

RESOLUTION NUMBER 047-2021

RESOLUTION TO AMEND THE ZONING RESOLUTION TEXT OF OLMSTED TOWNSHIP, CUYAHOGA COUNTY, OHIO CASE NO. 200LMT-ZC004

WHEREAS, Case No. 21OLMT-ZC004, as described below, came on for hearing before the Olmsted Township Board of Trustees the 18th day of May, 2021, which case is described as follows:

Case No. 21OLMT-ZC004: By motion adopted by the Olmsted Township Zoning Commission, an amendment is proposed to revise the text of the Olmsted Township Zoning Resolution. This proposed amendment would, if adopted, revise the following textual provisions of the Olmsted Township Zoning Resolution as it relates to the following areas: Amending Section 130.08 Swimming Pools, Ponds, and Lakes, Section 140.07 Mobile Food Facilities, Section 210 Single-Family Residential; District Regulations, Section 320.09 Sign Exempt Regulation, Section 380 Riparian and Wetland Setbacks, and Section 560.03 Map Amendments Initiated by Property Owner(s), with all such proposed textual revisions being reflected in the Zoning Amendment Text having a cover page entitled "Olmsted Township Zoning Amendment Number 21OLMT-ZC004" dated April 22, 2021.

WHEREAS, on April 22, 2021, the Olmsted Township Zoning Commission recommended approval with modifications of this proposed amendment; and

WHEREAS, following a public hearing before the Board of Trustees which was duly noticed and conducted in Case No 21OLMT-ZC004 pursuant to Ohio Revised Code Section 519.12, the Board resolved to take the action hereinafter set forth.

NOW THEREFORE, upon motion of Trustee Kress, seconded by Trustee Zver, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF OLMSTED TOWNSHIP, CUYAHOGA COUNTY, OHIO, THAT:

To adopt the recommendation of the Zoning Commission regarding the amendment proposed to the Olmsted Township Zoning Resolution in Zoning Amendment Case No. 21OLMT-ZC004, which amendment consists of the textual revisions proposed to be made to the Olmsted Township Zoning Resolution as reflected in the Zoning Amendment Text entitled "Olmsted Township Zoning Amendment Number 21OLMT-ZC004" dated April 22, 2021.

Voting Aye thereon:

J. S. Abbott
Laurence Abbott, Trustee

Jeanne M. Kress
Jeanne Kress, Trustee

Lisa Zver
Lisa Zver, Trustee

**BOARD OF TRUSTEES, OLMSTED TOWNSHIP
CUYAHOGA COUNTY, OHIO**

Voting Nay thereon:

ATTEST AND CERTIFY:

Brian W. Gillette

Brian Gillette,
Township Fiscal Officer

J. S. Abbott

Laurence Abbott, Trustee

Jeanne Kress

Jeanne Kress, Trustee

Lisa Zver

Lisa Zver, Trustee

**BOARD OF TRUSTEES, OLMSTED TOWNSHIP,
CUYAHOGA COUNTY, OHIO**

Adopted: May 18th, 2021

Olmsted Township
Zoning Amendment
April 22, 2021
Case Number 21OLMT-ZC004

Chair made motion to approve Application 21OLMT-ZC004 on 4/22/21 subject to the following modifications:

- 1. Section 140.07(m) delete The Gas House information and add certification must be submitted.*
- 2. Section 210.08 (8) make generator singular.*
- 3. Section 210.08(f) outdoor items to reflect including but not limited to text.*
- 4. Section 210.08(g) delete "R" in first sentence.*
- 5. Section 210.08 (i)(3) Delete "any fence" and insert "fences."*
- 6. Section 210.08 (i)(5) add "All materials used in the repair of existing fences shall be of the same color, design and materials as the existing fence."*
- 7. Correction of formatting and any scrivener errors.*

Trustees approved Resolution Number XXX-2021 on X/X/21

Olmsted Township Zoning Resolution

Text Amendment

1. Section 130.08 Swimming Pools, Ponds, and Lakes

Section 130.08 shall be amended by adding see Section 210.08 after subsection and omitting subsection 2 making subsection 3 subsection 2 as follows:

SECTION 130.08 SWIMMING POOLS, PONDS AND LAKES.

Swimming pools, ponds and lakes shall comply with the following regulations, which are in addition to any locational and coverage requirements that may be set forth in specific districts,

(a) Swimming Pools. See section 210.08

(1) All swimming pools, together with adjacent walkways, shall be enclosed by a wall or fence having a minimum height four (4) feet. Except as otherwise provided in section 210.08 (4)

~~(2) For above ground pools, the height of the pool, from the surrounding grade to the top of the pool wall, may be used as credit to meet the minimum 4 foot height requirement.~~

(3) All fences and other pool enclosures shall be constructed so as to have no openings, holes, or gaps larger than four inches in width, except for doors, gates or windows which shall be equipped with suitable locking devices to prevent unauthorized access. Access secured accessory buildings and walls of principal buildings may be used in place of, or as part of, the enclosure.

2. Section 130.09 Satellite Dish Regulations USE REGULATIONS.

Section 130.09 shall be amended by adding side yard to subsections (b) and diameter to subsection (d) and adding setback in subsection (e) and omitting subsections (f), (g) and adding to safety requirements in subsection (h) to read as follows:

SECTION 130.09 SATELLITE DISH REGULATIONS.

A satellite receiving dish as an accessory use shall be permitted only when all of the following conditions are satisfied:

(a) **Uses.** The uses of the satellite receiving dish shall be as an accessory use to an existing permitted use or to a permitted use being concurrently constructed therewith.

(b) **Location.** A satellite receiving dish shall be located in rear and side yards only.

(c) **Height.** The highest point of the satellite receiving dish shall not exceed ten feet above the plane upon which it is mounted, which includes the height of any base upon which it is mounted.

(d) **Size.** A satellite receiving dish shall not exceed 39.37" inches in diameter in the Multi-Family Districts. A satellite receiving dish shall not exceed 39.37" inches in the Single-Family Districts.

(e) **Setback.** No part of a satellite dish antenna shall be within 10' feet of any side or rear lot line.

~~(f) **Design.** A satellite dish antenna in residential districts shall be of a mesh type and painted black.~~

~~(g) **Landscaping or Screening.** A satellite receiving dish shall be screened from any adjacent property or public street by a structure or landscaping in accordance with the buffering requirements of this zoning resolution.~~

(h) **Safety Requirements.** The satellite receiving dish shall be constructed and anchored in such a manner as to withstand winds of 100 miles per hour velocity. The receiving dish in a non-residential zoning area shall be enclosed with a six-foot fence and or landscape screening. In addition to the foregoing requirements, the satellite receiving dish shall be placed where it will not have an adverse effect on the surrounding property, including but not limited to sight lines and creation of any interference with electric appliances, equipment, or communication devices located on or within adjoining and/or surrounding properties.

An application for an accessory use for a satellite receiving dish other than a residential style satellite dish shall be submitted to the Zoning Inspector to obtain a zoning permit for construction.

3. Section 140.07 Mobile Food Facilities

This section has been amended to read as follows:

SECTION 140.07 MOBILE FOOD FACILITIES.

Mobile food facilities including, but not limited to food trucks, shall only be located on a lot in compliance with the following:

(a) A mobile food facility shall not be established in Olmsted Township unless a final development plan indicating compliance with the following standards has been approved in accordance with Chapter 520.

(b) Shall be located on a lot containing a principal building(s) or use. A Plot plan showing the location of buildings, food truck layout (showing distance between food trucks to food truck and food truck distance off buildings) Number of food trucks per event, length of food truck is required. A 10 feet distance is per Ohio Fire Code 2018 is required between food trucks and between any structure or

building. All vendors MUST show how they are getting utilities to food truck, i.e., electrical, water, & generator location.

(c) Mobile food facilities shall be located a minimum of 10 feet from the main entrance to any eating establishment or similar food service business and 10 feet from any outdoor dining area, as measured from the designated location on the lot accommodating the mobile food facility. In the event that one or more of the aforementioned uses locates within the minimum separation requirement subsequent to a mobile food facility location being approved, nothing herein shall prohibit the property owner from continuing to operate at the approved location until the mobile food facility permit has expired.

(d) Mobile food facilities in a nonresidential area shall be located a minimum distance of 10 feet per Ohio Fire Code 2018 from the edge of any driveway or public sidewalk, utility boxes and vaults, handicapped ramp, building entrances, exits or emergency access/exit ways, fire lanes or emergency call box and shall not be located within any area of the lot that impedes, endangers, or interferes with pedestrian or vehicular traffic, so not to limit visibility of vehicular traffic. Mobile food facilities shall maintain a minimum standoff distance of 15 feet in all directions from a fire hydrant.

(e) Mobile food facilities shall not occupy parking spaces required to fulfill the minimum requirements of the principal use as required in Chapter 310 of this resolution unless the principal use's hours of operation do not coincide with those of the mobile food facility's business. Nor shall any mobile food facility occupy parking spaces leased to other businesses and used to fulfill its minimum parking requirements.

(f) No free-standing signage or audio amplification shall be permitted as part of the mobile food facility vending operation.

(g) The mobile food facility's operator or his/her designee must be present at all times except in cases of an emergency.

(h) The mobile food facility's vendor shall remove all waste and trash from the approved location at the end of each day or as needed to maintain the health and safety of the public. The vendor shall keep all areas within five (5) feet of the truck clean of grease, trash, paper, cups, or cans associated with the vending operation. No liquid waste or grease is to be disposed in tree pits, sanitary sewer system, storm drains or onto the sidewalks, streets, or other public space.

(i) All mobile food facilities shall obtain all required County and State permits and licenses, and such permits and licenses shall be clearly displayed on the facility. LPG System testing per NFPA 58 is required at time of permit application submittal.

(j) A mobile food facility permit shall be required through the building department to be renewed annually. If at any time evidence of the improper disposal of liquid waste or grease is discovered, the permit for the mobile food facility shall be rendered null and void and the mobile food facility business shall be required to cease operation immediately. All permits MUST be displayed during event.

(k) All inspections are required through the Olmsted Township Fire Department and Building Department. Inspection is required on the day of event and before the mobile food facility can operate.

1) Must be able to pass the Mobile food truck unit checklist {Check list attached}

2) Applicant MUST contact Olmsted Township Fire Department 48 Hours before operation to schedule inspections of food trucks. Inspection will be schedule for the day of event. If no inspections are conducted before operation you will be asked to cease operation immediately.

(l) Contact the Cuyahoga County Board of Health for any permits and inspection you may need from them. This inspection MUST be completed and approved before a Mobile food truck can operate in Township. Copy of approval MUST be submitted to Building department. Health Department and LPG system test MUST be done annually. Updated certificate MUST be submitted at time of application.

(m) LPG System inspection, Testing & Certification is required before Food truck is approved to operate in the Township. Certificate MUST be submitted as part of the application process.

LPG System inspection and testing facility: THE GAS HOUSE

7125 KRICK RD.

WALTON HILLS, OH 44146

PH: 440-439-4474

FAX: 440-439-4413

LPG system test MUST be done annually. Updated certificate MUST be submitted at time of application.

4. Section 210 Single Family Residential District Regulations

Section 210 has been amended to read as follows:

Chapter 210 Single-Family Residential District Regulations 33

ARTICLE II

DISTRICT REGULATIONS

Section 210

Single-Family Residential District Regulations

210.01 Intent.

210.02 Use regulations.

210.03 Schedule of permitted uses.

210.04 Lot requirements.

210.05 Yard requirements.

210.06 Height regulations for principal buildings.

210.07 Dwelling unit area requirements.

210.08 Accessory use regulations.

210.09 Regulations for home occupations.

210.10 Family day care home, type "B"

210.11 Agricultural uses in residential districts.

SECTION 210.01 INTENT.

Single-Family Residential Districts (R-R, R-40, R-30 and R-15) and their regulations are established in order to achieve, among others, the following purposes:

(a) To regulate the bulk and location of single-family dwellings to obtain proper privacy and useable open spaces on each lot appropriate for the various districts;

(b) To regulate the density and distribution of population in accordance with the Comprehensive Plan, officially adopted by the Township Trustees, to avoid congestion and to provide adequate public services;

(c) To provide for proper location of institutions and other community facilities so as to increase the general convenience, safety and amenities;

(d) To carry out the following specific purposes;

- (1) The R-R District is established to provide for single-family residential uses with a minimum lot size of two acres in order to preserve open space and conserve the existing environmental and natural features in a manner that is consistent with the low-density and agricultural characteristics of the area.
- (2) The R-40 District is established to provide for single-family residential uses with a minimum lot size of 40,000 square feet.
- (3) The R-30 District is established to provide for single-family residential uses with a minimum lot size of 30,000 square feet primarily fronting on major streets.
- (4) The R-15 District is established to provide for single-family residential uses in a standard subdivision with a minimum lot size of 15,000 square feet.
- (e) To promote the most desirable and beneficial use of the land in conformity with the Comprehensive Plan.

5. Section 210.02 Use Regulations

Section 210.02 shall be amended to add subsection (16) HVAC Units & Generators to read as follows:

SECTION 210.02 USE REGULATIONS.

(a) Schedule 210.03 sets forth the uses allowed in each R district:

(1) A "P" in a cell indicates that a use is permitted by right as a principal use, provided that all requirements of this zoning resolution have been met.

(2) A "C" in a cell indicates that a use is permitted as a conditional use provided the Board of Zoning Appeals first makes the determination that the requirements of Chapter 270 have been met according to the procedures set forth in Chapter 530.

(b) A use or structure listed below shall be permitted as an accessory use or structure in any R district. Such use or structure shall be permitted as a subordinate building or use when it is clearly incidental to and located on the same lot as the principal building or use. Accessory uses are further regulated as noted below.

(1) Private garage and parking area, see also Section 210.08.

(2) Accessory storage buildings, see also Section 210.08.

(3) Residential swimming pools, see also Section 210.08.

(4) Home occupations, see also Section 210.09.

(5) Family day care home, "type B", see also Section 210.10.

(6) Fences, walls, hedges, see also Section 210.08.

(7) Storage of recreational vehicle, see also Section 210.08.

(8) Signs, as regulated in Chapter 320.

(9) Barns and other structures accessory to an agricultural use, see also Section 210.11.

(10) Roadside stands, see also Section 210.08.

(11) Satellite receiving dish, see also Section 130.09.

(12) Community garden accessory to a place of worship or school facility, see also Section 280.03(c).

(13) Game courts, see also Section 210.08.

(14) Portable on-demand storage unit, see also Chapter 140.

(15) Solar panels and building-mounted wind energy facility, see also Section 280.05.

(16) HVAC units & Generators, See Section 210.08

(c) Although a use may be indicated as a permitted principal, conditional or accessory use in a particular residential district, it shall not be approved on a parcel unless it can be located thereon in full compliance with all of the standards and other regulations of this resolution applicable to the specific use and parcel in question, including but not limited to any supplemental use-specific standards in Chapter 280.

(d) Any use not specifically listed as either a permitted principal or conditional use shall be a prohibited use in these zoning districts and shall only be permitted upon amendment of this resolution and/or the Zoning Map as provided in Chapter 560.

6. Section 210.03 Schedule of Permitted Uses

Section 210.03 Land Use Category has been amended to add subsections (5) Mobile Homes, (6) Container Homes, and (7) Trailer Homes, and NP=Not Permitted to Permitted Uses to read as follows:

Section 210.03 Schedule of Permitted Uses.

Land Use Category	R-R	R-40	R-30	R-15
<u>Residential</u>				
(1) Single-family detached dwellings	P	P	P	P
(2) Family home for handicapped persons	C	C	C	C
(3) Group home for handicapped persons	C	C	C	C
(4) Bed and breakfast establishments	C	C	C	NP
(5) Mobile Homes	NP	NP	NP	NP
(6) Container homes	NP	NP	NP	NP
(7) Trailer homes	NP	NP	NP	NP
<u>Open space / recreational</u>				
(8) Agriculture	P	P	P	NP
(9) Cemeteries	C	C	C	C
(10) Common open space	P	P	P	P
(11) Community gardens as the				
(12) Principal use of a lot	C	C	C	C
(13) Golf Courses, public or private	C	C	C	C
(14) Public parks	P	P	P	P
(15) Swimming pools, as the principal use of a lot	C	C	C	C
<u>Community Services and Facilities</u>				
(16) Places of worship	C	C	C	C
(17) School facilities, Public or private	C	C	C	C

Wireless telecommunication towers

SEE CHAPTER 350

P= Principle Use permitted by right.

C= Conditional use permitted only when approved by the Board of Zoning Appeals.

NP= Not Permitted

7. Section 210.06 Heights and Architectural Style Regulations for Principal Buildings

Section 210.06 has been amended to add subsection (c) to read as follows:

SECTION 210.06 HEIGHT AND ARCHITECTURAL STYLE REGULATIONS FOR PRINCIPAL BUILDINGS.

Principal buildings shall comply with the following height regulations.

- (a) The height of principal buildings shall not exceed 35 feet.
- (b) Chimneys, radio antennas and television antennas located on and constituted as an integral part of a principal building may be erected to a height not to exceed 50 feet.
- (c) The exterior of all principal structures including but not limited to the architectural style, color and texture of material, and color of paint shall be compatible and harmonious with the surrounding neighborhood.

8. Section 210.08 Accessory Use Regulations

Section 210.08 Accessory Use Regulations, Schedule 210.08 (a) has been amended to add Generator Units to number (8) and (14) Children Play Equipment that includes setback information and Note (a) Except as otherwise permitted for basketball hoops and backboard in Section 210.08 (h)(3); Schedule 210.08 (b) omitted subsection (4) (C), and subsection (d)(1) omitted second sentence and added (5) to subsection (d), added last sentence to subsection (e), omitted and added text to subsection (f) and added subsection (g) with 4 additional subsections, and omitted subsection (h) (1), and omitted text in subsection (B) (3) & (4) to read as follows:

Schedule 210.08(a)

Use	Yard Permitted	Setback from:		
		<u>Front lot line</u>	<u>Side lot line</u>	<u>Rear lot line</u>
1. Private Garages	Rear	NA	5 ft.	5 ft.
2. All other accessory buildings	Rear	NA	5 ft.	5 ft.
3. Driveway	Front, Side, Rear		5 ft.	5 ft.
4. Accessory community garden	Side, Rear	NA	20 ft.	20 ft.
5. Compost bin / piles	Rear, Interior Side	NA	5 ft.	5 ft.
6. Fence, Walls	Front, Side, Rear	0 ft.	0 ft.	0 ft.
7. Game Courts	Rear (a)	NA	5 ft.(b)	5 ft.(b)
8. HVAC / Generators units	Side, Rear	NA	20 ft.	20 ft.
9. Outdoor storage of materials	Rear	NA	5 ft.	5 ft.
10. Outdoor storage of recreation Vehicles	Rear	NA	20 ft.	20 ft.
11. Rain barrels and above Ground	Front, Side, Rear	NA	5 ft.	5 ft.
12. Roadside stands	Front	10 ft.	25 ft.	25 ft.
13. Swimming pools	Rear	NA	10 ft.	10 ft.
14. Children play equipment	Rear	NA	10 ft.	10 ft.

Notes to Schedule 210.08:

- (a) Except as otherwise permitted for basketball hoops and backboard in Section 210.08(h)(3)
- (b) Shall be measured from the edge of the fence if a fence is required in Section 210.08(g)

(B) Schedule 210.08 (b), Maximum Floor Area and Height of accessory Buildings and Structures.

Schedule 210.08 (b)

	<u>Maximum Area</u>	<u>Maximum Height</u>
(1) Garages	875 sq.ft.	15 feet
(2) Other accessory buildings and Structures, unless specifically stated otherwise	1% of lot area(a)	15 feet
(3) Swimming pools	5% of lot area	
(4) Roadside Stands	32 sq.ft.	10 feet

Notes to schedule 210.08 (b):

(a) Shall include the combined total area of all accessory buildings excluding the area of the garage.

(c) Additional Regulations for Parking Areas and Driveways. In addition to the area and locational requirements of Schedules 210.08(a) and 210.08(b), driveways and open, off-street parking areas shall comply with the following:

- (1) All motor vehicles shall be parked on a driveway or parked or stored in a garage.
- (2) Driveways shall be a minimum of 8 feet wide and shall extend from the pavement of the street upon which the lot fronts to the garage associated with the residence.
- (3) Driveways shall be paved in compliance with the provisions set forth in Section 310.12(a).
- (4) Driveways may be used for the following purposes:
 - A. The parking of passenger cars owned by the occupants of the dwelling and their visitors.
 - B. The parking of one commercial car or truck not exceeding one ton rated capacity that is used in connection with said occupant's livelihood.
 - ~~C. The display of not more than one item, including but not limited to a vehicle, boat or camper, at any one time for not more than 30 days per year. The vehicle, boat or camper shall be titled to the occupant.~~
- (5) The repair and rebuilding of a vehicle owned by a resident is permitted, but only if conducted within an enclosed private garage. The dismantling or spray painting of vehicles is prohibited on a residential lot.

d) Parking or Storage of Recreational Vehicles and Equipment. In addition to the locational requirements of Schedule 210.08(a), any recreational vehicle, camper, or boat, on or off wheels shall be either stored wholly within a garage or outdoors in compliance with the following regulations.

- (1) Not more than one recreational vehicle, camper or boat shall be stored outdoors. ~~The overall length of such vehicle, camper or boat shall not exceed 20 feet when stored on a lot less than one acre.~~
- (2) Outdoor storage shall be permitted only in the rear yard on a paved or gravel surface, and shall be adequately screened from view from adjacent property.
- (3) Recreational vehicles, campers, and boats shall not be used as a dwelling, office, or other business structure, or for storage of any material, and shall have no connections to any electric, telephone, water, sewer, gas, or fuel source.

(4) A recreational vehicle, camper, or boat may be parked in a driveway for loading or unloading purposes for a period not to exceed 48 hours in any seven-day period.

(5) All recreational vehicles and equipment shall be kept in good repair and carry a current year's license plate and registration.

(e) **Parking or Storage of Inoperable Motor Vehicles.** The outdoor parking of an inoperable or unlicensed motor vehicle on a paved or gravel surface in a residential district shall be permitted for a period not to exceed 30 days. Such motor vehicle may be stored in an enclosed garage for an unlimited time. No repairs or dismantling shall be conducted in connection therewith while such vehicle is parked or stored inside the building except for repairs performed by the resident on his or her own vehicle, in accordance with subsection (c)(5), above. At no time shall vehicles be stored outdoors on blocks. Tarping or covering vehicles outdoors is prohibited. Carports are not permitted in front or side of property.

(f) **Outdoor Storage of Materials or Equipment and Compost Piles.** Any area for the outdoor storage of materials that exceeds two square feet shall be in compliance with the regulations set forth in Schedule 210.08(a). Outdoor storage of materials shall be restricted to normal household accessories including such items as ~~but not limited to~~, firewood, outdoor furniture, grills, picnic tables, Children's play equipment or compost. It shall not include the storage of materials or equipment for a home occupation or other commercial business or any other type of material or equipment, including construction equipment, not typically associated with a residential dwelling. Trailers, tractors, snowplows, etc., for personal use shall be stored in an enclosed structure. Tarping of materials or equipment is prohibited.

(g) **Swimming Pools.** Residential swimming pools may be in any R Residential District provided they comply with the locational and coverage requirements of Schedules 210.08(a) and 210.08(b) and the supplemental regulations set forth in Section 130.08.

- 1) All pools shall be fenced in with a self-closing lockable gate. Gate latch shall be located on inside of fence and out of reach of children.
- 2) Above ground pools with decks or platforms to enter pool shall have a self-closing lockable gate. Gate latch shall be located on inside of fence and out of reach of children.
- 3) Every swimming pool in excess of eighteen inches in depth shall be completely surrounded by a fence not less than four feet in height which shall be so constructed as not to have openings, holes or gaps larger than four inches in any dimension except for doors and gates; and if a picket fence is erected or maintained, the horizontal dimension shall not exceed four inches. A dwelling house or accessory building may be used as part of such enclosure.
- 4) A factory assembled twenty-four-inch-high security fence attached to the top rail of an above ground pool shall be an acceptable alternative to subsection (a) hereof.

(h) **Game Courts.**

~~(1) Notwithstanding the maximum height of fences set forth in Section 210.08(i), fences surrounding a game court in a rear yard may be a maximum of 12 feet in height.~~

(2) When a tennis court is located within 50 feet of a lot line, it shall be enclosed by a chain link or mesh fence having a height not less than 9 feet but not greater than 12 feet.

(3) Basketball hoops and backboards shall be permitted in a front or side yard when attached to a building or located on a pole on the driveway.

(i) **Fences, Walls, and Hedges.** Fences, walls, and hedges may be in a front, side, or rear yard, provided they comply with the regulations of this Section.

(1) Walls, Solid Fences, Open Fences. Walls shall not exceed a height of 2 feet. Solid or open fences shall be permitted as indicated.

(2) Front Yards. Solid fences and chain link fences shall not be permitted in a front yard. An open fence shall not exceed 3-1/2 feet in height above the natural grade, except that within 25 feet of a public right-of-way, a fence shall not exceed 2-1/2 feet in height. In the event a property is situated adjacent to two (2) or more streets, the setback and height requirements shall apply to all streets.

A. Definition of Openness. For the purpose of this section, an open fence shall be a fence, including gates, that has not less than 40% of the vertical surface area in open spaces which afford views through the fence when one is directly facing the fence. The openings of a fence shall be evenly spaced throughout the vertical surface.

B. Examples of such fences include but are not limited to wrought iron, picket, and rail fences. Note: In the example below, the width of the open space (A) between fence pickets is equal to the width of the fence picket (B), though the overall area of open space is reduced by the horizontal support rails (C). Pickets (B) may be placed on opposite sides of the horizontal support rails (C) provided the spacing of the horizontal support rails does not decrease the open area below the required 40%.

(3) Side and Rear Yards. In the side or rear yard, an open fence shall not exceed 6 feet in height above the natural grade ~~except as permitted for game courts in Section 210.08 (h).~~

(4) Water Drainage Situation. For fences and any structures that are regulated by the storm water management plan, placement in easements or retention areas is prohibited ~~unless the property owner submits a signed form to the Olmsted Township Building Department in compliance with Section 130.15. Where solid fences or screen walls are permitted to be erected and where a water drainage situation occurs, such problem shall be disposed of by placing adequate outlets at the bottom of the fence or screen wall to eliminate possible accumulation of stagnant water or other undesirable conditions.~~

(5) Construction, Maintenance and Repair. Fences shall be of chain link, picket, split rail, sapling, louver, or other design, and if painted, shall be one color. Fences and walls shall always be maintained in good repair by the owner and/or occupant of the lot on which they are located. The smooth finished side of the fence or wall shall be the side of the fence that faces outward from the yard being fenced.

(j) Roadside Stands. A permit for the erection and operation of a roadside stand shall be issued for a 2-year period and may be renewed provided the operation of the roadside stand remains in compliance with the regulations set forth in this Chapter. Farm markets that derive at least fifty percent of their gross income from produce raised on farms owned or operated by the farm market operator in a normal crop year are permitted in any zoning district, subject to the following regulations:

(1) Temporary and seasonal buildings, tents, trailers and other structures associated with a seasonal and temporary farm market shall be placed outside of the road right-of-way and located at least 25 feet from the edge of any road pavement so as to safely allow for adequate ingress and egress and for customer off-street parking. Seasonal and temporary farm markets may use marked grassed areas reasonably cleared and limited in size for parking. In no case shall any portion of any road pavement be used for or considered customer parking to serve a farm market. If a culvert is required in order to obtain access to a seasonal and temporary farm market, then the farm market operator shall obtain a driveway and culvert permit from the Olmsted Township Building Department. Temporary and seasonal farm markets are farm markets that are open to the public and operate for no more than a total of 90 calendar days in a calendar year. Any temporary and seasonal

buildings, tents, trailers and other structures associated with a farm market remaining for more than ninety (90) days in a calendar year shall be considered structures associated with a permanent farm market and shall comply with the provisions of subsection (j)(2) below.

(2) All buildings and structures associated with a permanent farm market shall comply with the applicable setback requirements for the underlying zoning district. Parking for permanent farm markets shall be graveled or paved and provide ingress and egress in accordance with the Olmsted Township Zoning Regulations. Operators of a permanent farm market shall obtain a driveway permit from the Olmsted Township Building Department. Off-street parking shall be provided at a ratio of one space for each 100 square feet of farm market. Permanent farm markets are farm markets that are open to the public and operate for more than 90 calendar days in a calendar year.

(3) No more than one sign for a permanent or temporary and seasonal farm market denoting the name and address of the operator, denoting produce or products for sale on the premises and denoting membership in organizations may be permitted on a property. Farm market signs shall be located at least ten feet outside the road right-of-way and may not exceed twenty-four (24) square feet of area per side. Sign permit is required per Section 320

(k) Garage, Yard, House Sales. Temporary sales of household items, including garage sales, yard sales, and house sales shall be permitted in any residential district. Any family may conduct such sales for a maximum of three consecutive days not more than two times within a twelve-month period.

(l) Raising of Domestic Animals. The raising of domestic animals shall be permitted in all residential districts within the Township in accordance with Section 519.21 of the Ohio Revised Code and the following additional restrictions:

(1) No person shall keep a horse, pony, cow, pig, or other similar animal on any lot within the Township unless a fenced corral and a stable to retain such animal are constructed on such lot. Stables shall comply with the area requirements for accessory buildings set forth in Schedule 210.08(b).

(2) In any platted subdivision of lots of 5 acres or less that are approved under Section 711.05, 711.09, or 711.10 of the Ohio Revised Code, or in any area consisting of fifteen or more lots approved under Section 711.131 of the Ohio Revised Code that 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 restrictions shall also apply:

A. Not more than three dogs or cats more than four months old may be raised on a lot one acre or less in size. Any accessory structure or enclosure used as a shelter for such animals shall be located a minimum of 30 feet from a side or rear lot line. Such enclosures shall be in the rear yard only.

B. One horse, pony, cow, pig, or other similar animal may be kept on a lot not less than two acres in area, if the stable and corral, exclusive of perimeter fences, in which they are kept are located in the rear yard not less than 300 feet from a street right-of-way line, not less than 200 feet from any existing residence on adjacent property existing at the time the stable and corral are erected and not less than 50 feet from an adjoining lot line; an additional half acre of land shall be provided for each additional animal.

(m) Rain Barrels and Above Ground Cisterns. No permit is required to install rain barrels and above ground cisterns. When a rain barrel or above ground cistern is located in the front or side yard it shall be adequately screened so it is not visible from the street.

(n) Signs. Signs may be located in any R Residential District provided they comply with the requirements of Chapter 320.

(o) Outdoor Lighting. Outdoor lighting fixtures erected as an accessory structure on a lot in an R Residential District shall comply with the requirements of Section 330.08.

9. Section 210.10 Family Day Care Home, Type "B"

Section 210.10 Family Day Care Home, Type "B" added subsection 1 to read as follows:

SECTION 210.10 FAMILY DAY CARE HOME, TYPE "B".

This zoning resolution recognizes that the availability of safe and affordable, good-quality child day care is important to the well-being of parents and children. Furthermore, it is the purpose of this section to regulate the operation of child day care in a manner that preserves the residential character of neighborhoods. According to ORC 5104.054, any type B family day-care home, whether certified or not certified by the county director of human services, shall be considered to be a residential use of property for purposes of municipal, county, and township zoning and shall be a permitted use in all zoning districts in which residential uses are permitted. A type "B" family day-care home is a permanent residence of the provider where childcare is provided for 1 to 6 children and where no more than three children are under two years of age. For the purposes of this definition, any children under six years of age who are related to the provider and who are on the premises of the day-care home shall be counted. Type "B" family day-care homes are a permitted accessory use in residential districts, and do not require a zoning certificate.

- 1) An inspection with the Building and Fire department shall be conducted before day care opens and once per year for as long as the Day care is in operation.

10. Section 210.12 Stormwater

Section 210.12 Stormwater amended to add this section to read as follows:

210.12 Stormwater

- 1) Homeowners are required to clean, maintain, and keep free from debris all swales, ditches located on their property.
- 2) If swales and/or ditches need to be re-established to properly drain stormwater and is located on property owner's property. An application and approvals from Building Department, NEORS and/ or Cuyahoga County Public Works are required before work is to start.
- 3) Property owners with ditches and/or swales along county roads shall be kept free from debris and maintained by property owner. Re-establishing of any ditch/swale shall be conducted by Service department.
- 4) Properties with a culvert pipe on property shall keep free from debris and maintain culvert pipe.
 - A) If a culvert pipe needs to be replaced, Application from property owner must be submitted to the Building Department for approval from Olmsted Township, NEORS and/ or Cuyahoga County Public Works will need to be done, before work is to start.
 - B) Size of culvert pipe shall be reviewed and determined by Building Department, NEORS and/ or Cuyahoga County Public Works.
- 5) Vehicular driveway bridges

- a. Replacing bridge- Application and approval from Building Department, NEORSD and/ or Cuyahoga County Public Works will need to be done before work is to start.
- b. Bridge structure must be evaluated by a Licensed Engineer.
- c. FEMA application and approval shall be done before work to start.

11. Section 320.09 Signs Exempt from Regulation

Section 320.09 Signs Exempt from Regulation amended to add community events to subsection (d) and add subsection (h) (1)(2)(3)(4)(5) to read as follows:

SECTION 320.09 SIGNS EXEMPT FROM REGULATION.

The following signs shall be exempt from regulation under the zoning resolution.

- (a) Any public notice or warning required by a valid and applicable federal, state or local law, regulation or resolution.
- (b) Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than 3 feet beyond the building in which such sign is located.
- (c) Works of art that do not include a commercial message.
- (d) Religious, community events and other holiday lights and decorations containing no commercial message when displayed during the appropriate time of the year.
- (e) Flags of the United States, the state, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting these conditions shall be considered a sign and shall be subject to regulations as such.
- (f) Signs bearing no commercial message and installed by employees or officials of a township, county, state or federal agency in the course of their governmental duties.
- (g) Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other than such message needed to identify the use or owner.
- (h) No person shall display a temporary sign in any district which fails to comply with the following regulations:
 - 1) Such signs may be displayed in a window on the premises or in a yard, provided that such yard signs are located a minimum of 5 feet from any lot line and that the height of such signs does not exceed 4 feet from grade. Such signs may be displayed only if the owner or legal occupant has given approval.
 - 2) A sign may not exceed 5 square feet in area per side.
 - 3) Such signs shall not be illuminated.
 - 4) No such sign shall be displayed on any utility pole, tree lawn, or any public right-of-way.
 - 5) The Zoning Administrator may remove any such signs posted on a public right-of-way, tree lawn, or utility pole. He or she may determine the cost of removal and assess such cost to the person, business, organization, or entity who posted the signs(s).

12. Section 380 Riparian Setback

Section 380 Riparian Setback text is a new section that has been added to read as follows:

CHAPTER 380

Riparian and Wetland Setbacks

- 380.01 Intent.
- 380.02 Comprehensive Storm Water Management Plan.
- 380.03 Application.
- 380.04 Designated Watercourses and Riparian Setbacks.
- 380.05 Establishment of Wetland Setbacks.
- 380.06 Procedure for Wetland Setbacks.
- 380.07 Delineation of Riparian and Wetland Setbacks.
- 380.08 Conditions to Be Maintained Within Delineated Riparian And Wetland Setbacks.
- 380.09 Uses Permitted in Riparian and Wetland Setbacks.
- 380.10 Uses Prohibited in Riparian and Wetland Setbacks.
- 380.11 Nonconforming Structures or Uses in Riparian and Wetland Setbacks.
- 380.12 Variances Within Riparian and Wetland Setbacks.
- 380.13 Boundary Interpretation and Appeals Procedure.
- 380.14 Inspection of Riparian and Wetland Setbacks.
- 380.15 Cost of Consultations.
- 380.16 Conflicts, Severability, Nuisances and Responsibility.
- 380.17 Violations and Penalties.

Section 380.01 INTENT

The system of wetlands, riparian areas, rivers, streams, and other natural watercourses within Olmsted Township contributes to the health, safety, and general welfare of the residents. The specific purpose and intent of this part of these regulations is to regulate uses and developments within riparian and wetland setbacks that would impair the ability of riparian and wetland areas to:

- (a) Establish practical standards to improve storm water quantity and quality, minimize degradation of water resources, prevent damage to public and private property, and promote and maintain the health, safety, and welfare of the residents of Olmsted Township.
- (b) Preserve to the maximum extent practicable the natural drainage characteristics of Olmsted Township, the scenic beauty and environment of the Township, and thereby preserving the character of the Township.
- (c) Protect the receiving stream's physical, chemical, and biological characteristics and to maintain stream functions, including:
 - (1) Preservation of natural infiltration and ground water recharge, and maintain subsurface flow that replenishes water resources, wetlands, and wells.
 - (2) Prevention of unnecessary stripping of vegetation and loss of soil, especially adjacent to water resources and wetlands.
 - (3) Reduce flood impacts by absorbing peak flows, slowing the velocity of floodwaters, and regulating base flow.
 - (4) Assist in stabilizing the banks of watercourses to reduce bank erosion and the downstream transport of sediments eroded from watercourse banks.
 - (5) Provide watercourse habitats with shade and food.
 - (6) Provide habitat to a wide array of aquatic organisms, wildlife, many of which are on Ohio's Endangered and/or Threatened Species listings, by maintaining diverse and connected riparian and wetland vegetation.

- (d) Prevent degradation and aid in the restoration of waterways from stormwater pollution by filtering, settling, and absorbing pollutants in runoff both before they enter watercourses and after they are present.
- (e) Benefit the Township economically by:
 - (1) Minimizing the need for costly engineering solutions stormwater and flooding such as dams, retention basins, and rip rap; and
 - (2) Minimizing the need to construct, repair, and replace enclosed storm drain systems.
 - (3) Reducing the need for costly maintenance and repairs to roads, embankments, sewage systems, ditches, water resources, wetlands, and storm water management practices that are the result of inadequate storm water control due to the loss of riparian areas and wetlands.
 - (4) Protect structures and reduce property damage, thereby preserving property values.

The following regulations have been enacted to protect these services of riparian and wetland areas by providing reasonable controls governing structures and uses within a wetland and/or riparian setback along designated watercourses in the Township.

Section 380.02 COMPREHENSIVE STORM WATER MANAGEMENT LEGISLATION.

COMPREHENSIVE STORMWATER MANAGEMENT REGULATIONS , OLMSTED TOWNSHIP, OHIO dated January, 2017 adopted by Resolution 020-2017.

Section 380.03 APPLICATION.

The provisions of this Chapter shall apply to:

- (a) Development Areas. All development involving new or relocated projects that including but not exclusive to: infrastructure projects such as highways, underground cables, pipelines; residential projects such as property subdivision, and parcel splits; industrial projects; commercial projects; building activities on farms; and redevelopment of urban areas and all other land uses not specifically exempted. The provisions of this chapter do not apply to:
 - (1) Land disturbing activities related to producing agricultural crops or silviculture operations regulated by the Ohio Agricultural Sediment Pollution Abatement Rules (OAC 1501: 15-3-01 to 1501: 15-3-09) and existing at the time of passage of this regulation.
 - (2) Strip mining operations regulated by Chapter 1513 of the Ohio Revised Code and existing at the time of passage of this regulation.
 - (3) Surface mining operations regulated by Chapter 1514 of the Ohio Revised Code and existing at the time of passage of this regulation.
- (b) Plan and Permit Applications. The following development plan and permit processes and procedures for development areas that are located in Olmsted Township and that include or border, in part or in whole, designated watercourses and wetlands as defined in these regulations:
 - (1) These regulations shall apply to property subdivision and parcel split plan approvals, site plan approvals, and land development plan approvals requested of the Township.
 - (2) These regulations shall apply to all building permits, which involve soil disturbing activities.
 - (3) The Township shall issue no approvals or permits without full compliance with the terms of these regulations.

Section 380.04 DESIGNATED WATERCOURSES AND RIPARIAN SETBACKS.

- (a) Designated watercourses shall include those watercourses meeting any one of the following criteria:
 - (1) All watercourses draining an area greater than ½ square mile, or
 - (2) All watercourses draining an area less than ½ square mile and having a defined bed and bank.
 - (3) In determining if watercourses have a defined bed and bank, the Township may consult with a representative of the Cuyahoga SWCD or other technical experts as necessary.
- (b) Riparian setbacks on designated watercourses are established as follows:
 - (1) A minimum of 300 feet on both sides of all watercourses draining an area greater than 300 square miles.
 - (2) A minimum of 120 feet on both sides of all watercourses draining an area greater than 20 square miles and up to and including 300 square miles.
 - (3) A minimum of 75 feet on both sides of all watercourses draining an area greater than ½ square mile and up to and including 20 square miles.
 - (4) A minimum of 25 feet on both sides of all watercourses draining an area less than ½ square miles and having a defined bed and bank as determined above.
- (c) Riparian Setback Map.
 - (1) The Township shall use the latest edition of the official soil survey that shows drainage features, on the paper maps in the back of the book, as the map identifying designated watercourses and their riparian setbacks. The drainage features identified on the paper maps in the official soil survey and the information contained therein shall be believed to be accurate.
 - (2) At the time of application of this regulation, if any discrepancy is found between the Riparian Setback Map and the criteria for designated watercourses or riparian setbacks as set forth in these regulations, the criteria shall prevail.
 - (3) In reviewing and interpreting the maps the Township may consult with a representative of the Cuyahoga SWCD and other technical experts as necessary.

Section 380.05 ESTABLISHMENT OF WETLAND SETBACKS.

Wetland setbacks are established as follows:

- (a) A minimum of 120 feet surrounding and including all Ohio EPA Category 3 Wetlands, or current equivalent Ohio EPA classification.
- (b) A minimum of 75 feet surrounding and including all Ohio EPA Category 2 Wetlands, or current equivalent Ohio EPA classification.
- (c) A minimum of 25 feet surrounding and including all Ohio EPA Category 1 Wetlands, or current equivalent Ohio EPA classification.

These setbacks do not apply to wetlands permitted to be filled by U.S. Army Corps of Engineers and Ohio EPA permits issued.

Section 380.06 PROCEDURE FOR WETLAND SETBACKS.

- (a) No Change to Parcel Boundaries or Land Use Change.
 - (1) Upon filing a request for a building permit that does not involve changing of any parcel boundaries, or changes in land use, the applicant will check for indicators of wetlands on the National Wetlands Inventory maps, and Ohio Wetlands Inventory map, and the Cuyahoga County Wetlands Inventory (if applicable). A photocopy of the applicable section of each map will be attached to the permit application.

- (2) If a potential wetland is shown on any of the maps or if there is reason for the Township to believe that an unmapped wetland exists on or within 120 feet of the project site the applicant will retain a qualified wetland professional to evaluate the proposed project site for wetlands or wetland buffer areas. If no wetland or wetland buffer areas are found, the applicant shall submit a letter from the qualified wetland professional with the preliminary plat or permit application verifying his or her negative findings.
- (b) New Residential or Commercial or Other Type Development and Projects Involving a Change to Parcel Boundaries or a Land Use Change.
 - (1) Upon filing a request for approval of a preliminary plat or building permit for new residential, commercial or other type of development that involves changes in any parcel, boundaries or changes in land use, the applicant or his or her designated representative shall retain a qualified wetland professional to survey the proposed development site for wetlands. If no wetlands are found, the applicant or his or her designated representative shall submit a letter with the preliminary plat or permit application verifying that a qualified wetland professional has surveyed the site and found no wetlands.
 - (2) If wetlands are found, the following procedures shall be followed. A qualified wetland professional, acceptable to the Township, shall determine the presence of Ohio EPA Category 1, 2 or 3 wetlands (or current equivalent Ohio EPA classification) on the proposed development site using the latest version of the Ohio Rapid Assessment Method for wetland evaluation approved at the time of application of this regulation. Acceptance of this determination shall be subject to approval by the Township.
 - (3) If Ohio EPA Category 1, 2 or 3 wetlands (or current equivalent Ohio EPA classification) are located on the proposed development site, the applicant or his or her designated representative shall delineate these wetlands and the wetland setback in conformance with these regulations. The applicant or his or her designated representative shall identify all delineated wetlands and their associated setbacks on all property subdivision/property/parcel split plans, land development plans, and/or permit applications submitted to the Township.
 - A. Wetlands shall be delineated by a site survey, approved by the Township, using delineation protocols accepted by the US Army Corps of Engineers and the Ohio EPA at the time of application of this regulation. If conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetland shall apply.
 - B. Wetland setbacks shall be delineated through a metes and bounds, or higher level, survey subject to approval by the Township.
 - (4) Prior to any soil or vegetation disturbing activity, the applicant or his or her designated representative shall delineate wetland setbacks on the development site in such a way that they can be clearly viewed, and such delineation shall be maintained throughout construction.
 - (5) No approvals or permits shall be issued by the Township prior to delineation of wetland setbacks in conformance with this regulation.
- (c) Upon Completion of an Approved Property Subdivision/Property/Parcel Split, Commercial Development or Other Land Development or Improvement. Upon such completion, riparian and wetland setbacks shall be permanently recorded on the plat records for the Township and shall be maintained as open space thereafter through a permanent conservation easement granted to a third party, that is not the landowner, permittee or the Township, and which is allowed by State law to be granted conservation easements. If no such third party will accept the conservation easement, the Township shall accept it and protect it in perpetuity.

Section 380.07 DELINEATION OF RIPARIAN AND WETLAND SETBACKS.

- (a) Prior to any land clearing or soil disturbing activity, riparian and wetland setbacks shall be clearly delineated on site by the applicant or his or her designated representative, and such delineation shall be maintained throughout soil disturbing activities.
- (b) Riparian and wetland setbacks shall be measured in a perpendicular and horizontal direction outward from the ordinary high-water mark of each designated watercourse and defined wetland boundary.
- (c) No approvals or subdivision plan approval, site plan approval, nor land development plan approval shall be issued by the Township prior to on-site delineation of riparian and wetland setbacks in conformance with these regulations. No building permits which include land clearing or soil disturbing activities shall be issued by the Township prior to delineation of riparian and wetland setbacks in conformance with these regulations.
- (d) Upon completion of an approved property subdivision/property/parcel split, land development, or other improvement, riparian and wetland setbacks shall be permanently recorded on the plat records of the Township.

**Section 380.08 CONDITIONS TO BE MAINTAINED WITHIN
DELINEATED RIPARIAN AND WETLAND SETBACKS.**

- (a) Except as otherwise provided in this regulation, riparian and wetland setbacks shall be preserved in their natural state, except that nonconforming structures and nonconforming uses existing at the time of passage of this regulation may be continued in their existing state as determined in the Section 380.12 of this Chapter. Riparian setbacks shall be established and marked in the field prior to any soil disturbing or land clearing activities.
- (b) Where the Regulatory 100-year floodplain (a determined by FEMA) is wider than a riparian setback on either or both sides of a designated watercourse, the riparian setback shall be extended to the outer edge of the 100-year floodplain. Where wetlands are identified within a riparian setback, the minimum riparian setback width shall be extended to the outer boundary of the wetland. In addition, wetlands shall be protected to the extent detailed in these regulations.
- (c) Wetlands shall be delineated by a site survey approved by the Township using delineation protocols accepted by the U.S. Army Corps of Engineers and the Ohio EPA at the time of application of this regulation. If a conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetland shall apply.
- (d) The applicant or his or her designated representative shall be responsible for delineating riparian and wetland setbacks, including any expansions or modifications as required by these regulations, and identifying these setbacks on all subdivision/property/parcel, commercial development or other land development plans, and/or building permit applications submitted to the Community. This delineation may be done by a metes and bounds, or higher level, survey and shall be subject to review and approval by the Township. As a result of this review, the Township may consult with a representative of the Cuyahoga SWCD or other technical experts as necessary.

Section 380.09 USES PERMITTED IN RIPARIAN AND WETLAND SETBACKS.

- (a) By-Right Uses Without A Permit. Open space uses that are passive in character shall be permitted in riparian and wetland setbacks. No use permitted under these regulations shall be construed as allowing public trespass on privately held lands. The following is a non-inclusive list of such open space uses permitted:
 - (1) Recreational activity. Passive recreational uses, as permitted by federal, state, and local laws, such as hiking, fishing, hunting, picnicking, and similar uses.
 - (2) Removal of damaged or diseased trees. Damaged or diseased trees may be removed.

- (3) Revegetation and/or reforestation. Riparian and wetland setbacks may be revegetated with non-invasive plant species.
- (4) Maintenance of lawns, gardens and landscaping. Lawns, gardens and landscaping, that existed at the time this section was passed, may be maintained as long as they are not increased in size.
- (b) By-Right Uses with A Permit. The following uses are permitted with a permit: Selective harvesting of timber. Selective harvesting of timber may be allowed upon presentation of a Forest Management and Harvest Plan prepared by a Qualified Forester and accepted by the Township in accordance with Section 370 of the Township Zoning Regulations.
- (c) Stream Bank Stabilization and Erosion Control Measures. Stream bank stabilization and erosion control measures may be allowed provided that such measures are ecologically compatible and substantially utilize natural materials and native plant species where practical. The stream bank stabilization and erosion control measures shall only be undertaken upon approval of a Soil Erosion and Sediment Control Plan by the Township.
- (d) Crossings. Crossings of designated watercourses and through riparian setbacks by publicly and privately-owned roads, drives, sewer and/or water lines and public and private utility transmission lines shall only be allowed upon approval of a Crossing Plan by the Township. Such crossings shall minimize disturbance in riparian setbacks watercourse substrate and shall mitigate any necessary disturbances. Soil materials will not be used in making stream crossings.
- (e) Construction of Fencing. Construction of fencing shall be allowed with the condition that reasonable efforts be taken to minimize the destruction of existing vegetation, provided that the fence does not impede stream or flood flow, and the disturbed area is replanted to the natural or preexisting conditions before the addition of the fence, as approved by the Township.

Section 380.10 USES PROHIBITED IN RIPARIAN AND WETLAND SETBACKS.

Any use not authorized under these regulations shall be prohibited in riparian and wetland setbacks. By way of example, the following uses are specifically prohibited; however, prohibited uses are not limited to those examples listed here.

- (a) Construction. There shall be no structures of any kind.
- (b) Dredging or Dumping. There shall be no drilling, filling, dredging, or dumping of soil, spoils, liquid, or solid materials, except for non-commercial composting of uncontaminated natural materials, and except as permitted under Section 380.09 of these regulations.
- (c) Roads or Driveways. There shall be no roads or driveways permitted in riparian and/or wetland setback area, except as permitted under Section 380.09 of these regulations. There shall be no roads or driveways permitted in wetlands or watercourses without a permit issued by the U.S. Army Corps of Engineers and/or the Ohio EPA.
- (d) Motorized Vehicles. There shall be no use of motorized vehicles, except as permitted under Section 380.10 of these regulations.
- (e) Disturbance of Natural Vegetation. There shall be no disturbance, including mowing, of the natural vegetation, except for such conservation maintenance that the landowner deems necessary to control noxious weeds; for such plantings as are consistent with this regulation; for such disturbances as are approved under these regulations; and for the passive enjoyment, access, and maintenance of landscaping or lawns existing at the time of passage of this regulation. Nothing in this regulation shall be construed as requiring a landowner to plant or undertake any other activities in riparian and wetland setbacks.
- (f) Parking Lots. There shall be no parking lots or other human-made impervious cover, except as permitted under these regulations.

- (g) New Surface and/or Subsurface Sewage Disposal or Treatment Areas. Riparian and wetland setbacks shall not be used for the disposal or treatment of sewage except in accordance with local county Board of Health regulations in effect at the time of application of this regulation.
- (h) Crossings. Crossings of designated riparian and wetland setbacks by publicly and privately-owned sewer and/or water lines and small public and small private utility transmission lines without a permit issued by the U.S. Army Corps of Engineers and/or the Ohio EPA.

Section 380.11 NONCONFORMING STRUCTURES OR USES IN RIPARIAN AND WETLAND SETBACKS.

- (a) A non-conforming use within a riparian and wetland setback which is in existence at the time of passage of this regulation, and which is not otherwise permitted under these regulations, may be continued. However, the use shall not be changed or enlarged unless it is changed to a use permitted under these regulations.
- (b) A non-conforming structure within a riparian and wetland setback which is in existence at the time of passage of this regulation, and which is not otherwise permitted under these regulations, may be continued. However, the existing building footprint or roofline may not be expanded or enlarged in such a way that would move the structure closer to the stream or wetland.
- (c) A non-conforming structure or use or deteriorated structure within a riparian and wetland setback which is in existence at the time of passage of this regulation, and which is discontinued, terminated or abandoned for a period of six (6) months or more, may not be revived, restored, or re-established. This section shall not apply to a residence that is vacant and which is not subject to condemnation orders by the Building Commissioner. This section shall also not prohibit ordinary repairs to a residence or residential accessory building that are not in conflict with other provisions in this regulation.
- (d) A non-conforming structure or use that is discontinued may be resumed any time within six (6) months from such discontinuance but not thereafter. No change or resumption shall be permitted that is more detrimental to riparian and wetland setbacks, as measured against the intent and objectives of these regulations as determined by the Township, than the existing or former non-conforming structure or use.
- (e) In the case of a non-conforming structure within a riparian or wetland setback, the Township will allow a ten (10) foot maintenance access zone measured perpendicular to the structure, to temporarily extend further into the setback as long as disturbance to existing vegetation is minimized and vegetation is restored to the preexisting state, as near as practical, upon completion. If any soil disturbance in a wetland will occur as part of any such maintenance activity, a permit from the U. S. Army Corps of Engineers or the Ohio EPA, as appropriate, must be submitted prior to the onset of the soil disturbing activity.
- (f) In the case of a non-conforming residential structure, the Township may allow minor upgrades to the structure, such as awnings, provided the modifications do not extend further toward the watercourse than the original foundation of the structure existing at the time of passage of this regulation, and further provided that the modification will not impair the function of the riparian zone nor destabilize any slope nor stream bank, as determined by the Township

Section 380.12 VARIANCES WITHIN RIPARIAN AND WETLAND SETBACKS.

- (a) The Township may grant a variance from this regulation as provided herein. In determining whether there is unnecessary hardship or practical difficulty such as to justify the granting of a variance, the Township shall consider the potential harm or reduction in riparian and/or wetland area functions that may be caused by a proposed structure or use.

- (b) In making a variance determination, the Township shall consider the following:
 - (1) Varying the front, rear and side yard setback before the riparian and wetland setbacks are varied.
 - (2) Variances should not be granted for asphalt or concrete paving in the riparian and wetland setbacks in any situation where gravel or porous pavement (i.e., porous pavers, and similar products) will do the job.
- (c) In making a variance determination, the Township may consider the following:
 - (1) A parcel existing at the time of passage of this section is made unbuildable.
 - (2) The soil type natural vegetation of the parcel, as well as the percentage of the parcel that is in the 100-year floodplain. The criteria of the Township's flood damage prevention regulations may be used as guidance when considering variances in the 100-year floodplain.
 - (3) The extent to which the requested variance impairs the flood control, soil erosion control, sediment control, water quality protection, or other functions of the riparian and/or wetland area. This determination shall be based on sufficient technical and scientific data.
 - (4) The degree of hardship this regulation places on the landowner, and the availability of alternatives to the proposed activity.
 - (5) Soil disturbing activities permitted in a riparian and/or wetland setback through variances should be implemented in order to minimize clearing to the extent possible, and to include Best Management Practices necessary to minimize soil erosion and maximize sediment control.
 - (6) The presence of significant impervious cover, or smooth vegetation such as maintained lawns, in riparian setback areas compromises their benefits to the Township.
 - (7) A reduction in storm water infiltration into the soil in wetland areas will occur.
 - (8) A requested above ground fence does not increase the existing area of mowed grass or lawn.
 - (9) Modifying parking requirements before varying the riparian setback.
 - (10) Modifying building shape, size or design to avoid or minimize intrusion into the riparian setback.
 - (11) In the case of a lot made unbuildable by this regulation, consider the minimum variance needed to make it buildable for an appropriately sized and compatibly designed structure, while following the guidance provided in this section.
 - (12) Whether the variance will increase the likelihood for flood or erosion damage to either the applicant's property or to other properties.
 - (13) Culverting of watercourses should be avoided.
 - (14) Whether the variance will result in the need for artificial slope or bank stabilization measures that could interfere with the function of the riparian zone.

Section 380.13 APPEALS PROCEDURE.

- (a) When an applicant or his or her designated representative disputes the boundary of a riparian or wetland setback or the ordinary high-water mark of a watercourse, the applicant or his or her designated representative shall submit documentation to the Township which describes the boundary, the applicant's proposed boundary, and justification for the proposed boundary change.
- (b) The Township shall evaluate this documentation and shall make a written determination within a reasonable period of time, not to exceed sixty (60) days, a copy of which shall be submitted to the applicant. If during this evaluation the Township requires further information, it may be required of the applicant. In the event that the Township requests such additional information, the sixty (60) day limit on the Township's review shall be postponed until the applicant provides such information.
- (c) Any party aggrieved by any wetland or riparian setback determination under this regulation may appeal to the Building and Zoning Board of Appeals.

Section 380.14 INSPECTION OF RIPARIAN AND WETLAND SETBACKS.

The delineation of riparian and/or wetland setbacks shall be inspected by the Township, as follows:

- (a) Prior to any soil disturbing activities authorized by the Township under a property subdivision/property/parcel split, land development plan, and/or building permit. The applicant or his or her designated representative shall provide the Township with at least five (5) working days' notice prior to starting soil disturbing or land clearing activities.
- (b) Prior to starting any of the activities authorized by the Township under Section 380.09 of these regulations, the applicant or his or her designated representative shall provide the Township with at least five (5) working days' notice prior to starting such activities.
- (c) Any time evidence is brought to the attention of the Township that uses or structures are occurring that may reasonably be expected to violate the provisions of these regulations.

Section 380.15 COST OF CONSULTATIONS.

In implementing these regulations the Township or other Community officials may consult with the Cuyahoga County Soil and Water Conservation District (SWCD), state and federal agencies and other technical experts as necessary. Any costs associated with such consultations may be assessed to the applicant or his or her designated representative.

Section 380.16 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.

- (a) Where this chapter imposes a greater restriction upon land than is imposed or required by other Community provisions of law, ordinance, contract or deed, the provisions of this chapter shall prevail.
- (b) If a court of competent jurisdiction declares any clause, section, or provision of these regulations invalid or unconstitutional, the validity of the remainder shall not be affected thereby.
- (c) These regulations shall not be construed as authorizing any person to maintain a private or public nuisance on his or her property. Compliance with the provisions of this regulation shall not be a defense in any action to abate such nuisance.
- (d) Failure of the Township of Olmsted Township to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the owner from the responsibility for the condition or damage resulting there from, and shall not result in the Community, its officers, employees, or agents being responsible for any condition or damage resulting there from.
- (e) Neither submission of a plan under the provisions herein, nor compliance with the provisions of these regulations, shall relieve any person or entity from responsibility for damage to any person or property that is otherwise imposed by law.

Section 380.17 VIOLATIONS AND PENALTIES.

- (a) No person shall violate, or cause, or knowingly permit to be violated, any of the provisions of these regulations, or fail to comply with any such provisions or with any lawful requirements of any public authority made pursuant to these regulations, or knowingly use or cause or permit the use of any lands in violation of these regulations or in violation of any permit granted under these regulations.
- (b) Whoever violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the first degree and shall be fined no more than one thousand dollars (\$1,000) or imprisoned for no more than one hundred eighty (180) days, or both, for each offense.
- (c) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

- (d) Upon notice from the Township, or designated representative, that work is being performed contrary to this regulation, such work shall immediately stop. Such notice shall be in writing and shall be given to the owner or person responsible for the development area, or person performing the work, and shall state the conditions under which such work may be resumed; provided, however, in instances where immediate action is deemed necessary for public safety or the public interest, the Township may require that work be stopped upon verbal order pending issuance of the written order.
- (e) The imposition of any other penalties provided herein shall not preclude the Township, by or through its Director of Law, from instituting an appropriate action or proceeding in a court of competent jurisdiction to prevent an unlawful development or to restrain, correct or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, or ordinances, rules or regulations or the orders of the Township.

DEFINITIONS.

As used in this chapter, the following words and phrases have the following meaning:

- (a) **APPROVING AUTHORITY:** The official responsible for administering the applicable program(s).
- (b) **BEST MANAGEMENT PRACTICE (BMP):** Any practice or combination of practices that is determined to be the most effective, practicable (including technological, economic, and institutional considerations) means of preventing or reducing the amount of pollution generated by nonpoint sources of pollution to a level compatible with water quality goals. BMPs may include structural practices, conservation practices and operation and maintenance procedures.
- (c) **CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC):** A person that has subscribed to the Code of Ethics and has met the requirements established by the CPESC Council of Certified Professional In Erosion and Sediment Control, Inc. to be a Certified Professional in Erosion and Sediment Control.
- (d) **CHANNEL:** A natural stream that conveys water, or a ditch or channel excavated for the natural flow of water.
- (e) **CONCENTRATED STORM WATER RUNOFF:** Surface water runoff which converges and flows primarily through water conveyance features such as swales, gullies, waterways, channels or storm sewers, and which exceeds the maximum specified flow rates of filters or perimeter controls intended to control sheet flow.
- (f) **CONSERVATION:** The wise use and management of natural resources.
- (g) **DAMAGED OR DISEASED TREES:** Trees that have split trunks; broken tops; heart rot; insect or fungus problems that will lead to imminent death; undercut root systems that put the tree in imminent danger of falling; leaning as a result of root failure that puts the tree in imminent danger of falling, or any other condition that puts the tree in imminent danger of being uprooted or falling.
- (h) **DETENTION BASIN:** A storm water management pond that does not maintain a permanent pool of water.
- (i) **DESIGNATED WATERCOURSE:** A watercourse that is contained within, flows through, or borders the Township and meets the criteria set forth in these regulations.
- (j) **DETERIORATED STRUCTURE:** A structure which has sustained substantial damage from any origin whereby the cost of restoring the structure to its before damaged condition would be equal to, or greater than 50% of the market value of the structure before the damage occurred.
- (k) **DEVELOPMENT AREA:** Any tract, lot, or parcel of land, or combination of tracts, lots or parcels of land, which are in one ownership, or are contiguous and in diverse ownership, where earth-disturbing activity is to be performed.
- (l) **DITCH:** An excavation, either dug or natural, for the purpose of drainage or irrigation, and having intermittent flow.
- (m) **DUMPING:** The grading, pushing, piling, throwing, unloading or placing of soil or other material.
- (n) **EARTH DISTURBING ACTIVITY:** Any grading, excavating, filling, or other alteration of the earth's surface where natural or man-made ground cover is destroyed.

(o) **EROSION:** The process by which the land surface is worn away by the action of water, wind, ice or gravity.

(p) **EXISTING:** In existence at the time of the passage of this section and these regulations.

(q) **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA):** The agency with overall responsibility for administering the National Flood Insurance Program.

(r) **GRADING:** Earth disturbing activity such as excavation, stripping, cutting, filling, stockpiling, or any combination thereof.

(s) **IMPERVIOUS COVER:** Any surface that cannot effectively absorb or infiltrate water. This includes roads, streets, parking lots, rooftops, and sidewalks.

(t) **INTERMITTENT STREAM:** A natural channel that may have some water in pools but where surface flows are non-existent or interstitial (flowing through sand and gravel in stream beds) for periods of one week or more during typical summer months.

(u) **LARGER COMMON PLAN OF DEVELOPMENT OR SALE:** A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

(v) **LANDSLIDE:** The rapid mass movement of soil and rock material downhill under the influence of gravity in which the movement of the soil mass occurs along an interior surface of sliding.

(w) **CUYAHOGA SWCD:** The local county Soil and Water Conservation District.

(x) **NATIONAL WETLANDS INVENTORY MAP:** Wetland maps that were created by the Fish and Wildlife Service, United States Department of Interior.

(y) **NATURAL RESOURCES CONSERVATION SERVICE (NRCS):** An agency of the United States Department of Agriculture, formerly known as the Soil Conservation Service (SCS).

(z) **NPDES PERMIT:** A National Pollutant Discharge Elimination System Permit issued by Ohio EPA under the authority of the USEPA, and derived from the Federal Clean Water Act.

(aa) **NOXIOUS WEED:** Any plant species defined by the Ohio Department of Agriculture as a "noxious weed" and listed as such by the Department. For the purposes of this regulation, the most recent version of this list at the time of application of these regulations shall prevail.

(bb) **OHIO EPA:** The Ohio Environmental Protection Agency.

(cc) **OHIO WETLANDS INVENTORY MAP:** Wetland maps that were created by the Natural Resources Conservation Service, USDA and the Ohio Department of Natural Resources.

(dd) **ORDINARY HIGH WATER MARK:** The point of the bank or shore to which the presence and action of surface water is so continuous as to leave a district marked by erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

(ee) **OUTFALL:** An area where water flows from a structure such as a conduit, storm sewer, improved channel or drain, and the area immediately beyond the structure which is impacted by the velocity of flow in the structure.

(ff) **PERSON:** Any individual, corporation, partnership, limited liability company, joint venture, agency, unincorporated association, municipal corporation, township, county, state agency, the federal government, or any combination thereof.

(gg) **PERENNIAL STREAM:** A natural channel that contains water throughout the year, except possibly during periods of extreme drought.

(hh) **PROFESSIONAL ENGINEER:** A person registered in the State of Ohio as a Professional Engineer, with specific education and experience in water resources engineering, acting in strict conformance with the Code of Ethics of the Ohio Board of Registration for Engineers and Surveyors.

(ii) **QUALIFIED FORESTER:** Any forester employed by the Ohio Department of Natural Resources, Division of Forestry, or any person attaining the credential of Certified Forester as conferred by the Society of American Foresters.

(jj) **QUALIFIED WETLAND PROFESSIONAL:** An individual competent in the areas of botany, hydric soils, and wetland hydrology, and who is acceptable to the Township.

(kk) **REDEVELOPMENT:** The demolition or removal of existing structures or land uses and construction of new ones.

(ll) **RETENTION BASIN:** A storm water management pond that maintains a permanent pool of water. These storm water management ponds include a properly engineered/designed volume dedicated to the temporary storage and slow release of runoff waters.

(mm) **RIPARIAN AREA:** This shall mean land adjacent to watercourses that if naturally vegetated and/or appropriately revegetated and appropriately sized, limits erosion, reduces flood flows, and/or filters and settles out runoff pollutants, or which performs other functions consistent with the purposes of these regulations.

(nn) **RIPARIAN SETBACK:** Those lands within the Township which are alongside streams, and which fall within the area defined by the criteria set forth in these regulations.

(oo) **SEDIMENT:** Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, gravity or ice, and has come to rest on the earth's surface either on dry land or in a body of water.

(pp) **SEDIMENT CONTROL:** The limiting of sediment being transported, by controlling erosion or detaining sediment-laden water, and allowing the sediment to settle out.

(qq) **SEDIMENT POLLUTION:** A failure to use management or conservation practices to control wind or water erosion of the soil and to minimize the degradation of water resources by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed for commercial, industrial, residential, or other purposes.

(rr) **SENSITIVE AREA:** An area or water resource that requires special management because of its susceptibility to sediment pollution, or because of its importance to the well-being of the surrounding communities, region, or the state and includes, but is not limited to, the following:

- (1) Ponds, wetlands or small lakes with less than five acres of surface area;
- (2) Small streams with gradients less than ten feet per mile with average annual velocity of less than 3.5 feet per second containing sand or gravel bottoms.
- (3) Drainage areas of a locally designated or an Ohio designated Scenic River.
- (4) Riparian and wetland areas.

(ss) **SHEET FLOW:** Water runoff in a thin uniform layer or rills and which is of small enough quantity to be treated by sediment barriers.

(tt) **SILVICULTURE:** The theory and practice of controlling forest establishment, composting and growth.

(uu) **SLIP:** A landslide as defined under "Landslides."

(vv) **SLOUGHING:** A slip or downward movement of an extended layer of soil resulting from the undermining action of water or the earth disturbing activity of man.

(ww) **SOIL:** Unconsolidated erodible earth material consisting of minerals and/or organics.

(xx) **SOIL CONSERVATION SERVICE, USDA:** The federal agency now titled the "Natural Resources Conservation Service," which is an agency of the United States Department of Agriculture.

(yy) **SOIL DISTURBING ACTIVITY:** Clearing, grading, excavating, filling, or other alteration of the earth's surface, where natural or human made ground cover is destroyed and which may result in, or contribute to, soil erosion and sediment pollution.

(zz) **SOIL EROSION AND SEDIMENT CONTROL PLAN:** A written and/or drawn soil erosion and sediment pollution control plan to minimize erosion and prevent off-site sedimentation throughout all earth disturbing activities on a development area.

(aaa) **SOIL EROSION AND SEDIMENT CONTROL PRACTICES:** Conservation measures used to control sediment pollution and including structural practices, vegetative practices and management techniques.

(bbb) **SOIL SURVEY:** The official soil survey produced by the Natural Resources Conservation Service, USDA in cooperation with the Division of Soil and Water Conservation, ODNR and the local Board of County Commissioners.

(ccc) STORM WATER CONVEYANCE SYSTEM: All storm sewers, channels, streams, ponds, lakes, etc., used for conveying concentrated storm water runoff, or for storing storm water runoff.

(ddd) STREAM: A body of water running or flowing on the earth's surface, or a channel in which such flow occurs. Flow may be seasonally intermittent.

(eee) SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would be equal to, or greater than 50% of the market value of the structure before the damage occurred.

(fff) USEPA: The United States Environmental Protection Agency.

(ggg) 100-YEAR FLOODPLAIN: Any land susceptible to being inundated by water from a base flood. The base flood is the flood that has a one percent (1%) or greater chance of being equaled or exceeded in any given year. For the purposes of this regulation, the 100-year floodplain shall be defined by FEMA or a site-specific Floodplain Delineation in conformance with standard engineering practices and approved by the Township.

(hhh) WATERCOURSE: This shall mean any natural, perennial, or intermittent lake, pond, channel, stream, river, creek or brook with a defined bed and bank or shore.

(iii) WATER RESOURCES: All streams, lakes, ponds, wetlands, water courses, waterways, drainage systems, and all other bodies or accumulations of surface water, either natural or artificial, which are situated wholly or partly within, or border upon this State, or are within its jurisdiction, except those private waters which do not combine or affect a junction with natural surface waters.

(jjj) WETLAND: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

(kkk) WETLAND, OHIO EPA CATEGORY 2 WETLANDS: Those wetlands classified by the Ohio EPA as Category 2 wetlands under OAC 3745-1-54(C)(2), or current equivalent Ohio EPA classification, in accordance with generally accepted wetland functional assessment methods acceptable to the U.S. Army Corps of Engineers and Ohio EPA at the time of application of this regulation.

(lll) WETLAND, OHIO EPA CATEGORY 3 WETLANDS: Those wetlands classified by the Ohio EPA as Category 3 wetlands under OAC 3745-1-54(C)(3), or current equivalent Ohio EPA classification, in accordance with generally accepted wetland functional assessment methods acceptable to the U.S. Army Corps of Engineers and Ohio EPA at the time of application of this regulation.

(mmm) WETLAND SETBACK: Those lands within the Township that fall within the area defined by the criteria set forth in these regulations.

(nnn) WINTER: October 1st to April 1st of each year.

13. Section 560.03 Map Amendments Initiated by Property Owner (S)

Section 560.03 Map Amendments Initiated by Property Owner (S) amended to add text to subsection (f) (1) & (3) and omitting (2) and add and omit text from subsection (h) to read as follows:

SECTION 560.03 MAP AMENDMENTS INITIATED BY PROPERTY OWNER(S).

An application for a map amendment initiated by at least one owner within the area proposed to be changed or affected by said amendment shall be submitted and reviewed according to the following:

(a) Discussion with Zoning Commission. Prior to submitting an application for an amendment to the Zoning Map, the applicant shall appear before the Zoning Commission to informally discuss the proposed rezoning. However, no action shall be taken at such a meeting and no discussions, opinion, suggestions, or recommendations of the Zoning Commission shall be relied upon by the applicant to indicate subsequent approval or disapproval by the Zoning Commission.

(b) Application Requirements. Applications for amendments to the Zoning Map adopted as part of this resolution shall be submitted to the Zoning Inspector and shall contain at least the following information, unless otherwise instructed by the Zoning Commission during the preliminary discussion in Subsection 560.03(a).

- (1) The name, address and phone number of the applicant and the property owner if other than the applicant;
- (2) An accurate legal description of the parcel(s) to be rezoned, drawn by a registered surveyor;
- (3) A statement of the reason(s) for the proposed amendment;
- (4) Present use and zoning district, and the proposed use and zoning district;
- (5) A vicinity map at a scale approved by the Zoning Inspector showing property lines, thoroughfares, existing and proposed zoning, and such other items as the Zoning Inspector may require;
- (6) Existing topography at two foot contour intervals of the property to be rezoned and extending at least 300 feet outside the proposed site, and including property lines, easements, street rights-of-ways, existing structures, trees and landscaping features existing thereon;
- (7) The last known names and addresses of the owners of all properties lying within 350 feet of any part of the property on which the zoning map amendment is requested, as shown upon the County auditor's current tax list;
- (8) A statement on the ways in which the proposed amendment relates to the Comprehensive Plan;
- (9) The payment of the application fee as established by Trustees.

(c) Referral to Zoning Commission. After the filing of an application by an owner, the Zoning Inspector shall transmit the application to the Zoning Commission for its consideration and recommendation.

(d) Public Hearing and Notice by Zoning Commission. The Zoning Commission shall set a date for a public hearing thereon, which date shall not be less than 20 nor more than 40 days from the date of the filing of the application. Notice of such hearing shall be given by the Zoning Commission by publication in one or more newspapers of general circulation in the Township at least 10 days prior to the date of the hearing. The published notice shall include the date, time and place of the public hearing, a summary of the proposed amendment and a statement that opportunity to be heard will be afforded to any person interested. Also included should be the name of the Zoning Commission conducting the public hearing on the proposed amendment; A statement indicating that the application is an amendment to Olmsted Township's zoning resolution; The time and place where the application information including any maps of the proposed amendment will be available for examination for a period of at least ten days prior to the public hearing; the name of the person responsible for giving notice of the public hearing by publication; A statement that after the conclusion of such public hearing the matter will be submitted to the Olmsted Township Board of Trustees for its action; Any other information requested by the Olmsted Township Zoning Commission.

(e) Notice to Property Owners. If the proposed amendment intends to rezone or redistrict ten or fewer parcels of land, as listed on the County Auditor's current tax list, written notice of the hearing shall be

mailed by the Zoning Commission, by first class mail, at least 10 days before the day of the public hearing to all owners of property within and contiguous to and directly across the street from such area proposed to be rezoned or redistricted to the addresses of such owners appearing on the County Auditor's current tax list. The notice shall contain the same information as required of notices published in newspapers as specified in Subsection (e) above and shall also state the present zoning classification of property named in the proposed amendment and the proposed zoning classification of such property. Failure of delivery of such notice shall not invalidate any such amendment.

(f) Recommendation by Zoning Commission. The Zoning Commission shall, within 30 days after such public hearing, recommend one of the following:

(1) That the amendment be approved as requested;

~~(2) That the amendment be approved as modified by the Zoning Commission as the Commission may deem reasonable or necessary; or~~

(3) That the amendment be denied.

The secretary of the Zoning Commission shall forthwith submit to the Trustees the recommendation from the the County Planning Commission and the Zoning Commission.

(g) Public Hearing and Notice by Trustees. Upon receipt of the recommendation from the Zoning Commission, the Trustees shall set a time for a public hearing on the proposed amendment, which date shall not be more than 30 days from the date of the receipt of such recommendation from the Zoning Commission. Notice of the public hearing shall be given by the Trustees by at least one publication in one or more newspapers of general circulation in the Township at least 10 days before the date of the required hearing. The published notice shall include the date, time and place of the public hearing, a summary of the proposed amendment and a statement that opportunity to be heard will be afforded to any person interested. During such 10 days, the text of the proposed amendment, the maps or plans, if applicable, and the recommendations of the Zoning Commission shall be on file for public examination in the office of the Clerk of Township or in such other office as is designated by Trustees.

(h) Action by Trustees. Within 20 days after the public hearing required by Subsection (h), above, the Trustees shall either adopt or deny the recommendation of the Zoning Commission or adopt some modification thereof. In the event the Trustees elect to overrule or modify the recommendation of the Zoning Commission, ~~the unanimous vote of all three~~ Majority vote of Trustees shall be required. ~~Wherein the Trustees fail to obtain a unanimous vote, the recommendation of the Commission shall be considered as approved.~~

(i) Amendments adopted by the Trustees shall become effective in 30 days after the date of adoption unless, within 30 days after the adoption of the amendment, there is presented to the Township Trustees a petition, signed by a number of registered electors residing in the unincorporated area of the Township equal to not less than eight percent of the total vote cast for all candidates for governor in such area at the last preceding general election at which a governor was elected, requested the Township Trustees to submit the amendment to the electors of such area for approval or rejection at a special election to be held on the day of the next primary or general election. Each part of this petition shall contain the number and the full and

correct title, if any, of the zoning amendment resolution, motion, or application, furnishing the name by which the amendment is known and a brief summary of its contents. In addition to meeting the requirements of this Section, each petition shall be governed by the rules specified in Section 3501.38 of the Ohio Revised Code.

14. Section 560.06 Amendments to Filed with the County

Section 560.06 Amendment to be Filed with the County has been omitted

~~SECTION 560.06 AMENDMENTS TO BE FILED WITH THE COUNTY.~~

~~Amendments shall be filed with the County in accordance with Section 519.12 of the Ohio Revised Code.~~

~~(a) Within five working days after an amendment's effective date, the board of township trustees shall file the text and maps of the amendment in the office of the Cuyahoga County Recorder and with the Cuyahoga County Planning Commission.~~

~~(b) The failure to file any amendment, or any text and maps, or duplicates of any of these documents, with the office of the county recorder or the county planning commission as required by this section does not invalidate the amendment and is not grounds for an appeal of any decision of the Board of Zoning Appeals.~~

MOTION FOR RECOMMENDATION OF APPROVAL

Motion by Gib Winter, seconded by Kelly Walker, to recommend approval with modifications of the amendment proposed to the Olmsted Township Zoning Resolution in Zoning Amendment Number 21OLMT-ZC004, which amendment consists of the textual revisions proposed to be made to the Olmsted Township Zoning Resolution as reflected in the Zoning Amendment Text entitled "Olmsted Township Zoning Amendment Number 21OLMT-ZC004".

