

## **ARTICLE 5**

### **PROCEDURES AND REQUIREMENTS FOR CONDITIONAL USE PERMITS; SUBSTANTIALLY SIMILAR USES; ACCESSORY USES**

#### **500 REGULATION OF CONDITIONAL USES**

The provisions of Sections 500 to 552 inclusive of this Resolution apply to the location and maintenance of any and all conditional uses.

#### **501 PURPOSE**

In recent years, the characteristics and impacts of an ever-increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety, and general welfare of the community. Toward these ends, it is recognized that this Resolution should provide for more detailed evaluation of each use conditionally permissible in a specific district with respect to such considerations as location, design, size, method(s) of operation, intensity of use, public facilities requirements, and traffic generation. Accordingly, conditional use permits shall conform to the procedures and requirements of Sections 510 to 552 of this Resolution.

#### **510 CONTENTS OF CONDITIONAL USE PERMIT APPLICATION**

Any owner, or agent thereof, of property for which a conditional use is proposed shall make an application for a conditional use permit by filing it with the Zoning Administrator, who shall within seven (7) days transmit it to the Board of Zoning Appeals. Such application at a minimum shall contain the following information:

1. Name, address and phone number of the applicant;
2. Legal description of the property and proof of ownership;
3. Zoning district;
4. Description of existing use;
5. Description of proposed conditional use;
6. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading areas, streets and traffic accesses, open spaces, refuse and service areas, utilities, signs, yards, landscaping features, and such other information as the Board may require;
7. A narrative statement discussing the compatibility of the proposed use with the existing uses of adjacent properties and with the comprehensive plan to include an evaluation of the effects on adjoining properties of such elements as traffic circulation, noise, glare, odor, fumes, and vibration;
8. A list containing the names and mailing addresses of all owners of property within five hundred (500) feet of the property in question;
9. A fee as established by Resolution;
10. A narrative addressing each of the applicable criteria contained in Section 520.

#### **520 GENERAL STANDARDS FOR ALL CONDITIONAL USES**

In addition to the specific requirements for conditionally permitted uses as specified in Section 530, the Board shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

1. Is in fact a conditional use as established under the provisions of Article 8 and appears on the Schedule of District Regulations adopted for the zoning district involved;

2. Will be in accordance with the general objectives, or with any specific objective, of the Township's comprehensive plan and/or the zoning ordinance;
3. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
4. Will not be hazardous or disturbing to existing or future neighboring uses;
5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
7. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
8. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;
9. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance;
10. Will not permit loud speakers which cause a hazard or annoyance;
11. Will not include lighting that constitutes a nuisance, impairs safe movement of traffic on any street or highway, or shines directly on adjacent properties;
12. Will keep all permitted installations in a neat and orderly condition so as to prevent injury to any single property, any individual, or to the community in general;
13. Will provide parking spaces as required in this Resolution, provided that the Board of Zoning Appeals may increase the number of required spaces on the basis of the nature of the establishment and on the basis of generally known parking conditions in the neighborhood;
14. Will have the design, location, and surface of the parking area subjected to approval of the Board of Zoning Appeals so as to reduce congestion, promote safety, and reduce the impact on the surrounding neighborhood;
15. Will have all permanent buildings constructed and designed so as to conform to the setback and building design of existing uses in the district.

### **530 SPECIFIC CRITERIA FOR CONDITIONAL USES**

The following are specific conditional use criteria and requirements for those uses conditionally permitted in this Resolution as provided for in the Conditional Uses Schedule of District Regulations. Nothing in this Section shall prohibit the Board of Zoning Appeals from prescribing supplementary conditions and safeguards in addition to these requirements in accordance with Article 5.

1. Bed and Breakfast (B&B) Home<sup>1</sup>– R-1 (Residential), NC (Neighborhood Commercial)<sup>2</sup>
  - a. B&Bs shall be allowed as a Conditional Use in the R-1 and the NC districts.<sup>2</sup>
  - b. The owner of the proposed B&B shall at the time of the request to Board of Zoning Appeals for a conditional use, show proof from the Ashtabula County Health Department that the property has an individual lot sanitary system and/or is serviced by a public sewer.<sup>2</sup> This is necessary due to the proposed change of use.

<sup>1</sup> Section 530(1) Added 4/20/06

<sup>2</sup> Section (530) (1), (1)(a), (1)(b), (1)(h), (1)(i), (1)(q), (1)(s) Amended 11/24/07

- c. The dwelling shall be on an individual permanent parcel of land and be a currently conforming lot.
- d. In the R-1 district a Hosted B&B may have three (3) rooms for guests with no more than seven (7) total guests.
- e. In the R-1 district an Un-Hosted B&B may have two (2) rooms for guests with no more than five (5) total guests.
- f. In the NC district a Hosted B&B may have four (4) rooms for guests with no more than ten (10) total guests.
- g. In the NC district an Un-Hosted B&B may have four (4) rooms for guests with no more than ten (10) total guests.
- h. The length of stay at all B&Bs<sup>3</sup> shall not exceed seven (7) days and rental fees shall be based on daily rental rates only.
- i. The rooms used for guests shall be part of the primary R-1 or NC use and not specifically constructed for rental use. Requests for a B&B shall not be granted if the essential character of a lot or structure within an R-1 or NC district,<sup>3</sup> if in terms of use, traffic generation or appearance, will be detrimental to the surrounding community.
- j. All B&B's shall be subject to all the standards set forth by the Ohio Basic Building Code, as amended, and subject to inspections by local, county and state fire officials, if applicable. The owner of the proposed B&B shall, at the time of the request to the Board of Zoning Appeals for a conditional use, show evidence of compliance with this section from the Ashtabula County Building Department and the local Fire Department.
- k. Fire exit instructions and emergency numbers for safety agencies and the owner's full name, address and telephone number shall be posted in each sleeping room and at the front entrance. Each room must have a smoke detector and one (1) visible fire extinguisher per floor of the dwelling.
- l. Off-street parking shall be provided at the rate of one (1) space per guest room, plus two (2) extra spaces. The front setback shall not be used for parking.
- m. Signage shall identify rather than advertise the establishment. See Article 12 for allowed signage.
- n. Buffering is required between two (2) different land uses to provide adequate sight, glare, reflection, noise, and air pollution control to protect the living conditions of adjacent residents. Buffering can be terrain or other natural features or planted materials that must be in place and effective from the first day of operation. It shall be maintained to provide its intended function and also so the buffering does not restrict or limit traffic sight distance visibility.
- o. Landscaping shall be aesthetically pleasing and must be planted and maintained to provide privacy to nearby residents.
- p. In the R-1 district, no other commercial industry, including retail sales, or home occupation shall be allowed if a B&B is operating on the property.
- q. If food is offered,<sup>1</sup> the owner must comply with all O.R.C. and Ashtabula Health Department rules and regulations. Certification for such compliance by the appropriate official must accompany the request for the conditional use.
- r. The only meal provided to guests shall be breakfast and shall only be served to registered guests in the facility. No food preparation shall be allowed within any bedroom.
- s. A B&B shall not be within 600 feet of another such establishment in the R-1 District<sup>3</sup>.

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<sup>1</sup> Section (530) (1), (1)(a), (1)(b), (1)(h), (1)(i), (1)(q), (1)(s) Amended 11/24/07

2. Canoe Livery/ (R-1 District)
  - a. No more than twenty-four (24) canoes may be stored on the property except in enclosed buildings. If not enclosed, canoes may just be stored on racks. Storage may be no less than fifty (50) feet from any property line.
  - b. All additional equipment related to the business (including but not limited to lifejackets, paddles, cushions) must be stored in enclosed buildings.
  - c. Canoes may be put in and taken out only at points of public access as defined by the Ohio Department of Natural Resources.
  - d. Conditions as listed in Section 1000.73 (Home Occupation).
3. Cemetery / (R-1 District)
  - a. The site shall have direct access to a major thoroughfare which the Board of Zoning Appeals determines is adequate to serve the size of the facility proposed.
  - b. Any new cemetery shall be located on a site containing not less than twenty-five (25) acres.
  - c. All buildings, including but not limited to mausoleums and maintenance buildings, shall not be located within 100 feet of any property line.
  - d. All graves or burial lots shall be set back not less than fifty (50) feet from any property line.
4. Child Day Care Center / (R-1, R-2, NC District)
  - a. Outdoor playgrounds, tot lots, exercise areas, etc. shall be fully enclosed by a fence, the height and design which shall be approved by the Board of Zoning Appeals.
  - b. The applicant shall submit a parking and traffic circulation plan to the Board of Zoning Appeals for approval. The design, location, and surface of the parking areas and vehicular approaches shall be subject to approval by the Board of Zoning Appeals so as to reduce congestion, promote safety, and reduce the impact on the residential character of the neighborhood. The plan shall provide for the separation of incoming and outgoing vehicles during high volume periods and shall provide a safe drop-off point for children that will not impede other traffic.
5. Funeral Home / (NC, AC Districts)
  - a. The applicant shall submit a parking and traffic circulation plan to the Board of Zoning Appeals for approval. The design, location, and surface of the parking areas and vehicular approaches shall be subject to approval by the Board of Zoning Appeals so as to reduce congestion, promote safety, and reduce the impact on the residential character of the neighborhood. The plan shall provide for the separation of incoming and outgoing vehicles during high volume periods and shall provide a safe drop-off point for visitors that will not impede other traffic.
6. Recreation & Community Center Building / (R-1, R-2 Districts)
  - a. Screenings and plantings to buffer any structures other than buildings from adjacent residential uses are required.
  - b. Outdoor playgrounds, tot lots, exercise areas, etc. shall be fully enclosed by a fence, the height and design which shall be approved by the Board of Zoning Appeals.
  - c. The applicant shall submit a parking and traffic circulation plan to the Board of Zoning Appeals for approval. The design, location, and surface of the parking areas and vehicular approaches shall be subject to approval by the Board of Zoning Appeals so as to reduce congestion, promote safety, and reduce the impact on the residential character of the neighborhood. The plan shall provide for the separation of incoming and outgoing vehicles during high volume periods and shall provide a safe drop-off point for persons that will not impede other traffic.

7. Veterinary Clinic, Kennel, and Animal Shelter<sup>1</sup> / (R-1, NC, AC Districts)
  - a. Outdoor pens and exercise runs shall be kept in a clean and sanitary condition and shall be screened from public view. A screening plan shall be submitted to the Board of Zoning Appeals for approval.
  - b. Sanitation practices shall be adequate to assure that objectionable odors shall not be noticeable on or off the lot considering various wind conditions.
  - c. The applicant shall submit a written statement showing the measures and practices he will use to reduce the noise level in the design of the building and the management or rotation of animals in outdoor exercise runs.
  - d. No dead animals shall be buried on the premises and incineration of dead animals shall not create odors or smoke.
  - e. Screenings and plantings to buffer any structures other than buildings from adjacent residential uses are required.
8. Signs, Off-Premise (101-1200 sq. ft.) / (R-1, NC, IOP, AC District)
  - a. Off-premise signs for the purpose of the message being read from the main traveled way of a highway on the interstate or primary system as defined in the Ohio Revised Code §5516:
    1. Shall have a valid current permit per Ohio Revised Code §5516;
    2. Shall not exceed 1200 square feet in area;
    3. Shall not exceed 35 feet in height;
    4. Shall comply with all other regulations of the appropriate zoning district;
    5. Shall be no closer than 500 feet to any other off-premise sign, including those on the opposite side of thoroughfares.
  - b. Off-premise signs more than 100 square feet, but not to exceed 300 square feet:
    1. Shall be located only on Major State Collectors, Minor Collectors, or Major Local Collectors as defined by the County Thoroughfare Plan;
    2. Shall be set back a minimum of 20 feet from the road right-of-way;
    3. Shall be set back a minimum of 50 feet from any property line;
    4. Shall not exceed 35 feet in height;
    5. Shall be no closer than 500 feet to any other off-premise sign, including those on the opposite side of thoroughfares;
    6. Shall have supporting structures screened with appropriate landscaping.
9. Airports and landing fields / (NC District)
  - a. Site locations should be preferred that offer natural or man-made barriers that would lessen the effect of intrusion into a residential area;
  - b. Such uses shall not be conducted closer than 500 feet from any residential district, nor closer than 200 feet from any structure used for human occupancy in any other district.
10. Amusement enterprises (excluding theater) / (NC, AC Districts)
  - a. Structures shall have primary access to a major state, major local, or minor collector thoroughfare as defined by the County Major Thoroughfare Plan;
  - b. The following apply to the NC District only:
    1. Such structures should be located adjacent to parks and other non-residential uses such as schools and shopping facilities where use could be made of joint parking facilities;
    2. Truck parking areas, maneuvering lanes, and accessways to public thoroughfares shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site. The site shall not be used for the storage of trucks, and truck parking shall be limited to a time not to exceed 24 hours;
    3. The establishment shall not operate between the hours of midnight and 7:30 A.M.

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<sup>1</sup> 530(7) Animal Shelter Added 10/19/11

11. Convalescent / Nursing Homes / (NC, R-2 Districts)
  - a. Screenings and plantings to buffer any structures other than buildings from adjacent residential uses are required;
  - b. The applicant shall submit a parking and traffic circulation plan to the Board of Zoning Appeals for approval. The design, location, and surface of the parking areas and vehicular approaches shall be subject to approval by the Board of Zoning Appeals so as to reduce congestion, promote safety, and reduce the impact on the residential character of the neighborhood. The plan shall provide for the separation of incoming and outgoing vehicles during high volume periods and shall provide a safe drop-off point for persons that will not impede other traffic.
12. Drive-in Food Dispensary / (NC District)
  - a. Structures shall have primary access to a major state, major local, or minor collector thoroughfare as defined by the County Major Thoroughfare Plan;
  - b. The applicant shall submit a parking and traffic circulation plan to the Board of Zoning Appeals for approval. The design, location, and surface of the parking areas and vehicular approaches shall be subject to approval by the Board of Zoning Appeals so as to reduce congestion, promote safety, and reduce the impact on the residential character of the neighborhood. The plan shall provide for the separation of incoming and outgoing vehicles during high volume periods and shall provide a safe drop-off point for persons that will not impede other traffic.
13. Firearm Ranges and/or Target Shooting Buildings / (NC District)
  - a. Site locations should be preferred that offer natural or man-made barriers that would lessen the effect of intrusion into a residential area;
  - b. Truck parking areas, maneuvering lanes and accessways to public thoroughfares shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site. The site shall not be used for the storage of trucks, and truck parking shall be limited to a time not to exceed 24 hours;
  - c. The establishment shall not operate between the hours of midnight and 7:30 A.M.
14. Home Occupations / (R-1, R-2, NC, AC Districts) See Section 1000.70
15. Barber/Beauty Shops / (R-1, R-2 Districts) See Section 1000.70.
16. Antique Sales / (AC<sup>1</sup>/NC District)
  - a. See Section 1000.73;
  - b. Truck parking areas, maneuvering lanes, and accessways to public thoroughfares shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site. The site shall not be used for the storage of trucks, and truck parking shall be limited to a time not to exceed 24 hours.
17. Heliport / (NC, AC Districts)
  - a. For NC District only:
    1. Site locations should be preferred that offer natural or man-made barriers that would lessen the effect of intrusion into a residential area;
    2. Such uses shall not be conducted closer than 500 feet from any residential district, nor closer than 200 feet from any structure used for human occupancy in any other district.
  - b. For AC District only:
    1. All structures and activity areas should be located at least 100 feet from all property lines.
18. Miniature Golf, Tennis, Archery, Baseball/Softball, Basketball, Volleyball, Football/Soccer Facilities that are Commercial or Club-Related / (NC, AC Districts)
  - a. For AC District only:

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<sup>1</sup> Section 530(16) Amended 8/1/02

1. Structures shall have primary access to a major state, major local, or minor collector thoroughfare as defined by the County Major Thoroughfare Plan;
  2. The establishment shall not operate between the hours of midnight and 7:30 A.M.
  - b. For NC District only:
    1. Structures shall have primary access to a major state, major local, or minor collector thoroughfare as defined by the County Major Thoroughfare Plan;
    2. Truck parking areas, maneuvering lanes, and accessways to public thoroughfares shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site. The site shall not be used for the storage of trucks, and truck parking shall be limited to a time not to exceed 24 hours;
    3. The establishment shall not operate between the hours of midnight and 7:30 A.M.;
    4. Such structures should be located adjacent to parks and other non-residential uses such as schools and shopping facilities where use could be made of joint parking facilities;
    5. Screening and plantings to buffer any structures other than buildings from adjacent residential uses are required.
19. Pet Shops, Bird Stores, Taxidermists / (NC District)
- a. Outdoor pens and exercise runs shall be kept in a clean and sanitary condition and shall be screened from public view. A screening plan shall be submitted to the Board of Zoning Appeals for approval.
  - b. Sanitation practices shall be adequate to assure that objectionable odors shall not be noticeable on or off the lot considering various wind conditions.
  - c. The applicant shall submit a written statement showing the measures and practices he will use to reduce the noise level in the design of the building and the management or rotation of animals in outdoor exercise runs.
  - d. No dead animals shall be buried on the premises and incineration of dead animals shall not create odors or smoke.
  - e. Screenings and plantings to buffer any structures other than buildings from adjacent residential uses are required.
20. Physical Culture Establishments / (AC District)
- a. The establishment shall not operate between the hours of midnight and 7:30 A.M.
21. Radio & Television Studios and Towers
- a. Accessory Use / (AC District)
    1. All structures and activity areas should be located at least 100 feet from all property lines, or the height of the tower, whichever is greater;
    2. The area of use shall be completely enclosed by a six (6) foot fence and appropriately landscaped to be harmonious with surrounding properties;
    3. Shall meet FCC specifications.
  - b. Principal Use / (AC District)
    1. Sections 1000.40 - 1000.45 to apply.
22. Retail Stores Conducting Incidental Light Manufacturing or Processing of Goods Above the First Floor or in the Basement to be Sold Exclusively on the Premises and Employing Not More Than 10 Operatives / (NC District)
- a. Truck parking areas, maneuvering lanes, and accessways to public thoroughfares shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site. The site shall not be used for the storage of trucks, and truck parking shall be limited to a time not to exceed 24 hours;
  - b. The establishment shall not operate between the hours of midnight and 7:30 A.M.

23. Storage Warehouse and Yards / (NC, AC Districts)
  - a. Structures shall have primary access to a major state, major local, or minor collector thoroughfare as defined by the County Major Thoroughfare Plan;
  - b. For NC District only: Truck parking areas, maneuvering lanes, and accessways to public thoroughfares shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site. The site shall not be used for the storage of trucks, and truck parking shall be limited to a time not to exceed 24 hours.
24. Residential Care Facilities (Group Homes) / (R-2, NC Districts)
  - a. Sections 1000.80-1000.85 shall apply.
25. Amusement Arcades / (RC, NC, AC District)
  - a. See Section 1000.20
26. Adult Entertainment / (IOP District)
  - a. See Section 1000.30
27. Clubs and Places of Entertainment / (NC, AC Districts)
28. Automobile Commercial Parking / (NC, AC Districts)
29. Self-Service Storage Facilities / (AC/NC Districts)<sup>1</sup>
  - a. See Sections 1000.100 – 1000.106
30. Auctions / (NC, AC Districts)<sup>2</sup>

**540 PUBLIC HEARING**

The Board of Zoning Appeals shall hold a public hearing within 30 days after it receives an application for a conditional use permit submitted by an applicant through the Zoning Administrator.

**541 NOTICE OF PUBLIC HEARING**

Before conducting the public hearing required in Section 540, notice of such hearing shall be given in one or more newspapers of general circulation in the Township at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the hearing and shall provide a summary explanation of the conditional use proposed.

**542 NOTICE TO PARTIES OF INTEREST**

Prior to conducting the public hearing required in Section 540, written notice of such hearing shall be mailed by the Chair of the Board of Zoning Appeals, by first class mail, at least ten (10) days before the date of the hearing to all parties of interest, to include all property owners listed in the application. The notice shall contain the same information as required in Section 541 for notices published in newspapers.

**550 ACTION BY THE BOARD OF ZONING APPEALS**

Within 30 days after the date of the public hearing required in Section 540, the Board shall take one of the following actions:

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<sup>1</sup> Section 530(29) Added 5/5/99

<sup>2</sup> Section 530(30) Added 8/1/02

1. Approve issuance of the conditional use permit by making an affirmative finding in writing that the proposed conditional use is to be located in a district wherein such use may be conditionally permitted, that all conditions for approval of such use in such district have been met, and that such use will neither result in significant negative impacts upon nor conflict with surrounding uses. Such written finding may also prescribe supplementary conditions and safeguards as specified in Section 551. Upon making an affirmative finding, the Board shall direct the Zoning Administrator to issue a conditional use permit for such use which shall list all conditions and safeguards specified by the Board for approval;
2. Make a written finding that the application is deficient in information or is in need of modification and is being returned to the applicant. Such finding shall specify the information and/or modifications which are deemed necessary;
3. Make a written finding that the application is denied, such finding specifying the reason(s) for disapproval. If an application is disapproved by the Board, the applicant may seek relief through the Court of Common Pleas. Appeals from Board decisions shall be made in the manner specified in Section 1340.

**551 SUPPLEMENTARY CONDITIONS AND SAFEGUARD**

In granting approval for any conditional use, the Board may prescribe appropriate conditions and safeguards in conformance with this Resolution. Any violation of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a punishable violation of this Resolution.

**552 EXPIRATION OF CONDITIONAL USE PERMIT**

A conditional use permit shall be deemed to authorize only one particular conditional use, and said permit shall automatically expire if such conditionally permitted use has not been instituted or utilized within one (1) year of the date on which the permit was issued, or if for any reason such use shall cease for more than one (1) year. Conditional use permits and their conditions and restrictions will transfer to a new owner when the property is sold or transferred. The Zoning Inspector will review the conditional use permit and conditions and restrictions with the new owner. If changes are requested, the Zoning Inspector will refer the new owner to the Zoning Board of Appeals.

**560 PROCEDURE AND REQUIREMENTS TO DETERMINE THAT A USE IS SUBSTANTIALLY SIMILAR**

Where a specific use is proposed that is not listed or provided for in this Resolution, the Board of Zoning Appeals may make a determination, upon appeal, that the proposed use is substantially similar to a specific use that is listed or provided for in this Resolution. If the Board finds that a use is substantially similar to a specific use listed in this Resolution, the substantially similar use is deemed to be a substantially similar permitted use in those districts where the specific use is a permitted use, and a substantially similar conditional use in those districts where the specific use is a conditionally permitted use.

In formulating a determination that a proposed use is a substantially similar use, the Board shall follow the procedures relating to appeals and variances as specified in Article 4 of this Resolution. Upon making a determination that a proposed use is substantially similar, the Board shall notify the Township Trustees of its decision and shall include in its written findings the reasoning upon which the decision is based. Unless the decision is rejected within 30 days of its receipt by the Township Trustees, such substantially similar use determination by the Board shall become effective.

**561 REMEDY BY APPLICATION FOR AMENDMENT**

If the Board determines that a proposed use is not substantially similar, such determination shall not be appealed to the Township Trustees, but remedy may be sought by the appellant through the submission of an application for amendment as prescribed in Article 6.

**562 STANDARDS FOR CONSIDERATION OF SUBSTANTIALLY SIMILAR USES**

The following standards shall be considered by the Board when making a determination that a use is substantially similar to a permitted or a conditional use within a specific district:

1. The compatibility of the proposed use with the general use classification system as specified in this Resolution;
2. The nature, predominant characteristics, and intensity of the proposed use in relation to those uses specified by this Resolution as being permitted, or in the case of a conditional use, conditionally permitted, in that district;
3. The size, dimensional requirements, parking requirements, traffic generation potential, and other regulatory considerations normally associated with uses as specified in this Resolution.

**563 EFFECT OF DETERMINATION THAT A USE IS SUBSTANTIALLY SIMILAR**

Should a use be determined to be substantially similar to a specific permitted or conditionally permitted use provided for in this Resolution, it shall then be permitted in the same manner and under the same conditions and procedures as the use is permitted to which it has been found to be substantially similar.

**564 RECORD OF SUBSTANTIALLY SIMILAR USES**

The Zoning Administrator shall maintain as a public record a listing of all uses which have been determined to be substantially similar. For each such use the record shall include the use as listed in the Resolution, the use unlisted in the Resolution about which the determination of substantial similarity was made, and the dates of any actions thereupon by the Board of Zoning Appeals or the Board of Township Trustees. This record shall also contain the same information for all uses which have been determined not to be substantially similar. The Zoning Administrator shall consult this record in the process of issuing future permits.

**570 REGULATION OF ACCESSORY USES**

The provisions of Sections 570-575 inclusive of this Resolution shall apply to the location and maintenance of accessory uses as herein defined.

**571 PURPOSE**

It is the purpose of Sections 570-575 inclusive of this Resolution to regulate accessory uses in order to promote the public health, safety, and welfare. It is the intent of these Sections to permit such uses to be established and maintained in a manner which makes them compatible with principal uses and harmonious with uses upon adjacent properties.

**572 DEFINITION**

"Accessory Use" means a use, object, or structure constructed or installed on, above, or below the surface of a parcel, which is located on the same lot as a principal use, object, or structure, and which is subordinate to or serves the principal use, object, or structure, is subordinate in area to the principal use, object, or structure, and is customarily incidental to the principal use, object, or structure. Among other things, accessory use includes anything of a subordinate nature attached to or detached from a principal structure or use, such as fences, walls, sheds, garages, parking places, decks, poles, poster panels, and billboards. Except as otherwise required in this Resolution, an accessory use shall be a permitted use.

**573 GENERAL REQUIREMENTS**

Except as otherwise provided in this Resolution, an accessory use or structure shall be permitted in association with a principal use or structure provided that:

1. It shall be 100 percent or less of the gross floor area of the principal use or structure, except where additional space is needed to comply with off-street parking requirements<sup>1</sup>;
2. It shall not contain or be used as a dwelling unit;
3. It shall not exceed 35 feet in height.
4. It shall meet all yard requirements of the principal use unless otherwise specified in this Resolution.

**574 DWELLINGS AS ACCESSORY USES**

Dwellings may be accessory uses in residential districts if located inside the principal home or if detached as a garage apartment, only if used as a residence by relatives or household servants and no rent is charged. Mobile home trailers shall not be permitted as accessory uses in any district.

**575 ACCESSORY ELDERLY DWELLING UNIT**

Notwithstanding the provisions of Subsection (2) of Section 901 of this Resolution, an owner-occupied single-family dwelling unit may be converted to allow the incorporation of one additional dwelling unit for the exclusive occupancy of an elderly household, a member of which shall be an elderly person related to the owner of the single-family dwelling unit. Such accessory elderly dwelling unit shall be wholly contained within the existing principal building or shall be attached to it by a common wall, floor or ceiling. The application for the zoning permit for such conversion shall be accompanied by an affidavit attesting to the owner's present occupancy of the dwelling unit and to the age and relationship of the elderly person.

**576 RETAIL SALES AND SERVICES AS ACCESSORY USES**

Retail sales and services are permitted as accessory uses when clearly incidental to the principal use. With the exception of restaurants in conjunction with a motel, such uses shall be conducted wholly within the principal building, and without exterior advertising or display. These activities shall be conducted solely for the convenience of the employees, patients, patrons, students, or visitors and not for the general retail public. In hospitals and clinics these accessory uses may include drug stores, florists, gift and book shops, and cafeterias. In institutional settings, office buildings, hotels, country club houses, and airports, such activities may include gift and book shops, restaurants, cafeterias and coffee shops, lounges, pro shops, and beauty and barber shops.

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<sup>1</sup> Section 573(1) Amended 5/12/00

## 577 SMALL WIND ENERGY SYSTEMS<sup>1</sup>

Applicants requesting a conditional use permit for a Small Wind Energy System and any attached appurtenances shall furnish such scale drawings and information as the Township Board of Zoning Appeals deems necessary, including the following:

1. A site plan of the premises involved showing lot lines, the accurate location of all buildings or structures on the premises and on each adjoining lot and the location of the proposed tower and guy wires, poles or anchors, and a sketch elevation of the premises accurately depicting the proposed tower and its relationship to structures on adjacent lots.
2. A wind tower for a small wind energy system shall be set back a distance equal to 1.5 times its total height from all property lines. No part of the system, including guy wire anchors, may extend closer than 25 feet to the property boundary. Total height shall not exceed 152 feet. Total height means the vertical distance from the finished grade ground level to the tip of a wind generator blade when the tip is at the highest point.
3. Any blade arcs created by said tower's appurtenances shall be a minimum of thirty (30) feet above the finish grade ground level.
  4. All power lines leading from the tower to any structure shall be buried under ground.
  5. The tower shall be guarded against unauthorized climbing. The first fifteen (15) feet of the tower shall not be climbable by design or the tower must be enclosed by a non-climbable eight (8) foot high fence.
  6. No part of a tower or support(s), or any equipment lines used in connection therewith or connect thereto, shall be constructed in any other yard than the rear yard area of a lot.
  7. A small wind energy system that has been out of service for a 2-year period will be deemed to have been abandoned. The Zoning Inspector shall notify the owner and the inoperable system shall be removed within ninety (90) days.
  8. A wind tower shall not be artificially lighted except where required by the FAA.
  9. Any sign visible from a public roadway is limited to 6 sq. ft. for the manufacturer's name, installer's identification, appropriate warning signs, or owner identification on a wind generator, wind tower, building, or other structure associated with a small wind energy system.
10. Small wind energy systems noise shall not exceed 60 dBA of sound in the R1,NC,RC,IOP and AC districts as measured at the closest neighboring inhabited building.
11. Each property in the R1,NC,RC districts may have up to one (1) 10 kilowatt wind energy system.
12. Each property in the IOP and AC districts may have up to (1) 100 kilowatt wind energy system.
13. A small wind energy system shall comply with all the applicable building and electrical codes including FAA, EPA, Corps of Engineers, ODNR and OEPA.

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<sup>1</sup> Section 577 Added 03-06-13