

ARTICLE 1

CHAPTER 3: ZONING ENFORCEMENT

SEC 1.301 **REQUIRED APPLICATIONS AND PROCESSING PROCEDURES**: This Chapter specifies the applications and procedures by which requirements of the Zoning Code are enforced or exempted, pursuant to and in accordance with ORC Chapter 303 of the ORC. Enforcement measures applied in the event of a violation are described, along with potential recourse or relief by variance or appeal from requirements of the Code.

SEC 1.302 ZONING PERMIT APPLICATION:

1.302.1 Applicability: A zoning permit is required for all proposed principal, accessory, and temporary use structures unless otherwise specified within this Code. An application for a zoning permit prepared in satisfaction with the requirements of Section 1.302.2 shall be submitted to and approved by the Zoning Inspector before the owner(s) of property or the agent(s) acting in their behalf commence any change in use or places or begins to erect, construct, reconstruct, enlarge, or alter any building or other structure. Uses/development subject to Section 1.103.7 are exempt. Zoning Code compliance must be determined by the Zoning Inspector prior to issuance of a zoning permit.

1.302.2 Permit Application Requirements: The required zoning permit application form, fee, and accompanying information inclusive of a site plan must be submitted to the Zoning Inspector for evaluation. All site plans shall include the following information, unless the Zoning Inspector determines that certain information is not necessary to meet the intent of this Section:

- (A) Name, address, phone number, fax number, and e-mail address of the applicant property owner and agent, if applicable or available;
- (B) Date submitted to, and accepted complete, by the Zoning Inspector;
- (C) The parcel identification number of the parcel(s), name of the township and zoning district in which located, site address, and, if applicable, the name of the subdivision and the lot number(s) in which located;
- (D) Accurate dimensions of the boundary lines (based on a recorded survey), legal description, and square footage or acreage of the site;
- (E) The location of each existing and proposed structure, notation of the type, size (square footage area and outer wall footprint dimensions as applicable) of each structure, indication of the respective distances in feet from the outermost edges of each existing and proposed structure to property lines, and identification of structures to be removed;
- (F) The total height of the proposed structure, and number of stories;
- (G) Proposed residential structure(s) and number of dwelling unit(s) within each, total living space by floor (square footage), and the number and size of bedrooms in each dwelling unit;
- (H) Written certification of an approved or anticipated sewage disposal system permit by the approving authority and a plan showing existing and proposed systems for sanitary sewer;
- (I) Indication of the existing and/or proposed vehicle access, parking provisions and traffic circulation;
- (J) Provisions for landscaping, screening, signage and lighting;
- (K) Signature of the applicant attesting to the truth and correctness of all information provided on the application form, the accompanying site plan and other documents submitted. The applicant's acknowledgement that:

- (1) The zoning permit will expire in one (1) year following the date of approval; and,
- (2) The permit may be revoked if the use and/or structure is not progressing or completed in a manner consistent with the information provided and approved;
- (L) Other applicable information required by the Zoning Inspector to determine compliance of the permit request. This may include, but is not limited to, the location of drainage, public utility, common access, conservation easements, regulatory floodplain and stream protection areas, right-of-way or easement line(s), boundaries of waterways, and finished floor elevations; and,
- (M) The permit application fee.

1.302.3 Permit Application Processing: The Zoning Inspector shall determine compliance with all applicable provisions and requirements of the Code and conformance with the decisions of other approving authorities.

Each application is consecutively numbered within the year in which it was accepted for processing and is maintained accordingly in a file as a matter of public record available at the Zoning Inspector's office. A signed and dated copy of the application that documents the decision by the Zoning Inspector shall be provided to the applicant. In the event the Zoning Inspector denies issuance, the reasons why and potential remedies and recourse which may be pursued by the applicant shall be filed and provided in writing to the applicant by ordinary mail.

SEC 1.303 SITE PLAN REVIEW:

1.303.1 Applicability: Certain uses require site plan review by the Approving Authority.

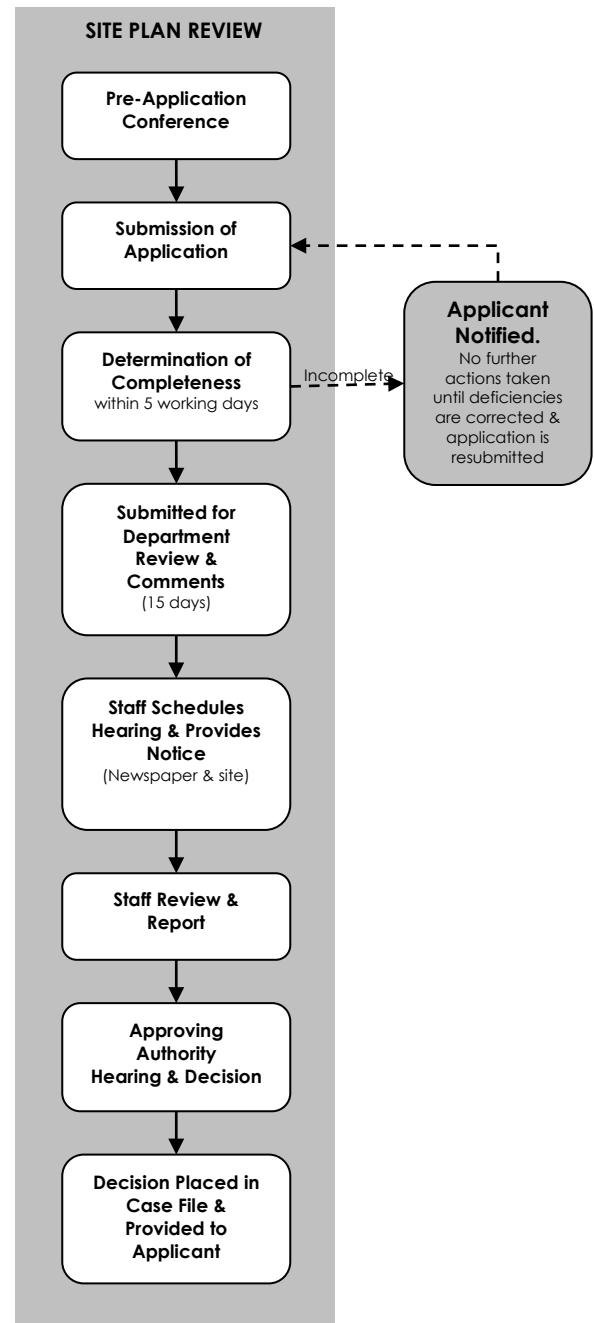
- **Warren County Board of Commissioners (BOCC);** BOCC review is required for uses indicated in the Table of Permitted Uses (Section 2.205).
- **Warren County Board of Zoning Appeals (BZA);** BZA review is required for all conditional uses indicated in the Table of Uses (Section 2.205) except as otherwise indicated in the Table of Uses.
- The Approving Authority shall review the site plan in the interest of public health and safety, as well as, public convenience, comfort, prosperity, or general welfare, as applicable, by considering the following factors:

- (A) To protect the long-term public interest by reviewing the internal and external relationship of development that may have considerable potential significance and impact to the county;
- (B) To ensure the application of quality design principles within new and redevelopment projects;
- (C) To determine the impact on the public, including, but not limited to, the neighboring properties.
- (D) To ensure that new development contains elements of internal cohesiveness and factors that promote good neighborhood atmosphere;
- (E) Suggestions of the Comprehensive Plan;
- (F) To promote the orderly and safe flow of vehicular and pedestrian traffic;
- (G) To confirm that all requirements of this Code applicable to development and operation of the use are satisfied; and
- (H) To confirm that the proposed plan satisfies other County, State, and/or Federal standards which are applicable to permitting the proposed development.

1.303.2 Exemptions:

- (A) Site Plan Review process is not required for the following:
 - (1) Uses exempt per the Table of Uses;
 - (2) Change in the ownership of any land or structure;
 - (3) Exterior or interior maintenance and repair of any existing use structure;
 - (4) Re-occupancy of any building or re-use of any structure with a previously permitted use;
 - (5) Proposed use, construction, removal, or alteration of exempt agricultural use structure. Nevertheless, proposed structures in a regulatory floodplain must satisfy the Warren County Flood Damage Reduction Regulations;
 - (6) Proposed construction, removal, or alterations of a single-family or two family-dwelling not located in a one hundred (100) year floodplain or accessory structure containing not more than five- hundred seventy-six (576) square feet which is located within the flood fringe;

- (7) Interior alteration of a building used for an approved principal or accessory use;
- (8) Exterior alteration of a building used for an approved principal or accessory use which does not expand the building footprint by more than twenty-five percent (25%) compared to the building footprint within the past five years;
- (9) A change of occupancy within the same use category, provided no modification of the site is proposed or required by the standards of this Code – such as an increase in the number of required parking spaces, landscape buffering – and that such change maintains compliance with all applicable requirements of this Code;
- (10) An additional building may be constructed if that building:
 - (a) Will not expand the building footprint by more than ten percent (10%) compared to the building footprint within the past five (5) years;
 - (b) Will not increase a parcel’s acreage;
 - (c) Will not produce concerns regarding the environment or traffic;
 - (d) Has access from a public road; and
 - (e) Meets approval from the Zoning Inspector.
- (11) Any use and/or structure which is solely approvable by the Zoning Inspector; and
- (12) Land and structures, not including buildings, required in the provision of essential services defined in this Code, public utilities, and/or railroads.



1.303.3 Application Requirements: The required application form, fee, and information to accompany the site plan must satisfy the following requirements, unless the Zoning Inspector determines otherwise:

(A) Site Plan Drawing Format and Number of Copies Required:

- (1) The site plan shall be drawn to a scale specified appropriate by the Zoning Inspector. Information must be clear and legibly drawn;
- (2) Five (5) folded copies of the site plan drawn on sheets no greater than twenty-four (24) inches by thirty-six (36) inches; and,

(B) Site Plan Minimum Information: The minimum information, which must be provided on the site plan and/or in other documents submitted for site plan review follows:

- (1) Name, address, and phone number of the applicant site owner, and agent, if applicable, and the fax number and e-mail address of each, if available. If applicable, the name, identification number, and seal of the architect, landscape architect, engineer, or surveyor;
- (2) A title block giving a name for the proposed development, and a legend, notes, and/or labels explaining the drawn content shown on each drawing, and; a legal description, parcel identification number, and address of the property in question;
- (3) Notation of the month and year submitted and a place for noting revision date(s);
- (4) Written and graphic scale of the plan drawing(s);
- (5) Vicinity map drawn to scale with a north arrow and in display of the site location in relation to the surrounding road network and local jurisdictions;
- (6) Legal and common description of the site boundary and the parcel(s) involved shown on the plan, detailing the bearing and dimension of each course of the boundary line;
- (7) The acreage and/or square footage of the site;
- (8) The zoning classification(s) of the site and of all abutting parcels;
- (9) Applicant shall provide a list of the owners of property within five hundred (500) feet from the parcel lines of each property that is the subject of the hearing and two sets of mailing labels for each property owner.
- (10) Location and dimensions of proposed/existing streets, driveways, sidewalks, and any other walkway within the site, with notation of County Thoroughfare Plan specified right-of-way, the pavement type, width, and construction design details noted and depicted for each;
- (11) Schematic depiction of existing and proposed locations of gas, electric, phone, fiber-optic, and other telecommunication lines and terminal facilities, sanitary sewer lines or septic system components, water service lines, wells, fire hydrants and emergency connections, storm water drainage management components, and sewer lines;
- (12) Location and dimensions of proposed/existing easements and notation of the percentage of the site occupied by the easements;
- (13) Existing and proposed topography on and in proximity of the site represented with elevation contour lines depicted according to the following intervals: one (1) foot for zero (0) to six (6) percent slopes; two (2) foot for six (6) to eighteen (18) percent slopes; and five (5) foot for slopes over eighteen (18) percent; and
- (14) Location of existing surface water feature, natural or man-made, including lakes, ponds, runoff control basins, marshes, wetlands, rivers, creeks, streams, or other drainage way.
- (15) A tree survey that includes information on all existing trees 6" DBH or larger. Information shall include the location, size, and condition of each tree. If the site is heavily wooded and large areas are to be protected, individual trees do not need to be surveyed. The survey shall reflect all tree preservation, no disturbance and landscape areas.

(C) **Public Notification:**

- (1) The Zoning Inspector shall post a sign, stating advertising a public hearing.
- (2) Written notice of the hearing shall be mailed by the Approving Authority, by first class mail, at least ten days before the date of the hearing to all owners of property within five hundred (500) feet from the parcel lines of each property that is the subject of the hearing, to the addresses of the owners appearing on the County Auditor's current tax list. The failure of delivery of the written notice SHALL NOT delay or postpone any such hearing and shall not invalidate any action taken at such hearing.
- (3) The Zoning Inspector shall advertise the public notice in a newspaper of general circulation.

(D) **Development Specific Information:** The following information, as determined applicable and necessary by the Zoning Inspector, must be provided on and/or accompany the site plan:

- (1) Existing and proposed land development on and around the site;
- (2) Notation and depiction of any variance from this Code which has been secured;
- (3) The schedule for development;
- (4) The location of each existing and proposed structure with notations of:
 - (a) The type, number, and size of each;
 - (b) The respective distances in feet from the boundary lines of the site;
 - (c) The lowest foundation opening and first finished floor elevations of each building;
 - (d) Existing structures or part(s) thereof that are to be altered or removed;
 - (f) **For residential proposals:** a site summary indicating the number of dwelling unit(s) within each building, the number bedrooms per unit, floor plans, floor area square feet, density computation, recreation facilities and open spaces; and
 - (g) **For non-residential proposals:** the number of offices and number of employees;
 - (h) The number of floors, floor plans, floor area square feet, total square footage, and exterior elevations.
- (5) The height of each proposed structure as measured in accordance with Sections 3.103.3 and 4.103
- (6) Off-street parking provisions, the total number, typical dimensions and square footage of the parking spaces, handicapped use designation, widths and turning radii dimensions of all driveways, and pavement material;
- (7) Off-street loading/unloading provisions, showing the locations and noting the dimensions and square footage of each space;
- (8) The location of outdoor storage, waste disposal and/or trash containment area along with detail screened and/or buffered plans for each;
- (9) The location of fences and walls, and cross-section diagram for proposed fences and walls;

- (10) Landscaping plan, with details of plantings for buffers and screening in accordance with requirements of this Code;
- (11) The location, type, intensity, height, and orientation of all building exteriors;
- (12) Documentation of site lighting, along with a photo-metric analysis; and
- (13) Depiction and description of the location, type, number, and size of display faces, height, setback, and illumination, if any, of all existing and proposed signs.

(E) **Supplementary Information:** Additional information may be required if deemed necessary by the BOCC, BZA, Zoning Inspector, or RPC. Such additional information may include, but is not limited to, their requirement of a traffic impact study (TIS), market analysis, environmental assessment, condominium documents, and any study or report in evaluation of the proposed impact on public facilities and services. The following information may be required as determined applicable and necessary by the Zoning Inspector:

- (1) Front, side, and rear elevation drawings of structures. Drawn with sufficient details to evaluate visual appearance and function;
- (2) Written certification of the required sewage disposal permits having been issued or able to be issued by the approving authority;
- (3) Certification by the Warren County Engineer or Ohio Department of Transportation (ODOT) and the Fire/EMS Department of jurisdiction that the sight-distance location, configuration and number of existing and/or proposed street and/or driveway access intersections for the development are acceptable;
- (4) Certification from the Warren County Building Department, Warren County Engineer and Federal Emergency Management Agency (FEMA) that proposed structure(s) and/or fill within the one hundred (100) year floodplain is compliant with the requirements of the Warren County Flood Damage Reduction Regulations;
- (5) Stormwater drainage quantity and quality management provisions to the approval of the Warren County Engineer and the Warren County Soil and Water Conservation District;
- (6) Soil erosion and sedimentation control measures as required by the Warren County Soil and Water Conservation District. Control measures address pre and post development, soil type boundaries, predevelopment land cover, clearing limits, wooded areas proposed to remain or, be cleared, and soil stockpiling and sediment trap basins;
- (7) Identification of local airport airspace and indication that the proposed development meets Federal Aviation Administration (FAA) and/or the Ohio Division of Aviation standards;
- (8) A statement documenting potential impacts to groundwater and air quality, and other environmental impacts.

1.303.4 Site Plan Requirements for PUDs and Conditional Uses: Site Plan Review in a Planned Unit Development (PUD) is subject to BOCC approval per the requirements and process specified in Section 1.303. Site plan approval of a Conditional Use by the BZA is subject to the requirements and process specified in Section 1.306.

1.303.5 The Review Process:

- (A) **Consultation with Zoning Inspector:** Prior to submitting a site plan application, the applicant or property owner shall first consult with the Zoning Inspector. The purpose of this informal consultation is to discuss applicable standards and technical issues pertinent to the proposal, to comment on required compliance of the proposal to standards of this Code, and to comment on whether or not the site plan application is the necessary and appropriate process for making a decision on the proposed development. The applicant or Zoning Inspector may also request input on the proposal from staff of other potentially involved regulatory authorities or consultants. A concept sketch plan is not required at this time, but would be helpful to explain:
- (1) The location of the project;
 - (2) The proposed development (in general terms);
 - (3) The proposed layout of buildings, parking, access points, open spaces, and drainage facilities;
 - (4) The relationship to existing surrounding development; and any other conditions or items relevant to the processing of the application.
- (B) **Formal Submittal and Processing:** The applicant shall formally submit the required application to the Zoning Inspector in accordance with the requirements specified in Section 1.303.3.

The Zoning Inspector, upon accepting the site plan application, has the duty to determine whether the application is complete within five working days of receipt of an application. If the Zoning Inspector determines that the application is not complete, the applicant shall be notified, in writing, of the specific deficiencies of the application including any additional information that must be supplied. The applicant shall be informed that no further action will be taken by the County on the application until the deficiencies are corrected.

Upon receipt of a complete application, the Zoning Inspector shall notify the applicant of completeness, notify surrounding property owners by mail of the hearing at least ten (10) days prior thereto; submit and have the advertised notice in a newspaper of general circulation. The Zoning Inspector shall provide the accepted application to applicable authorities/departments involved for review of the plan and allow fifteen (15) days to respond and receive comments before the Zoning Staff Report is sent to the BOCC or Approving Authority.

- (C) **Staff Review and Applicable Authorities/Departments:** The Zoning Inspector and other applicable authorities/departments shall provide written comments; report on any deficiencies, problems, or concerns, and may offer recommendations.
- (D) **Review and Action:** The Approving Authority shall conduct a quasi-judicial hearing and take sworn testimony and consider evidence made a part of the record, and consider the written comments and recommendations of the Zoning Inspector and other applicable authorities/departments. Upon closing the hearing, the Approving Authority may deliberate in private (a quasi-judicial hearing is not a meeting and not subject to the Open Meetings Act) and issues a written decision to approve or deny the site plan as submitted, or to approve with conditions. Conditions may include plan revisions and

safeguards to be performed by the applicant. Appeal of the Approving Authority's decision is to the Court of Common Pleas.

(E) **Case File Record:** Application files maintained by the Zoning Inspector shall contain all written information submitted. The application file is numbered by the year in which the application was reviewed and consecutive to other applications within the same year.

(1) **Site Plan Review by BOCC:**

- (a) You may reference the audio recording of the proceedings and the written meeting minutes at the BOCC Office.
- (b) The resolution of the Approving Authority in decision on the plan is placed in the case file and provided to the applicant.

(2) **Site Plan Review by BZA:**

- (a) You may reference the audio recording of the proceedings and the written meeting minutes at the Zoning Office.
- (b) The resolution of the Approving Authority in decision on the plan is placed in the case file and provided to the applicant.

1.303.6 Review Criteria: The site plan review is conducted to determine anticipated impacts on the public health and safety, as well as the public convenience, comfort, prosperity, or general welfare, as applicable. The factors to be considered and weighed by the Approving Authority include but are not limited to the following, but no single factor controls in making a decision, nor must all of the factors support the decision:

- (A) **Adequacy of Information and Compliance with Zoning Code:** The plan contains the Code required information and is presented in an understandable manner that provides an accurate description of the proposed development, structure(s), site improvements and impacts. The plan complies with all applicable requirements of the Zoning Code pertinent to the proposal.
- (B) **Design Layout Sufficiency and Sensitivity:** The design components proposed and used are considered sufficient and sensitive to site topography, drainage, parcel configuration, adjacent properties, traffic operations, adjacent streets and driveways, pedestrian access and the type, size and location of buildings.
- (C) **Design Character, Operational Compatibility, and Coordination:** The appearance and design character of the proposed development and all corresponding operational activities are considered compatible and coordinated with surrounding, existing, and planned developments. The proposed structures must also be identified as a primary or secondary and must be coordinated to function with the internal operations of the site.
- (D) **Preservation of Significant Features:** The plan preserves: architecturally, historically and/or culturally significant buildings; wetland, floodplain, streams, aquifer recharge areas; soils areas with severe limitations for use; steep slopes; and tree lines, hedgerows, wooded areas, and trees that are determined valuable to retain.

- (E) **Pedestrian Access and Circulation:** The plan proposes provision of pedestrian circulation and access. Determination of adequacy is based on such provisions being designed to be safe, comfortable, compatible, connected, conflict-free, and compliant with applicable ADA regulations.
- (F) **Vehicular Access and Circulation Streets:** Driveways, parking aisles, and other related elements designed for vehicle access and circulation demands are determined sufficient per evaluation by the Warren County Engineer and Fire/EMS department. These elements are evaluated for safety and function.
- (G) **Parking and Loading:** Off-street parking and loading provisions are determined sufficient based upon the proposed number, size, location, and arrangement of parking spaces and provisions for shared-parking and for compliance with Article 3, Chapter 3 Parking, Loading, and Circulation Standards.
- (H) **Landscaping and Screening:** Evaluated based on the design and effectiveness of landscaping/building material to screen and mitigate negative visual impacts and for compliance with Article 3, Chapter 4 Landscaping and Screening Requirements.
- (I) **Exterior Lighting:** Evaluated for compliance with Article 3, Chapter 5 Lighting Requirements and Standards.
- (J) **Signage:** Evaluated for compliance with Article 3, Chapter 6 Signage Standards and Requirements.
- (K) **Public Service Impact:** The impact to public services facilities and utilities for water, sanitary sewer, natural gas, electricity, telephone and cable, roadways, police, fire and EMS protection, sidewalks, bikeways, and public schools are evaluated in terms of their capacity to accommodate the proposed development.
- (L) **Stormwater Drainage Stormwater Management Plan:** Evaluated based on the quantity and quality of runoff, impact on upstream or downstream property, and a maintenance plan, to the approval of the Warren County Engineer and the Warren County Soil and Water Conservation District.
- (M) **Soil Erosion and Sediment Control:** The plan provisions for minimizing soil erosion during development and preventing sedimentation during and after development are determined acceptable per evaluation by the Warren County Soil and Water Conservation District.
- (N) **Emergency Access and Service Facilities and Public Safety:** The plan provides for emergency access and service facilities (fire lanes, hydrants, and suppression supply connections) within the site as determined necessary per evaluation by the Fire/EMS department of jurisdiction in conjunction with the Warren County Building Department. The proposed development does not pose a threat to public safety.
- (O) **Building Design:** Building design is found harmonious in character with the surrounding area with regard to scale, mass, and orientation.
- (P) **Compliance with Public Health and Safety:** The application must provide plan of procedures to mitigate nuisances to surrounding areas such as, but not limited to odors, excess noise, and/or unsanitary operations. Any externalities must be within the realm of public health, safety, and wellness.

1.303.7 Post Site Plan Approval Requirements:

- (A) **Permits or Approvals:** From Other Involved Authorities: The applicant is responsible to obtain necessary permits or approvals from any other applicable authority before issuance of the zoning permit.
- (B) **Development and Maintenance:** Per the approved Site Plan the property owner is responsible for the improvement and maintenance of the site in accordance with the approved site plan and all conditions of approval. Failure to comply with the approved Site Plan and all conditions of approval may result in an enforcement action being brought in a court of competent jurisdiction.
- (C) **Expiration and Extension of Plan:** If development has not commenced within two (2) years following the site plan approval, the approval shall become null and void, requiring re-application. The applicant may only request an extension prior to the site plan approval expiration date. A written request for an extension shall be submitted to the Zoning Inspector. The Approving Authority may grant up to twelve (12) months in extension of its initial approval of the plan and entertain subsequent extensions thereafter.
- (D) **Modification of the Approved Site Plan:**
 - (1) **Minor Modification Allowances:** The following are considered minor modifications allowable for approval by the Zoning Inspector:
 - (a) Changes made during development to improve safety, protect natural features, and/or accommodate unanticipated site constraints or to comply with further requirements of other authorities. These changes should not affect surrounding property or the approved plan layout.
 - (b) Changes in landscaping species that is consistent with the standards of this Code and that do not reduce the total amount of landscaping or buffering required.
 - (c) Change in the boundary or arrangement of a structure that does not violate minimum zoning required setbacks nor affect locations of other components of the approved site plan requirements or conditions.
 - (d) Adjustments in the alignment of vehicular and pedestrian access and circulation components for purposes of improved safety or to eliminate conflict with other components in the site which will not create off-site conflicts.
 - (e) Reduction in signage or changes in lighting which will not affect off-site properties.
 - (2) **Major Modifications:**
 - (a) BOCC approval is required for any proposed change to a Site Plan which:
 - (1) Does not meet the minor modification qualification criteria specified above in 1.303.7(D) (1);
 - (2) May only be approved for a site within a PUD.
 - (b) BZA approval is required for any proposed change to a Site Plan which:

- (1) Necessitates action in determination on a request of variance from an applicable requirement of this Code or expansion of a non-conforming use or structure; or,
- (2) Had been approved prior to January 20, 2012 but is now identified as a conditional use under the regulations of this Zoning Code.

SEC 1.304 **ZONING AMENDMENTS:** Official Zoning Map or Zoning Code text amendments may be proposed at any time in accordance with the requirements and procedures specified in this Section of the Code and consistent with provisions of ORC Section 303.12.

1.304.1 **Who May Initiate:** Amendment of this Zoning Code and/or the Official Zoning Map may be initiated in one of the following ways:

- (A) By adoption of a motion by the Rural Zoning Commission (RZC);
- (B) By adoption of a resolution by the Warren County Board of Commissioners (BOCC); or,
- (C) By filing application with the RZC via the Zoning Inspector from one or more owner(s) or authorized representative(s) of property in the area proposed to be changed or affected by the amendment.

1.304.2 **Application Requirements:** The complete application form with the following information must be submitted to the Zoning Inspector for filing and processing.

(A) **Forms, Information, and Submittal Fee:**

- (1) Name, address, and phone number of the owner(s) and authorized representative(s);
- (2) Date submitted to, and accepted complete, by the Zoning Inspector;
- (3) Reason(s) for requesting the proposed text/map amendment;
- (4) Signature of the applicant attesting to the truth and correctness of all information provided on the application form and documents submitted;
- (5) The submittal fee;
- (6) **For Text Amendments:** A written description of the proposed text amendment; and,
- (7) **For Map Amendments:**
 - (a) The parcel identification number of the parcel(s) for which the rezoning is requested;
 - (b) Applicant shall provide a list of the owners of property within five hundred (500) feet from the parcel lines of each property that is the subject of the public hearing, and two sets of mailing labels.
 - (c) Legal description of the subject site;
 - (d) Total acreage;
 - (e) Indication of the current zoning district(s) and the requested zoning district(s);
 - (f) Description of current and proposed use(s); and,
 - (g) Statement of how the proposed amendment relates to the goals, objectives, and policies of the Warren County Comprehensive Plan.

1.304.3 **Public Notification:** Except for text and map amendments, effecting more than ten (10) parcels, the following notifications shall be required:

- (A) The Zoning Inspector shall post a sign on the subject property of the application, stating the public process, the public hearing time, location, and date.
- (B) Written notice of the hearing shall be mailed by the Approving Authority, by first class mail, at least ten days before the date of the public hearing to all owners of property within five hundred (500) feet from the parcel lines of each property that is the subject of the public hearing, to the addresses of the owners appearing on the County Auditor's current tax list. The failure of delivery of the written notice SHALL NOT delay or postpone any such public hearing, and shall not invalidate any action taken at such public hearing.

1.304.4 Submittal and Processing: The procedure by which proposed amendment of the Zoning Code text and/or map shall be submitted, filed, and reviewed is as follows:

- (A) **Pre-Submittal Consultation:** A pre-submittal consultation with the Zoning Inspector and staff planner is required prior to submitting a formal application. The intent is to allow the applicant the opportunity to provide an overview of the proposal. Staff will outline county plans, policies, and regulations affecting the proposal, identify potential issues, and discuss applicable zoning requirements and suggestions of the Comprehensive Plan. Staff will inform applicants of procedural requirements, checklist, timelines, and fees. Statements made are not binding upon the Regional Planning Commission (RPC), the Rural Zoning Commission (RZC) or the Board of County Commissioners (BOCC) in making their decision.
- (B) **Submittal to and Processing by Zoning Inspector:** Within five (5) days upon the adoption of a motion by the RZC, the certification of a resolution by the BOCC to the RZC, or the filing of an application by property owners or lessees, the Zoning Inspector shall do the following:
 - (1) Set the date for the public hearing by the RZC on the proposed amendment at not less than twenty (20) days nor more than forty (40) days from the initiation date of the amendment(s);
 - (2) Prepare and provide notice of the RZC public hearing in accordance with Section 1.304.4;
 - (3) Give a copy of the application to the RPC; and
 - (4) Case File Record: Application files maintained by the Zoning Inspector shall contain all written information submitted, reference the location of audio recording of the proceedings, and include written meeting minutes and findings of fact. The application file is numbered by the year in which the application was reviewed and consecutive to other applications within the same year. The resolution of the Approving Authority in decision on the plan is placed in the case file and provided to the applicant. The decision resolution on the plan by the BOCC is placed in the case file and provided to the applicant..
- (C) **Regional Planning Commission (RPC) Evaluation and Recommendation:** The RPC shall, either by action of its full membership or its Executive Committee deliver its report and recommendation to the RZC prior to the RZC concluding the public hearing on the proposed amendment.
- (D) **RZC Public Hearing, Evaluation, and Recommendation for BOCC Decision:** The Rural Zoning Commission (RZC) shall open a public hearing on the proposed

amendment(s) at its meeting per the advertised date, place, and time specified in the mailed and published notice. The RZC, within thirty (30) days after the hearing, shall recommend approval, denial, or the approval with modifications. The RZC shall submit their recommendation in the form of a motion or, the application or resolution, the text and map, and the recommendation of the RPC to the BOCC.

- (E) **BOCC Public Hearing, Evaluation and Decision:** Within thirty (30) days of receipt of the RZC'S recommendation, the Warren County Board of Commissioners (BOCC) shall set and conduct a public hearing. Public notice shall be advertised in compliance with Section 1.303.3(C). Upon close of the public hearing and within twenty (20) days thereafter, by at least a majority vote of the BOCC, the BOCC shall either approve or deny the RZC's recommendation or approve it with modifications.

1.304.5 Decision-Making Determination Considerations: The approving authority shall review the proposed Zoning Amendment in the interest of public health and safety, as well as the public convenience, comfort, prosperity, or general welfare, as applicable, by considering the following factors:

- (A) Is the proposed amendment consistent with the purposes and intent of this Zoning Code?
- (B) Does the proposed amendment deviate from the suggestions of the Warren County Comprehensive Plan?
- (C) Is the proposed amendment justified because of changed or changing conditions of the surrounding area since the time the current zoning designation for the property was established, and has assumptions on, capital investments, road locations, population trends, land committed to development, density, use, or other elements changed to justify the amendment?
- (D) Is the proposed zoning compatible with the present zoning, nearby uses, and the character of the surrounding area?
- (E) Is the site suitable for the uses to which it has been restricted, or does the current zoning deprive the site of all economically viable uses?
- (F) How long has the property remained vacant as zoned and is it zoned different from an adjacent properties?
- (G) Are there available sites elsewhere in the County that are already zoned for the proposed use?
- (H) Are public central sanitary sewer, stormwater facilities, roads and other public facilities available and do they have adequate capacity to serve allowable uses?
- (I) Will approval of this amendment result in existing land uses, parcels, or structures becoming non-conforming or somehow result in conflict with any provision, restriction, or requirement of this code?

1.304.6 Decision Record, Delivery, Effective Date, Referendum, Appeal or Reconsideration: After the BOCC renders its decision on a proposed amendment, the record of the decision shall be provided as specified below.

- (A) **Decision Record, Delivery, Effective Date and Permanence:** The BOCC Clerk shall prepare and certify a copy of the decision on the amendment in the form of a resolution adopted by BOCC. The certification shall be provided to the Zoning Inspector, the RPC, and the applicant. Except as provided in paragraph B below, if approved, the amendment becomes effective thirty (30) days after the adoption unless otherwise delayed as provided in paragraph B. Within five (5) working days after an amendment's effective date, BOCC shall file the text and maps of the amendment in the office of the County Recorder and with the RPC. Failure by the BOCC to file the effective amendment(s), or any text or maps with the County Recorder or RPC shall not invalidate the amendment(s) and is not grounds for an appeal. Upon becoming effective, the amendment is permanent unless otherwise later revised or removed per this Code or by appropriate Court action.
- (B) **Referendum:** The proposed amendment, if adopted by BOCC, shall become effective in thirty (30) days after the date of its adoption (defined as the date of the BOCC's verbal vote regardless of whether a written resolution is adopted at that time or not), unless, within thirty (30) days after the date of its adoption, there is presented to BOCC a petition, signed by a number of qualified voters residing in the unincorporated area of the township or part of that unincorporated area under the zoning jurisdictions of the Zoning Code equal to not less than eight (8) percent of the total vote cast for all candidates for governor in such area at the most recent general election at which the governor of Ohio was elected, requesting BOCC submit the amendment to the electors of such area for approval or rejection in accordance with ORC Section 303.12 and 3501.38, et seq. No amendment for which a referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the amendment. Upon certification by the Board of Elections that the amendment has been approved by the voters, it shall take immediate effect.

SEC 1.305 PLANNED UNIT DEVELOPMENT

- 1.305.1 Initiation:** Except as provided herein, proposals to apply a PUD Zone or Overlay on a property may be initiated only at the election of the owner(s). The PUD Stage 1 process for an IHO PUD Overlay may be initiated by the Rural Zoning Commission (RZC), the Warren County Board of Commissioners (BOCC), or at the election of the property owner(s). The BOCC has authority to approve an IHO PUD overlay on any property through the PUD Stage 1 process, nevertheless, PUD regulations may only be applied to a property at the election of the owner(s) through the Stage 2 and 3 processes.
- 1.305.2 Effect of PUD Designation:** No development shall occur in an approved PUD except in conformance with the approved Plan, and any applicable portions of the Warren County Rural Zoning Code. After the designation of the property as a PUD on the Zoning Map, any approval or disapproval of subsequent use or development of property in the PUD as being in compliance with regulations established as authorized by this Section of the Code or ORC Section 303.022 shall not be considered to be an amendment to the Code for the purpose of ORC Section 303.12 but may be appealed pursuant to Chapter 2506, et seq. of the ORC. Once approved, the PUD Zone or Overlay designation for the property will permanently remain on the Official Zoning Map, unless otherwise removed or modified, per the amendment process in Section 1.305 of this Code.
- 1.305.3 Review Procedures:** The PUD approval process consists of three (3) stages:
- (A) **PUD Stage 1:** PUD Stage 1 is a legislative process to rezone the property in accordance with the zoning amendment requirements and procedures specified in Section 1.304 including a recommendation of the Warren County Regional Planning Commission (RPC); a recommendation of the (RZC) after a public hearing; and, a legislative decision after a public hearing by the BOCC. Except as otherwise provided in Section 1.305.12(B), after designation of the site as a PUD on the Official Zoning Map, any subsequent applications for use or development of the site in the PUD, as being in compliance with the PUD regulations, shall not be considered an amendment under ORC 303.12.
- (B) **PUD Stage 2:**
- (1) **General Review Process:** PUD Stage 2 is an administrative process to obtain Preliminary Site Plan approval. Planned Unit Developments that received PUD Stage 1 approval, including those approved prior to January 21, 2012 that have not received Stage 2 and Stage 3 approvals, are subject to the current PUD Stage 2 process. The procedure by which the PUD Stage 2 Preliminary Site Plan shall be submitted and processed is as follows:
- (a) Pre-Submittal Consultation;
 - (b) Submittal to and processing by RPC staff and RPC Executive Committee recommendation;
 - (c) Input from involved authorities, surrounding parcel owners and public; and
 - (d) BOCC Administrative Hearing: BOCC shall on receipt of the RPC recommendation, mail written notice of the date, time and place of an administrative hearing to be conducted by BOCC by first class mail, at least ten days before the date of the administrative hearing to all owners of

property within five hundred (500) feet from the parcel lines of each property that is the subject of the administrative hearing, to the addresses of the owners appearing on the County Auditor's current tax list. The failure of delivery of the written notice SHALL NOT delay or postpone any such administrative hearing and shall not invalidate any action taken at such administrative hearing.

(2) **Time Limits & Extensions:**

- (a) Except as provided in paragraph (c), a recommendation from the RPC Executive Committee in the PUD Stage 2 process shall expire after a period of one (1) year if the PUD Stage 2 application has not progressed to the point where it is heard by the BOCC at an administrative hearing.
- (b) Except as provided in paragraph (c), PUD Stage 2 Preliminary Site Plan approval by the BOCC shall expire within two (2) years of the date of approval unless Stage 3 Final Site Plan approval has been granted by the RPC.
- (c) An extension may be granted by the BOCC for a period not to exceed twelve (12) months provided that a request is submitted to the Zoning Inspector prior to the expiration date.
- (d) Approval of PUD Stage 2 or 3 may lapse or be withdrawn upon failure of the applicant, as determined by the BOCC, to meet conditions of approval.

(C) **PUD Stage 3:** Final site plan requires ministerial certification by the RPC Executive Director as follows:

- (1) Three (3) copies of the Final Site Plan submitted to the RPC Executive Director;
- (2) RPC Executive Director reviews, certifies the Final Site Plan complies with all PUD Stage 1 and PUD Stage 2 requirements, and files the plan;
- (3) Applicant receives a certified copy; and
- (4) Upon certification, the zoning permit(s) required for the approved PUD use and/or development may be issued upon application to the Zoning Inspector.

1.305.4 Application Requirements:

(A) **PUD Stage 1:** The application requirements for a PUD Stage 1 include a rezoning application from the owner(s), development plan and submittal fee to the Zoning Inspector. A development plan shall be submitted for the entire parcel under single ownership (a parcel that is not split zoned) or for one or more lots, tracts, or parcels of land to be developed as a single entity. The application for New District PUDs & Overlay PUDs, and IHO PUD Stage 2, shall include the following information, in addition to the requirements of Section 2.505:

- (1) A legible map of the site, drawn at one inch (1") equals two hundred feet (200') or a different scale if specified by the Zoning Inspector, prepared by a registered architect, landscape architect, engineer, surveyor, or other professional planning consultant, which shows all existing property lines, easements, public road centerlines and rights-of-way, contour lines at suitable intervals, regulatory

floodplain boundaries if involved, and generalized locations of public and private utilities;

- (2) A map depicting existing and proposed land use areas and the percentage of the site within each land use category; the location, types, and density or intensity of proposed uses, common open space, and natural resource areas; Definitions of the land-use designations, including density ranges and product types.
- (3) A table setting the maximum total dwelling units and non-residential square footage, and the minimum acreage for common open space, natural resource areas, public uses, and any other planned uses.
- (4) A map illustrating the proposed layout locations and dimensions of vehicular and pedestrian access and circulations; and type size, number of stories, height and setbacks of buildings and other structures or facilities; parking, loading, trash disposal, lighting, signage and landscaping, impervious surface ratio and implementation phasing of such proposed improvements and alterations of the site;
- (5) Enough information on land areas adjacent to the proposed PUD to show the relationships between the proposed development and adjacent areas, including land uses, zoning classifications, densities and intensities, circulation systems, public facilities, and flood plains, wetlands, and other natural resource areas.
- (6) An inventory and map of cultural, historical, and/or environmental features along with narrative documenting preservation efforts; and,
- (7) For Residential Use: The proposed type, size, and number of dwelling buildings, units and bedrooms in each shall be specified and include calculation of development net-density; and,
- (8) For Non-Residential Use: Operational characteristics and impacts such as hours of operation; visual, noise, odor, or other environmental impacts; and primary and ancillary activities typical or anticipated with each use; and,
- (9) A narrative documenting the availability of police, fire, other emergency services, schools, and public services. A community impact statement that addresses the impact to institutional, cultural, social, or environmental aspects of the immediate neighborhood and surrounding community, with the intent being to show that the proposed PUD will be beneficial and without unacceptable adverse impact on any such concern.
- (10) Proposed design guidelines and development standards.

(B) **PUD Stage 2:** An application from the owner(s) shall be submitted to the RPC for review per the procedures specified in Section 1.304.2. Applications for PUD Stage 2 shall comply with the submittal requirements of Section 1.303.3 and shall include the submittal fee specified by the RPC.

(C) **PUD Stage 3:** An application from the owner(s) shall be submitted to the RPC requesting certification of the final site plan by the RPC Executive Director. The plan submitted shall contain and be accompanied by the information specified in Section 1.303.3, along with the submittal fee. Detailed plans for the landscaping, lighting and signage proposed shall also be provided.

1.305.5 Public Notification: The Zoning Inspector shall post a sign stating the public process and where to get additional information. Written notice of the hearing shall be mailed by the Approving Authority, by first class mail, at least ten days before the date of the

public hearing to all owners of property within five hundred (500) feet from the parcel lines of each property that is the subject of the public hearing, to the addresses of the owners appearing on the County Auditor's current tax list. The failure of delivery of the written notice SHALL NOT delay or postpone any such public hearing and shall not invalidate any action taken at such public hearing.

1.305.6 Review Criteria:

- (A) **PUD Stage 1:** In determining whether a PUD Stage 1 application or IHO PUD Stage 2 application filed pursuant to this Code shall be approved or recommended for approval, the RZC as applicable, and the BOCC shall consider the following review criteria, if applicable, but no single criteria controls, nor must all criteria support the decision:
- (1) The proposed PUD would not be detrimental to public health, safety, and general welfare and in general results in a better development of uses permitted on the site than would otherwise be possible;
 - (2) Whether modifications of the zoning or other regulations are warranted by the innovative design of the PUD Plan;
 - (3) Consistency with adopted objectives and policies of the County and townships related to land use; development; comprehensive plans; area plans; and other plans;
 - (4) Compatibility with and adequate protection of surrounding property and the adequacy of the provisions for visual and acoustical privacy and the proposed use(s) will not develop hazards and/or nuisances, nor have negative impact on the environment and the public health and safety, or general public welfare;
 - (5) Provisions proposed for: vehicular access, parking, loading, and circulation; pedestrian access and circulation; essential services in the form of utilities or other facilities; and drainage runoff and soil erosion control are sufficient or proposed for improvement to support the proposed use(s);
 - (6) The need for separation of vehicular, pedestrian, and/or bicycle traffic lanes; clear and safe internal traffic patterns; the provision of connections to adjacent properties; and traffic mitigation measures.
 - (7) The necessity for active and passive recreational facilities (greenways, sidewalks, and other pedestrian/bicycle circulation networks).
 - (8) Impact to public services and infrastructure, and whether the proposed development is served adequately and efficiently by essential public facilities and services which are in existence or are planned;
 - (9) Whether significant scenic or historic features, are adequately conserved;
 - (10) Preservation of open space, natural and cultural areas and whether the development includes an appropriate amount of, and appropriate access to, dedicated open space;
 - (11) Placement of structures on most suitable sites with consideration of topography, soils, vegetation, slope, etc.
 - (12) The effectiveness of landscaping, buffers, and planting along public rights-of-way, open space/recreational areas, and the overall perimeter of the project.
- (B) **PUD Stage 2:** A PUD Stage 2 Preliminary Site Plan, for the area proposed to be developed, shall be developed in conformance with the approved PUD Stage 1

Development Plan and in accordance with the approved PUD Stage 1 standards. In addition to the Site Plan review criteria of Section 1.303.6 (B) through (P), the decision to approve a PUD Preliminary Site Plan shall be based on, but not limited to, the following:

- (1) Compliance with all applicable regulations of the Zoning Code; the PUD Stage 1 zoning, the Warren County Subdivision Regulations; and conformity to the approved Concept Plan;
- (2) Proposed public improvements are found acceptable by the approving authority and are bonded as deemed necessary;
- (3) All proposed private aspects and provisions for vehicular access, parking, loading, and circulation; pedestrian access and circulation; essential services in the form of utilities or other facilities; drainage runoff and soil erosion control; landscaping, lighting, signage, and open space; building or other structure size, type, location, use, operation, maintenance, and site impervious surface coverage; and any other items or considerations applicable to PUD site planning, development, and use are found sufficient per discretion of the BOCC;
- (4) The phasing of each individual section or sub-section of the PUD results in a functionally complete section; and,
- (5) Provisions are made to protect, preserve, and incorporate: any existing architecturally and/or historically and/or culturally significant buildings; wetland, floodplain, streams, aquifer recharge areas; soils areas with severe limitations for use; steep slopes; and tree lines, hedgerows, wooded areas, and trees that are determined valuable to retain.

1.305.7 Post Approval Requirements:

- (A) **Permits or Approvals:** The applicant is responsible to obtain necessary permits or approvals from any other applicable authority before issuance of the zoning permit.
- (B) **Development & Maintenance:** Per the approved Site Plan the property owner is responsible for the improvement and maintenance of the site in accordance with the approved Site Plan and all conditions of approval. Failure to comply with the approved Site Plan and all conditions of PUD approval may result in an enforcement action being brought in a court of competent jurisdiction.

1.305.8 Modification to An Approved PUD:

- (A) **Minor Modifications:** A modification of an approved PUD Stage 3 plan which does not deviate by more than ten percent (10%) from approved building setback requirements may be approved by the Zoning Inspector. A modification which exceeds this standard but otherwise substantially conforms to the approved PUD plan may be approved by the Zoning Inspector, subject to notice and the procedures of this Section. A proposed modification of the approved PUD Stage 3 Plan that is determined minor by the Zoning Inspector, per Section 1.305.8(D), is permissible for Zoning Inspector approval after completing the following procedures:
 - (1) Notice of intent to permit such modification is provided to the Township Trustees and applicable review agencies.

- (2) Publication of notice in a newspaper of general circulation available to the affected community and a sign posted on site.
 - (3) After public notice, no written disagreement has been received within two weeks (14 days). Additional time may be required for comments from the applicable review agencies.
 - (4) If written disagreement is expressed, the modification requires BOCC approval processed as a PUD Stage 2 amendment.
- (B) **PUD Stage 1 Modifications:** The Zoning Inspector may determine that a modification to an approved PUD shall be reviewed at PUD Stage 1 of the review process if the requested amendment:
- (1) Increases the maximum density or intensity as established at PUD Stage 1.
 - (2) Reduces the minimum open space or natural area as established at PUD Stage 1.
 - (3) Significantly alters a road pattern.
 - (4) Changes allowable uses.
 - (5) If the amendment changes any standards or policies specifically established during PUD Stage 1 of the PUD approval process including but not limited to; setback, height of structures, signage, or design standards.
- Requested changes to these criteria require a resubmission for PUD Stage 1 approval and shall comply with the applicable process and requirements of Section 1.304 (Zoning Amendment Application).
- (C) **PUD Stage 2 Revisions:** The Zoning Inspector may determine that a modification to a previously approved PUD is exempt from PUD Stage 1 review and shall be reviewed at the PUD Stage 2 level if the requested amendment:
- (1) Modifies any area of landscaping; buffers; open space; setbacks; structural or signage height; or parking spaces by no more than ten percent (10%) provided it does not violate any specific standard established at PUD Stage 1;
 - (2) Increases the total number of lots approved at Stage 2 Site Plan Review, but remains in compliance with the number of lots and density approved at PUD Stage 1;
 - (3) An increased encroachment within the designated floodplain; wildlife habitat of an endangered or threatened species; any historic or archaeological resource; or any area within a tree survey area as specified in Section 1.303.3 (B) (15); that increases the previously approved encroachment (PUD Stage 1) by less than an twenty percent (20%), provided it does not violate any specific standard established at PUD Stage 1;
 - (4) Does not result in significant adverse offsite impacts, including, but not limited to; traffic impacts, noise or light pollution, or stormwater runoff.
- (D) **PUD Stage 3 Revisions:** The Zoning Inspector may determine that a modification to a previously approved PUD Stage 2 Site Plan is exempt from PUD Stage 1 and PUD Stage 2 reviews but may be reviewed at Stage 3 Final Site Plan provided the following criteria are met:

- (1) The modification does not exceed any numerically specified requirement of the PUD Stage 2 approval which would result in greater than a ten percent (10%) increase of an approved maximum requirement established at PUD Stage 2 or the same allowance as a decrease of an approved minimum requirement established at PUD Stage 2.
- (2) The change is necessary because of a natural feature or other unanticipated site constraints of the subject property not foreseen by the applicant or the county prior to the approval of the development plan;
- (3) The change made during development improves public safety or is made in order to comply with further requirements of other authorities.
- (4) The changes do not significantly affect surrounding property or the approved plan layout.
- (5) If an addition or expansion has been approved within the preceding twenty-four (24) month period, the combined additions will not add nonresidential floor area that exceeds twenty percent (20%) of existing gross floor area of the development plan.
- (6) Alter any element or design of the PUD Stage 2 Plan which would necessitate re-approval by another involved permitting authority, unless such authority would approve of the modification, once notified as specified in Section 1.305.10 and provided no objection would be raised by any other party of interest with regard to such approval.
- (7) Changes in landscaping species are consistent with the standards of this code and any standards established as part of PUD Stage 1 or PUD Stage 2; changes in landscape standards to not reduce the total amount of landscaping or buffering required as part of stage 1 and do not deduce the total amount of landscaping or buffering required at PUD Stage 2 by more than ten percent (10%).
- (8) Any changes in the boundary or arrangement of a structure does not violation minimum standards established as part of Stage 1 nor significantly affect locations of other components of the approved site plan requirements or conditions established at PUD Stage 2.
- (9) The amendment does not result in structures, vehicle circulation, pedestrian circulation, or parking areas being moved significantly in any direction provided said changes do not violate standards established at PUD Stage 1 or PUD Stage 2 and provided such changes are for purposes of improved safety or to eliminate conflict with other components in the site which will not have negative off-site impacts.
- (10) Changes in signage or lighting which will not affect off-site properties provided they violate no standards established at PUD Stage 1 or any numeric standards established at PUD Stage 2 by more than ten percent (10%).

SEC 1.306 CONDITIONAL USE APPLICATION:

1.306.1 Purpose and Approval: The Conditional Use process provides for permitting certain uses listed in the Table of Uses (Section 2.205) determined by the BZA to be potentially acceptable in the Zoning District based on review criteria (Section 1.306.5). The use proposed must be listed as a conditional use in the Table of Uses for the district where the subject property is located. However, uses not listed in the Table of Uses but determined as similar to a listed conditional use pursuant to Section 2.203, as well as non-conforming uses under Section 1.308.5, may also be processed under this section. Only one (1) conditional use may be approved per property, except that secondary dwelling units approved as conditional uses shall not count toward this maximum allowance.

1.306.2 Application Requirements: The applicant shall submit the required application form and fee. The information to accompany the application for conditional use shall be the same as the information required for site plan review as specified in Section 1.303.

1.306.3 Application Processing: The procedure by which the application in request of conditional use approval shall be submitted, reviewed, and processed is as follows:

- (A) Pre-submittal consultation with the Zoning Inspector;
- (B) Formal submittal to, and processing by, Zoning Inspector (as specified in Section 1.303.3);
- (C) Obtain comments from involved authorities;
- (D) BZA conducts quasi-judicial hearing;
- (E) BZA deliberation may be in private (a quasi-judicial hearing is not a meeting and not subject to the Open Meetings Act), and issues a written decision or any appeal; and
- (F) **Case File Record:** Application files maintained by the Zoning Inspector shall contain all written information submitted, reference the location of audio recording of the proceedings, and include written meeting minutes and findings of fact. The application file is numbered by the year in which the application was reviewed and consecutive to other applications within the same year. The written decision of the Approving Authority on the plan is placed in the case file and provided to the applicant.

1.306.4 Applicable Requirements and Provisions Following Use Approval:

- (A) **Permits or Approvals From Other Involved Authorities:** The applicant is responsible for obtaining all necessary permits or approvals from other approving authorities before issuance of the zoning permit.
- (B) **Development and Maintenance in Compliance with the Approved Plan:** It is the responsibility of the owner of the property for which the conditional use approval has been granted, or of their duly authorized agent(s) acting in their behalf, to develop, improve, operate, and maintain the site, including the buildings, structures, and all development component elements of the use, in accordance with the approved plan and all conditions of approval.
- (C) **Expiration and Extension of Use Approval:** If the development and/or conditional

use approved by the BZA has not commenced within two (2) years following the approval, the approval shall become null and void, requiring re-application. The applicant may only request an extension prior to the conditional use approval expiration date. A written request for extension shall be submitted to the Zoning Inspector. The BZA may grant up to twelve (12) months in extension of its initial approval and entertain subsequent extensions thereafter.

(D) **Conditional Use Approval Abandoned or Dormant:** If the development and/or use has commenced, the conditional use approval will be considered null and void if the approved use is abandoned or dormant for a period of two (2) years. If so re-application in accordance with Section 1.306.3 is required.

(E) **Modification of The Approved Use Plan:**

(1) **Minor Modification Allowances:** The following are considered minor modifications allowable for approval by the Zoning Inspector:

- (a) Changes made during development to improve safety, protect natural features; accommodate unanticipated site constraints or to comply with further requirements of other authorities. These changes should not affect surrounding property or the approved plan layout.
- (b) Changes in landscaping that are consistent with the standards of this Code and that does not reduce the total amount of landscaping or buffering required.
- (c) Adjustments in alignment of vehicular and pedestrian access and circulation components for purposes of improved safety or to eliminate conflict with other components in the site which will not create off-site conflicts.
- (d) Reduction or changes in signage or lighting which will not affect off-site properties.

(2) **Major Modifications:** BZA approval is required for any proposed change which:

- (a) Does not meet the minor modification qualification criteria specified above in number one (1).

1.306.5 Review Criteria:

(A) In reviewing conditional uses, the BZA shall consider the anticipated impacts on the public health and safety, as well as public convenience, comfort, prosperity, or general welfare, as applicable. The factors to be considered and weighed by the BZA include but are not limited to the following, but no single factor controls in making a decision, nor must all the factors support the decision:

- (1) The use complies with applicable requirements of the Warren County Rural Zoning Code, including Use Specific Standards.
- (2) The use is consistent with the suggestions of the components of the Comprehensive Plan.
- (3) The use will not be detrimental to surrounding properties.
- (4) The use is necessary or desirable to provide a service.

- (5) The use will not cause a burden to public services, facilities and utilities for water, sanitary sewer, natural gas, electricity, telephone and cable, roadways, police, fire and EMS protection, sidewalks, bikeways, and public schools.
- (6) The use will be served adequately by essential public facilities such as highways, streets, police and fire protection, water and sewers, and schools.
- (7) The use does not adversely impact traffic conditions in a manner that cannot be mitigated.
- (8) The use will be designed to be harmonious in appearance with the existing or allowable uses of the surrounding area.
- (9) The use will be operated, maintained, and will function in a manner that is appropriate with the intended character of the surrounding area.
- (10) The use will not result in substantial destruction, loss or damage of significant natural, scenic or historic features.
- (11) The reasonably anticipated detrimental effects of the use can be sufficiently mitigated by the proposal or by the imposition of conditions for approval.

1.306.6 **Notification:** The Zoning Inspector shall post a sign stating the public process and where to get additional information.

Written notice of the hearing shall be mailed by the Approving Authority, by first class mail, at least ten days before the date of the hearing to all owners of property within five hundred (500) feet from the parcel lines of each property that is the subject of the hearing, to the addresses of the owners appearing on the County Auditor's current tax list. The failure of delivery of the written notice SHALL NOT delay or postpone any such hearing, and shall not invalidate any action taken at such hearing.

1.306.7 **Post Conditional Use Approval:** BZA approval of the Conditional Use shall be followed by a separate review of the Site Plan by the BZA. The plan for development and/or operation of the approved use shall be evaluated based on the Site Plan review per Section 1.303.

SEC 1.307 VARIANCE APPLICATION:

1.307.1 Purpose: Variance is provided as a type of application for appeal to the Board of Zoning Appeals (BZA) by which a property owner may be granted relief or release from a dimensional and/or numeric requirement of this Zoning Code.

1.307.2 Appropriateness: Applying for variance is inappropriate for any of the following:

- (A) Use variances;
- (B) Development within a PUD;
- (C) Changes to the development density of a property; and,
- (D) Before a zoning permit has been denied by the Zoning Inspector.

1.307.3 Application Requirements: The required application form and information to accompany the request for variance shall satisfy the requirements of Section 1.303.3 or as determined by the Zoning Inspector.

1.307.4 Application Processing: The procedure by which the application in request of variance approval shall be submitted, reviewed, and processed is as follows:

- (A) Pre-submittal consultation with the Zoning Inspector;
- (B) Formal submittal to, and processing by, the Zoning Inspector (as specified per Section 1.303.5 (B));
- (C) Obtain comments from involved authorities;
- (D) BZA conducts quasi-judicial hearing;
- (E) BZA deliberation may be in private (quasi-judicial hearing is not a meeting and not subject to the Open Meetings Act), and issues a written decision, or any appeal; and
- (F) **Case File Record:** Application files maintained by the Zoning Inspector shall contain all written information submitted, reference the location of audio recording of the proceedings, and include written meeting minutes and findings of fact. The application file is numbered by the year in which the application was reviewed and consecutive to other applications within the same year. The written decision of the Approving Authority on the plan is placed in the case file and provided to the applicant.

1.307.5 Review Criteria: The BZA shall not authorize approval of variance(s) unless the Board documents Findings of Fact based on the evidence presented upon appeal. The standards for granting such variance from the terms of the Zoning Code to be considered are as follows:

- (A) That granting a variance will not be contrary to the public interest;
- (B) Where, owing to special conditions, a literal enforcement of the resolution will result in an unnecessary hardship;
- (C) That the spirit of the zoning resolution will be observed if a variance is granted; and,
- (D) Substantial justice will be done if a variance is granted.

1.307.6 Applicable Requirements and Provisions Following Variance Approval:

- (A) **Permits or Approvals from Other Involved Authorities:** The applicant is responsible for obtaining all necessary permits.
- (B) **Development and Maintenance Per the Approved Variance(s):** It is the responsibility of the property owner to develop, improve, operate, and maintain the site, including the buildings, structures, and all elements in accordance with the approved conditions and restrictions.
- (C) **Modification of the Approved Variance(s):** Modification of the approved variance(s) requires re-application to the BZA.

1.307.7 Public Notification: The Zoning Inspector shall post a sign stating the public process and where to get additional information.

Written notice of the hearing shall be mailed by the Approving Authority, by first class mail, at least ten days before the date of the hearing to all owners of property within five hundred (500) feet from the parcel lines of each property that is the subject of the hearing, to the addresses of the owners appearing on the County Auditor's current tax list. The failure of delivery of the written notice SHALL NOT delay or postpone any such hearing, and shall not invalidate any action taken at such hearing.

SEC 1.308 NON-CONFORMITY PROVISIONS:

1.308.1 Purpose: The non-conforming provisions of this section permit the continuation of a lawful use, structure or lot, which exists at the time of enacting the zoning code or as an amendment to the code. Provisions in this Section, pursuant to ORC 303.19, permit such non-conformities to continue in accordance with certain conditions and restrictions, but generally do not encourage such continuing. This section applies to the following categories of nonconformities:

- (A) Non-conforming uses of land and of complying structures;
- (B) Non-conforming lots of record;
- (C) Non-conforming structures.

1.308.2 Non-Conforming, Legal/Grandfathered Use: A non-conforming use of record which would not be permitted by the most recent regulations shall be grandfathered, recognized to continue so long as the use remains otherwise lawful in accordance with the following:

- (A) The non-conforming use shall not be enlarged, increased in intensity, or extended to occupy a greater area of land on a lot than was occupied on the date when the use became non-conforming.
- (B) The non-conforming use may be extended throughout any part of the building(s) in which it existed on the date when the use became non-conforming, but shall not be extended to occupy any more land outside of any such building(s) on the lot where located.
- (C) No such non-conforming use shall be moved, in whole or in part, to any other portion or location of the lot or parcel than which was occupied by the use on the effective date of the regulation which made the use non-conforming, unless such would improve conformity with the current regulations.
- (D) A non-conforming use shall not be permitted to resume if the building(s) or other structure(s) in which it existed become destroyed beyond fifty percent (50%) of the cost to replace such.
- (E) The legal non-conforming status of a use is terminated upon abandonment or discontinuation of the use for more than two (2) years.
- (F) No provision of this Code shall render a previously permitted single-family detached dwelling as a non-conforming use except for such use within a floodplain or environmentally sensitive area.

1.308.3 Non-Conforming, Legal/Grandfathered Lots of Record: All lots of record or subdivisions with preliminary plat approval by the RPC prior to the effective date of this Code (which approval has not lapsed by reason of inactivity as provided in the Warren County Subdivision Regulations) shall not be considered non-conforming.

- (A) **Residential Lots:** Setback requirements when applied to non-conforming lots shall not reduce the lot dimensions by greater than twenty percent (20%) of the lot width.
- (B) **Non-Residential Lots:** Lots that do not meet the minimum area, width and/or frontage required by the non-residential zone in which located are non-conforming.

- (C) In any zoning district, an allowable structure may be permitted on a single lot of record provided that the lot has sufficient frontage on a public street to provide access that is appropriate for the proposed use. Existing residential structures on non-conforming lots, prior to the effective date of this code, are exempt from this provision and may be replaced or expanded.
- (D) Where a property owner has several abutting lots that do not conform to the dimensional requirements, they shall be combined to create fully conforming lots or, if full conformity is not possible, they shall be combined to the extent that the recombination increases the degree of conformity. Recombination of lots is not required, if:
 - (1) Two or more of the lots are developed with principal buildings, and the recombination of lots would create non-conforming structures;
 - (2) The combination of lots would materially disrupt the character of the area; or,
 - (3) For lots that may individually support sanitary service.
- (E) Any non-conforming site may be enlarged or altered. However, no such enlargement or alteration shall either create an additional non-conformity of all or any part of such site, unless otherwise specified in this code.

1.308.4 Non-Conforming, Legal/Grandfathered Structure of Record: A building or other structure of record, which predated the adoption or amendment of this Zoning Resolution and is not permitted, by reason of restrictions on type, area, bulk, height, setbacks or other similar requirements. These structures may remain provided they remain lawful in accordance with the following:

- (A) Any non-conforming structure may be enlarged, maintained, repaired, or altered provided, however, no such enlargement, maintenance, repair or alteration shall not create an additional non-conformity or increase the degree of the existing non-conformity of all or any part of such structure or site, unless otherwise specified in this code.
- (B) Shall not be moved, in whole or in part, unless for purpose of coming into complete compliance with the zoning requirements;
- (C) If the structure becomes damaged or destroyed beyond fifty percent (50%) of the replacement cost, reconstruction shall comply with the current zoning requirements.
- (D) Completion of construction and subsequent routine maintenance and repair is permitted.
- (E) The principal use of a non-conforming building may be changed to any principal permitted use in the applicable zoning district as long as the new use complies with all regulations of this code specified for such use, except the regulations to which the building did not conform prior to the change in use.

1.308.5 Procedure for Becoming Conforming: In many instances, minor non-conforming uses or buildings/structures are integral parts of the community's fabric. In these instances, the classification "non-conformity" and resulting restriction on investment may not be what the community desires. As such, the use may be made conforming pursuant to this Section. Non-conformities may become conforming as follows:

- (A) **Types of Situations:** The following are two types of situations whereby a nonconforming use, building, structure, or lot can become conforming:

- (1) Correct the non-conforming situation. Note: Where a proposed change of use is different than the non-conforming use, and a conditional use permit is required, those procedures must be followed.
 - (2) Apply for conditional use permit as conforming. Under this process, where there is no change of use, the non-conforming situation may be mitigated and made conforming through application for and approval by, the BZA for a conditional use permit.
- (B) **Procedure:** Owners of non-conforming uses, buildings, structures, or lots may apply for conditional use permitting to become conforming without changing the use or necessarily modifying the entire physical nature of the nonconformity. The conditional use permitting application is reviewed by staff that then provides a recommendation to the BZA for a final decision. The BZA, at their discretion, may require an operation plan or additional studies and reports from the property owner as part of their consideration.
- (C) **Review Criteria:** In addition to the standards and criteria for Conditional Use review, the applicant shall meet the following requirements:
- (1) Demonstrate that the nonconformity, as conducted and managed, has minimal incompatibilities that have been integrated into the community's function. Factors to evaluate this criterion include the following:
 - (a) The area residents patronize or are employed at the use;
 - (b) Current management practices that eliminate problems such as noise, waste materials, competition for on-street parking, or similar conflicts;
 - (c) The non-conformity's history of complaints against it; and,
 - (d) The non-conformity has been maintained in good condition or that the non-conformity represents a disincentive for such maintenance.
 - (2) The BZA shall determine that the non-conformity is generally integrated into the community and has minimal adverse impacts. The BZA may require appropriate conditions and safeguards to assure that the non-conformity does not adversely affect orderly development and the value of nearby property, including, but not limited to: required improvement of, or modifications to existing improvements on the property; limitations on hours of operations; and limitations on the nature of operations.
- (D) **The Effect:** The granting of a conditional use approval eliminates the non-conformity. The conditional use approval shall be noted on the zoning map.

1.308.6 BZA Additional Authority: The BZA shall have the power to grant the substitution of a non-conforming use, existing at the time of enactment of this Code, by another non-conforming use, if BZA determines that the substituted use would not be of greater intensity or density than the existing non-conforming use.

SEC 1.309 VIOLATIONS AND PENALTIES:

1.309.1 Provisions To Cite And Impose:

- (A) As provided per ORC Section 303.23, no person shall locate, erect, construct, reconstruct, enlarge, change, maintain, or use any building or use any land in violation of a resolution, or amendment or supplement to such resolution, adopted by the Board of County Commissioners under Sections 303.01 to 303.25, inclusive, of the Ohio Revised Code (ORC), and each day such violation continues is a separate offense.
- (B) As provided per ORC Section 303.24, in case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, or any land is or is proposed to be used in violation of this Resolution or any amendments or supplements thereto, the Board of County Commissioners, the County Prosecuting Attorney, the County Zoning Inspector, County Building Inspector, or any adjacent or neighboring property owner who would be specially damaged by such violation, and elects to pursue such action at their own cost and expense, in addition to other remedies provided by law, may institute an action seeking injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful location, erection, construction, enlargement, change, maintenance, or use.
- (C) For the purposes of the violations and penalties provided for herein, “person” shall include the owner or tenant of any building, structure, land or premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, allows or maintains such violation may be subject to the jurisdiction of a court of competent jurisdiction and each be found liable for each separate offense and be subject to the order of the court, if processed to such conclusion after any such person involved in the violation has been duly notified by the Zoning Inspector in ordering the violation to be abated within a time period specified in accordance with Section 1.308.2 (Notification Requirements).

1.309.2 Violation and Remedies Notification Requirements: Notice of violation made in accordance with requirements of this Section shall be provided by the Zoning Inspector to the violator(s) involved in the event the Zoning Inspector finds a violation exists as described in Section 1.309.1, as observed by the Zoning Inspector or from investigation into a verbal or written complaint of such made to the Zoning Inspector. The violation notice shall also state the remedy ordered of the violator(s), the time period within which to do so and advise the violator(s) of their right to appeal the order and of the potential consequences if convicted of not complying with the order if upheld valid to impose. The provisions so regarding are specified as follows:

- (A) **Notice Of Violation:** The required written notice of violation to be provided by the Zoning Inspector shall contain the following:
 - (1) The name(s) and address (es) of the violator(s);
 - (2) The Sidwell identification and road address of the parcel(s) where the violation exists;
 - (3) Description of the violation and citation of the zoning requirements being violated;
 - (4) Statement of the remedy ordered necessary and time period allowed to do so; and,
 - (5) Statement of violator(s) right to appeal and potential consequences of non-compliance.

- (B) **Violation Notice Delivery:** The required notice of violation shall be delivered by the Zoning Inspector in any of the following ways for purpose of notifying the violator(s) involved:
- (1) By Certified Mail addressed to the violator(s) last known address, service shall be deemed complete when a Certified Mail receipt is received or returned undeliverable or refused; or,
 - (2) By Certified Mail and ordinary U.S. mail with a Certificate of mailing simultaneously, addressed to the violator(s) last known address. Service shall be deemed complete when a Certified Mail receipt is received or ordinary U.S. mail first-class mail is not returned after 10 days of mailing or returned undeliverable or refused; or,
 - (3) By personal delivery to the violator(s) responsible, or by leaving the notice at the usual place of residence thereof, or
 - (4) By posting a copy of the notice at a conspicuous place on the premises of the violation, as signed and dated by an adult witness on the notice so delivered and by the same on file copy.

1.309.3 Required Remedy, Potential Appeal And Non-Compliance Consequences:

- (A) **Required Remedy:** Each violation specified in the violation(s) notice prepared and delivered in accordance with Section 1.309.2 is required to be remedied by the violator(s) as specified in the violation(s) notice within the time period allowed to do so.
- (B) **Remedy Time Period:** The time period allowed to a violator to remedy a violation shall be as specified in the notice of violation delivered by the Zoning Inspector, as determined reasonable by the Zoning Inspector, or as otherwise specified in this Zoning Code. The Zoning Inspector may order a violation to cease and desist immediately if the nature of the violation constitutes a readily apparent danger to public health or safety.
- (C) **Potential to Appeal:** The violator(s) may file an appeal to the Board of Zoning Appeals (BZA) for relief or release from having to comply with the remedy ordered in violation(s) notice delivered by the Zoning Inspector, provided the appeal meets all requirements specified in Section 1.310 of this Zoning Code. Filing of an appeal to the BZA shall stay the time period ordered in the notice for compliance. If the BZA denies the appeal, the applicant may seek relief from the Court of Common Pleas of jurisdiction.
- (D) **Non-Compliance Potential Consequences:** Violator(s) failure to comply with the remedy ordered and the time period in which to do so specified in the violation(s) notice delivered would be considered an additional violation, in the absence of an appeal to the order being granted by the BZA or the Court of Common Pleas. Consequences of non-compliance may result in penalties as determined by the applicable Court of jurisdiction.
- (E) **Penalties:** Any person found by a court of competent jurisdiction of violating the Zoning Code shall be subject to such court ordering all legal and equitable remedies available including but not limited to: the court issuing a temporary injunction or restraining order; the court ordering abatement within 30 days of the filing of a final and appealable judgment, and in the event the person so ordered fails to timely abate any

violations, if the party bringing the action is the Board of County Commissioners, the County Prosecuting Attorney, the County Zoning Inspector or the County Building Inspector, the court granting such party access to the property upon which the violations are located in order to abate the violations and assessing the costs, charges and expenses of abating such violations against the property upon which the violations are located and certifying such costs to the County Auditor to be placed on the real property tax duplicate to be collected by the County Treasurer; and, permanently enjoining the person from further violations of the Zoning Code and subjecting such person to contempt upon a showing of failure to comply with the Court's Order or further violations without cause including but not limited to imposing a fine of not more than five hundred dollars (\$500) for each offense. Each day a violation continues shall be a separate offense in accordance with ORC Sections 303.99 and 303.23.

SEC 1.310 ADMINISTRATIVE APPEALS:

1.310.1 Purpose: Administrative appeal is provided pursuant per ORC Section 303.14(A), which specifies that a Board of Zoning Appeals (BZA) may hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by a administrative official in the enforcement of ORC Sections 303.01 to 303.25 or of any resolution adopted pursuant thereto. Per ORC Section 303.14, the BZA, in exercising this power, may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end has all powers of the officer from whom the appeal is taken. Decision by the BZA on such appeal is final, unless otherwise overridden by the Court of Common Pleas of jurisdiction or higher Court thereafter, if successfully filed with the Court by the recipient applicant in disagreement with the BZA decision on the appeal.

1.310.2 When Appropriate: Submitting an application for administrative appeal is appropriate when the applicant can clearly cite grounds that the Zoning Inspector has:

- (A) Wrongfully imposed a requirement or restriction specified necessary by, or in accordance with, this Zoning Resolution upon a property or use activity of the applicant; and/or,
- (B) Wrongfully denied a provision of allowance by, or in accordance with, this Zoning Resolution for a property or use activity of the applicant; and/or,
- (C) Otherwise acted inappropriately upon the applicant or a property or use activity of the applicant in a manner contrary to, or inconsistent with, this Zoning Resolution.

1.310.3 Application Information and Submittal Fee:

- (A) Name, address, fax number, e-mail address, and phone number of the owner/agent of the property;
- (B) Date submitted to, and accepted complete, for processing by the Zoning Inspector;
- (C) The Sidwell identification number of the parcel(s) of the appeal submitted; the name of the Township and zone and the applicable Section, Town, and Range or Military Survey number(s) in which the site is located; the road address of the site, if issued; and, if applicable, the name of the subdivision and the lot number(s) of the site and other identifying references provided, if necessary, to accurately establish the location of the appeal site;
- (D) Statement of the grounds as reason(s) for submitting the application for administrative appeal;
- (E) Signature of the applicant on the application form attesting to the truth and correctness of all information provided on the application form and in any other accompanying information; and
- (F) The application submittal fee established by the Board of County Commissioners.

- 1.310.4 Application Submittal and Processing for Decision:** The procedure by which the application for administrative appeal shall be submitted and processed for decision by the Board of Zoning Appeals (BZA) is as follows:
- (A) **Notice Of Appeal Submittal:** The required application in serving as notice of appeal to the BZA must be submitted to the Zoning Inspector within twenty (20) days after the date that the action of the Zoning Inspector being appealed was made by the Zoning Inspector, together with the required fee for submittal and any accompanying information in support of the appeal.
 - (B) **Stay of Proceedings:** Submittal of the appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector certifies in writing to the BZA that, by reason of fact, a stay would cause imminent peril to life and property. In such case, proceedings shall not otherwise be stayed other than by an order of the Court of Common Pleas of jurisdiction upon notice to the BZA and the Zoning Inspector.
 - (C) **Processing For Hearing:** Upon receipt of the notice of appeal application, the Zoning Inspector, or via the Zoning Clerk, shall forthwith convey a copy of the application and all papers constituting the record upon which the appeal is based to each member of the BZA along with written notification of the earliest possible scheduled date, time, and place where the BZA shall hold its hearing on the appeal. The notification describing the appeal and stating the place, date, and time that the BZA will hold its hearing on the appeal shall also be published in one or more newspapers of general circulation in the zoning jurisdiction area at least ten (10) days prior to the hearing and likewise broadcast on the Warren County Building and Zoning webpage of the Warren County website.
 - (D) **Hearing and Record on Appeal:** The BZA shall consider and keep record of all testimony received from persons during the hearing regarding the appeal. Upon the BZA closing the hearing and its members concluding their deliberation on the appeal, the BZA shall render its decision on the matter.
 - (E) **Decision on Appeal:** The BZA shall have all the powers of the Zoning Inspector with respect to making its decision on the appeal. The concurring vote of the majority of the BZA members present at the hearing shall be necessary to uphold, reverse, or modify the appealed action of the Zoning Inspector. The BZA shall render a written decision on the appeal without unreasonable delay after the close of the hearing, and in all cases, not exceeding thirty (30) days thereafter.
- 1.310.5 Decision, Determination and Findings:** The Zoning Inspector order, requirement, decision, or determination appealed shall be upheld unless the BZA determines that the Zoning Inspector action was:
- (A) Based on an erroneous or improper interpretation of the Zoning Resolution; or,
 - (B) Based on an erroneous finding of material fact; or,
 - (C) Unfounded, indefensible, or inappropriate use of discretion; or,
 - (D) Arbitrary or capricious and made without necessary basis on the Zoning Resolution.
- 1.310.6 Recourse to Unfavorable BZA Decision:** The applicant may appeal to the Court of Common Pleas.

SEC 1.311 **ADMINISTRATIVE INTERPRETATION:** This Section shall guide the Zoning Inspector in rendering an official interpretation.

(A) **Types of Interpretations:**

- (1) **Meaning or Application:** When evaluating a section of this Code as to its meaning or application, administrative interpretations shall not lessen protection, provided by this Code.
- (2) **Unlisted Uses:** When a use is not specifically listed in The Table of Permitted Uses (Section 2.205) or Allowable Uses (Section 2.407.3), it shall be understood that the use may be permitted or prohibited if the Zoning Inspector determines that the use is similar to other uses listed. It is further recognized that every conceivable use cannot be identified in the use tables and, anticipating that new uses will evolve over time, this section establishes the Zoning Inspector’s authority to compare a proposed use and evaluate its similarities, operation, impacts, or scale to those uses listed. Where a choice of uses exists, after reviewing for adverse impacts, the use should be classified with the similar use that has the most adverse impacts. In determining “similarity” the Zoning Inspector shall make all of the following findings:
 - (a) The characteristics of, and activities associated with, the proposed use are equivalent to one or more of the listed uses, and will not involve a higher level of activity or population density than the uses listed in the district;
 - (b) The proposed use(s) will be consistent with the purpose of the zoning district; and
 - (c) The proposed use(s) shall consider the suggestions of the Comprehensive Plan and any approved area plan.

(B) **Procedure:** In making an administrative interpretation of this Code, the zoning inspector shall:

- (1) Request the County Prosecutor’s review and recommendation on the interpretation request.
- (2) Consider the suggestions of the Comprehensive Plan and any approved area plan, this Code, the Zoning Map, and the recommendations of the County Prosecutor.
- (3) Determinations shall be made in writing and shall contain the facts that support the determination. The Department shall maintain all such determinations on record and a written interpretation shall be mailed to the applicant and provided to the RPC within 30 days of receipt of a complete request for an interpretation.
- (4) The Zoning Inspector shall maintain a record of all administrative interpretations rendered. This record shall be available for public inspection in the Zoning Inspector’s office, upon reasonable request, during normal business hours.
- (5) To ensure that the intent of this Code is being met, the Zoning Inspector shall report twice yearly to the RZC on all administrative interpretations made. The RZC may request the RPC to prepare text amendments to the Code.

SEC 1.312 FEE REQUIRED:

- (A) **Applicability:** Each application specified necessary in this Chapter for zoning enforcement is to be accompanied by the fee required when submitted to the Zoning Inspector for filing and processing, unless otherwise waived or reduced by a BOCC Resolution referenced in the following paragraph (B).
- (B) **Amount:** The dollar amount of the fee required for each application specified in this Chapter is as adopted by a BOCC resolution.
- (C) **Administrative Appeal Fees:** If the Zoning Inspector's interpretation is overturned in its entirety, the fees, associated with the appeal of administrative interpretation in accordance with Section 1.311, will be fully refunded to the applicant.
- (D) **Publication:** The required fee for each application is available as public record upon inquiry to the Zoning Inspector or Clerk.

SEC 1.313 REASONABLE ACCOMMODATION REQUEST:

1.313.1 Purpose: This section provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the State of Ohio Fair Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures. A request for reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

1.313.2 Applicability: A request for reasonable accommodation may be made by any person with a disability, their representative or any entity, when the application of a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment shall provide evidence of disability. This section is intended to apply to those persons who are defined as disabled under the Acts.

1.313.3 Application Requirements:

- (A) **Application:** Requests for reasonable accommodation should be submitted on an application form provided by the Building and Zoning Department, or in the form of a letter, to the Zoning Inspector and should contain the following information:
 - (1) The applicant's name, address, and telephone number.
 - (2) Address of the property for which the request is being made.
 - (3) The current actual use of the property.
 - (4) The basis for the claim that the individual is considered disabled under the Acts.
 - (5) The zoning code provision, regulation or policy from which reasonable accommodation is being requested.
 - (6) Why the reasonable accommodation is necessary to make the specific property accessible to the individual.

- (B) Review with other land use applications. If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (including but not limited to; conditional use permit or site plan review, etc.), then the applicant shall file the information required together for concurrent review with the application for discretionary approval.

1.313.4 Review Authority and Procedure: Requests for reasonable accommodation shall be reviewed by the Zoning Inspector. The Zoning Inspector shall make a written determination within forty five (45) days and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with Section 1.313.5 (Findings and Decision).

1.313.5 Findings and Decision:

- (A) **Findings:** The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:

- (1) Whether the housing, which is the subject of the request, will be used by an individual disabled under the Acts.
- (2) Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.
- (3) Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the county.
- (4) Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a county program or law, including but not limited to land use and zoning.
- (5) Physical attributes of the property and structures.
- (6) Alternative reasonable accommodations which may provide an equivalent level of benefit.

- (B) **Conditions of Approval:** In granting a request for reasonable accommodation, the Zoning Inspector may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Section 1.313.5 (A).

1.313.6 Appeal of Determination: A determination by the Zoning Inspector to grant or deny a request for reasonable accommodation may be appealed to the Warren County Board of Zoning Appeals in compliance with Section 1.310 (Administrative Appeals) of the Warren County Rural Zoning Code.