

ARTICLE1 ZONING RESOLUTION AUTHORITY, ADMINISTRATION, AND ENFORCEMENT

CHAPTER 1: RESOLUTION TITLE, PURPOSE AND APPLICABILITY

SEC 1.101 **TITLE:** The Warren County Zoning Resolution, consisting of this text document and the accompanying Official Zoning Map, as amended, shall be known as the "Warren County Rural Zoning Code", or "Zoning Code" to the same effect.

SEC 1.102 **PURPOSE:** Per Section 303.02 of the Ohio Revised Code (ORC), or as amended, in the interest of the public health and safety, the Board of County Commissioners (BOCC), by Resolution, in accordance with a comprehensive plan, may regulate: the location, height, bulk, number of stories, and size of buildings and other structures, including tents, cabins, and trailer coaches; percentages of lot areas that may be occupied; setback building lines, sizes of yards, courts, and other open spaces, the density of population; the uses of buildings and other structures, including tents, cabins, and trailer coaches; and the uses of land for trade, industry, residence, recreation, or other purposes in the unincorporated territory of the County.

Except as otherwise provided in this section, in the interest of the public convenience, comfort, prosperity, or general welfare, the BOCC, by Resolution, in accordance with a comprehensive plan, may regulate: the location of, setback lines for, and the uses of buildings and other structures, including tents, cabins, and trailer coaches; and the uses of land for trade, industry, residence, recreation, or other purposes in the unincorporated territory of the County; and may establish reasonable landscaping standards and architectural standards excluding exterior building materials in the unincorporated territory of the County.

Except as otherwise provided in this section, in the interest of the public convenience, comfort, prosperity, or general welfare, the BOCC, by Resolution, in accordance with a comprehensive plan, may regulate for nonresidential property only: the height, bulk, number of stories, and size of buildings and other structures, including tents, cabins, and trailer coaches; percentages of lot areas that may be occupied; sizes of yards, courts, and other open spaces; and the density of population in the unincorporated territory of the County.

For all these purposes, the BOCC may divide all or any part of the unincorporated territory of the County into districts or zones of such number, shape, and area as the BOCC determines. All such regulations shall be uniform for each class or kind of building or other structure or use throughout any district or zone, but the regulations in one district or zone may differ from those in other districts or zones. For any activities permitted and regulated under ORC Chapters 1513 or 1514, or as amended, and any related processing activities, the BOCC may regulate only in the interest of public health or safety.

SEC 1.103 APPLICABILITY:

1.103.1 Jurisdiction: This Resolution applies to all properties within the unincorporated areas of Franklin, Harlan, Turtlecreek, Union, and Washington Townships, in Warren County, Ohio.

1.103.2 Adoption and Effective Date: This Resolution is in full force and went into effect on and after the earliest period allowed by law, and thereupon all prior zoning regulations in conflict herewith became null and of no effect. The effective date of Warren County Zoning jurisdiction in each Township to which applicable is as follows:

<u>Township</u>	<u>Effective Date Zoning Code "B"</u>	<u>Effective Date Zoning Code "A"</u>
Deerfield	November 16, 1972*	November 13, 1959
Franklin	November 13, 1959	November 16, 1972
Harlan	November 13, 1959	November 13, 1973
Turtlecreek	November 13, 1959	November 13, 1973
Union	November 13, 1959	November 16, 1972
Washington	January 19, 1967	May 22, 1990

* Warren County Zoning was repealed in Deerfield Township (see below), effective November 18, 1997.

1.103.3 Repeal: Per Ohio Revised Code (ORC) Section 303.25, as amended, in any township in which county zoning is in force, said zoning may be repealed, as follows:

- (A) The Board of County Commissioners (BOCC) may adopt a resolution upon its own initiative; or
- (B) The BOCC shall adopt a resolution, if there is presented to it a petition, similar in all relevant aspects to that prescribed in ORC Section 303.12, or as amended, signed by a number of qualified voters residing in the unincorporated area of such township included in the zoning plan 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 a governor was elected, requesting the question of whether or not the plan of zoning in effect in such township shall be repealed, to be submitted to the electors residing in the unincorporated area of the township included in the zoning plan at a special election to be held on the day of the next primary or general election. The resolution adopted by the BOCC to cause such question to be submitted to the electors shall be certified to the Board of Elections not later than seventy-five (75) days prior to the day of election at which the question is to be voted upon. In the event a majority of the vote cast on such question in the township is in favor of repeal of zoning, then such regulations shall no longer be of any effect. Not more than one (1) such election shall be held in any two (2) calendar years.

1.103.4 Interpretation: The specifications in this Zoning Code are held as minimum or maximum requirements, as applicable, with the intent to achieve the purposes stated in ORC Section 303.02, et seq., or as may be amended. If a general provision conflicts with a specific provision of the Zoning Code, they shall be construed, if possible, so that effect is given to both. If the conflict between the general provision and the specific provision is irreconcilable, the specific provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail. In the event that the foregoing rule of construction does not resolve the conflict, in such event the more restrictive or greater requirement shall govern. The enforcement of a deed covenant or restriction is by (private) civil action and not by enforcement of this Zoning Code.

1.103.5 Required Conformance: Unless otherwise provided herein, no building or structure shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building structure or land be used, nor shall any excavation or fill be made unless conforming with: the specified uses allowed in the zoning district in which located; the height limits and dimensional requirements established for the zoning district where located; and all other supplemental regulations herein specified applicable.

1.103.6 Non-Conformities: Within the various zoning districts established by this Resolution, or as later amended, there may exist buildings, structures, lots, parcels, uses or activities which were lawfully established (Grandfathered) prior to the enactment of this Zoning Code or amendments thereto, which would be either prohibited or restricted. It is the intent of this Resolution to allow such legal non-conformities (as defined) to continue until or unless they are removed or discontinued, either due to action by the owner, or otherwise, as a result of catastrophic incident, but not to encourage continuance of such. Accordingly, it is further the intent of this Zoning Code that such non-conformities shall not be enlarged, expanded, or extended in a manner that increases the non-conformity, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zoning district. (See Section 1.306 for regulations so regarding.)

1.103.7 Limitations and Exceptions:

(A) This Resolution shall have no power to prohibit the use of any land within the zoning jurisdiction for agriculture (as defined herein), or the construction or use of buildings or structures incident to the agricultural use of land on which such buildings or structures are located, and no Zoning Permit shall be required for any such building or structure, except that the following may be regulated in any platted subdivision approved under Sections 711.05, 711.09, or 711.10 of the Ohio Revised Code, or in any area consisting of 15 or more lots approved under Section 711.131 of the Ohio Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road:

(1) Agriculture on lots of one (1) acre or less;

- (2) Buildings or structures incident to the use of land for agricultural purposes on lots greater than one (1) acre but not greater than five (5) acres: by building setback lines, height, and size; and,
 - (3) Dairying and animal and poultry husbandry on lots greater than one (1) acre but not greater than five (5) acres when at least 35 percent of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or to the tax on manufactured and mobile homes under ORC Section 4503.06. After 35 percent of the lots are so developed, dairying and animal and poultry husbandry shall be considered nonconforming use of such land, buildings or structures pursuant to ORC Section 303.19.
- (B) However, the above divisions (1), (2), and (3) confer no zoning power to regulate agriculture, such buildings or structures, and dairying and animal and poultry husbandry on lots greater than five (5) acres, nor to prohibit any land for a farm market where 50 percent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year, but per ORC Section 303.02, zoning may regulate such factors pertaining to farm markets as size of the structure, size of the parking areas that may be required, building setback lines and egress or ingress, where such regulation is necessary to protect the public health and safety.
- (C) Per ORC Section 303.211(A), this Resolution shall have no power with respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of any public utility or railroad, whether publicly or privately owned, or the use of land by any public utility or railroad for the operation of its business, except as specified in ORC Section 303.211 (B) or (C), respectively pertaining to the potential regulation of telecommunications towers and transportation service businesses, excepting transport of farm supplies and/or products.
- (D) Per ORC Section 303.211(D), this Resolution shall have no power to prohibit the sale or use of alcoholic beverages in areas where the establishment and operation of any retail business, hotel, lunchroom, or restaurant is permitted.
- (E) Per ORC Section 303.212, this Resolution shall have no power to prohibit or restrict the location of a permanently sited manufactured home (as defined herein) in any district or zone in which a single-family home is permitted, except that zoning authority is not limited with respect to the following:
- (1) Requirements that a permanently site-manufactured home comply with all zoning requirements that are uniformly imposed on all single-family residences in the district or zone in which it is to be located, excepting requirements that specify a minimum roof pitch and that do not comply with the standards established pursuant to the “Manufactured Housing Construction and Safety Standards Act of 1974,” 88 Stat. 700, 42 U.S.C.A. 5401; and,
 - (2) Prohibiting travel trailers, park trailers, and mobile homes (as defined herein) from location in any residential district or zone, as these terms are defined in

ORC Section 4501.01, and manufactured homes that do not qualify as permanently site-manufactured homes.

- (F) Per ORC Section 303.213, this Resolution, notwithstanding division (A) of ORC Section 303.211, shall have no power to govern the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any small wind farm, as defined in this Code same as ORC Section 303.213(A), whether publicly or privately owned, or the use of land for that purpose, more strict than the regulations prescribed in rules adopted under division (C)(2) of ORC Section 4906.20 pursuant to economically significant wind farm.

1.103.8 **Severability**: Should any article, chapter, section, paragraph, sentence, phrase, word, table, exhibit, or provision of this Resolution be declared by a Court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect any of the remainder of the Zoning Code.