

ARTICLE II

EXEMPTIONS AND NONCONFORMING USES

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Section 1. USES EXEMPTED FROM PROVISIONS OF RESOLUTION

1. Agricultural Uses.
The use of land for agricultural purposes or the construction or use of buildings or structures incident to the use of agricultural purposes or land on which buildings or structures are located is exempt from zoning districts established by this Resolution except as regulated in Article IX, Section 1 (Agricultural Use Restrictions) where it is the intent of Middleton Township to regulate agricultural uses in residential areas subject to the limitations of ORC 519.21 or any subsequent amendment thereto.
2. Alcoholic Beverages.
The sale or use of alcoholic beverages shall not be prohibited in areas where the establishment and operation of any retail business, hotel, lunchroom, or restaurant is permitted pursuant to ORC 519.211(D).
3. Oil or Natural Gas Wells.
The use of any land owned or leased by an industrial firm shall not be prohibited for the conduct of oil or natural gas well drilling or production activities or the location of associated facilities or equipment when such oil or natural gas is obtained by the industrial firm's use for the operation of its plants pursuant to ORC 519.211(E).
4. Public Utility Essential Services.
Essential services, as defined in Article XVII (Definitions), shall be permitted as authorized and regulated by law and other resolutions of the Township Trustees, it being the intention hereof to exempt such essential services from the application of this resolution. It is the intent of Middleton Township to regulate telecommunication towers owned or principally used by a public utility in areas zoned for residential use and public utilities engaged in transporting persons or property subject to the limitations of ORC 519.211 or any subsequent amendment thereto.
5. Railroads.
The location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement of any building or structures of any railroad for the operation of its business shall be permitted in all districts established by this Resolution and no zoning certificate shall be required for any building or structure or for the use of any land essential to the operations of a railroad pursuant to ORC 519.211(A).

Section 2. EXISTING LOTS OF RECORD

In any district where dwellings are permitted, a one-family detached dwelling may be erected on any lot of official record as of the effective date of this Resolution, irrespective of its area or width, provided the owner of such lot does not own any adjoining property, except that no lot shall be deemed to be less than forty (40) feet wide for the calculation of yards requirements, and provided, further:

1. The sum of the side yard widths on any such lot need not exceed thirty (30) percent of the width of the lot, but in no case shall the width of any side yard be less than ten (10) percent of the width

of the lot; provided, however, that no side yard shall be less than five (5) feet except for a corner lot, where the width of the side yard adjoining the side street lot line shall not be less than eight (8) feet or twenty (20) percent of the frontage, whichever is the greater.

2. The depth of the rear yard of any such lot need not exceed twenty (20) percent of the depth of the lot, but in no case shall it be less than twenty (20) feet.
3. Height:
 - A. The height regulations prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers, or scenery lofts, cooling towers, ornamental towers, and spires, chimneys, elevators bulkheads, smokestacks, conveyors and flagpoles, except where the height of such structures will constitute a hazard to the safe landing and take-off of military, public, commercial and private aircraft at an established airport.
 - B. Public, semipublic or public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding sixty (60) feet, and churches and temples, may be erected to a height not exceeding seventy-five (75) feet when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located.
4. Front Yards:
 - A. When forty (40) percent or more of the frontage on one side of the street between two intersecting streets is improved with buildings that have a front yard which is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established, provided, however, that a front yard depth shall not be required to exceed fifty (50) percent in excess of the front yard otherwise required in the district in which the lot is located.
 - B. On lots having double frontage, the required front yard shall be provided on both streets.
 - C. In a residential district, no fence, structure or planting higher than three and one-half (3 ½) feet above the established street grades shall be maintained within twenty (20) of any street intersection.
 - D. An open, uncovered porch or paved terrace may project into a required front yard for a distance of not more than ten (10) feet, but this shall not be interpreted to include or permit fixed canopies.
 - E. Filling station pumps and pump islands may be located within a required yard, provided they are not less than fifteen (15) feet from any street line and not less than fifty (50) feet from the boundary of any residential district.
 - F. Off-street parking facilities may be located within the required front yard of any "B" District or "M" District but shall not be nearer than fifty (50) feet to any "A" or "R" District and no off-street parking shall be permitted in the required front yard of any "A" or "R" District.
 - G. Outdoor advertising signs hereinafter erected shall conform to the front requirements of the district in which they are located.
5. Side Yards:
 - A. On a corner lot the width of the yard along the side street shall not be less than any required front yard on such street, provided, however, the buildable width of a lot of record shall not be reduced to less than thirty-two (32) feet.
 - B. No accessory building shall project beyond a required yard line along any street.
 - C. Where dwelling units are erected above commercial establishments, no side yard is required except when required for the commercial building on the side of a lot adjoining a residential district.
 - D. A porte-cochère or canopy may project into a required side yard, provided every part of such porte-cochère or canopy is unenclosed and not less than seven (7) feet from any side lot line.

- E. For the purpose of side yard regulation, a two-family dwelling or multiple dwelling shall be considered as one building occupying one lot.
 - F. As owner of a dwelling erected prior to the effective date of this Resolution shall be permitted to enlarge or structurally alter such dwelling to provide additional enclosed space for living or arrange purposes, provided, however, that no side yard shall be reduced to less than five (5) feet.
 - G. Where a lot of record at the time of the effective date of this Resolution is of less width than the minimum lot width required in the district in which the lot is located, the minimum side yard may be reduced to ten (10) percent of the width of the lot, provided, however, that no side yard shall be less than five (5) feet.
6. Rear Yards:
- A. Where a lot abuts upon an alley, one-half (1/2) the alley width may be considered as part of the required rear yard.
 - B. An accessory building, not exceeding twenty (20) feet in height, may occupy not to exceed thirty (30) percent; and unenclosed parking spaces may occupy not to exceed ninety (90) percent of the area of a required rear yard; but no accessory building shall be closer than ten (10) feet to the main building nor closer than ten (10) feet to any rear lot line.
 - C. The ordinary projections of sills, belt courses, cornices, and ornamental features may extend to a distance not to exceed eighteen (18) inches to a required yard.
 - D. Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers and the ordinary projections of chimneys and flues into a rear yard may be permitted by the Township Zoning Inspector for distance not to exceed five (5) feet when these are so placed as not to obstruct light and ventilation.
7. Setback from Publicly Established Drainage Ditches:
- A. In all districts a setback of forty (40) feet from the center line of a publicly established drainage ditch shall be provided for all buildings or structures erected along such ditch.

Section 3. NONCONFORMING USES AND BUILDINGS

1. A nonconforming use existing at the time this resolution or any amendment thereto takes effect may be continued except that if it is voluntarily discontinued for two or more years, it shall be deemed abandoned and any future use must be in conformity with the uses permitted in such district.
2. Any building arranged, intended or designed for a nonconforming use, the construction of which has been started at the time of the passage of this resolution or any amendment thereto, but has not been completed, may be completed and put to such nonconforming use, provided it is done within one year after this resolution or any amendment thereto takes effect.
3. Any one structure or building existing as a nonconforming use at the time this resolution or any amendment thereto, takes effect, which is destroyed by fire, accident, public enemy, or the elements, may be reconstructed and restored provided the same is done within two years from the date of said destruction and is rebuilt as nearly as possible to conform with the zoning requirements within the district in which it is located.
4. An owner of a dwelling erected prior to the effective date of this Resolution shall be permitted to enlarge or structurally alter such dwelling to provide additional enclosed space for living or other purposes, provided, however, that:
 - A. No building or structure or land area devoted to a nonconforming use at the time this resolution or any amendment thereto takes effect may not be altered or enlarged as to extend said nonconforming use more than 25% of the original area, providing the alterations or enlargement is toward conformity with the zoning resolution within the district in which it is located;
 - B. No side yard shall be reduced to less than five (5) feet.

5. When a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted or nonconforming use.

Section 4. PENDING APPLICATION FOR BUILDING PERMITS

Nothing herein contained shall require any change in the over-all layout, plans, construction, size or designated use of any development, building, structure or part thereof for which official approvals and required building permits have been granted before the enactment of this resolution, the construction of which, conforming with such plans, shall have been started prior to the effective date of this Resolution and completion thereof carried on in a normal manner within the subsequent six (6) month period and not discontinued until completion, except for reasons beyond the builder's control.