

CHAPTER 101
PURPOSE AND CONFLICT

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101.01 TITLE.

This resolution shall be known and may be cited as the duly enacted 1948 Zoning Resolution, amended thereafter, of Bainbridge Township, Geauga County, Ohio, and is referred to herein as this Zoning Resolution.

101.02 DECLARATION OF PURPOSE.

The Board of Trustees and Zoning Commission of Bainbridge Township have, through an evaluation of development factors, anticipated future growth and basic community goals, established basic guidelines and objectives for future development in the Township. It has been determined, due to the location of the Township within the area, the natural limitations of soil and geologic conditions which affect water supply and sewage treatment, the limited capability of the Township to provide urban services, the current character of development within the Township, and the expressed objective of the residents of the community, that Bainbridge Township shall be essentially a low density residential community, with nonresidential development generally limited to that necessary for the convenience of residents. It has been further determined that a major asset to the community is the natural rural quality of the landscape, and that this quality, insofar as possible, should be preserved. To achieve these basic objectives, in the interest of the public health, safety, convenience, comfort, prosperity, or general welfare, to insure the preservation of open space, adequate light and air, freedom from congestion and objectionable or noxious uses, and to provide for the orderly and efficient growth of the community, the Board of Trustees of Bainbridge Township deems it necessary, in accordance with the provisions of Ohio R.C. Chapter 519, to regulate the use of land, the size and location of buildings, yards and open space, and other characteristics of future development within

the Township, and hereby adopts and enacts the following Resolution which shall be in force and effect within the unincorporated territory of Bainbridge Township. The Board of Trustees of Bainbridge Township intends to exercise all zoning and planning powers now or hereafter conferred by the Ohio General Assembly and has enacted this Zoning Resolution to be consistent with and to implement the current adopted version of the Bainbridge Township Land Use Plan.

Additional purposes of this Zoning Resolution are to:

- (a) Divide the Township into zoning districts or zones and to provide uniform regulations for each class or kind of buildings, structures, and uses within such districts or zones.
- (b) Regulate the location, height, bulk, number of stories, and size of buildings and other structures and the percentage of lot coverage by buildings, structures, and impervious surfaces.
- (c) Regulate building setback lines (yards) and other open spaces.
- (d) Regulate the density of population by establishing minimum lot size, frontage, and width requirements in each zoning district or zone.
- (e) Regulate the uses of buildings and structures in each zoning district and to ensure that appropriate utilities, sewage treatment and water supply systems, and other matters related to protection and promotion of public health and safety are adequately addressed to serve such uses.
- (f) Conserve and protect the natural resources of the township, including the supply of groundwater.
- (g) Ensure that development is in accord with the capability and suitability of the land to support it.
- (h) Provide regulations that advance balanced and orderly growth and development in the township as well as preserve sensitive environmental resources in order to maintain the semi-rural character of the township.
- (i) Promote and protect the public health, safety, morals, and general welfare.

101.03 PROVISIONS TO BE MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this Zoning Resolution shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, and the general welfare. Whenever the requirements of this Zoning Resolution conflict, the requirements imposing the most restrictive or the higher standards shall govern.

101.04 SEVERABILITY CLAUSE.

Should any section or provision of this Zoning Resolution be declared to be unconstitutional or invalid, such decision shall not affect the validity of the Zoning Resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

101.05 REPEAL OF CONFLICTING PROVISIONS.

All resolutions or parts of resolutions in conflict with this Zoning Resolution or inconsistent with the provisions thereof are hereby repealed to the extent necessary to give this Zoning Resolution full force and effect. This Zoning Resolution shall become effective from and after the date of its approval and adoption, as provided by law.

101.06 FIRST DAY EXCLUDED AND LAST DAY INCLUDED IN COMPUTING TIME; EXCEPTIONS; LEGAL HOLIDAY DEFINED.

- (a) The time within which an act is required by law to be done shall be computed by excluding the first and including the last day; except that when the last day falls on Saturday, Sunday or a legal holiday, then the act may be done on the next succeeding day which is not Saturday, Sunday or a legal holiday.
- (b) When a public office in which an act, required by law, is to be performed is closed to the public for the entire day which constitutes the last day for doing such act or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not a Saturday, Sunday or legal holiday as defined in Ohio Revised Code Section 1.14.
- (c) “Legal holiday” as used in this section means the days set forth in Ohio Revised Code Section 1.14. If any day designated in Ohio Revised Code Section 1.14 as a legal holiday falls on Sunday, the next succeeding day is a legal holiday.
- (d) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

101.07 EFFECT OF AMENDMENT.

The amendment of this resolution does not:

- (a) Affect the prior operation of this resolution or any prior action taken thereunder.
- (b) Affect any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred thereunder.
- (c) Affect any violation thereof or penalty, forfeiture, or punishment incurred in respect thereto, prior to the amendment or repeal.
- (d) Affect any investigation, proceeding, or remedy in respect to any such privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the resolution had not been amended.
- (e) A provision or regulation, which is reenacted or amended, is intended to be a continuation of the prior provision or regulation and not a new enactment, so far as it is the same as the prior provision or regulation.

101.08 POWERS NOT CONFERRED BY CHAPTER 519 OF THE OHIO REVISED CODE OR THIS RESOLUTION.

- (a) This resolution does not prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, including buildings or structures that are used primarily for vinting and selling wine and that are located on land any part of which is used for viticulture and no zoning certificate shall be required for any such building or structure. However, this resolution shall regulate the use of land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located in accordance with Ohio Revised Code Section 519.21(B).
- (b) This resolution does not apply in respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of any public utility or railroad, whether publicly or privately owned, or the use of land by any public utility or railroad, for the operation of its business. As used in this resolution, “public utility” does not include a person that owns or operates a solid waste facility or a solid waste transfer facility, other than a publicly owned solid waste facility or a publicly owned solid waste transfer facility, that has been issued a permit under Chapter 3734. of the Ohio Revised Code or a construction and demolition debris facility that has been issued a permit under Chapter 3714. of the Ohio Revised Code. However, subject to Ohio Revised Code Section 519.211(B)(4)(a), the provisions of this resolution shall apply with respect to the

location, erection, construction, reconstruction, change, alteration, removal, or enlargement of a wireless telecommunications tower and appurtenant facilities.

- (c) This resolution does not prohibit the sale or use of alcoholic beverages in areas where the establishment and operation of any retail business, hotel, lunchroom or restaurant is permitted by this resolution.
- (d) This resolution does not prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for a farm market where fifty percent (50%) or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year.
- (e) This resolution does not apply with respect to a building or structure of, or the use of land by, a person engaged in the transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants. However, this resolution does apply with respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of a public utility engaged in the business of transporting persons or property, or both, or providing or furnishing such transportation service, over any public road or highway in this state, and with respect to the use of land by any such public utility for the operation of its business, to the extent that any exercise of such power is reasonable and not inconsistent with Chapters 4901., 4903., 4905., 4909., 4921., and 4923. of the Ohio Revised Code.
- (f) Pursuant to O.R.C. Section 4906.13, this resolution shall not apply to the construction or operation of a “major utility facility” as defined in O.R.C. Section 4906.01 or to an “economically significant wind farm” as defined in O.R.C. Section 4906.13 and authorized by a certificate issued pursuant to Chapter 4906 of the O.R.C. A “major utility facility” includes a “large wind farm” and a “large solar facility.” A “large wind farm” and a “large solar facility” shall have the same meanings as in O.R.C. Section 4906.01.
- (g) Pursuant to Ohio Revised Code Section 5502.031, this resolution does not preclude amateur radio service communications and does not restrict the height or location of amateur station antenna structures in such a way as to prevent effective amateur radio service communications and shall comply with 47 C.F.R. 97.15.
- (h) This resolution does not prohibit a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for biodiesel production, biomass energy production, or electric or heat energy production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under Section 5713.30 to 5713.37 of the Ohio Revised Code for real property tax purposes. As used herein, “biodiesel,” “biomass energy,” and “electric or heat energy” have the same meanings as in Section 5713.30 of the Ohio Revised Code.

- (i) This resolution does not prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for biologically derived methane gas production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under Section 5713.30 to 5713.37 of the Ohio Revised Code for real property tax purposes and if the facility that produces the biologically derived methane gas does not produce more than seventeen million sixty thousand seven hundred ten (17,060.710) British thermal units, five (5) megawatts, or both. As used in this section, “biologically derived methane gas” has the same meaning as in Section 5713.30 of the Ohio Revised Code.
- (j) This resolution does not prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for agritourism. As used in this section, “agritourism” has the same meaning as in Section 901.80 of the Ohio Revised Code.
- (k) This resolution does not prohibit or restrict the location of a home education learning pod, as defined in section 5104.01 of the Ohio Revised Code and this resolution, in any zoning district. Additional or more stringent regulations on a building or residence based solely on its association with or use by a home education learning pod shall not be imposed by this resolution. Provided, however, a building or residence used by a home education learning pod shall be required to comply with zoning requirements that otherwise apply to the building or residence if it was not associated with or used by a home learning pod. A home education learning pod is not agritourism, as defined in Section 105.02.