ARTICLE 1

TITLE AND ENACTMENT

1.01 Title
1.02 Jurisdiction
1.03 Purpose & Scope
1.04 Interpretations
1.05 Exemptions
1.06 Severability
1.07 Repealer
1.08 Effective Date
1.09 Schedule of Fees, Charges
1.10 Computation of Time
1.11 Irreconcilable Amendments
1.12 Continuation of Prior Amendment
1.13 Effect of Amendment

1.01 **TITLE:** This Resolution shall be known as the "Auburn Township Zoning Resolution" and may be hereinafter referred to as "this Resolution."

1.02 **JURISDICTION:** This Resolution shall apply to all of the unincorporated territory of Auburn Township, Geauga County, Ohio.

1.03 **PURPOSE AND SCOPE**: This Resolution has been enacted in the interest of the public health, safety, convenience, comfort, prosperity or general welfare in accordance with a comprehensive plan and Chapter 519 of the Ohio Revised Code. Any activities permitted and regulated under Chapter 1513 or 151. of the Revised Code and any related processing activities may be regulated only in the interest of public health or safety. Additional purposes of this Resolution are:

A. To divide the township into zoning districts and to provide uniform regulations for each class or kind of buildings, structures and uses within such zoning districts.

B. To regulate the location, height, bulk, and size of buildings and other structures and the percentage of lot coverage by buildings, structures, and impervious surfaces. 3/6/13

C. To regulate building and other structure setback lines (yards). 3/6/13

D. To regulate the density of population by establishing minimum lot size, frontage, and width requirements and minimum setbacks in each zoning district. 3/6/13

E. To regulate the use of buildings and structures in each zoning district and to ensure that appropriate utilities, sewage treatment and water supply facilities, and other matters related to public health and safety are adequately addressed to serve such uses.

F. To conserve and protect the natural resources of the township, including the supply of groundwater and open spaces. 3/6/13

G. To ensure that development is in accord with the capability and suitability of the land to support it.

H. To establish development standards in the districts that effectively manage current and future development to maintain an acceptable balance between commercial/industrial development and the surrounding rural and residential areas.

I. To provide regulations that advance balanced and orderly growth and development in the township as well as preserve sensitive environmental resources in order to maintain the semi-rural character of the Township.

J. To promote and protect the public health, safety, morals and general welfare.

1.04 **INTERPRETATION:** The provisions of this Resolution shall be interpreted and applied as minimum requirements. Whenever its provisions conflict with those of any other lawfully adopted rule, regulation or resolution, the most restrictive shall govern. 3/6/13

1.05 **EXEMPTIONS:** Powers not conferred by Chapter 519 of the ORC or this Resolution follow.

(a) **Agriculture:** This Resolution does not prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, including buildings or structures that are used primarily for vinting and selling wine and that are located on land any part of which is used for viticulture, and no zoning certificate shall be required for any such building or structure. However, this Resolution shall regulate the use of land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located in accordance with R.C. 519.21 (B). 8/15/18

(1) In any platted subdivision approved under Section 711.05, 711.09, or 711.10 of the Revised Code, or in any area consisting of fifteen or more lots approved under Section 711.131 of the 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, the following shall apply:

(aa) On lots of one (1) acre or less, agricultural buildings, structures and uses are prohibited.

(bb) On lots greater than one (1) acre but less than five (5) acres, dairying and animal and poultry husbandry are prohibited when at least thirty-five percent (35%) of the lots in the subdivision are developed with at least one building, structure or improvement that is subject to real property taxation or that is subject to the tax on manufactured homes under Section 4503.06 of the ORC. After thirty-five percent (35%) of the lots are so developed, dairying and animal and poultry husbandry shall be considered nonconforming use of land and buildings or structures pursuant to Section 519.19 of the ORC and Article 3.03 of this Resolution.

(cc) 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 shall have the same setbacks for a principal building for the zoning district in which located, a maximum height of twenty-three feet (23').

(dd) Pursuant to Ohio Revised Code Section 519.21(B), on lots greater than five (5) acres in area, no regulations apply to agriculture, buildings or structures, and dairying and animal and poultry husbandry.

(2) In all other areas the following shall apply – No zoning certificates are required for the construction of buildings incident to the use of land for agricultural purposes; but a zoning certificate application and agricultural exemption request form shall be filed with the Zoning Inspector. If the purpose and use is clearly demonstrated to be strictly agricultural in nature, the Zoning Inspector will approve the exemption and no fee shall be charged. 8/15/18
Provided, however, if the use is viticulture, including buildings or structures that are primarily for vinting and selling wine that are located on land any part of which is used for viticulture, then the applicant shall include with the zoning certificate and agricultural exemption forms written proof of the issuance of a permit pursuant to O.R.C. 4303.031. 3/2025

(b) **Public Utilities:** This Resolution does not apply in 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. As used in this Resolution, "public utility" does not include a person that owns or operates a solid waste facility or a solid waste transfer facility, other than a publicly owned solid waste facility or a publicly owned solid waste transfer facility that has been issued a permit under Chapter 3734 of the Ohio Revised Code or a construction and demolition debris facility that has been issued a permit under Chapter 3714 of other Ohio Revised Code. However, subject to R.C. 519.211 (B)(4)(a), the provisions of this zoning resolution shall apply with respect to the location, erection, construction, reconstruction, change, alteration, removal, or enlargement of a wireless telecommunications tower and appurtenant facilities. 6/5/99

(c) **Sale of Alcoholic Beverages:** This Resolution does not 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 by this Resolution.

(d) **Major Utility Facility and Economically Significant Wind Farm:** Pursuant to O.R.C. Section 4906.13, this Resolution shall not apply to the construction or operation of a major utility facility as defined in O.R.C. Section 4906.01 or to an economically significant wind farm as defined in O.R.C. Section 4906.13 and authorized by a certificate issued pursuant to O.R.C. Chapter 4906 of the O.R.C. A major utility facility includes a large wind farm and a large solar facility. A large wind farm and a large solar facility shall have the same meanings as in O.R.C. Section 4906.01. (2/2025)

(e) **Amateur Radio Service**: Pursuant to Ohio Revised Code Section 5502.031, this Resolution does not preclude amateur radio service communications and does not restrict the height or location of amateur station antenna structures in such a way as to prevent effective amateur radio service communications and shall comply with 47 C.F.R. 97.15.

(f) **Government:** This Resolution does not apply in respect to the location, relocation, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement of any buildings or structures of any Federal, State, or political subdivision thereof, or the use of land by any Federal, State, or political subdivision thereof, for the operation of its business. (Effective 5/19/04)

(g) **Transportation:** This Resolution does not apply with respect to a building or structure of, or the use of land by, a person engaged in the transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants. However, this Resolution does apply with respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of a public utility engaged in the business of transporting persons or property, or both, or providing or furnishing such transportation service, over any public road or highway in this state, and with respect to the use of land by any such public utility for the operation of its business, to the extent that any exercise of such power is reasonable and not inconsistent with Chapters 4901., 4903., 4905., 4909., 4921., and 4923. of the Revised Code. 11/19/13

(h) **Biodiesel Production**: This Resolution does not prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for biodiesel production, biomass energy production, or electric or heat energy production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under Sections 5713.30 to 5713.37 of the Ohio Revised Code for a real property tax purposes. As used herein, "biodiesel," "biomass energy," and "electric or heat energy" have the same meanings as in Section 5713.30 of the Ohio Revised Code.

(i) **Methane Gas Production:** This Resolution does not prohibit in a district zoned for agricultural, industrial, residential, or commercial uses the use of any land for biologically derived methane gas production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under Sections 5130.30 to 5713.37 of the Ohio Revised Code for real property and purposes and if the facility that produces the biologically derived methane gas does not produce more than seventeen million sixty thousand seven hundred and ten (17,060,710) British Thermal Units, five (5) megawatts, or both. As used in this section, "biologically derived methane gas" has the same meaning as in Section 5713.30 of the Ohio Revised Code.

(j) **Agritourism**: This resolution does not prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for agritourism. As used in this section, "agritourism" has the same meaning as in Section 901.80 of the Ohio Revised Code.

1.06 **SEVERABILITY**: Should any provision, or the application of any provision, of this Resolution or amendment thereto be declared invalid by a court of competent jurisdiction such declaration shall not affect the validity of the Resolution as a whole or any part thereof, except the part declared invalid.

1.07 **REPEALER**: All Township resolutions or part of resolutions in conflict with this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

1.08 **EFFECTIVE DATE**: This Resolution and any amendment thereto shall take effect and be in full force and effect as set forth herein. 3/6/13

1.09 **SCHEDULE OF FEES, CHARGES, AND EXPENSES; AND COLLECTION PROCEDURE**

The Board of Township Trustees shall, by resolution, establish a schedule of fees, charges, and expenses and a collection procedure for zoning certificates, amendments, appeals, conditional zoning certificates, and other matters pertaining to the administration and enforcement of this resolution requiring investigations, inspections, legal advertising, postage, and other expenses. The schedule of fees shall be posted in the office of the Zoning Inspector and township Fiscal Officer, and may be altered or amended only by resolution of the Board of Township Trustees. Each application for a zoning certificate, amendment, or conditional zoning certificate and notice of appeal shall be accompanied by the fee so established.

1.10 **COMPUTATION OF TIME**

When a public office in which an act, required by law, is to be performed is closed to the public for the entire day, which constitutes the last day for doing such act or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not Saturday, Sunday or a legal holiday as defined in Ohio Revised Code Section 1.14.

"Legal holiday" as used in this section means the days as set forth in Ohio Revised Code Section 1.14. If any day, designated in Ohio Revised Code Section 1.14 as a legal holiday, falls on a Sunday, then the next succeeding day is a legal holiday.

If the number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day, in the concluding month, as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of the month.

1.11 **IRRECONCILABLE AMENDMENTS**

If amendments are enacted at the same or different times, one amendment without reference to another, the amendments are to be harmonized, if possible, so that the effect may be given to each. If the amendments are substantively irreconcilable, the latest date of enactment prevails. The fact that a later amendment restates language deleted by an earlier amendment, or fails to include language inserted by an earlier amendment, does not of itself make the amendments irreconcilable. Amendments are irreconcilable only when changes made by each cannot reasonably be put into simultaneous operation.

1.12 CONTINUATION OF PRIOR AMENDMENT

A provision or regulation which is reenacted, or amendment, is intended to be a continuation of the prior provision or regulation and not a new enactment, so far as it is the same as the prior provision or regulation.

1.13 EFFECT OF AMENDMENT

The amendment of this Resolution does not:

A. Affect the prior operation of this Resolution or any prior action taken thereunder.

B. Affect any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred thereunder.

C. Affect any violation thereof or penalty, forfeiture, or punishment incurred in respect thereto prior to the amendment or repeal.

D. Affect any investigation, proceeding, or remedy in respect to any such privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced and the penalty, forfeiture, or punishment imposed, as if the Resolution had not been amended.