and public rights-of-way and shall be restricted to hours of operation.
 - 12. Adequate utilities, access roads, drainage, and necessary facilities shall be provided.
 - 13. An off-street loading and unloading rear entrance shall be provided.
 - 14. Requirements of the Ohio Revised Code regarding pawn and secondhand goods, consignment, auction, and trading establishments shall be met.
 - 15. Signage shall be limited to one (1) on premise sign not to exceed twenty-four (24) square feet:
 - a.) Maximum height of five (5) feet
 - b.) Minimum setback of ten (10) feet from the right-of-way
 - c.) Shall be restricted to hours of operation
 - 16. Business owner must own property or live on the property.
- Y. Uses comparable to the above subject to procedures and criteria as outlined in Article VIII, Section 803 of this Resolution.

Section 401-4 AREA AND HEIGHT REGULATIONS

- A. Minimum lot sizes. All lots shall have a minimum frontage of 350 feet and a minimum depth of 600 feet, and contain 10 acres.
- B. Minimum living floor area per family. Every single family dwelling shall have a minimum living floor area of not less than twelve hundred square feet (1,200 sq. ft.) per family, exclusive of breezeways, garages, terraces, attics, basements, and porches.
- C. No family dwelling shall exceed thirty-five (35) feet in height.
(Eff. 10/27/10)

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- D. Required yards:
 - 1. Front yards shall be not less than eighty (80) feet in depth from the road right-of-way. If there is no established right-of-way sideline for any road or street, said line shall be deemed to be thirty (30) feet from the centerline of the road. **(Rev. 6/28/01)**
 - 2. Side yards shall be not less than fifty (50) feet on each side. **(Rev. 5/26/10)**
 - 3. Rear yard shall be not less than fifty (50) feet in depth. **(Rev. 5/26/10)**

Section 401-5 OPEN SPACE COMMUNITY (Adopted 7/29/98)

A. Introduction

Large lot zoning, established to preserve rural character or as a means to reduce population density has absorbed land at an accelerated rate without the desired benefits, such as economy of layout, convenience of access to town roads, improved visual quality, or permanent preservation of rapidly diminishing open space and agricultural lands.

The 1995 update to the Homer Township Comprehensive Plan identified the need to use more efficient methods of developing land to avoid negative environmental impacts. This need suggests expectations of higher development quality and places more demanding responsibility on land use decision makers. Grouping of residential development, where appropriate, provides an alternative to creatively preserve open space, accommodate growth and, at the same time, preserve the open rural and agricultural appearance of Homer Township. This process encourages the concentration or grouping of buildings on those areas of a site that are best suited for development, while requiring that the remaining land be permanently retained as common open space, or permanently restricted to agricultural land usage, which at the same time maintains the natural character of the site.

This grouping or clustering of development can permit lots that are smaller than the minimum lot size specified in this Zoning Resolution, if the following conditions are met:

- 1. The actual number of lots proposed equals the number of lots permitted with no reduction in minimum lot size as required by the current zoning resolution; and

2. The actual land area reduction, or land area not included in the lots due to lot sizes less than minimum as required by this zoning resolution, shall be devoted to permanent open space or permanent agricultural use.

B. Intent

While maintaining the same density required by **Section 401-4(A)** of this resolution, it is the intent of this section to offer an alternative to Homer Township's present zoning resolution by using open space conservation development to:

1. encourage the use of Township land according to its character and adaptability;
2. assure the permanent preservation of open space, agricultural lands, and other natural resources;
3. allow innovation and greater flexibility in the design of residential developments;
4. facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
5. ensure compatibility of design and use between neighboring properties; and
6. encourage a less sprawling form of development, thus preserving open space as undeveloped land, continuing agriculturally productive lands in agricultural uses, and maintaining the rural character of the township roadsides.

These resolutions are intended to preserve the traditional rural and agricultural character of the land use pattern in the Township through the creation of small residential cluster areas contrasting with permanently preserved open space and less intensive land uses. This section is not intended as a device for ignoring other resolutions of the Township and/or County and State rules and regulations guiding development and the standards set forth therein, or the planning concepts upon which this Zoning Resolution has been based.

These resolutions are intended to result in a specific development plan substantially consistent with all zoning standards, yet allow for some modification to encourage the goals set forth in **Section 401-5(B), 1-6**, above.

C. Permitted Uses

1. Single Family residential structures
2. Agriculture
3. Passive recreational facilities
4. Accessory uses and buildings incidental to the permitted uses

D. Information Required on Plans

Open space conservation development proposals shall be reviewed under the following conditions and standards during the Zoning Commission's review of the open space conservation development plan. Open space conservation development proposals shall include the following:

1. A site plan shall be submitted to the Zoning Commission showing;
 - a. the locations, height and space of existing and proposed buildings
 - b. open spaces and their landscaping, roads, driveways and off-road parking spaces,
 - c. **all** other physical features, including standards for the design, dimensions, and spacing of buildings and sizes of lots and open spaces.
2. In addition to other requirements contained herein, the open space conservation development application shall include:
 - a. topography, including contours of no greater vertical interval than two (2) feet,
 - b. Tables showing total number of acres, the number of single family dwelling units, and non-residential uses including streets, acres of land preserved for passive open spaces, and acres of land preserved for agricultural uses,
 - c. Maps or other indications of environmentally critical areas and features including, but no limited to, wetland areas, tree stands, ponds, streams and natural waterways, areas of scenic views, areas of prime agricultural soils, current and past agricultural use, and
 - d. Any other data the Zoning Commission may decide necessary to determine compliance with this section.

3. A management plan describing the mechanisms through which any common land, agricultural operations, recreational facilities, roads, parking areas, community water and sewer systems, or other facilities and improvements will be used, owned, maintained and preserved.

E. Standards for Open Space Conservation Developments

All open space conservation developments shall meet the following standards:

1. The minimum land area allowable for this development type is 20 acres.
2. The open space conservation development shall be an effective and unified treatment of the development possibilities of the project site, and shall make explicit appropriate provision for preservation of prime agricultural lands and agricultural uses, streams, stream banks, lake and pond shores, aquifers, slopes greater than 25%, woodlands, riparian wetland areas, soils unsuitable for development due to shallow depth to bedrock or high water table conditions, limitations for on-site sewage disposal, productive woodlands, historic or archaeological sites, natural areas, wildlife habitat, high elevations and ridge tops, flood plains, open spaces, and scenic views and vistas.
3. The total number of allowable units within the open space development shall not exceed the number that would be permitted if the land were subdivided into lots under **Sec. 401-4(A)** of this Zoning Resolution and in conformance with the requirements of Article IV. The number of units allowed shall be based on total acreage minus land and right-of-ways depicted for streets (public or private), utility easements, specified environmentally sensitive areas as defined by **Sec. 401-5(F)1 a.-d.** herein below, and other public lands.
4. The minimum side and rear yard setbacks at the periphery of the home site/building lot cluster areas within an open space development shall be 50 feet.
5. A natural landscaped buffer strip of 150 feet in depth from the right-of-way of the existing street and newly constructed collector street shall be required. These natural landscaped buffer strips shall totally and completely screen the view of residentially developed interior lands during all seasons of the year. The natural landscaped buffer strips shall be planted with a mixture of deciduous and coniferous trees and shrubs of sufficient size and

caliper to achieve the required screening within a period of eight (8) years. All natural treatments of the buffer strip shall be subject to Zoning Commission approval.

6. The open space development shall be consistent with applicable local plans and all applicable regulations.
7. The open space development will meet the applicable site plan review requirements.
8. The proposal shall provide for permanent preservation of open space and agriculturally productive lands. All lands within the open space development that are considered environmentally sensitive shall be protected by conservation easements.
9. Residential dwellings are limited to single family detached dwellings.
10. Minimum building lot size within the open space development shall be the minimum lot size required by the Medina County Health Dept. for septic system installation.
11. All building lots shall have a minimum frontage of one hundred feet (100') unless located on the bulb end of a cul-de-sac street where minimum frontage shall be 60 feet.
12. Front yard, rear yard and side yard setbacks of individual building lots shall be as required by **Sec. 401-4(D)** of this resolution.
13. All building lots/home sites shall be clustered along cul-de-sac streets with a maximum of seven (7) building lots permitted on any cul-de-sac.
14. If the parcel(s) being developed under this Section can be divided into more than seven (7) building lots, then more than one cluster area must be developed.
15. If there is more than one cluster area in the development, no building lots shall be permitted along the collector street serving the individual cluster areas.
16. The minimum open space separation between lots on adjacent cluster areas shall be one hundred (100) feet.
17. All streets within the open space development must be constructed according to Medina County Subdivision Regulations.

F. Minimum Percentage of Open Space

The minimum percentage of land that shall be designated as permanent open space, not to be further subdivided, and protected through a deed restriction and conservation easement held by an acceptable entity in perpetuity (such as a land conservancy), shall be as specified below:

1. A minimum of seventy percent (70%) of the total original tract of land remaining after subtracting the percentage of the land area specified for the following kind of land:
 - a. Wetlands and/or hydric soils greater than one (1) acre; 50% deduction of total acreage in wetlands,
 - b. Water bodies greater than 1 acre; 50% deduction of total acreage in water bodies,
 - c. All of the floodway and floodway fringe within the 100-year floodplain, as shown on official FEMA maps; 50% deduction of total acreage in floodway or floodway fringe,
 - d. Land with slopes exceeding 50%, or soils subject to slumping; 50% deduction of total acreage of land with slopes exceeding 50% or soils subject to slumping,
 - e. Existing and proposed area for street rights-of-way or public lands; 100% deduction of total acreage in street rights-of-way and other public lands,
 - f. Land under permanent easement (non-highway) prohibiting future development (including easements for drainage, access, and utilities); 40% deduction of the total acreage of land under permanent easement.
2. Agricultural uses/land areas will receive full open space credit, subject to required deed restriction and conservation easement to provide protection if agriculture is terminated.

G. Open Space Standards for Open Space Developments

The location, size and shape of lands set aside for open space shall be approved by the Zoning Commission. Provision of open space shall include, but not be limited to, the following:

1. Open space land shall provide for the protection of resources on the site including agricultural land, productive woodland, wildlife habitat, natural areas, aquifer protection areas, woodlands, views and vistas, streams, stream banks, bodies of water, the lake shoreline, and historic and archeological sites.
2. The location, shape, size, contiguity, and character of the open space land shall be suitable for its intended use. The minimum dimension of open space shall be one hundred feet (100') unless the Zoning Commission determines a lesser dimension is suitable for special circumstances.
3. Open space land shall be suitably improved and/or maintained for its intended use, except open space containing natural resources worthy of preservation that may be required to be left unimproved. Provisions shall be made to enable lands designated for agriculture and wildlife habitat to be used for these purposes.
4. Land shown as open space shall be protected for its intended use (including, but not limited to, open spaces, recreational areas, agricultural areas, etc.) through a mechanism approved by the Zoning Commission. The agreement may be in the form of a deed restriction and conservation easement among other possible means with appropriate reverter clauses, any of which must be deemed appropriate by the Zoning Commission acting on the advice of the Medina County Prosecutor's office. All costs for creating and maintaining open space are the responsibility of the developer and subsequent landowners (typically in the form of a homeowners' association), or holders of any conservation easement.
5. Open space land shall be located to conform with and extend existing and potential open space on adjacent parcels, where practical.
6. Additional measures that may be imposed to protect resources identified on the parcel include, but are not limited to, restrictions on building sites through designation of building envelopes and clearing limits (such as limits on the clearing of wooded areas or areas valuable for wildlife habitats).
7. In certain cases the Zoning Commission may require a third party to be party to the open space agreement. All costs associated with administering and maintaining the open space shall be born by the applicant and subsequently by the homeowners' association, unless otherwise established through a separate agreement acceptable to the Zoning Commission.

8. For a phased development, open space for **all** phases shall be provided with the initial phase of the development in the proportion required for the entire development, and in a configuration and location appropriate for the platted lots.

H. Open Space Developments on Two or More Parcels

Two or more contiguous parcels under the ownership or control of the applicant may be combined for review as an open space development. The permitted number of dwelling units on one parcel may be increased as long as the overall number of units for the combined parcels does not exceed that which could be permitted, in the Zoning Commission's judgment, if the land were subdivided into lots in conformance with the district regulations. Parcels separated by a public or private road or a railroad right-of-way may be considered contiguous by the Zoning Commission for the purposes of this section, provided:

1. the Zoning Commission finds that the boundaries adjoin adequately, and
2. the open space development promotes the protection of significant natural resources and unique features in the area of the parcels.

I. Parking and Utilities in Open Space Developments

1. All utility lines shall be installed underground.
2. Adequate lines of sight shall be provided for drivers backing from garages or driveways into the adjacent street. On corner lots or open space areas adjacent to the street, buildings, landscaping and appurtenances shall be situated, set back and maintained to provide unobstructed visual clearance at all intersections.

J. Medina County Health Department Review and Approval Required

For any planned open space development, submitted preliminary and final plans should show all planned sewage disposal areas and their relationship to overall site design.

Sewage disposal is a critical issue in overall development design, and, as such, effluent and water supply issues should be addressed early in the planning process and with the cooperation of the Medina County Health Department.

K. Zoning Commission Disapproval

Where the Zoning Commission finds that a proposed open space development, as a whole or due to a component of the development, will have an effect or effects not in the spirit of, or consistent with, the purpose of the open space requirements, the Commission may disapprove such development, or require its modification, and specify the specific reasons for such action in writing to the applicant.

L. Example of Conservation Development Calculations

Original Tract acreage	= 100 acres
Less area in streets and right-of-ways, say, 15 acres	= 85 acres remaining
Less environmentally sensitive areas, say 10 acres of wetlands with 50% deduction, or 5 acres	= 80 acres remaining
Net developable acreage	= 80 acres
Required open space is 70% of 80 acres	= 56 acres of open space
Number of dwelling units allowed is 1 unit for each 10 acres of net developable acreage	= 8 dwelling units
Actual Developable Acreage	= 24 acres

Section 402 R-1 LOW DENSITY RESIDENTIAL DISTRICT

Section 402-1 PURPOSE

The purpose of this district is to accommodate residential development at a low-density that will promote the continuation of the predominately rural residential character of Homer Township. This district is to provide for development in areas which are not adaptable for agricultural use due to the physical limitations imposed by roads and railroads, specifically areas south of Simcox Road between Pawnee Road and River Corners Road, and the area between Ohio Route 224 and the CSX Railroad from the easterly boundary of properties presently owned by Robert D. and Barbara Worden and by Richard and Yin Tze Courey to Simcox Road. In addition, the district provides reasonable residential development controls for expansion and development within the village of Homerville as reflected in the Homer Township Comprehensive Plan.

Section 402-2 PERMITTED USES

- A. One and two family residential uses.

- B. Signs as regulated by Articles VI Section 601-1, 601-2 and 601-3 of this Resolution.

- C. Home Occupations - Type 1 Criteria
 - 1. Such use shall be conducted by persons residing on the premises, with a maximum of 3 non-residential employees;

 - 2. Such occupation shall be carried on entirely within the dwelling;

 - 3. Such occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than twenty-five percent (25%) of the living area of the dwelling unit shall be used in the conduct of the home occupation. If the basement of a residence is used in the conduct of a home occupation, not more than fifty percent (50%) of the floor area of the basement shall be used for such purposes;

 - 4. No activity, materials, goods or equipment indicative of the occupation shall be visible from the public way or adjacent property;

 - 5. The proposed use shall not constitute primary or incidental storage facilities for a business, industrial, or agricultural activity conducted elsewhere;

6. No traffic shall be generated by such occupation in greater volume than would normally be expected in a residential neighborhood. Any need for parking generated by the home occupation shall meet the off-street parking requirements as specified in this Resolution and shall be provided on-site;
7. No alteration to the exterior of the residential building shall be made which changes its character as a dwelling;
8. No equipment or process shall be used in such home occupation which would cause a nuisance to neighbors such a noise, vibration, glare, fumes, odors, or electrical interference;
9. Signs shall be permitted subject to Article VI, Sections 601-1, 601-2 and 601-3 of this Resolution.

D. Accessory Uses

Such uses are incidental to the principal use and do not include any activity conducted as a business. Such uses must be situated on the same lot as the principal building.

- E. An Accessory Structure is a structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building use, and shall comply in all respects with the requirements of this Resolution. **(Added 5/26/2010)**

Section 402-3 CONDITIONALLY PERMISSIBLE USES

The Zoning Board of Appeals may issue conditional zoning certificates for uses listed herein subject to Sections 801 and 802 of Article VIII and other sections of Article VIII referred to below:

- A. Churches and other buildings for the purpose of religious worship subject to Subsections 101, 107, and 110.
- B. Publicly owned and/or operated buildings and facilities subject to Subsections 101, 105, and 110.
- C. Government owned and/or operated parks and playgrounds, subject to Subsections 101, 105, and 110.

- D. Private and commercial recreational uses other than those government owned and/or operated subject to Subsections 101, 102, 105, 106, 107, and 110.
- E. Cemeteries subject to Subsections 101 and 107.
- F. Telecommunications Facilities subject to procedures and criteria as outlined in Article VIII. (Adopted 7/29/98)
- G. Solar panels not mounted on a building or structure shall be considered an accessory use structure subject to the requirements outlined in Article IV, Sec. 401-3-V, Conditionally Permissible Uses.

Section 402-4 AREA AND HEIGHT REGULATIONS

Lots shall be laid out with side lot lines perpendicular to the road right-of-way except when curvature of the road or unique physical conditions of the land makes this impossible. This requirement shall not be interpreted to discourage the development of curved streets going with the natural land contour.

A. Minimum Lot Area

One-family: Two (2) acres
Two-family: Four (4) acres

B. Minimum Lot Frontage

Lot frontage at the road right-of-way shall be one hundred seventy five (175) feet for single family and three hundred fifty (350) feet for two-family except when said lot fronts on a cul-de-sac, small loop street or similar road curvature, the required width shall be twenty-five (25) feet and fifty (50) feet respectively.

C. Minimum Lot Width

One-family: 175 feet
Two-family: 350 feet

When side lot lines are required to be laid out on an angle rather than perpendicular to the road right-of-way, the lot width shall be measured as nearly perpendicular to the side lot line as possible.

D. Minimum Front Yard Depth From Street Right-of-way

Fifty (50) feet for structures fronting township and county roads.

Eighty (80) feet for structures fronting state highways.

If there is no established right-of-way side line for any road or street, said line shall be deemed to be thirty (30) feet from the center line of the road.

E. Minimum Side Yard Width fifteen (15) feet.

F. Minimum Rear Yard Depth thirty (30) feet.

G. Minimum Living Floor Area Per Family

Every single and two family dwelling shall have a minimum living floor area of not less than one thousand two hundred (1,200) square feet per family, exclusive of breezeways, garages, terraces, attics, basements, and porches.

H. Height Regulations

No structure shall exceed thirty-five (35) feet in height.

I. Off-Street Parking

As regulated by Article VII of this Resolution (Section 701-1a).

Section 403 B-1 BUSINESS DISTRICT

Section 403-1 PURPOSE

The Purpose of this District is to provide for a variety of retail, service, and administrative establishments in designated areas, as reflected in the Homer Township Comprehensive Plan. The regulations for this District are designed to provide opportunities for well-planned, attractive and safe commercial development that has a minimal adverse impact on surrounding residential and agricultural areas, and shall be clean, quiet, and free of hazardous or objectionable elements such as chemical, noise, odor, dust, smoke, or glare, and operate principally within enclosed structures.

Section 403-2 PERMITTED USES

A. Establishment engaged primarily in the fields of finance, insurance, and real estate, such as banks, credit agencies, investment firms, real estate and insurance firms.

- B. Establishments engaged in providing a variety of services to individuals and business establishments, such as personal services, miscellaneous business services, medical and health services, engineering and architectural services, legal services, accounting, auditing and bookkeeping services, non-profit professional, charitable and labor organizations, dance studios and schools, bowling alley, motion picture and theatrical playhouse.
- C. Establishments engaged in retail trade such as drug stores and stationery, apparel, florist, garden supply, antiques, sporting goods, jewelry, optical goods, furniture, home furnishings, office supplies, beverages, restaurants, and food stores.
- D. Churches and other buildings for the purpose of religious worship.
- E. Publicly owned and/or operated buildings and facilities.
- F. Clubs, lodges, fraternal, charitable, or social organizations.
- G. Veterinary clinic or hospital.
- H. Educational, religious or philanthropic institutions.
- I. Public self-store facilities, provided,
 - 1. Storage inside buildings only,
 - 2. Master key available for fire inspection.
- J. Accessory uses clearly incidental to the principal uses permitted on the same premises.
- K. An Accessory Structure is a structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building use, and shall comply in all respects with the requirements of this Resolution. **(Added 5/26/2010)**
- L. Signs as regulated in Article VI of this Resolution.
- M. Parking and loading as regulated in Article VII of this Resolution.
- N. Sexually oriented businesses pursuant to the restrictions in Sec. 403-2.1 **(Adopted 7/1/2005)**
- O. Uses comparable to the above, subject to procedures and criteria as outlined in Article VIII, Section 803 of this Resolution.

Section 403-2.1 SEXUALLY ORIENTED BUSINESSES (Adopted 7/1/2005)

Homer Township has determined that permitting sexually oriented businesses, as defined in this Section, in proximity to residential, institutional, and non-adult oriented retail uses would have a detrimental effect on such adjacent uses. Therefore, in order to prevent potential deterioration in Homer Township's B-1, R-1, and R-2 Districts, and to avoid potential adverse impacts on residential and institutional uses, particularly those where children are present, and thereby protecting the public health, safety, and welfare, sexually oriented businesses, as defined in this Section shall be permitted only in the B-1 District, subject to the following requirements:

- A. For purposes of this Zoning Resolution, sexually oriented businesses shall include, but not be limited to, any of the following:
 - 1. Adult book/video store: An establishment which utilizes a substantial amount of its retail selling area for the purpose of retail sale or rental, or for the purpose of display or viewing, for any compensation, of books, magazines, other printed material, films, tapes and videocassettes, or any other visual representation, which are distinguished by their emphasis on adult materials as defined in this Section.
 - 2. Adult motion picture theatre: Any enclosed motion picture theatre which regularly uses a substantial amount of its total viewing time for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to adult material as defined in this Section.
 - 3. Adult-only live entertainment business: An establishment where the patron directly or indirectly is charged a fee, or where adult live entertainment is provided at no charge, and where the establishment features:
 - a.) entertainment or services which constitute adult material as defined in this Section; or,
 - b.) exhibitions, dance routines, or gyrating choreography of persons totally nude, topless, bottomless, or strippers, male or female impersonators or similar entertainment or services that constitute adult material as defined in this Section.
- B. To further determine whether the above facilities are sexually oriented businesses, the following definitions shall apply:

1. Adult Material: Any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure, image, description, videocassette, motion picture film, record or other tangible thing, or any service capable of creating sexual interest through sight, sound or touch, and/or:
 - a.) which material is distinguished or characterized by an emphasis on matter displaying, describing or representing sexual activity, masturbation, sexual excitement, nudity, bestiality or human bodily functions of elimination; or
 - b.) which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality or human bodily functions of elimination.
 2. Bottomless: Less than a full opaque covering of male or female genitalia, pubic area or buttocks.
 3. Nude or nudity: The showing, representation or depiction of human male or female genitalia, pubic area or buttocks with less than a full, opaque covering of any portion thereof, or female breast(s) with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitalia in a discernibly turgid state.
 4. Topless: The showing of a female breast with less than a full opaque covering of any portion thereof below the top of the nipple.
 5. Sexual Activity: Sexual conduct or sexual contact, or both.
 6. Sexual Contact: Any touching of an erogenous zone of another, including without limitation the thigh, genitalia, buttock, pubic region, or, if the person is female, a breast, for the purpose of sexually arousing or gratifying either person.
 7. Sexual Excitement: The condition of the human male or female genitalia, when in a state of sexual stimulation or arousal.
- C. Sexually oriented businesses shall be located in accordance with the distance requirements noted below and as shown in the B-1 District of the Homer Township Zoning Map.
1. A minimum of 80 feet front yard depth from any dedicated road in the B-1 District of Homer Township. This measurement shall be taken from the right-of-way line.

2. A minimum of 30 feet side yard width from all R-1 or R-2 Residential District property lines.
 3. A minimum of 500 feet from the boundaries of any lot containing another sexually oriented business.
 4. A minimum of 500 feet from the boundaries of any lot containing a church, library, public park or public playground, day care center, school or any other institution where children are kept day or night.
- D. Sexually Oriented Businesses shall comply with all regulations as stated in the B-1 sections of the Zoning Resolution.
- E. Structures will be designed to prevent internal activities or displays from being visible from the outside.
- F. Sexually Oriented Businesses shall comply with all state regulations.

Section 403-3 CONDITIONALLY PERMISSIBLE USES

The Zoning Board of Appeals may issue conditional zoning certificates for uses listed herein subject to Sections 801 and 802 of Article VIII and other sections of Article VIII referred to below.

- A. Public utility right-of-way and pertinent structures subject to Subsections 104 and 107.
- B. Temporary buildings for uses incidental to construction work subject to Subsections 107, 108, and 109.
- C. Gas stations, subject to Article VIII, Section 802, Subsections 102, 105, 107, 110, 119, 120, 121, and 122.
- D. Auto repair and body shops, subject to Article VIII, Section 802, Subsections 102, 105, 107, 110, 119, 120, 121, and 122.
- E. A residence for an owner/operator of a business and his family within the same building as a legally operating business. **(Adopted 2/4/99)**

Section 403-4 AREA AND HEIGHT REGULATIONS

- A. Front Yard Depth - eighty (80) feet from the right-of-way. Depth will be measured from the edge of the right-of-way of a dedicated street or from the roadway for a private street. **(Amended 6/27/14)**

- B. Minimum Side Yard Width - there will be a minimum side yard width of fifty (50) feet when adjacent to a residential district and on the side adjacent to the residential district only. There will be a minimum side yard width of fifteen (15) feet when adjacent to a business district, and on the side or sides adjacent to the business district. **(Rev. 6/10/99, 12/11/12, 6/27/14)**

- C. Minimum Rear Yard Depth – there will be a minimum rear yard depth of twenty-five (25) feet when adjacent to a Business District. When adjacent to a Residential District, the minimum rear yard depth will be fifty (50) feet. **(Amended 6/27/14)**

- D. Height Regulations - No structure shall exceed thirty-five (35) feet in height.

- E. Off-street Parking and Loading Regulations - as regulated by Article VII of this Resolution (Section 701-1b and Section 702).