

ARTICLE 3

GENERAL PROVISIONS

3.01	Development Standards	3.05	Water Management & Sediment Control (WMSC) 11/17/04
3.02	Maintenance Standards	3.06	Establishment of Riparian Setback 1/5/05
3.03	Nonconforming Uses	3.07	Driveways 7/21/10
3.04	Reserved	3.08	Medical Marijuana 6/14/17

3.01 DEVELOPMENT STANDARDS: In addition to the other provisions of this Resolution, the following standards shall apply in all districts:

- (a) **Construction Standards:** All development defined in 2.02 of the Resolution shall comply with County and Ohio construction standards.
- (b) **Drainage and Grading:** No development which would change the existing drainage or grade of a lot shall be approved until adequate provisions are made to prevent standing water, erosion, or excessive run-off. The removal from a lot of soil, gravel, minerals, rock, sand or stone other than excess material resulting from approved development shall be prohibited unless conditionally approved. 8/15/18
- (c) **Driveways:** No lot shall have more than two (2) driveways unless otherwise shown on its approved Development Plan. See 6.01 (b). Driveways shall be spaced at least fifty feet (50') apart, and be between twelve feet (12') and thirty feet (30') wide. Within fifty feet (50') of a road right-of-way, each driveway's horizontal alignment shall be not less than sixty (60) degrees; and its grade shall not exceed ten (10) degrees. All driveways, turnarounds, and parking areas for residential lots shall be set back a minimum of fifteen feet (15') from the lot line (see Appendix "G"). Driveways shall be constructed and maintained so as to be dust free and passable in all weather conditions. The design and construction of all public improvement crossings and driveway/road intersections shall be approved by the County Engineer or the Ohio Department of Transportation along a state route.
- (d) **Flood Prone Areas:** No development of any building, structure or use in any flood prone area shown on the latest version of the Federal Emergency Management Agency (FEMA) Flood Hazard Boundary Maps of the township shall be approved until adequate provisions are made for flood protection and prevention. Such provisions may include but are not limited to the location and elevation of buildings and structures and construction methods in accordance with the regulations adopted by the Geauga County Building Department. In addition, this development shall proceed in accordance with the Auburn Township Zoning Resolution.

- (e) **Lakes and Ponds:** Any pond or lake shall be a setback a minimum of fifty feet (50') from its embankment to septic system lines, leach beds and duplication fields. Any pond or lake shall be setback a minimum of fifty (50) feet from its embankment to any lot line and the road right-of-way, except in the B-2 and I-1 Zoning Districts. In the B-2 and I-1 Zoning Districts, any pond or lake shall be setback a minimum of fifteen feet (15') from its embankment to any lot line and the road right-of-way. However, if adjoining any residential zoning district, then such minimum setback shall be fifty feet (50') from any lot line and the road right-of-way. These regulations shall not apply to retention and detention stormwater management facilities.
- (f) **Paving:** All paved areas shall be graded and drained to allow for proper settling of base materials and surfaces, and to prevent standing water, erosion and excessive run-off.
- (g) **Fences and Landscaping:** All fences and landscaping including earthen mounds or berms shall be in no way hazardous to any traffic movement. Unless otherwise provided for in this Resolution, fences, walls, and earthen mounds or berms shall not exceed four (4) feet in height in any front yard or exceed six (6) feet in height in any side or rear yard. All areas between fences, walls, and earthen mounds or berms and their adjoining lot lines shall be landscaped with grass or shrubs and maintained by the owner of the lot. When required by this Resolution, the screening and landscaping of an area, lot or use shall be made apart of its approved Development Plan. See 6.01 (b). (5/19/04)
- (h) Deleted April 14, 2005. **Reserved**
- (i) **Public Improvements:** All existing and planned public improvements related to the development of any area, lot or use shall be made a part of its approved Development Plan. See 6.01 (b).
- (j) **Sewer and Water Facilities:** No development requiring sewer and water facilities shall be approved by the Zoning Inspector prior to their approval by the County Health Department.

3.02 MAINTENANCE STANDARDS: No land or structure shall be used in any way which is unhealthy, hazardous, noxious or otherwise injurious to public health, safety, comfort or general welfare. Accordingly, the following standards shall apply in all districts.

- (a) **General Standards:** In addition to the other provisions of this Resolution and other Township, County and Ohio regulations related to injurious effects such as unsafe structures, the storage of unlicensed vehicles, health hazards and water pollution, the following standards.
 - (1) **Air Pollution:** No use shall pollute the air with flyash, dust, gases or vapors beyond its lot lines.
 - (2) **Erosion:** No erosion by wind or water on any lot which adversely affects the use or drainage of any other lot shall be permitted.

- (3) **Flammable and Explosive Materials:** The production, use or storage of flammable or explosive materials shall be prohibited, unless approved by the Township Fire Department and Ohio Fire Marshall
 - (4) **Light Trespass** – No use shall cause light trespass resulting in either glare or direct glare. 11/19/13
 - (5) **Noise:** No use shall emit noise which is objectionable due to volume, frequency or beat beyond its lot lines and as further regulated for business and industrial districts in Section 4A.12. Devices such as sirens used solely for public safety or emergency purposes are exempt from this standard. 7/19/17
 - (6) **Noxious Substances:** The storage of any substance producing odor or dust shall be located at least 50 feet from any lot line. 3/6/13
 - (7) **Radio and Electrical Disturbances:** No use shall emit radio or electrical disturbances beyond its lot lines.
 - (8) **Vibrations:** No use creating vibrations beyond its lot lines shall be permitted.
 - (9) **Building Materials:** Except for building materials including equipment, machinery and vehicles used directly in the development of a lot, such materials shall be stored only in enclosed buildings, unless otherwise specified on its approved Development Plan. See 6.01 (b).
 - (10) **Vehicles:** Unless otherwise provided for in this Resolution, vehicles such as automobiles, boats, campers and trucks shall be only parked in side and rear yards. Unlicensed or disabled motor vehicles shall be stored only in enclosed buildings on a lot, unless otherwise specified on its approved Development Plan. See 6.01 (b).
- (b) **Other Standards:** In addition to the preceding provisions, standards for the maintenance of accessory and conditional uses shall apply. See 5.02 and 5.03. 3/6/13

3.03 NONCONFORMING USES

- (a) **Nonconforming Use of Buildings and Land Not Affected By Zoning:** The lawful use of any dwelling, building, or structure and of any land or premises, as existing and lawful at the time of enactment of the zoning resolution or amendment thereto, may be continued, although such use does not conform with the resolution or amendment, but if any such nonconforming use is voluntarily discontinued for two (2) years or more, any future use of said land shall be in conformity with the zoning resolution or amendment thereto.

- (b) **Completion of Nonconforming Buildings or Structures:** The construction of any dwelling, building, or structure which commenced prior to enactment of the zoning resolution or amendment thereto, and for which a zoning certificate has been lawfully obtained, may be continued and completed, although such use does not conform with the zoning resolution or amendment thereto. Construction is hereby defined as the placing of construction materials in permanent position and fastened in a permanent manner. Construction must be completed within one (1) year of enactment of the zoning resolution or amendment thereto for the building or structure to be a lawful nonconforming use as provided in section 3.03 (a) herein. A building or structure shall be deemed complete for purposes of this section only upon issuance of an occupancy permit by the appropriate building authority.
- (c) **Restoration of Nonconforming Uses:** On any nonconforming building or structure, or portion of a building or structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the square footage existing when it became nonconforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building, structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- (d) **Destruction of a Building or Structure**
 - (1) **Containing a Dwelling Unit:** A building containing a dwelling unit which is substantially destroyed (as defined below) by an act of God or nature, including, but not limited to, fire, snowfall and wind, or which is rendered uninhabitable as determined by the applicable authorities, including, but not limited to, building, health, sanitary and fire authorities, or which is rendered uninhabitable as a result of normal wear and tear, decay or other natural deterioration, may be reconstructed in accordance with the following requirements:
 - (a) Reconstruction must be initiated within one (1) year of the date of the substantial destruction of such building or the date the building becomes uninhabitable as determined by applicable authorities.
 - (b) The extent of nonconformance of the reconstructed building may not be increased in any manner, except with a variance.
 - (c) A zoning certificate for the reconstruction of the building must be obtained. 8/15/18

The reconstructed building may be rebuilt in the same location as the original building. The reconstructed building may be smaller in size than the original building but not smaller than twelve hundred (1,200) square feet. If the reconstructed building is smaller in area than the original building, then the new, smaller dimensions will control any future reconstruction. The expansion and/or enlargement of the building which increases or extends the nonconformity shall require an application for a variance.

A building containing a dwelling unit shall be considered to be "substantially destroyed" when such building requires repair or rebuilding, the costs of which are eighty percent (80%) or greater than the cost of replacing the entire such building, such repair and replacement costs to be based upon the average of two (2) estimates from independent contractors. The independent contractors must have been licensed and/or registered in Geauga County prior to the date of loss.

The location of a reconstructed building which does contain a dwelling unit shall comply with the front yard, rear yard and side yard requirements, if any, in effect at the time such building was originally constructed but without increasing the nonconformity thereof. If there were no standards in effect at the time the building was built, the location of a reconstructed building shall not be greater than the existing building foot print.

- (2) **Not Containing a Dwelling Unit:** A building or structure which does not contain a dwelling unit which is substantially destroyed (as defined below) by an act of God or nature, including, but not limited to fire, snowfall and wind, or which is rendered unusable as a result of normal wear and tear, decay or other natural deterioration, may be reconstructed only in accordance with this Resolution as in effect at the time of any such reconstruction. A building which does not contain a dwelling unit shall be considered to have been "substantially destroyed" when such building requires repair or rebuilding the costs of which are eighty percent (80%) or greater than the cost of replacing such entire building, such repair and replacement cost to be based upon the average of two (2) estimates from independent contractors. The independent contractors must have been licensed and/or registered in Geauga County prior to the date of loss.
- (3) Should a building or structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(e) **Extension of Nonconforming Uses:**

- (1) No lawful nonconforming building or structure may be enlarged, altered or relocated in a way which increases its nonconformity, but any building, structure or portion thereof, may be altered, enlarged, or relocated to decrease its nonconformity.

- (2) No lawful nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the time of enactment of the zoning resolution or amendment thereto.
 - (3) No lawful nonconforming uses shall be moved in whole or in part to any portion of the lot or property other than that occupied by such uses at the time of enactment of the zoning resolution or amendment thereto.
 - (4) No additional building or structure not conforming to the requirements of the zoning resolution or amendment thereto shall be erected in connection with such nonconforming use of land.
 - (5) No existing building or structure devoted to a use not permitted herein in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
 - (6) Any nonconforming use may be extended throughout any parts of a building or structure which were manifestly arranged or designed for such use at the time of enactment of the zoning resolution or amendment thereto, but no such use shall be extended to occupy any land outside such building or structure.
 - (7) Any building or structure, or building or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
- (f) **Substitution of Nonconforming Uses:** A nonconforming use may be substituted for a lawful nonconforming use provided that such use is of the same kind and character as the prior lawful nonconforming use and does not result in an increase in noise, pollution, traffic, or in the number of persons using the property.
- (g) **Nonconforming Lot of Record:** In any zoning district, a building, structure, or use, as permitted herein, shall be allowed on any lot of record with a lot area or lot width less than the minimum prescribed herein, which meets all of the following:
- (1) It was a lot of record prior to enactment of the zoning resolution or amendment thereto which resulted in nonconformity.
 - (2) It is in conformity with all of the regulations of the zoning resolution or amendment thereto which were in effect at the time it became a lot of record.
 - (3) The amount of nonconformity has not been increased since it became nonconforming.

- (4) It was under separate and different ownership of record from that of adjoining land at the time of enactment of the zoning resolution or amendment thereto which resulted in its nonconformity, and provided further, that it did not come into common ownership of record with any adjoining land at any time thereafter.
 - (5) It complies with all other regulations set forth herein, except minimum lot area and minimum lot width.
 - (6) Nonconforming lots of record may be consolidated so as to reduce any nonconformity regarding minimum lot area and minimum lot width. However, nonconforming lots of record shall not be subdivided so as to increase any nonconformity regarding minimum lot area and minimum lot width.
- (h) **Nonconforming Subdivisions:** In any zoning district, a building, structure, or use, as permitted herein, shall be allowed on any subplot as shown on a final plat of a subdivision approved by the county planning commission pursuant to R.C. 711.10, with a lot area or lot width less than the minimum prescribed herein, which meets all of the following:
- (1) The subplot was shown on a final plat of a subdivision which was approved by the county planning commission pursuant to R.C. 711.10 prior to the initiation of the zoning resolution or amendment thereto which resulted in its nonconformity.
 - (2) If required by the regulations adopted by the board of county commissioners pursuant to R.C. 711.101, a construction plan for the improvements to be constructed within the final plat showing the subplot was approved by the board of county commissioners prior to the initiation of the zoning resolution or amendment thereto which resulted in its nonconformity.
 - (3) It is in conformity with all of the regulations of the zoning resolution or amendment thereto which were in effect at the time of the initiation of the zoning resolution or amendment thereto which resulted in its nonconformity. Provided, however, that the following regulations shall apply to the Tabor Subdivision, recorded in Plat Book 3, Pages 7 and 8 of the Geauga County Plat Records: (ZC2002-04, effective 10/30/02)
 - (a) Minimum lot area .30 (acres)
 - (b) Minimum lot width 95 feet
 - (c) Minimum yard depth (feet)
 - Front 35'
 - Side 10'
 - Rear 5'
 - (d) Maximum lot coverage 10%
 - (e) See 4.03 (h) for maximum building heights

- (4) The amount of nonconformity has not been increased since it became nonconforming.
 - (5) The subplot complies with all other regulations set forth herein, except minimum lot area and minimum lot width.
 - (6) The subplot is shown on a plat which was recorded in the office of the county recorder within two (2) years after the initiation of the zoning resolution or amendment thereto which resulted in its nonconformity.
- (i) **Nonconforming Planned Unit Developments:** Within the former Planned Unit Development (PUD) District (as legally described in Exhibit 11 herein), a zoning certificate may be issued for a building, structure or use which meets all of the following:
(7/31/02)
- (1) It is in conformity with all of the regulations of the zoning resolution or amendment thereto which were in effect at the time of the effective date of the zoning resolution or amendment thereto which resulted in its nonconformity.
 - (2) The amount of nonconformity has not been increased since it became nonconforming.
 - (3) The building site was shown on a final development plan which was approved by Auburn Township in accordance with the regulations then in effect and prior to the effective date of the zoning resolution or amendment thereto which resulted in its nonconformity.

3.05 WATER MANAGEMENT AND SEDIMENT CONTROL (WMSC) (11/17/04)

(a) **Purpose and Intent**

- (1) The purpose of these regulations is to establish technically feasible and reasonable standards to achieve a level of water management and sediment control that will minimize damage to property and degradation of water resources and wetlands, and will promote and maintain the public health and safety.
- (2) These regulations are intended to:
 - a. Allow development while minimizing increases in downstream flooding, erosion, and sedimentation.
 - b. Reduce water quality impacts to receiving water resources and wetlands that may be caused by new development or redevelopment activities.

- (3) These regulations apply to all of the permitted and conditional buildings, structures, and uses set forth in every zoning district in this zoning resolution, except as otherwise provided herein.

(b) Words and Terms Defined

For the purpose of these regulations, the terms used herein shall have the meaning as set forth in the most recently adopted version of the Geauga County Water Management and Sediment Control Regulations. Said terms are adopted and made a part of these regulations as though fully rewritten herein.

(c) Requirements and Application Procedures

- (1) Two (2) sets of a Water Management and Sediment Control (WMSC) Plan shall be included with the application for a zoning certificate for any of the principal permitted, accessory, or conditional buildings, structures, and uses or off-street parking, loading/unloading areas allowed by this resolution and any additions or alterations thereto. 8/15/18
- (2) WMSC Plans are not required for any principal permitted, accessory, or conditional buildings, structures, or uses or off-street parking, loading/unloading areas allowed by this resolution or any additions or alterations thereto disturbing less than three hundred (300) square feet of land area unless the disturbance occurs on a subplot in a platted subdivision.
- (3) The contents of the WMSC Plan shall meet all requirements and recommendations for erosion and sediment control and storm water management contained in the most recent version of the Geauga County Water Management and Sediment Control Regulations.
- (4) If the lot owner is required to prepare a Storm Water Pollution Prevention Plan (SWP3) in accordance with the Ohio Environmental Protection Agency's (EPA) NPDES Permit No. OHC000002, or the most recent version thereof, this SWP3 may be submitted in lieu of a separate WMSC Plan. In situations of conflict between OEPA requirements and these regulations, the most restrictive shall prevail.
- (5) The zoning inspector shall review the WMSC Plans submitted under this resolution and approve for compliance or return for revisions with comments and recommendations for revisions within thirty (30) working days after receipt of the Plan. A disapproved Plan shall receive a narrative report citing specific problems and procedures violated and the procedures for filing a revised Plan to ensure compliance with the Geauga County Water Management and Sediment Control Regulations. At the time the zoning inspector receives a revised Plan, another thirty (30) day review period shall begin.

- (6) Soil disturbing activities shall not begin and zoning certificates or conditional zoning certificates shall not be issued without a WMSC Plan approved by the zoning inspector in accordance with these regulations. 8/15/18
- (7) Any addition or alteration to the site design as shown on the approved WMSC Plan may require the resubmission of said Plan in accordance with these regulations. In making a determination regarding such resubmission, the zoning inspector may consult with the Geauga SWCD. The zoning inspector shall determine if any addition or alteration requires the issuance of a new zoning certificate or conditional zoning certificate. 8/15/18
- (8) The zoning inspector has the authority to ensure erosion, sedimentation, and storm water management controls have been installed and maintained according to the approved plan.

(d) Compliance with State and Federal Regulations

- (1) Approvals issued in accordance with these regulations do not relieve the site owner of responsibility for obtaining all other necessary permits and/or approvals from federal, state, and/or county agencies. Such permits and/or approvals shall be obtained before any zoning certificate or conditional zoning certificate is issued. If requirements vary, the most restrictive requirement shall prevail. 8/15/18
- (2) Soil-disturbing activities regulated under these regulations shall not begin until proof of compliance with all necessary state and federal permits as detailed below has been provided. These permits may include, but are not limited to, the following:
 - a. Ohio EPA NPDES Permits authorizing storm water discharges associated with construction activity or the most current version thereof: Proof of compliance with these requirements shall be a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the lot owner explaining why the NPDES Permit is not applicable.
 - b. Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification approval, public notice or a letter from a qualified professional who has surveyed the lot and explaining why Section 401 of the Clean Water Act is not applicable. Such a letter shall be noted on site plans submitted to the zoning inspector. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the Ohio EPA and U.S. Army Corps of Engineers at the time an application is made under this regulation.

- c. Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit approval or a letter from a qualified professional who has surveyed the lot explaining why the Ohio EPA Isolated Wetland Permit is not applicable. Such a letter shall be noted on site plans submitted to the zoning inspector. Isolated wetlands shall be delineated by protocols accepted by the Ohio EPA at the time an application is made under this regulation.
- d. Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit approval. If an Individual Permit is not required, the lot owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:
 - 1. A letter from a qualified professional who has surveyed the site and explaining why Section 404 of the Clean Water Act is not applicable. Such a letter shall be noted on site plans submitted to the zoning inspector
 - 2. A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.
- e. Ohio Dam Safety Law: Proof of compliance shall be a copy of the Ohio Department of Natural Resources (ODNR) Division of Water Permit application, a copy of the project approval letter from the ODNR Division of Water, or a letter from a qualified professional explaining why the Ohio Dam Safety Law is not applicable.

3.06 ESTABLISHMENT OF RIPARIAN SETBACK (1/5/05)

(a) Purpose and Intent

- (1) The specific purpose and intent of these regulations is to regulate buildings, structures, uses and related soil disturbing activities within riparian setback areas that would impair the ability of these areas to:
 - a. Reduce flood impacts by absorbing peak flows, slowing the velocity of floodwaters, and regulating base flow.
 - b. Assist in stabilizing the banks of designated watercourses to reduce woody debris from fallen or damaged trees, stream bank erosion, and the downstream transport of sediments eroded from such watercourse banks.

- c. Reduce pollutants in designated watercourses during periods of high flows by filtering, settling, and transforming pollutants already present in such watercourses.
 - d. Reduce pollutants in designated watercourses by filtering, settling, and transforming pollutants in runoff before they enter such watercourses.
 - e. Provide designated watercourse habitats with shade and food.
 - f. Reduce the presence of aquatic nuisance species to maintain a diverse aquatic system.
 - g. Provide riparian habitat with a wide array of wildlife by maintaining diverse and connected riparian vegetation.
 - h. Minimize encroachment on designated watercourses and limiting the potential need for invasive measures that may otherwise be necessary to protect buildings, structures, and uses as well as to reduce the damage to real property and threats to public and safety within the affected watershed.
 - i. Preserve and conserve the quality and free flowing condition of designated watercourses in the interest of promoting and protecting public health and safety.
- (2) These regulations have been enacted to protect and enhance the functions of riparian areas by providing reasonable controls governing buildings, structures, uses and related soil disturbing activities within a riparian setback along designated watercourses in Auburn Township. Due to the importance of properly functioning riparian areas, minimum riparian setbacks may be given preference over minimum front, side, or rear yard setbacks as specified in this Resolution in the consideration of an appeal for a variance by the Board of Zoning Appeals.

(b) Applicability

- (1) These regulations shall apply to all zoning districts.
- (2) The regulations set forth herein shall apply to all buildings, structures, uses and related soil disturbing activities on a lot containing a designated watercourse, except as otherwise provided herein.
- (3) The use of any building, structure or lot lawfully existing prior to the effective date of these regulations may be continued, subject to the provisions of Section 3.03 Nonconforming Uses.
- (4) The repair, maintenance, extension, replacement, restoration, reconstruction or substitution of a building, structure or use lawfully existing prior to the effective date of these regulations may be continued or completed, subject to the provisions of Section 3.03 Nonconforming Uses.

- (5) No zoning certificate or conditional zoning certificate shall be issued for any building, structure or use on a lot containing, wholly or partly, a designated watercourse except in conformity with the regulations set forth herein.
- (6) These regulations shall apply when a riparian setback, as set forth in these regulations, is proposed to be impacted.

(c) Establishment of Designated Watercourses and Riparian Setbacks

- (1) A designated watercourse shall include one or more of the following criteria.
 - a. All watercourses draining an area equal to or greater than one-half (0.5) square mile, or
 - b. All watercourses draining an area less than one-half (0.5) square mile and having a defined bed and bank. In determining if watercourses have a defined bed and bank, the Zoning Inspector may consult with representatives of the Geauga SWCD or other technical experts.
- (2) Riparian setbacks on designated watercourses shall be established as follows.
 - a. A minimum of 120 feet on each side of all designated watercourses draining an area equal to or greater than to 20 square miles.
 - b. A minimum of 75 feet on each side of all designated watercourses draining an area equal to or greater than one-half (0.5) square mile and up to 20 square miles.
 - c. A minimum of 25 feet on each side of all designated watercourses draining an area less than one-half (0.5) square mile and having a defined bed and bank as determined in these regulations.
- (3) The following regulations shall apply to riparian setbacks.
 - a. Riparian setbacks shall be measured in a horizontal direction outward from the ordinary high water mark of a designated watercourse, except for existing in-line ponds as addressed in subparagraph "e" herein below. An in-line pond is a permanent pool of water created by impounding a designated watercourse.
 - b. Except as otherwise provided in this regulation, riparian setbacks shall be preserved in their natural state.
 - c. Where the one hundred year floodplain is wider than the minimum riparian setback on either or both sides of a designated watercourse, the minimum riparian setback shall be extended to include the outermost boundary of the one hundred year floodplain as delineated on the flood hazard boundary map(s) for the affected area provided by FEMA.

- d. Where a wetland is wider than the minimum riparian setback on either or both sides of a designated watercourse, the minimum riparian setback shall be extended to include the outermost boundary of the wetland, plus the following additional setback widths based upon the particular wetland category. Wetlands shall be delineated through a site survey prepared by a qualified wetland professional retained by the lot owner using delineation protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.
 1. An additional setback of 50 feet extending beyond the outermost boundary of a category 3 wetlands.
 2. An additional setback of 30 feet extending beyond the outermost boundary of a category 2 wetlands.
 3. No additional setback shall be required beyond the outermost boundary of a category 1 wetlands.
- e. The minimum riparian setback on an in-line pond existing at the time an application for a zoning certificate or a conditional zoning certificate is made under this Resolution shall be measured from the ordinary high water mark on the designated watercourse as it enters said pond and through the impoundment along the centerline of the designated watercourse as it flows through the in-line pond. Riparian setbacks on in-line ponds existing at the time an application is made under this Resolution shall be expanded to include wetlands and flood plains as detailed in Sections 3.06 (c) (3) (c) and 3.06 (c) (3) (d). The creation of new in-line impoundments shall not be permitted under this Resolution.

(d) Riparian Setback Map

- (1) The Riparian Setback Map is attached hereto and made a part of this regulation. The map is identified as Appendix "E". The riparian setback map may be utilized as a reference document by the Zoning Inspector and the Board of Zoning Appeals in determining when the riparian setback applies.
- (2) Nothing herein shall prevent the township from amending the riparian setback map from time to time as may be necessary.
- (3) If any discrepancy is found between the riparian setback map and these regulations or if any discrepancy is found between existing site conditions and these regulations, the criteria set forth in Section (c) shall prevail.

(e) Applications and Site Plan

- (1) The owner shall be responsible for identifying riparian setbacks as required by these regulations and shall indicate such setbacks on a site plan submitted to the Zoning Inspector. The site plan shall be prepared by a professional engineer, surveyor, soils scientist, landscape architect or such other qualified professional and shall be based upon a survey of the affected lot. Two (2) copies of the site plan shall be submitted. In addition to the requirements set forth in this Resolution for a zoning certificate or a conditional zoning certificate, the owner shall provide the following information to the Zoning Inspector.

 - a. A site plan depicting, at a minimum, the following:
 1. The boundaries of the lot with dimensions.
 2. The location of all designated watercourses.
 3. The limits, with dimensions, of the riparian setback.
 4. The existing topography at intervals of two feet.
 5. The location and dimensions of any existing and proposed buildings, structures and uses in relationship to all designated watercourses.
 6. The description and location, with dimensions plus a calculation of the total area, of all land development activities, soil disturbance, and impervious cover.
 7. The description and depiction of all erosion and sedimentation controls plus all storm water management controls, including all temporary and permanent best management practices.
 8. If the lot included in the site plan is a part of a platted and recorded subdivision, the riparian setback shall be as shown on said plat.
 9. North arrow, scale, date, and stamp bearing the name and registration number of the professional consultant who prepared the plan shall be provided.
 - b. Such other supplementary information as may be necessary for the Zoning Inspector or the Board of Zoning Appeals to ensure compliance with the provisions of these regulations.
- (2) The Zoning Inspector, may, in reviewing the site plan, consult with the Geauga SWCD or such other expert(s) retained by the Board of Township Trustees.

- (3) If land development or soil disturbing activities will occur within 50 feet of the outer boundary of the applicable riparian setback as specified in these regulations, then prior to the initiation of any land development or soil disturbing activities, the riparian setback shall be clearly delineated on the affected lot by the owner with construction fencing as shown on the site plan and shall be maintained on the lot until the completion of such development or disturbance activities. No zoning certificate or conditional zoning certificate shall be issued until the riparian setback delineation has been completed on the lot in accordance with the approved site plan.

(f) Permitted Buildings, Structures and Uses within a Riparian Setback without a Zoning Certificate

Only the following buildings, structures, uses and related soil disturbing activities may be permitted within a riparian setback without a zoning certificate:

- (1) Recreational Activities: Fishing, hunting, picnicking, picnic tables, picnic shelters, and wildlife observation areas; trails, walkways, and paths for nonmotorized vehicles constructed of pervious materials.
- (2) Removal of Damaged or Diseased Trees: Damaged or diseased trees and other associated debris may be removed.
- (3) Maintenance and Repairs: Maintenance and repair on lawfully existing buildings, structures, and uses, roads, driveways, bridges, culverts, trails, walkways, paths, wastewater treatment plants and appurtenances, water wells, water treatment plants and appurtenances, storm sewers, and on-site sewage systems.
- (4) Maintenance and Cultivation of Lawns and Landscaping: The maintenance of existing and the cultivation of new, lawns, landscaping, shrubbery, and trees.
- (5) Water Supply Wells: Water supply wells subject to the regulations enforced by the Geauga County General Health District or the Ohio EPA.
- (6) Open Space: Passive open space to preserve the riparian setback area in its natural state.
- (7) On-site Sewage Systems and Waste Water Treatment Plants: On-site sewage systems or waste water treatment plants subject to the regulations enforced by the Geauga County General Health District or the Ohio EPA.

(g) Permitted Buildings, Structures and Uses within a Riparian Setback with a Zoning Certificate

Only the following buildings, structures, uses and related soil disturbing activities may be permitted within a riparian setback, subject to the approval of an application for a zoning certificate by the Zoning Inspector and in accordance with the following regulations and such other applicable regulations contained in this Zoning Resolution:

- (1) Crossings: Crossings of designated watercourses through riparian setbacks with roads, driveways, easements, bridges, culverts, utility service lines (including sanitary sewer, water, septic system, storm sewer, electric, natural gas, telephone, and cable for television or other digital transmission), or other means may be permitted, subject to the other regulations contained in this Resolution and the regulations enforced by the Geauga SWCD and the Geauga County Engineer. If work will occur below the ordinary high water mark of the designated watercourse, proof of compliance with the applicable conditions of a U.S. Army Corps of Engineers Section 404 Permit (either a Nationwide Permit, including the Ohio State Certification Special Conditions and Limitations, or an Individual Permit, including Ohio 401 water quality certification), shall also be provided to the Zoning Inspector. Proof of compliance shall be the following:
 - a. A site plan showing that any proposed crossing conforms to the general and special conditions of the applicable Nationwide Permit, or
 - b. A copy of the authorization letter from the U.S. Army Corps of Engineers approving the activities under the applicable Nationwide Permit, or
 - c. A copy of the authorization letter from the U.S. Army Corps of Engineers approving activities under an Individual Permit.
- (2) Streambank Stabilization Projects: Streambank stabilization projects along designated watercourses, subject to other regulations contained in this Resolution and the regulations enforced by the Geauga SWCD. If streambank stabilization work is proposed below the ordinary high water mark of a designated watercourse, proof of compliance with the applicable conditions of U.S. Army Corps of Engineers Section 404 Permit (either a Nationwide Permit 13, including the Ohio State Certification Special Conditions and Limitations, or an Individual Permit, including Ohio 401 water quality certification), shall be provided to the Zoning Inspector. Proof of compliance shall be the following:
 - a. A site plan showing that any proposed crossing conforms to the general and special conditions of Nationwide Permit 13, or
 - b. A copy of the authorization letter from the U.S. Army Corps of activities under Nationwide Permit 13, or
 - c. A copy of the authorization letter from the U.S. Army Corps of Engineers approving activities under an Individual Permit.
- (3) Storm Water Retention and Detention Facilities: Storm water retention and detention facilities, provided:
 - a. Storm water quality treatment consistent with current Ohio EPA and Geauga County SWCD regulations is incorporated into the basin.
 - b. Storm water retention and detention facilities are located at least 50 feet from the ordinary high water mark of the designated watercourse.
- (4) Signs: Signs in accordance with this Zoning Resolution.

(h) Conditional Buildings, Structures and Uses within a Riparian Setback with a Conditional Zoning Certificate

The following conditional buildings, structures, uses and related soil disturbing activities may be allowed within a riparian setback, subject to the approval of an application for a conditional zoning certificate by the Board of Zoning Appeals in accordance with the conditions herein and such other applicable regulations set forth in this Zoning Resolution.

- (1) Boat Ramps, Decks, and Docks: Boat ramps, decks and docks. Proof of compliance with the applicable regulations of the U.S. Army Corps of Engineers and the Geauga SWCD shall be provided.

(i) Buildings, Structures and Uses Prohibited within a Riparian Setback

Any building, structure, use, or related soil disturbing activity not permitted under this regulation shall be prohibited within a riparian setback. The following buildings, structures, and uses are specifically prohibited.

- (1) Construction: There shall be no buildings, structures, uses or related soil disturbing activities of any kind except as permitted under these regulations.
- (2) Dredging or Dumping: There shall be no drilling, filling, dredging or dumping of soil, spoils, liquids, yard wastes, or solid materials, except for noncommercial composting of uncontaminated natural materials as permitted under these regulations.
- (3) Fences and Walls: There shall be no fences or walls.
- (4) Parking Spaces or Lots and Loading/Unloading Spaces for Vehicles: There shall be no parking spaces, parking lots, loading/unloading spaces, or related soil disturbing activities.
- (5) Roads and Driveways: There shall be no roads, driveways, or related soil disturbing activities except as permitted under these regulations.

(j) Inspection of Riparian Setbacks

The Zoning Inspector shall inspect the delineation of riparian setbacks.

- (1) The owner shall notify the Zoning Inspector at least 5 working days prior to the initiation of any construction, land development or soil disturbing activities on a lot.
- (2) The Zoning Inspector, with prior notice and the authorization of the owner, may enter the affected lot from time to time to conduct on-site inspections to ensure compliance with these regulations.

- 3.07 DRIVEWAYS** (7/21/10): Driveways shall be located a minimum of 200 feet from any road intersection, except in R-1 and R-2 Districts. In cases where the lot frontage is prohibitive of compliance, then the driveway shall be located the maximum distance possible from any road intersection.