

CHAPTER 3. DEVELOPMENT REVIEW PROCEDURES

3.1. PURPOSE

The purpose of this chapter is to identify the development review procedures used in the administration of this zoning code.

3.2. AGRICULTURAL EXEMPTION

- 3.2.1.** Agricultural uses, and buildings or structures that are incidental to agricultural uses, located on lots with a lot area of five acres or more, shall be exempt from the requirements of this zoning code and property owners shall not be required to obtain a zoning certificate for such uses in accordance with ORC Section 519.21. A property owner shall complete an agriculture exemption application so that the zoning inspector can confirm the exemption status.
- 3.2.2.** For any platted subdivision approved under ORC Sections 711.05, 711.09 or 711.10, or in any area consisting of 15 or more lots approved under ORC Section 711.131 that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road, the following regulations shall apply:
- A.** Buildings or structures incidental to the use of land for agricultural uses on lots less than one acre shall be set back a minimum of 85 feet from all property lines, except that houses for not more than two adult dogs or cats or combination thereof may be kept anywhere on the premises.
 - (1)** The keeping of swine is prohibited.
 - (2)** The keeping of poultry shall comply with [Section 4.9.5.J Keeping of Chickens](#).
 - (3)** Houses for more than two adult dogs or cats or combination thereof are prohibited.
 - (4)** Dairying and animal or poultry husbandry are prohibited.
 - (5)** Public or private stables and beasts for hire are prohibited.
 - B.** Buildings or structures incidental to the use of land for agricultural uses on lots greater than one acre but less than five acres shall be set back a minimum of 85 feet from all property lines, except that houses for not more than two adult dogs or cats or combination thereof may be kept anywhere on the premises.
 - C.** Dairying and animal and poultry husbandry on lots greater than one acre but not greater than five acres when at least 35 percent of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured and mobile homes under ORC Section 4503.06 shall be prohibited. After 35 percent of the lots are so developed, dairying and animal and poultry husbandry shall be considered a nonconforming use of land, buildings, or structures pursuant to ORC Section 519.19.

- 3.2.3.** Structures that are exempt from the provisions of the zoning code pursuant to this section shall not be exempt from any applicable special flood hazard area regulations established and enforced by Warren County.

3.3. EXEMPTIONS FOR PUBLIC UTILITIES AND RAILROADS

Per ORC Section 519.211, no part of this zoning code shall confer any power on the board of township trustees, zoning commission, or BZA, to regulate 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.

3.4. COMMON REVIEW REQUIREMENTS

The requirements of this section shall apply to all applications and procedures subject to development review under this zoning code, unless otherwise stated.

3.4.1. Authority to File Applications

- A.** The person having legal authority to take action in accordance with the approval sought shall file an application for any review in accordance with this zoning code. The person having legal authority shall be the record owner or the duly authorized agent of the record owner and may be required to provide proof of such authority at the time of application.
- B.** The zoning commission and board of township trustees may initiate zoning text and map amendments under this zoning code with or without an application from the property owner who may be affected.

3.4.2. Application Contents

A. Submittal Requirements

Applications required under this zoning code shall be submitted in a form and in such numbers as established by the zoning inspector and made available to the public.

B. Submission of Fees

- (1)** Applications shall be accompanied by a fee as established by resolution of the board of township trustees and made available to the public.
- (2)** The township shall charge appropriate fees for the review or issuance of zoning certificates, site plan reviews, conditional uses, appeals, variances, zoning amendments, and other applicable permits and procedures to cover the costs of inspection, investigation, legal notices, and other expenses incidental to the enforcement of this zoning code. Such fees shall be paid to Hamilton Township, and shall be paid in accordance to the Official Zoning Fee Schedule as established by the board of township trustees.

C. Complete Application Determination

- (1)** The zoning inspector shall only initiate the review and processing of applications submitted under this chapter if such application is determined to be complete.
- (2)** The zoning inspector shall make a determination of application completeness within five business days of the application filing.

- (3) If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this zoning code.
- (4) If an application is determined to be incomplete, the zoning inspector shall provide notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected in a future re-submittal application.
- (5) If the applicant fails to re-submit a complete application within 60 days of the notice provided by the zoning inspector pursuant to [Section 3.4.2.C\(4\)](#), unless an extension is granted by the zoning inspector, the incomplete application shall not be reviewed, the applicant's original filing fee shall be forfeited, and the incomplete application shall be deemed withdrawn. No reconsideration of an incomplete application shall occur after expiration of the 60 day period, and an applicant in need of further development approval under the zoning code shall, pursuant to all of the original requirements of [Section 3.4.2 Application Contents](#), submit a new application and filing fee.
- (6) If any false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

D. Refund of Fees

Application or review fees are not refundable except where the zoning inspector determines that an application was accepted in error, or the fee paid exceeds the amount due, in which case the amount of the overpayment will be refunded to the applicant.

3.4.3. Simultaneous Processing of Applications

Whenever two or more forms of review and approval are required under this zoning code, the zoning inspector shall determine the order and timing of review. The zoning inspector may authorize a simultaneous review of applications.

3.4.4. Constructive Notice

The following shall apply to all public notice requirements established in each development review procedure:

- A.** Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed.
- B.** If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall direct the agency having responsibility for notification to make a formal finding as to whether there was substantial compliance with the notice requirements of this zoning code, and such finding shall be made available to the decision-making body prior to final action on the request.
- C.** When the records of the township document the publication, mailing, and/or posting of notices as required by this chapter, it shall be presumed that notice of a public hearing was given as required by this section.

3.4.5. Conduct of Public Hearing

A. Rights of All Persons

Any person may appear at a public hearing and submit information or evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state his or her address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.

B. Continuance of a Public Hearing or Deferral of Application Review

- (1) An applicant may request that a review or decision-making body's consideration of an application at a public hearing be deferred by submitting a written request for deferral to the zoning inspector prior to the publication of notice as may be required by this zoning code. The zoning inspector may grant such requests, in which case, the application will be considered at the next regularly scheduled meeting.
- (2) A request for deferral of consideration of an application received by the Hamilton Township Planning and Zoning Department after publication of notice of the public hearing as required by this zoning code shall be considered as a request for a continuance of the public hearing, and may only be granted by the review or decision-making body.
- (3) The review body conducting the public hearing may, on its own motion or at the request of the applicant, continue the public hearing to a fixed date, time, and place.

C. Withdrawal of Application

Any request for withdrawal of an application shall be either submitted in writing to the zoning inspector or made through a verbal request by the applicant prior to action by the review or decision-making body.

- (1) The zoning inspector shall approve a request for withdrawal of an application if it has been submitted prior to publication of notice for the public hearing on the application in accordance with this zoning code.
- (2) If the request for withdrawal of an application is submitted after publication of notice for the public hearing in accordance with this zoning code, the request for withdrawal shall be placed on the public hearing agenda and acted upon by the review or decision-making body.
- (3) In all cases where the applicant has requested the withdrawal of an application, the application fee paid shall not be refunded.

3.4.6. Examination and Copying of Application and Other Document

Documents and/or records may be inspected and/or copied as provided for by state law.

3.4.7. Computation of Time

- A.** In computing any period of time prescribed or allowed by this zoning code, the date of the application, act, decision, or event, from which the designated period of time begins shall not be included. The last date of the period of time to be computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which case the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday as observed by Hamilton Township where the township administrative offices are closed for the entire day.

- B.** When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation (i.e., business days and not calendar days).
- C.** When the township offices are closed to the public for the entire day which constitutes the last day of the period of time, then such application, act, decision, or event may be performed on the next succeeding day which is not a Saturday, a Sunday, or a legal holiday observed by Hamilton Township in which the township administrative offices are closed for the entire day.

3.5. ZONING CERTIFICATE

3.5.1. Zoning Certificate Applicability

A zoning certificate shall be required for any of the following unless otherwise specifically exempted:

- A.** New construction or structural alteration of any building or structure, including accessory buildings and structures;
- B.** Change in use of an existing building (including tenant finishes), structure, accessory building, lot, or portion thereof, including nonconforming uses but excluding changing to any agricultural use;
- C.** Change in the use of land to a use of a different classification;
- D.** Occupancy and use of vacant land or buildings, excluding agricultural land or buildings;
- E.** New decks and porches, or expansions of existing decks or porches, that are 18 inches or more in height;
- F.** All exterior swimming pools with a water depth greater than 18 inches, except for temporary pools that are removed or emptied within 24 hours;
- G.** Home occupations, accessory uses, and temporary uses;
- H.** Permanent or temporary signs unless exempted in [Section 9.6 Signs Not Requiring a Zoning Certificate](#); or
- I.** Any structure or improvement that is required to obtain a zoning certificate prior to the issuance of a building permit from the Warren County Building Department.

3.5.2. Site Plan Review Required Prior to Issuance of Zoning Certificate

- A.** Site plan review pursuant to [Section 3.6 Site Plan Review](#) is required for all zoning certificates except as exempted by [Section 3.6.1 Applicability](#).
- B.** A zoning certificate is required for PUDs in accordance with the provision of [Section 5.5 Review Procedures for PUDs](#).

3.5.3. Zoning Certificate Review Procedure

A. Step I – Application

The applicant shall submit the required number of copies of the following to the zoning inspector prior to submitting for a building permit from the Warren County Building Department:

- (1) Zoning certificate application and applicable forms available from the township offices or township web site;
- (2) All such forms, plans, maps, and information as may be prescribed for that purpose by the Hamilton Township Planning and Zoning Department to assure the fullest practicable presentation of the facts for the permanent record; and
- (3) All required fees as established in the Hamilton Township fee schedule.

B. Step 2 – Review and Decision

- (1) The zoning inspector shall review each complete application and either approve and issue the zoning certificate or deny the application within 30 days of the application (Step 1).
- (2) Zoning certificate applications submitted for a site subject to an approved moratorium shall not be reviewed, and no decision made, within the period of time that the moratorium is in place.
- (3) Upon approval, the zoning inspector shall issue a signed zoning certificate and maintain a copy of the certificate for township records.
- (4) If the zoning inspector denies an application, the inspector shall state in writing the reasons for the action taken.
- (5) If the application is denied, the applicant may submit a revised application and site plan for review in accordance with this review procedure, or the applicant may appeal the decision to the BZA in accordance with [Section 3.8 Appeals, Variances, and Conditional Uses](#) of this zoning code.

C. Step 3 – Zoning Compliance Inspection

- (1) A zoning compliance inspection shall be required after completion of the work authorized by the zoning certificate. A zoning compliance inspection shall be required for any of the following:
 - (a) Occupancy of a new nonresidential building or structure after completion of construction.
 - (b) Occupancy or change of occupancy of an existing nonresidential building or structure.
 - (c) Change of use in any nonresidential building.
 - (d) A zoning compliance inspection shall not be required for agricultural uses.
- (2) The zoning inspector should conduct a zoning compliance inspection to ensure that the project has been completed according to the approved zoning certificate and plans.
- (3) The zoning compliance inspection shall be scheduled at least two weeks prior to expected occupancy and/or opening for business.
- (4) The zoning inspector shall provide the applicant with findings from the zoning compliance inspection within 24 hours of the initial inspection.
- (5) The applicant shall notify the zoning inspector when corrections, if needed, have been made based on the initial inspection. Additional inspections shall be scheduled if deemed necessary by the zoning inspector.

- (6) Upon passing the zoning compliance inspection, the zoning inspector shall notify the applicant and the Warren County Building Department of inspection passage so that the certificate of occupancy may be issued when all other approvals and inspections are complete.

3.5.4. Review Criteria

- A.** All applications for a zoning certificate shall demonstrate conformity with the provisions of this zoning code.
- B.** No zoning certificate shall be issued to any applicant or for any property that is in violation of any provision of this zoning code until such violation is corrected or eliminated to the satisfaction of the zoning inspector unless said application is being made to bring the property into conformance with this zoning code.
- C.** No zoning certificate shall be issued without written certification from the appropriate applicable permitting authority that it shall be sufficiently served by a public central sewer system or, in the absence thereof, by a private on-site sewage disposal or containment system approved by the Ohio Environmental Protection Agency (OEPA) and/or the Warren County Combined Health District, as applicable. The zoning inspector may waive this requirement if prior proof of service was provided for development of a subdivision.
- D.** No zoning certificate shall be issued without certification from the appropriate applicable permitting authority that it shall be sufficiently served by a public or private central water supply system, or in the absence thereof, by a private on-site water supply well or other means approved by the OEPA and/or the Warren County Combined Health District, as applicable. The zoning inspector may waive this requirement if prior proof of service was provided for development of a subdivision.
- E.** No zoning certificate shall be issued without written certification from the Hamilton Township Fire Department and/or other appropriate applicable authority of jurisdiction that the application shall comply with all applicable fire code requirements and not exceed emergency service capability of the applicable department.
- F.** No zoning compliance inspection shall be approved by the zoning inspector for the occupancy of any building, structure or improvement to the land or any lot which has been approved for platting or replatting, until all subdivision plans have been approved, the final plat recorded, the zoning requirements met, and the performance bond posted to guarantee installation of all the required improvements.

3.5.5. Amendments or Modifications

- A.** Incidental changes from an approved zoning certificate are permissible and the zoning inspector may grant changes, provided such change has no discernible impact on neighboring properties or the general public. Amendments or modifications to an approved zoning certificate may require the payment of a fee as established in the Hamilton Township fee schedule.
- B.** All other requests for changes will be processed as a new application, which require the submission of a new fee.
- C.** An applicant or property owner requesting changes shall submit a written request to the zoning inspector, itemizing the proposed changes, unless waived by the zoning inspector.

3.5.6. Expiration

- A.** Construction shall commence within 12 months and shall be substantially completed and a certificate of occupancy issued by the building department within 36 months of the date upon which the zoning certificate was issued unless the owner of the property has established a vested right under the laws of Ohio to the use for which the original zoning certificate was issued.
- B.** Construction shall not be required to comply with the time limits established in [Section 3.5.6.A](#) above if the zoning inspector has authorized an alternative commencement or substantial completion date as part of the zoning certificate application review process. If the zoning inspector has authorized an alternative commencement or substantial completion date as part of the zoning certificate application review process, construction shall commence and be substantially completed within those time limits established by the zoning inspector.
- C.** For the purposes of [Section 3.5.6.B](#) above, construction shall not be deemed to have commenced until the excavation necessary for placement of the structure's foundation is no less than 100 percent complete, as determined by the zoning inspector.
- D.** Failure to commence construction within 12 months and substantially complete construction within 36 months or any alternative time limits approved by the zoning inspector shall result in the expiration of the zoning certificate unless the applicant requests and receives an extension from the zoning inspector. Applications shall be required to apply for an extension no later than 30 days prior to the date of expiration of the original zoning certificate, unless waived by the zoning inspector. Factors to be considered by the zoning inspector when determining whether to grant an extension shall include:
 - (1)** The length of additional time necessary to complete construction;
 - (2)** Additional time is needed for review by other agencies having jurisdiction on the project;
 - (3)** The reason for the delay;
 - (4)** Good faith on the part of the applicant;
 - (5)** The existence of or potential for any substantial detriment to adjoining property as a result of the extension; and
 - (6)** Conformance with this zoning code.
- E.** Upon expiration of a zoning certificate, a new zoning certificate application, including all applicable fees, shall be required before construction or resumption of construction can begin.
- F.** Actions taken by the zoning inspector on requests for extensions may be appealed to the BZA.

3.5.7. Temporary Zoning Certificates

The zoning inspector may issue a temporary zoning certificate in accordance with the temporary use regulations ([Section 4.10](#)) of this zoning code and the zoning certificate review procedure established above.

3.5.8. Revocation of a Zoning Certificate

The zoning inspector shall hereby have the authority to revoke an approved zoning certificate if the information submitted as part of the application is found to be erroneous or fraudulent after the

certificate has been issued. Any revocation of an approved zoning certificate by the zoning inspector may be appealed to the BZA.

3.6. SITE PLAN REVIEW

3.6.1. Applicability

Site plan review shall be required for all development that requires a zoning certificate with the following exemptions that shall be reviewed by the zoning inspector through the zoning certificate review procedure ([Section 3.5.3 Zoning Certificate Review Procedure](#)):

- A.** Agricultural uses exempted in [Section 3.2 Agricultural Exemption](#);
- B.** Single family dwellings, except single family cluster developments and single family conservation development which require site plan review;
- C.** Two family dwellings;
- D.** Accessory and temporary uses and structures associated with a single family or two family dwelling;
- E.** Alteration to a building when confined to the interior of the structure;
- F.** Painting and exterior maintenance of any building or structure;
- G.** Signs;
- H.** Construction within an approved PUD;
- I.** Conditional uses;
- J.** Any change to an existing structure resulting in the following:
 - (1)** A less intense use;
 - (2)** Alteration of any structure upon less than 25 percent of its exterior surface area; or
 - (3)** Alteration of any structure upon less than 25 percent of its building area square footage as measured against the exact condition of an existing structure as of the effective date of this code; and
- K.** Change in use or occupancy not involving expansion exceeding the thresholds in [Section 3.6.1.J](#) above.

3.6.2. Site Plan Review Procedure

A. Preapplication Meeting

- (1)** Applicants for site plan review are required to meet with the zoning inspector for a preapplication meeting prior to submitting a formal application for a zoning certificate. The zoning inspector may waive the requirement for the preapplication meeting.
- (2)** The purpose of the preapplication meeting is to informally discuss application requirements, review procedures, and details of the proposed development.
- (3)** One or more preapplication meetings between the applicant and township staff may be required unless specifically waived by the zoning inspector.

- (4) Applicants are encouraged to bring a preliminary site plan to the preapplication meeting.
- (5) No formal application is required to facilitate a pre-application meeting. The applicant need only contact the zoning inspector to set up a meeting date.
- (6) Discussions that occur during a preapplication meeting with township staff are not binding on the township and do not constitute official assurances or representations by Hamilton Township or its officials regarding any aspects of the plan or application discussed.

B. Step 1 – Application

The applicant shall submit the required number of copies of the following to the zoning inspector prior to submitting for a building permit from the Warren County Building Department:

- (1) Site plan review application and applicable forms available from the township offices or township web site;
- (2) All such forms, maps, and information as may be prescribed for that purpose by the Hamilton Township Planning and Zoning Department to assure the fullest practicable presentation of the facts for the permanent record; and
- (3) All required fees as established in the Hamilton Township fee schedule.
- (4) The zoning inspector may modify or eliminate any or all of the submission requirements if the information is deemed by the zoning inspector not necessary for site plan review for the property. Any such alteration of requirements shall be noted in the staff report prepared by the zoning inspector.

C. Step 2 – Review by the Review Board

- (1) The board of township trustees shall act as the review board and all eligible site plan applications shall be reviewed and approved by the review board, or their designee(s).
- (2) The review board shall review the application within 30 days of the submission of an application (Step 1).
- (3) If action is not taken the application shall be considered approved.
- (4) Written notice of a public hearing by the review board shall be given to the owners of property adjacent to and across the street from the property subject to the site plan application at least 10 days prior to the hearing.

D. Step 3 – Decision

- (1) The review board shall review each complete application and either approve, modify or deny the application. The review board may also table the decision for up to 30 additional days to allow for additional time to review the application.
- (2) The review board may grant approval of a site plan application subject to conditions specified by the review board.
- (3) Site plan review applications submitted for a site subject to an approved moratorium shall not be reviewed, and no decision made, within the period of time that the moratorium is in place.
- (4) Upon approval by the review board, the zoning inspector shall be authorized to issue a signed zoning certificate and maintain a copy of the application for township records.

- (5) If the application is denied, the applicant may submit a revised application and sketch plan for review in accordance with this review procedure, or the applicant may appeal the decision to the BZA in accordance with [Section 3.8 Appeals, Variances, and Conditional Uses](#) within 30 days of the decision by the review board.

3.6.3. Review Criteria

- A.** All applications for a site plan review shall demonstrate conformity with the provisions of this zoning code. The review board does not have the authority to grant variances or to waive or alter requirements of the zoning code, except that the review board may grant up to a 15 percent reduction in the number of required off-street parking spaces in accordance with [Section 7.4.2 Required Number of Parking Spaces](#) if a parking demand study is presented supporting the reduction in parking, and the review board determines that the reduction will not result in negative impacts on surrounding uses or neighborhood.
- B.** Review comments on a site plan application may be solicited from local, state, and federal agencies, including but not limited to the Warren County Engineer's Office, Ohio Department of Transportation, Ohio Department of Natural Resources, Warren County Water and Soil Conservation District, Warren County Regional Planning Commission, Warren County Water and Sewer Department, Warren County Combined Health District, and other applicable agencies.
- C.** Where applications for site plan review indicate that the development and/or use proposed therein, or the manner in which they are proposed to be conducted, do not meet the standards and requirements of this code and could not practically and reasonably be made to do so by the attachment of reasonable conditions and safeguards, such applications shall be denied.
- D.** No person shall commence any use, construct or alter any structure, or make other improvement that requires approval of this section without first obtaining site plan approval.
- E.** No zoning certificate shall be issued in cases where site plan review is required unless a site plan has been approved by the review board and the applicant has supplied revised plans illustrating the approved conditions.

3.6.4. Amendments or Modifications

- A.** Insignificant changes from an approved site plan are permissible and the zoning inspector may grant changes, provided such change has no discernible impact on neighboring properties or the general public. Amendments or modifications to an approved zoning certificate may require the payment of a fee as established in the Hamilton Township fee schedule.
- B.** All other requests for changes will be processed as a new application, which require the resubmittal of a new fee.
- C.** An applicant or property owner requesting changes shall submit a written request to the zoning inspector, itemizing the proposed changes.

3.6.5. Expiration

- A.** A zoning certificate shall be obtained within 12 months of the site plan approval.
- B.** Once a zoning certificate is obtained, the provisions of [Section 3.5.6 Expiration](#) shall apply.

- C. An approved site plan shall run with the land and shall not expire due to change in land ownership.

3.7. ZONING TEXT AND MAP AMENDMENTS

3.7.1. Amendment Initiation

- A. Amendments or supplements to the zoning code may be initiated by:
 - (1) Motion of the zoning commission;
 - (2) Passage of a resolution by the board of township trustees; or
 - (3) By the filing of an application by one or more of the owners (or their agents) of property within the area proposed to be changed or affected by the proposed amendment.

3.7.2. Review Procedure

A. Step 1 – Pre-application Conference

- (1) If initiated by property owners, the applicant is required to meet with the zoning inspector to discuss the initial concepts of the proposed amendment and general compliance with applicable provisions of this zoning code prior to the submission of the application.
- (2) Discussions that occur during a pre-application conference or a preliminary meeting with township staff are not binding on the township and do not constitute official assurances or representations by Hamilton Township or its officials regarding any aspects of the plan or application discussed.

B. Step 2 – Application

- (1) Applications for any change of district boundaries, classifications of property as shown on the zoning map, or changes to the zoning code text shall be filed with the zoning commission by submitting the application to the Hamilton Township Planning and Zoning Department.
- (2) The application shall include all such forms, maps, and information as may be prescribed for that purpose by the zoning inspector to assure the fullest practicable presentation of the facts for the permanent record.
- (3) Each application initiated by property owners shall be signed by at least one of the owners, or the owner's authorized agent of the property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the applications.
- (4) Applications for amendments initiated by the zoning commission or the board of township trustees shall be accompanied by the initiating board's motion or resolution pertaining to such proposed amendment.
- (5) All applications shall be submitted with the required fees as established in the Hamilton Township fee schedule.

C. Step 3 – Referral to the Warren County Regional Planning Commission

- (1) Within five days after the adoption of a motion, certification of a resolution, or the filing of an application (Step 2), the township shall transmit a copy thereof to the Warren County Regional Planning Commission.
- (2) The Warren County Regional Planning Commission shall recommend the approval, approval with modifications, or denial of the proposed amendment and shall submit such recommendation to the zoning commission.
- (3) Such recommendation shall be considered at the public hearing held by the zoning commission on such proposed amendment.

D. Step 4 – Public Hearing and Recommendation by the Zoning Commission

- (1) Upon adoption of a motion, certification of a resolution, or the filing of an application for an amendment (Step 2), the zoning commission shall set a date for a public hearing regarding the proposed amendment.
- (2) The public hearing shall not be less than 20 or more than 40 days after the date the application (Step 2) was submitted.
- (3) For an amendment that intends to rezone or redistrict 10 or fewer parcels of land, notification shall be given in accordance with ORC Section 519.12 to all owners of property within and contiguous to and directly across the street from the area of the proposed amendment. If the amendment alters the text of the zoning code, or rezones or redistricts more than 10 parcels of land as listed on the county auditor's current tax list, a published notice is required in accordance with ORC Section 519.12.
- (4) Within 30 days after the zoning commission's public hearing, the zoning commission shall recommend the approval, approval with modifications, or denial of the proposed amendment and submit such recommendation together with such application or resolution, the text and map pertaining thereto, and the recommendation of the Warren County Regional Planning Commission, to the board of township trustees.

E. Step 5 – Public Hearing and Decision by the Board of Township Trustees

- (1) Upon receipt of the recommendation from the zoning commission (Step 4), the board of township trustees shall set a time for a public hearing on such proposed amendment.
- (2) The date of the public hearing shall not be more than 30 days after the date of the receipt of such recommendation from the zoning commission.
- (3) For an amendment that intends to rezone or redistrict 10 or fewer parcels of land, notification shall be given in accordance with ORC Section 519.12 to all owners of property within and contiguous to and directly across the street from the area of the proposed amendment. If the amendment alters the text of the zoning code, or rezones or redistricts more than 10 parcels of land as listed on the county auditor's current tax list, a published notice is required in accordance with ORC Section 519.12.
- (4) Within 20 days after its public hearing, the board of township trustees shall either adopt or deny the recommendations of the township zoning commission or adopt some modification of them. If the board denies or modifies the commission's recommendations, the majority vote of the board shall be required.

3.7.3. Effective Date and Referendum

- A.** Any amendment adopted by the board of township trustees shall become effective 30 days after the date of such adoption.
- B.** A referendum of any amendments may be undertaken within the 30 days after the date of the board of township trustees' decision in accordance with ORC Section 519.12.

3.7.4. Review Criteria

The following criteria shall be used in recommendations and decisions regarding zoning amendments:

- A.** The amendment is consistent with the Hamilton Township Land Use Plan, other plans or development policies adopted by the board of township trustees;
- B.** The amendment is consistent with the purpose of the zoning code;
- C.** Where more than one zoning district is available to implement the land use designation, the applicant must justify the particular zoning being sought and show that it is best suited for the specific site, based upon the policies of the township; and
- D.** Any other substantive factor deemed appropriate by the zoning commission or board of township trustees.

3.7.5. Planned Unit Developments

Planned Unit Developments (PUDs) shall be subject to the review procedure established in [CHAPTER 5 Planned Unit Development Regulations](#).

3.8. APPEALS, VARIANCES, AND CONDITIONAL USES

3.8.1. Review Procedure

The review procedure for appeals, variances, and conditional uses shall be as follows:

A. Step I – Application

An application for variances, conditional uses, or other review over which the BZA has original jurisdiction under [Section 2.5 Board of Zoning Appeals](#) may be made by any property owner, including an authorized agent, or by a governmental officer, department, or board.

(I) Special Application Requirements for Appeals

- (a)** An appeal to the BZA may be taken by any person aggrieved by a decision of the zoning inspector or by any administrative officer of the township in interpreting or applying the provisions of this zoning code. Such appeal shall be taken within 20 days of receipt of notification of the decision in question, by filing with the zoning inspector and with the BZA, a notice of appeal specifying the grounds thereof including applicable sections of the zoning code.
- (b)** The zoning inspector shall transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.
- (c)** The filing of an appeal shall stay all proceedings unless the zoning inspector or any affected person certifies to the BZA that, by reason of facts pertaining to the matter in question, a stay, in their opinion, would cause imminent peril to life or property.

When such certification is made, proceedings shall not be stayed except by order granted by the BZA.

- (2) The zoning inspector shall transmit a copy of the application to the BZA.
- (3) All applications shall be submitted with the required fees as established in the Hamilton Township fee schedule.

B. Step 2 – Public Hearing with the Board of Zoning Appeals

- (1) Upon application (Step 1), the BZA shall fix a reasonable time for the public hearing on any application or appeal, give at least 10 days of notice in writing to the parties in interest, and give notice of such public hearing by one publication in one or more newspapers of general circulation in the county at least 10 days before the date of such hearing.
- (2) Written notice shall be given to property owners within 200 feet of the subject property.
- (3) Any party may appear in person or by an appointed representative at a hearing for an appeal or application.
- (4) Upon the day for hearing any application or appeal, the BZA may adjourn the hearing in order to obtain additional information or to cause further notice, as it deems proper, to facilitate the discussion and decision on said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the BZA so decides.

C. Step 3 – Decision

- (1) Within 30 days after the hearing concludes (Step 2), the BZA shall make a decision on the application or appeal.
- (2) A certified copy of the BZA's decision shall be transmitted to the applicant or appellant at the applicant's address as shown on the records of the BZA and to the zoning inspector. Such decision shall be binding upon the zoning inspector and observed by him/her, and he/she shall incorporate the terms and conditions of the decision in the certificate to the applicant or appellant, whenever the BZA authorizes a zoning certificate.
- (3) For appeals, the BZA may, in conformity with the provisions of this section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises; and to that end, shall have all powers of the zoning inspector from whom the appeal is taken.
- (4) In authorizing a variance or conditional use, the BZA may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as the BZA may deem necessary in the interest of the furtherance of the purposes of this zoning code. In authorizing a variance or conditional use with attached conditions, the BZA may require such evidence and guarantee or bond as it may deem to be necessary, that the applicant is and will comply with the attached conditions.
- (5) Failure to comply with the conditions of a decision shall be deemed a violation of this zoning code.
- (6) Any party adversely affected by a decision of the BZA may appeal the decision to the Court of Common Pleas in Warren County pursuant to ORC Chapter 2506.

3.8.2. Appeal Review Criteria

An order, decision, determination, or interpretation shall not be reversed or modified by the BZA unless there is competent, material, and substantial evidence in the record that the order, decision, determination, or interpretation fails to comply with either the procedural or substantive requirements of this zoning code, state law, or federal law.

3.8.3. Variance Review Criteria

- A.** The BZA shall have the power to authorize upon appeal in specific cases, filed as hereinbefore provided, such variances from the provisions or requirements of this zoning code as will not be contrary to the public interest. Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this zoning code will result in practical difficulty for an area/dimensional variance.
- B.** The following factors shall be considered and weighed by the BZA to determine practical difficulty:
 - (1)** Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;
 - (2)** Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
 - (3)** Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;
 - (4)** Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
 - (5)** Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;
 - (6)** Whether special conditions or circumstances exist as a result of actions of the owner;
 - (7)** Whether the property owner's predicament can feasibly be obviated through some method other than a variance;
 - (8)** Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and
 - (9)** Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
- C.** No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

3.8.4. Conditional Use Review Criteria

In reviewing conditional uses, the BZA shall consider the following:

- A.** The use is a conditional use, permitted with approval by the BZA, in the district where the subject lot is located;
- B.** The use is in accordance with the objectives of the Hamilton Township Land Use Plan and zoning code; and
- C.** The conditional use will not substantially and/or permanently injure the appropriate use of neighboring properties and will serve the public convenience and welfare.
- D.** The BZA shall also consider the following as applicable to the application:
 - (1)** The comparative size, floor area and mass of the proposed structure(s) in relationship to adjacent structures and buildings in the surrounding properties and neighborhood;
 - (2)** The frequency and duration of various indoor and outdoor activities and special events and the impact of these activities on the surrounding area;
 - (3)** The number of transit movements generated by the proposed use and relationship to the amount of traffic on abutting streets and on minor streets in the surrounding neighborhood;
 - (4)** The capacity of adjacent streets and intersections to handle increased traffic in terms of traffic volume and patterns;
 - (5)** The added noise level created by activities associated with the proposed use and the impact of the ambient noise level of the surrounding area and neighborhood;
 - (6)** The requirements for public services where the demands of the proposed use are in excess of the individual demand of adjacent land uses in terms of police and fire protection, and the presence of any potential or real fire or other hazards created by the proposed use;
 - (7)** The general appearance of the neighborhood will not be adversely affected by the location of the proposed use on the parcel;
 - (8)** The impact of night lighting in terms of intensity and duration and frequency of use as it impacts adjacent properties and in terms of presence in the neighborhood;
 - (9)** The impact of a significant amount of hard-surfaced areas for building, sidewalks, drives, parking areas and service areas in terms of noise transfer, water runoff and heat generation; and
 - (10)** Any other physical or operational feature or characteristic that may affect the public health, safety and welfare.

3.8.5. Expiration

- A.** For conditional uses, the applicant shall have 12 months from the date of approval to receive an approved building permit and start construction or the conditional use shall be deemed null and void.
- B.** For variances, the applicant shall have 12 months from the date of approval to receive an approved building permit and start construction or the variance approval shall be deemed null and void.
- C.** Applicants may submit one request for an extension of six months to the BZA.