

Darby Township
Union County, Ohio

Zoning Resolution

Amendment

Version 2.0
As Initiated by Zoning Commission
on 11-26-2024

Darby Township
Union County, Ohio
Zoning Resolution

As Adopted: July 10, 2023

Index

Article I: Title, Interpretation, and Enactment	1
Section 100 – Title	
Section 110 – Provisions of Resolution Declared to be Minimum Requirements	
Section 120 – Separability Clause	
Section 130 – Repeal of Conflicting Resolution, Effective Date	
Section 140 – Use of Land or Buildings for Agricultural Purposes Not Affected	
Article II: Definitions	2
Article III: Enforcement	21
Section 300 – Zoning Permits Required	
Section 301 – Contents of Application for Zoning Permit	
Section 302 – Approval of Zoning Permit	
Section 303 – Submission to Director of Transportation	
Section 304 – Expiration of Zoning Permit	
Section 310 – Certificate of Zoning Compliance	
Section 311 – Temporary Certificate of Zoning Compliance	
Section 312 – Record of Zoning Permits and Certificates of Zoning Compliance	
Section 320 – Failure to Obtain a Zoning Permit or Certificate of Zoning Compliance	
Section 330 – Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates	
Section 340 – Complaints Regarding Violations	
Section 350 – Penalties for Violation	
Section 360 – Schedule of Fees, Charges, and Expenses	
Article IV: Non-Conformities	24
Section 400 – Intent	
Section 410 – Incompatibility of Non-Conformities	
Section 420 – Avoidance of Undue Hardship	
Section 430 – Single Non-Conforming Lots of Record	
Section 431 – Non-Conforming Lots of Record in Combination	
Section 440 – Non-Conforming Uses of Land	
Section 450 – Non-Conforming Structures	
Section 460 – Non-Conforming Uses of Structures or of Structures and Land in Combination	
Section 470 – Repairs and Maintenance	
Article V: Administration	27
Section 500 – Office of Zoning Inspector Created	
Section 501 – Duties of Zoning Inspector	
Section 508 – Township Zoning Commission Created	
Section 509 – Functions of the Zoning Commission	
Section 510 – Zoning Secretary	
Section 511 – Meetings and Agenda of Zoning Commission	

PREAMBLE

A resolution of the Township of Darby, Union County, Ohio, enacted in accordance with a comprehensive plan and the provisions of Chapter 519, Ohio Revised Code, dividing the Township into zones and districts, encouraging, regulating, and restricting therein the location, construction, reconstruction, alteration and uses of structures and land; promoting the orderly development of residential, business, industrial, recreational, and public areas; providing for adequate light, air and convenience of access to property by regulating the use of land and buildings and the bulk of structures in relationship to surrounding properties; limiting congestion in the public rights of way; providing for the administration of this resolution as provided hereafter; and prescribing penalties for the violation of the provisions in this resolution or any amendment thereto, all for the purpose of protecting the public health, safety, comfort and general welfare; and for the repeal thereof.

Therefore, be it resolved by the Board of Trustees of the Township of Darby, Union County, Ohio.

ARTICLE I: TITLE, INTERPRETATION, AND ENACTMENT

Section 100 – Title

This resolution shall be known and may be cited to as the "Zoning Resolution of the Township of Darby, Union County, Ohio".

Section 110 – Provisions of Resolution Declared to be Minimum Requirements

In their interpretation and application, the provisions of this resolution shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and the general welfare. Whenever the requirements of this resolution conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, or resolution, the most restrictive, or that imposing the higher standards shall govern.

Section 120 – Separability Clause

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

Section 130 – Repeal of Conflicting Resolution, Effective Date

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

Section 140 - Use of Land or Buildings for Agricultural Purposes Not Affected

~~It is the intent of this Resolution to be and remain in compliance with ORC 519.21 Powers not conferred on township zoning commission by chapter. ORC 519.21 is a statute, created and maintained by the State, which limits the authority of townships and establishes what is commonly referred to as the "agriculture exemption". The uses of land or buildings for agricultural purposes are not affected by this Resolution and no zoning certificate shall be required for any such building or structure or use of land, except as provided for in Section 1037. Residential dwellings, including those on agricultural land, do require a zoning permit.~~

This Resolution does not affect 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

Strike
~~Not Affected~~

Formatted: Font: (Default) Times New Roman, 11 pt, Complex Script Font: Times New Roman, 11 pt

Formatted: Font: (Default) Times New Roman, 11 pt, Complex Script Font: Times New Roman, 11 pt

by Chapter 519.



and that are located on land any part of which is used for viticulture, and no zoning certificate or zoning permit shall be required for any such building or structure except as provided for in Section 1037. (Dwellings do require a permit however.)

Formatted: Font: (Default) Times New Roman, 11 pt, Complex Script Font: Times New Roman, 11 pt

opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.

- e. Performance - Any motion picture, preview, trailer, play, show, skit, dance, or other exhibition performed before an audience.
- f. Presents - Creates, produces, directs, publishes, advertises, sells, rents, disseminates, distributes or displays.
- g. Sexual activity - Sexual conduct or sexual contact, or both.
- h. Sexual conduct - Vaginal intercourse between a male and female, and anal intercourse, fellatio, and cunnilingus between persons regardless of sex. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.
- i. Sexual contact - Any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if such person is a female, a breast, for the purpose of gratifying either person.
- j. Sexual excitement - The condition of human male or female genitals when in a state of sexual stimulation or arousal.

Agribusiness - Manufacturing, warehousing, storage, and related industrial and commercial activities that provide services for or are dependent upon agricultural activities. Agribusinesses include, but are not limited to the following uses: sales, storage, and blending; sales and servicing of farm implements and related equipment; preparations and sale of feeds for animals and fowl; seed sales, poultry hatchery services; corn shelling, hay baling, and threshing services; grain elevators and bulk storage of feed grains; horticulture services; agricultural produce milling and processing and livestock auctions.

Agricultural building - A structure on agricultural land designed, constructed, and used to house farm implements, livestock, or agricultural produce or products used by the owner, lessee, or sub-lessee or their immediate families, their employees, and persons engaged in the pick up or delivery of agricultural produce or products grown or raised on the premises. The term "agricultural building" shall not include dwellings.

Agricultural sales and service - A use primarily engaged in the sale or rental of farm tools and implements, feed, grain, tack, animal care products, and farm supplies. Food sales and farm machinery repair services that are accessory to the principal use are included in this definition.

Agriculture - Pursuant to ORC 519.01, as amended or replaced from time to time.

"~~Agriculture~~agriculture" includes farming; ranching; algaculture meaning the farming of algae; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; and the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production ~~or as defined in Ohio Revised Code (ORC) 519.01.~~

Agritourism related definitions:

- * Agricultural Production - Pursuant to ORC 901.80 and 929.01, as amended or replaced from time to time, "agricultural production" means commercial ~~Commercial~~ animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, animal husbandry, or poultry husbandry; the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, or sod; the growth of timber for a noncommercial purpose if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use; or any combination of such husbandry, production, or growth; and includes the

Formatted: Font: (Default) Times New Roman, 11 pt,
Complex Script Font: Times New Roman, 11 pt

processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth; ~~land devoted to biodiesel production, biomass energy production, electric or heat energy production, or biologically derived methane gas production if the land on which the production facility is located is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use, provide that at least fifty per cent of the feedstock used in the production was derived from parcels of land under common ownership or leasehold.~~ "Agricultural production" includes conservation practices, provided that the tracts, lots, or parcels of land or portions thereof that are used for conservation practices comprise not more than twenty-five per cent of tracts, lots, or parcels of land that are otherwise devoted exclusively to agricultural use and for which an application is filed under Section 929.02 of the Revised Code.

- ~~Agritourism - Pursuant to ORC 901.80 as amended or replaced from time to time. "Agritourism" means an An~~ agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a ~~farm Farm~~ that allows or invites members of the general public to observe, participate in, or enjoy that activity.
- ~~Agritourism Provider - Pursuant to ORC 901.80, as amended or replaced from time to time. "Agritourism provider" means a A~~ person who owns, operates, provides, or sponsors an agritourism activity or an employee of such a person who engages in or provides agritourism activities whether or not for a fee.
- ~~Farm - Pursuant to ORC 901.80 as amended or replaced from time to time. "Farm" means land Land~~ that is composed of tracts, lots, or parcels totaling not less than ten (10) acres devoted to agricultural production or totaling less than ten (10) acres devoted to agricultural production if the land produces an average yearly gross income of at least twenty-five hundred dollars (\$2,500) from agricultural production.

Formatted: Font: (Default) Times New Roman, 11 pt, Complex Script Font: Times New Roman, 11 pt

Formatted: Font: (Default) Times New Roman, 11 pt, Complex Script Font: Times New Roman, 11 pt

Formatted: Font: (Default) Times New Roman, 11 pt, Complex Script Font: Times New Roman, 11 pt

Alley - See Thoroughfare.

Alterations, Structural - Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

Automobile Repair Services - Any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler or upholstery work, oil change and lubrication, painting, tire service and sales, or installation of car alarms or stereo equipment.

Base Flood - The flood having a one percent chance of being equaled or exceeded in a given year. The base flood may also be referred to as the 1 percent chance annual flood or one hundred (100) year flood.

Basement - A story all or partly underground but having at least one-half of its height below the average level of the adjoining ground.

Bed and Breakfast Inn - A single family private residence that provides overnight accommodations and a morning meal to transients for compensation. The owner/operator of the bed and breakfast must live full-time on the inn's premises. Bed and breakfast inns shall contain no more than six (6) separate guest rooms.

Billboard - A sign directing attention to a specific business, product, service, entertainment, or other activity sold, offered or conducted elsewhere than upon the lot on which the sign is located or for public service and information of for political advertising.

Board of Zoning Appeals - The Board of Zoning Appeals of Darby Township, Union County, Ohio.

Section 1035 - Enforcement Provision

The Zoning Inspector, prior to the issuance of a zoning permit, shall require the submission of statements and plans indicating the manner in which dangerous and objectionable elements involved in processing and in equipment operations are to be eliminated or reduced to acceptable limits and tolerances. Such statements and plans shall include addressing noise, dust, odors, lighting, public safety, and truck and equipment traffic, as well as any other concerns of the Zoning Inspector.

Section 1036 - Measurement Procedures

Methods and procedures for the determination of the existence of any dangerous and objectionable elements shall conform to applicable standard measurement procedures published by the American Standards Association, Inc., New York, N.Y., the Manufacturing Chemists' Association, Inc., Washington, D.C., the United States Bureau of Mines, and the Ohio Environmental Protection Agency.

Section 1037 - Agricultural Use

Pursuant to Section 519.21 of the Revised Code, in any platted subdivision approved under Section 711.05, 711.09, or 711.10 of the Revised Code, or in any area consisting of 15 or more lots approved under Section 711.131 of the Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to ~~the opposite side of the same 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. agriculture is regulated in the following manner:

1. On lots of one acre or less, agriculture may be permitted as a conditional use.
2. On lots greater than one acre, but not greater than five acres, buildings or structures incident to the use of land for ~~agriculture-agricultural~~ purposes are regulated as follows:
 - a. Setback building lines. Same for principal structure in the same district as to front, sides, and back.
 - b. Height. Twenty (20) feet maximum height.
 - c. Size. Maximum of 1000 square feet (outside measurement).
3. On lots greater than one acre but not greater than five acres, dairying and animal and poultry husbandry are regulated as follows:
 - a. 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 homes under Section 4503.06 of the Revised Code, dairying and animal and poultry husbandry shall be considered a non-conforming use of land and buildings or structures pursuant to Section 519.19 of the Revised Code.

The aforementioned ~~Resolution~~ confers no power on any Township Zoning Commission, Board of Township Trustees, or Board of Zoning Appeals to regulate agriculture, buildings or structures, in dairying and animal and poultry husbandry on lots greater than five acres.

Section 1038 - Agritourism

In the interest of protecting the public health and safety, an Agritourism use shall satisfy the conditions in this Section. Capitalized Terms not defined in this Section shall have the respective meanings given to them in Article II. Definitions of the Darby Township Zoning Resolution or the Ohio Revised Code.

In addition to the procedure ~~and requirement~~ for approval of conditional use permits, as stated in Section 560 ~~and 546-548~~, the Board of Zoning Appeals shall direct the Zoning Inspector to issue a conditional use permit ~~listing the specific conditions specified by the Board for approval~~ if the applicant establishes the following conditions have been met by a preponderance of the evidence presented in the application for conditional use permit and at the hearing:

1. Conditions

Formatted: Font: (Default) Times New Roman, Complex
Script Font: Times New Roman

Formatted: Font: (Default) Times New Roman, Complex
Script Font: Times New Roman

1. ~~The Agritourism use will be on a "Farm". Evidence that the farm on which the agritourism operation is proposed is ten (10) acres or more in area shall be provided. If such farm is less than ten (10) acres, evidence shall be provided that such farm is currently enrolled in the Current Agricultural Use Value (CAUV) program or produces an average yearly gross income of at least twenty-five hundred dollars (\$2,500) from agricultural production.~~
2. ~~Each proposed Agritourism Use is an agriculturally related educational, entertainment, historical, cultural, and/or recreational activity (including you-pick operations or farm markets) conducted on a Farm that allows or invites members of the general public to observe, participate in, or enjoy the activity. A narrative statement regarding this shall be provided by the applicant and it shall replace and substitute any narrative statement otherwise required as part of an application for conditional use permits.~~
2. ~~The educational, entertainment, historical, cultural and/or recreational relationship of the agritourism operation to the existing agricultural use of the property, the surrounding agricultural community, and/or the relationship of the agritourism activity to agriculture in general shall be identified.~~
3. ~~A site plan of the proposed Agritourism site showing the following when applicable: A site plan of the property illustrating all structures to be used for agritourism activities, setbacks from property lines for all structures and any existing or proposed well and/or on-site wastewater disposal system area(s) on the property shall be submitted.~~
 - a. ~~The floor areas, heights, and setbacks of all structures, including buildings, used primarily for Agritourism; and~~
 - b. ~~The size and setbacks of all parking areas, including loading spaces, used primarily for Agritourism; and~~
 - c. ~~Provisions for egress and ingress.~~
 - a. ~~The size and setback for any structure used primarily for agritourism activities shall be in conformance with Section 1037—Agricultural Use.~~

~~These criteria shall replace and substitute any site plan otherwise required as part of an application for conditional use permits.~~
4. ~~The size and setback for any structure used primarily for Agritourism shall conform to the requirements of the zoning district where the Agritourism use will be located and/or any size and/or setback requirements, if any, specified in this Section.~~
- 4.5. ~~Off-street parking in accordance with setback and size requirements (only) in Article XI Off-Street Parking and Loading Requirements shall be provided.~~
 - a. ~~Additionally, off-street parking of a size adequate to meet peak time demand shall be provided in a manner that does not cause nuisance or conflict with adjoining properties. Estimates of traffic generation shall be submitted. In no instance shall parking be permitted within yard setback areas or within 20 feet of the road right-of-way.~~
 - i.b. ~~The Board of Zoning Appeals may not require any parking area to be improved in any manner, including requirements governing drainage, parking area base, parking area paving, or any other improvement.~~
6. ~~Safe and adequate ingress and egress shall be maintained at all times.~~
- 5.7. ~~The Board of Zoning Appeals may not prescribe conditions and/or safeguards not otherwise stated in this Section.~~
6. ~~The applicant shall provide data establishing the seasons and weeks of operation, and the hours of operation. The Conditional Use Permit shall clearly state these parameters.~~
7. ~~Sales are limited to agricultural products meeting the criteria of products incident to the agricultural production and specific supporting products related to the agricultural tourism purpose such as animal feed pellets, U-Pick containers, etc...~~

Formatted: Font: (Default) Times New Roman, 11 pt, Complex Script Font: Times New Roman, 11 pt

Formatted: Font: (Default) Times New Roman, 11 pt, Complex Script Font: Times New Roman, 11 pt

Formatted: Font: (Default) Times New Roman, 11 pt, Complex Script Font: Times New Roman, 11 pt

Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman
Formatted

Formatted: Font: (Default) Times New Roman, 11 pt, Complex Script Font: Times New Roman, 11 pt

Formatted: Indent: Before: 0.75", Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Indent: Before: 0.5"

Formatted: Font: (Default) Times New Roman, 11 pt, Complex Script Font: Times New Roman, 11 pt

Formatted

Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman

Formatted: Indent: Before: 0.75", Numbered + Level: 3 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman
Formatted

Section 1040 – Adequate Drainage Outlet, Acceptable Soils, and Existing Drainage Tile
Every lot shall have an adequate drainage outlet and acceptable soils consistent with the requirements for the proposed use. The Union Soil and Water Conservation District (SWCD) or a Professional Civil

