

Article 1: General Provisions

1.01 PURPOSE

The purpose for zoning in Boardman Township, Mahoning County, Ohio, shall be as established under Section 519.02 of the Ohio Revised Code (ORC), except as otherwise provided by law.

1.02 TITLE

This resolution shall be known and may be cited as the "Boardman Township Zoning Resolution", and may be referred to herein as "this resolution" or "this zoning resolution".

1.03 AUTHORITY

(A) General Authority

This resolution establishes the township's zoning regulatory authority as authorized by the ORC.

(B) References to the Ohio Revised Code or the Ohio Administrative Code

Whenever any provision of this resolution refers to or cites a section of the Ohio Revised Code or the Ohio Administrative Code (OAC), and that section is later amended or superseded, this resolution shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

1.04 JURISDICTION

(A) General Jurisdiction

The provisions of this resolution shall apply to all land, development, use of structures or land, or portions thereof, within the unincorporated areas of Boardman Township, Mahoning County, Ohio, as allowed by the ORC.

(B) Zoning of Annexed Lands

Upon annexation of land from Boardman Township into an existing municipal corporation, the zoning regulations then in effect shall remain in full force and shall be enforced by the Zoning Inspector and other township officials until the legislative authority of said municipal corporation shall either officially adopt the existing zoning regulations or new regulations for such land.

1.05 INTERPRETATION AND CONFLICTS

- (A) For the purposes of interpretation and application, the provisions of this zoning resolution shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort, prosperity, or general welfare, as allowable by law.
- (B) When the provisions of this zoning resolution are inconsistent with one another or with the provisions found in another adopted resolution, the more restrictive provision shall govern.
- (C) Where this zoning resolution imposes a greater restriction than imposed or required by other provisions of law or by other rules, regulations or resolutions, the provisions of this zoning resolution shall control provided it does not conflict with the ORC and federal law.

1.06 RELATIONSHIP WITH THIRD-PARTY PRIVATE AGREEMENTS

- (A) This zoning resolution is not intended to interfere with or abrogate any third-party private agreements including, but not limited to, easements, covenants, or other legal agreements between third parties. However, wherever this zoning resolution proposes a greater restriction upon the use of buildings, structure, or land, upon the location or height of buildings or structures, or upon requirements for open areas than those imposed or required by such third-party private agreements, the provision of this zoning resolution shall govern.
- (B) In no case shall the township be obligated to enforce the provisions of any easements, covenants, or agreements between private parties unless the township is involved as a party to the agreement.

1.07 COMPLIANCE REQUIRED

- (A) Except as hereinafter specified, no building or structure shall be located, constructed, erected, reconstructed, enlarged, changed, maintained or used, and no land shall be used in violation of this resolution or in a manner that does not comply with all of the regulations established by this resolution for the applicable zoning district and development.
- (B) It shall be unlawful for an owner to use or to permit the use of any structure, building, land, or part thereof, hereafter erected, created, changed, converted or enlarged, wholly or partly, until a zoning certificate is issued by the Zoning Inspector in accordance with this resolution. Such certificate shall state that such building, premises or part thereof, and the proposed use thereof, is in conformity with the provisions of this zoning resolution.
- (C) Existing uses, lots, buildings, and structures that do not comply with this resolution will be subject to the nonconformity provisions of [Article 13: Nonconformities](#).
- (D) **Exemptions**
- (1) **Agricultural Use Exemption**
- (a) Agricultural uses, and buildings or structures that are incidental to agricultural uses, as defined in the ORC, located on lots with a lot area greater than five acres shall be exempt from the requirements of this zoning resolution, pursuant to the ORC.
- (b) Buildings or structures that are incidental to the use of land for agricultural uses, as defined in the ORC, located on lots with a lot area greater than one acre but not greater than five acres, shall be subject to all setbacks, maximum building size, and maximum height requirements of the applicable zoning district, as allowed by the ORC.
- (c) All agricultural uses, as defined by the ORC, are prohibited on lots with a lot area of one acre or less except for the raising of fruits, vegetables, grains, trees, and other crops for personal use of the property owners or residents. Such uses shall be permitted on all lots, in all yards.
- (d) Dairying and animal and poultry husbandry shall be regulated as provided for in ORC Section 519.21.
- (e) Structures that are exempt from the provisions of this zoning resolution, pursuant to this section, may not be exempt from any applicable building or special flood hazard area regulations established and enforced by Mahoning County.
- (2) **Energy and Gas Exemptions**
- The following shall be exempt from the requirements of this resolution in accordance with the ORC:
- (a) Biodiesel production, biomass energy production, or electric or heat energy production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37 of the ORC for real property tax purposes. "Biodiesel," "biomass energy," and "electric or heat energy" have the same meanings as in Section 5713.30 of the ORC.
- (b) Biologically derived methane gas production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37 of the ORC for real property tax purposes and if the facility that produces the biologically derived methane gas does not produce more than seventeen million sixty thousand seven hundred ten British thermal units, five megawatts, or both.
- (3) **Public Utility or Railroad Exemption**
- Public utilities and railroads, as defined by the ORC, shall be exempt from the provisions of this zoning resolution.

1.08 SEVERABILITY

- (A) If any court of competent jurisdiction invalidates any provision of this zoning resolution, then such judgment shall not affect the validity and continued enforcement of any other provision of this zoning resolution.

- (B) If any court of competent jurisdiction invalidates the application of any provision of this zoning resolution to a particular property, structure, or situation, then such judgment shall not affect the application of that provision to any other building, structure, or situation not specifically included in that judgment.
- (C) If any court of competent jurisdiction judges invalid any condition attached to the approval of a development review application, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

1.09 TRANSITIONAL RULES

(A) Effective Date

- (1) This resolution became effective on January 21, 2021.
- (2) This amendment, and any future amendments, to this zoning resolution shall be in full force and effect, as provided in the ORC.

(B) Violations Continue

Any violation of this zoning resolution that applied to a use, structure, property, development, construction, or other activity, prior to the adoption or amendment of this zoning resolution, shall continue to be a violation under this zoning resolution and is subject to penalties and enforcement under [Article 14: Enforcement and Penalties](#), unless the use, structure, property, development, construction, or other activity complies with the provisions of this zoning resolution. Should the adopted or amended resolution remedy the violation, the property owner shall still be responsible for any penalties accrued as part of a violation prior to the effective date of this code.

(C) Nonconformities Continue

- (1) Any legal nonconformity under previous versions of this resolution that applied prior to the adoption of this zoning resolution shall continue to be a legal nonconformity under this amendment, as long as the situation that resulted in the nonconforming status under the previous version of the resolution continues to exist.
- (2) If a legal nonconformity under any previous versions of this resolution becomes conforming because of the adoption of this amendment, then the situation will be considered conforming and shall no longer be subject to the regulations pertaining to nonconformities.

(D) Approved Projects

- (1) Any building, structure, or development for which a zoning certificate was issued prior to the effective date of this zoning resolution may, at the applicant's option, be completed in conformance with the issued certificate and any other applicable permits and conditions, even if such building, structure, or development does not fully comply with provisions of this zoning resolution. Such building, structure, or development shall be considered a legal nonconforming use, if applicable, upon the issuance of a certificate of occupancy from the Mahoning County Building Department.
- (2) If the building, structure, or development is not completed within the time allowed under the original building permit or any extension granted thereof, then the building, structure, or development may be constructed, completed, or occupied only in compliance with this zoning resolution.
- (3) Any application for a project where the zoning certificate has expired shall meet the standards in effect at the time the application is resubmitted.

(E) Vested Rights

The transitional rule provisions of this subsection are subject to Ohio's vested rights laws.

1.10 RESTORATION OF UNSAFE BUILDINGS

Except as provided in [Article 13: Nonconformities](#), nothing contained in this resolution shall hinder the construction of a building or prohibit its use where construction has started before the effective date of this resolution provided that foundations have been put in place before said effective date of this resolution and provided further that such building shall be completed within two years from the date of passage of this resolution.

1.11 REPEAL

This zoning resolution may be repealed in accordance with the provision established in the ORC.

1.12 USE OF GRAPHICS, TABLES, ILLUSTRATIONS, FIGURES, AND CROSS-REFERENCES

- (A) Graphics, illustrations, and figures are provided for illustrative purposes only and shall not be construed as regulations. Where a conflict may occur between the text and any graphic, illustration, or figure, the text shall control.
- (B) In some instances, cross-references between articles, sections, and subsections are provided that include the article, section, or subsection number along with the name of the referenced article, section, or subsection. Where a conflict may occur between the given cross-reference number and name, the name shall control.
- (C) A table shall be considered text for the purposes of this resolution unless specifically identified as a figure.

1.13 BURDEN OF PROOF

- (A) The burden of demonstrating that an application, development, or use of land or structures subject to this resolution complies with applicable review and approval standards is on the applicant.
- (B) Such burden of proof shall also apply to demonstrating that the nonconformity was established legally under a previous amendment of this resolution.
- (C) The burden is not on the township or other parties to demonstrate that the standards have been met by the applicant or person responsible for the application, development, use of land or structure, or nonconformity with this resolution.