

SECTION XXII. B-1 GATEWAY BUSINESS; B-2 GENERAL RETAIL, B-3 COMMERCIAL (Adopted August 4, 2009 by Resolution, effective September 3, 2009)

22.01 PURPOSE.

The Gateway Business (B-1), General Retail (B-2), Commercial (B-3) Districts and their regulations are established in order to achieve, among others, the following purposes:

- A. B-1 Gateway Business District is established to create a commercial district which together with the regulation of future areas and rehabilitation of existing facilities will provide the atmosphere and opportunities to develop shopping areas which will provide a full range of services and products to the township and the surrounding communities.
- B. B-2 General Retail District is established primarily to accommodate the sale of convenience retail good and personal service that primarily serve the residents of Painesville Township. Business nodes shall be located around key road intersections.
- C. B-3 Commercial District is intended for retail commercial and trade uses of a size and scope to serve the local service area and shall not impact adjacent residential areas.

22.02 USE REGULATIONS.

- A. A use listed in Section 22.02 shall be permitted by right as a permitted use in a district when denoted by the letter "P", provided that all the requirements of Section XI, Site Plan Review, and other applicable requirements of this Zoning Resolution and other township resolutions have been met.
- B. A use listed in Section 22.02 shall be permitted as a conditional use in a district when denoted by the letter "C", provided the Board of Zoning Appeals first makes the determination that the requirements and procedures of Section XII, Conditional Use Permits, and Section XI, Site Plan Review, of the Zoning Resolution have been met.
- C. A use listed in Section 22.02 shall be permitted as an accessory use in a district when denoted by the letter "A". Such use shall be permitted as a subordinate building or use when it is clearly incidental to and located on the same lot as the principal building or use. Accessory uses are further regulated in subsequent sections of this Zoning Resolution.
- D. Although a use may be indicated as a permitted, conditional or accessory use in a particular business, commercial or industrial district, it shall not be approved on a parcel unless it can be located thereon in full compliance with all of the standards and other regulations of this Resolution applicable to the specific use and parcel in question. Any use that is not specifically listed as either a permitted use or conditional use or that does not meet the requirements for an accessory use shall be a prohibited use in these zoning districts and shall only be permitted upon amendment of this Resolution and/or the Zoning Map, as provided in ORC 519.12.
- E. The following uses shall be permitted only providing such use is not noxious, dangerous, or offensive by reason of emission of odor, smoke, dust, gas, fumes, noise, flame or vibrations.

TABLE OF USES: In accordance with the following Table, the use of land and buildings and no other shall be deemed permitted, conditional uses or an accessory use.

	B-1	B-2	B-3
Office and Professional Services			
Medical & Dental Office	P	P	P
Administrative, Professional, Business and General Offices	P	P	P
Business Services including mailing & copy centers	P	P	P
Urgent Care/Medical Clinic	P	P	P
Retail and Personal Care Services			

	B-1	B-2	B-3
Enclosed Retail including Grocery, Food Markets Liquor & Beverage Retail Sales, Furniture, House wares, Apparel and Accessory, Drug & Department Stores	P	P	P
Sit down and fast food Restaurants	P	P	P
Antique Stores excluding second hand merchandise stores.			C
Personal Care Services including Photography Studio, barber/ beauty shops, Tailoring, Shoe Repair, Etc. excluding Adult Oriented Business	P	P	P
Bank, Financial Institutions	P	P	P
Veterinary Services with an enclosed yard		C	C
Funeral Services (no Crematory)		P	P
New Household Furniture/Electronic Rental or Leasing and Sales	P	P	P
Laundromat or Dry Cleaners		P	P
Hotels/Motels	C		C
Child Day Care facility	P	P	P
Automotive & Transportation			
Gas Station Sales & Service		C	C
Sales, Services and leasing of New Motor & Used Motor Vehicle as one integrated business			C
Automatic Car Wash		C	C
Automotive Service (including Instant oil change)			C
Community Facilities/ Recreation/ Other			
Recreational Facilities/Clubs	C		C
Studios for Instruction (excluding nude model studio)	P	P	P
Motion Picture Theaters (excluding adult motion Picture theater)	C		C
Meeting, banquet and party Center	C		C
Bowling Alley			C
Public Libraries	C	C	C
Public Museums and Community Centers	C	C	C
Adult Oriented Businesses (in accordance with Section 22.15)			P
Similar Uses by Trustee Resolution	C	C	C
Accessory Uses			
Outdoor Storage and/or display in association with a permitted or conditional use		C	C

	B-1	B-2	B-3
Outside Dining	C	C	C
Drive-thru facility in association with a permitted or conditional use	C	C	C
Warehousing		A	A
Restaurant/cafe/teria/or pharmacy in association with a permitted or conditional use when conducted and entered only from within the principal building	A	A	A
Off-street loading and parking areas	A	A	A
Fences, walls and landscape features	A	A	A
Trash Receptacles	A	A	A
Signs	A	A	A

22.03 ACCESSORY USES AND BUILDINGS

- A. Accessory uses in B-1, B-2, and B-3 Districts shall be limited to uses that are clearly incidental and secondary to the main use of land and buildings.
- B. Accessory buildings and structures in B-1, B-2, and B-3 Districts shall conform to the setback, side yard and rear yard clearances as provided in Section 22.05 and 22.06 of this Resolution.
- C. No living quarters in conjunction with a business establishment shall be permitted in any B-1, B-2, and B-3 District.

22.04 LOT AREA REQUIREMENTS

- A. A minimum lot area shall be required to the extent necessary to comply with other regulations in this Resolution such as, but not necessarily limited to, setback side and rear yard clearances, parking and buffering.
- B. In computing setback or lot line clearance, no portion of the road or street right-of-way shall be included regardless of whether or not owner holds title to the same.
- C. A sixty (60) foot minimum contiguous frontage on the right-of-way sideline of a dedicated road shall be required in all B-1, B-2, and B-3 Districts. Such frontage shall not be reduced in width from the right-of-way sideline of the road to the building setback line. Corner lots shall have the same minimum lot width required for both street frontages.
- D. Impervious Surface Maximum: The impervious surface on a lot shall comply with the maximum percentage of the total lot area set forth in Table 22.04. The percentage shall be calculated by dividing the amount of the site that is covered by any material that substantially reduces or prevents the infiltration of stormwater by the total horizontal area of the lot. Impervious surfaces include, but are not limited to, roofs, streets, sidewalks, and parking lots paved with asphalt, concrete, compacted sand, compacted gravel or clay.
- E. Building Separation: When more than one building is located on a lot, the separation between buildings shall not be less than the minimum distance set forth in Table 22.04, and shall further comply with the applicable requirements set forth in Section VI, subsection 6.05 and the Ohio Building and Fire Codes.

Table 22.04

Lot Requirements:	B-1	B-2	B-3
Minimum Lot Frontage/ Lot Width	60 ft.	60 ft.	60 ft.
Minimum Front Building Setback Line	50 ft.	50 ft.	50 ft.

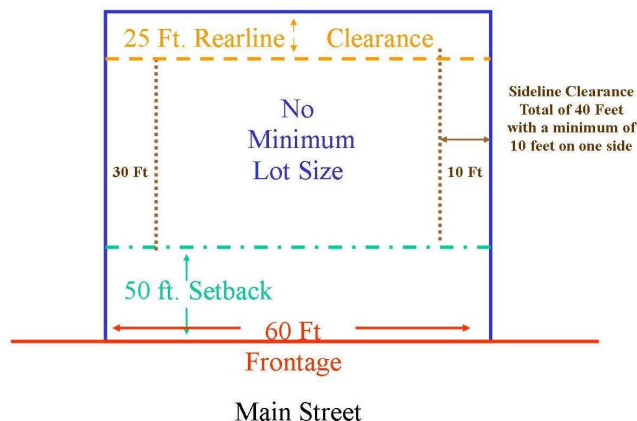
Lot Requirements:	B-1	B-2	B-3
Minimum Side Yard Clearance	40 ft. total Minimum on either side 10 ft.	40 ft. total Minimum on either side 10 ft.	40 ft. total Minimum on either side 10 ft.
Minimum Side Yard Clearance abutting residential	50 ft. ^a	50 ft. ^a	50 ft. ^a
Minimum Rear Yard Clearance abutting non-residential	25 ft.	25 ft.	25 ft.
Minimum Rear Yard Clearance abutting residential	50 ft. ^a	50 ft. ^a	50 ft. ^a
Minimum Building Separation	20 ft.	20 ft.	20 ft.
Maximum Impervious Surface	70%	70%	70%
Height: Principal Building	35 ft.	35 ft.	35 ft.
Height: Accessory Building	20 ft.	20 ft.	20 ft.
Note to Table: Clearance requirements include the minimum buffer strip requirement for properties abutting residential districts, as set forth in Section 35.09 of the Landscaping and Screening Requirements and shall not be additional footage.			

22.05 SETBACK BUILDING LINE

- A. No building in any B-1, B-2, B-3 District shall be erected within fifty (50) feet of the right-of-way sideline of a road or eighty (80) feet from the center of the traveled portion of the road, whichever is greater, and in any such space there shall be no structure of any kind except signs as permitted by other sections of this Resolution. For corner lots, the minimum front building setback shall be required for both street frontages. There shall be no storage of any materials or equipment nor display of any materials or goods offered for sale within ten (10) feet of any road right-of-way. The inner boundary of such ten (10) foot space shall be marked with a curb not less than six (6) inches above grade.

22.06 SIDE AND REAR YARD CLEARANCES

- A. Any building in a B-1, B-2, and B-3 District shall have a minimum total of forty (40) feet side yard clearance with a minimum clearance on either side of ten (10) feet. Clearance shall be measured from the nearest point of any part of the building to the side lot line.
- B. Any building in a B-1, B-2, and B-3 District shall have a minimum rear yard clearance of not less than twenty five (25) feet which space shall remain open and unoccupied by any building or structure. No storage of materials or equipment or the parking of motor vehicles shall take place within fifty (50) feet of any residential lot or lots. (Adopted by Trustee Resolution 90-50 effective May 26, 1990.)



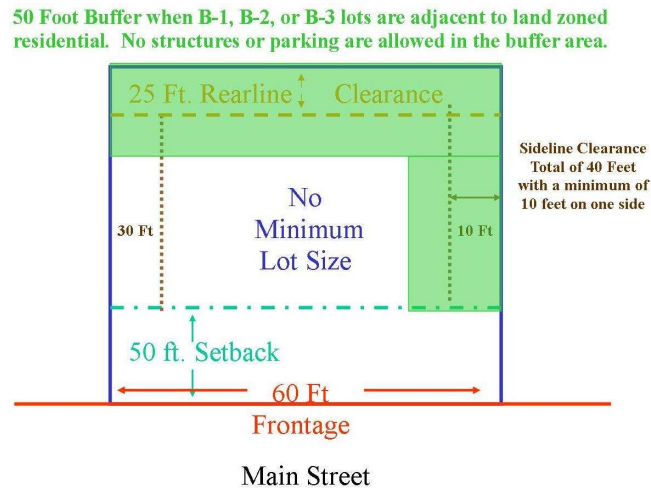
22.07 MAXIMUM HEIGHT OF BUILDINGS

No building or structure nor the enlargement of any building or structure shall be erected or maintained which is in excess of thirty five (35) feet in height except this provision shall not apply to church spires, belfries, clock towers, radio and TV towers, chimneys, water tanks, elevator bulkheads, stage towers, scenery lofts or other mechanical appurtenances when erected upon and as an integral part of such building.

- A. Roof mechanicals: All mechanical appurtenances on the roof top and all visible equipment mounted on the side of a building shall be shielded from public view and adjoining properties in accordance with Section XXXIV Design Standards. The shielding shall be integrated into the architecture of the building in terms of massing, materials and details. The shielding for the mechanical appurtenances on the roof shall be part of the roof form.

22.08 BUFFERING AND SCREENING

- A.
 - 1. A minimum buffer strip of fifty (50) feet when any B-1, B-2 and B-3 District abuts any residential district. This fifty foot strip shall be included in the side and rear yard clearance as required in Section 22.06 of this Resolution and shall not be additional footage.
 - 2. The buffer strip shall be landscaped to provide a year-round vertical green combination of grass, shrubs and trees between the B-1, B-2 and B-3 Districts and said residential district.
- B. Screening of service yards and other places which tend to be unsightly shall be accomplished by use of walls, fencing, or planting or a combination of these. Screening shall be equally effective year around.



22.09 DESIGN STANDARDS FOR THE B-1, B-2, AND B-3 DISTRICTS

Design standards for the Commercial Districts are established for the B-1, B-2, and B-3 Districts to ensure that new developments or redevelopment complies with the purposes of this Section. All uses in the Commercial Districts shall comply with the design requirements set for in Section XXXIV of the Zoning Resolution.

22.10 Accessory Use Requirements.

Accessory uses, building and structures permitted in B-1, B-2, and B-3 Districts shall comply with the following regulations:

- A. Accessory Buildings. Accessory buildings with a floor area 200 square feet or less shall conform to all lot and yard requirements for principal buildings of the corresponding zoning district and be subject to the approval of the Zoning Inspector. Accessory buildings with a floor area greater than 200 square feet shall conform to all lot and yard clearances and site plan review and approval requirements of the zoning district in which the parcel or lot is located.

- B. Trash Receptacles. All solid waste resulting from any permitted principal, conditional or accessory use shall either be disposed of, stored in buildings or in completely enclosed container. Such building, container, or dumpster shall comply with the following.
 - 1. All commercial compactors, storage bins, refuse containers utilities or mechanical equipment shall be contained wholly within enclosed buildings, or enclosed by three solid walls and one gated wall of such nature and height (2 foot height exceeding enclosed containers) as to conceal completely all operations thereof from grade level.
 - 2. Gates and doors shall be kept closed at all times and only opened when containers are being used or emptied or serviced.
 - 3. All receptacle areas shall be designed and constructed with screening as an integral part of the associated building architecture and using the building massing, materials, and architectural detail to unite screening structure with the building when property abuts a residential property.
 - 4. Loading, unloading, opening, closing, or operation of trash containers shall not take place in such a manner as to cause a noise disturbance across a residential property boundary between the hours of 7:00 p.m. and 6:00 a.m. The actual pick-up time/haul away for trash containers and commercial trash/waste containers shall be prohibited between the hours of 7:00 p.m. and 6:00 a.m. The actual operation of trash compactors shall be prohibited between the hours of 7:00 p.m. and 6:00 a.m., including delivery and loading operations.
- C. Fences and walls. Fences and wall may be erected in compliance with the requirements set forth in Section VI of the Zoning Resolution.
- D. Signs. Signs shall conform to the regulations in Section XXVIII of the Zoning Resolution.

22.11 LANDSCAPING AND SCREENING REQUIREMENTS.

Visual screening and landscaped buffers shall be provided for all lots in the B-1, B-2, and B-3 Districts in accordance with the requirements set forth in Section XXXV of the Zoning Resolution.

22.12 SUPPLEMENTAL REQUIREMENTS.

- A. Delivery and Loading Areas: Delivery and loading operations shall be designed and located to mitigate visual and noise impacts to adjoining residential neighborhoods. Delivery and loading areas shall be substantially set back from a residential use or residentially zoned property that is adjacent to that site. The delivery and loading areas shall be enclosed so that they are not visible to adjacent residential properties. The enclosure shall screen the noise and activity at the loading dock. Loading, unloading, opening and closing or handling of boxes, crates, containers, building materials, or similar objects between the hours of 7:00 p.m. and 6:00 a.m. shall not take place in such a manner as to cause a noise disturbance across a residential real property boundary. Delivery trucks shall not be parked in close proximity to or within a designated delivery or loading area between 7:00 p.m. and 6:00 a.m. with motor and/or refrigerators/generators running.
- B. Storage of Equipment: No premises or portion thereof shall be used for the storage, collection or accumulation of equipment, machinery or building materials, except as incident to proposed construction upon, maintenance or repair of said premises, and except that this provision shall not apply to parking of licensed cars or trucks owned or personally operated by the occupant or occupants of said premises.
- C. Lighting:
 - 1. Exterior lighting of buildings and/or parking areas shall be positioned so as not to emit light onto neighboring properties or road right-of-ways, but shall shine directly onto building, or be directed downward onto parking areas, access drives and pedestrian walkways.
 - 2. All lighting shall be shielded form adjoining residential properties in such a manner as to prevent distraction and glare. Light pollution control measures shall be taken to avoid negative impact of misdirected light. Business that utilizes canopy lighting shall use recessed ceiling fixtures with the bottom of the lenses flush with the canopy. No lights shall be oriented towards residential areas. Building mounted light fixtures and free standing light fixtures should be in proportion with the building and shall not exceed the building height.

22.13 Site Plan Review

Prior to the construction, alteration, expansion or modification of a use in a B-1, B-2 and B-3 District, a site plan for such activity shall be reviewed and approved according to the procedures set forth in Section XI.

22.14 Storage of Equipment

No premises or portion thereof shall be used for the storage, collection or accumulation of equipment, machinery or building materials, except as incident to proposed construction upon, maintenance or repair of said premises, and except that this provision shall not apply to parking of licensed cars or trucks owned or personally operated by the occupant or occupants of said premises.

22.15 Purpose and Intent (Adopted by Trustee Resolution 97-27 effective April 10, 1997.)

It is the purpose of this section to regulate adult oriented businesses, to promote the health, safety, morals and general welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the concentration of adult oriented businesses within the Township. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented material protected by the First Amendment, or to deny access by the distributors and exhibitors of adult oriented entertainment to their intended market. There is convincing documented evidence that the adult oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values.

The Township Trustees desire to minimize and control these adverse effects and thereby preserve the property values and character of surrounding neighborhoods, deter the spread of suburban blight, protect the citizens from increased crime, preserve the quality of life, and protect the health, safety, and welfare of the citizenry.

A. Definitions applicable only to this Section:

- a. An adult oriented business is one which is designed and used to sell, rent or show sexually explicit materials distinguished or characterized by an emphasis on "Specified Sexual Activities" or "Specified Anatomical Areas" as herein defined and is more particularly, but not exclusively, defined as meaning an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, or adult theater, or massage business.
- b. Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".
- c. Adult bookstore or adult video store means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration, one or more of the following:
 1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
 2. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities".
- d. Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which features:
 1. Persons who appear in a state of nudity; or
 2. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities", or "specified anatomical areas".
- e. Adult motel means a hotel, motel or similar commercial establishment which:
 1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion picture, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities", or "specified anatomical areas", and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
 2. Offers sleeping rooms for rent for a period of time that is less than ten (10) hours; or
 3. Allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than ten (10) hours.
 - f. Adult motion picture theater means a commercial establishment where for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which is characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".
 - g. Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".
 - h. Massage means the manipulation of body muscles or tissue by rubbing, stroking, kneading, or tapping by hand or mechanical device.
 - i. Massage business means any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors, which is characterized by emphasis on matters and activities related to "specified sexual activities" or "specified anatomical areas" as defined herein.
 - j. Nudity or a state of nudity means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.
 - k. Persons mean an individual, proprietorship, partnership, corporation or other legal entity.
 - l. Semi-nude means a state of dress in which clothing covers no more than the genitals, pubic region, and aureoles of the female breast, as well as portions of the body covered by supporting straps or devices.
 - m. Specified sexual activities means and includes any of the following:
 1. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;
 2. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
 3. masturbation, actual or simulated; or
 4. excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.
 - n. Sexually oriented devices means without limitation any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.
 - o. Specified anatomical areas means less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point immediately above the top of the aureole; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

B. Rules Governing Adult Oriented Business

- a. The proposed business is located more than one thousand feet (1000') from a church, a public or private school, public park or playground, child day care center (adopted by Trustee Resolution 2006-31 effective April 20, 2006) or any social services facility, fairgrounds or neighborhood center.
 - 1. For the purposes of subdivision, a measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult oriented business is conducted, to the nearest property line of the premises of a church, or a public or private school, or social services facility or neighborhood center, or to the nearest boundary of an affected public park, fairgrounds or playground.
 - b. The proposed business is located more than three hundred (300) feet from any boundary of a residential district as established by the Board of Township Trustees, the lot line of a lot devoted to a residential use, any boundary of a residential district in a local government abutting Painesville Township, or any structure that contains a residence.
 - 1. For the purposes of subdivision, a measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult oriented business is conducted, to the nearest property line of a lot devoted to residential use or possessing a structure that contains a residence, or to the nearest boundary of an affected residential district.
 - c. The proposed use is located more than one thousand feet (1000') from an already existing adult oriented business, whether by permit or other means of establishment.
 - 1. For purposes of subdivision (c.), the distance between any two adult oriented businesses shall be measured in a straight line, without regard to intervening structures or objects from the closest external wall of the structure in which each business is located.
 - d. All viewing booths and viewing areas in an Adult Arcade, Adult Book store, Adult video store, Adult motion picture theater, or Adult Theater must be visible from a continuous main aisle and must not be obscured by any curtain, door, wall, or other enclosure.
 - e. No sexually oriented activities or materials may be sold, furnished or displayed to any person under the age of eighteen (18) years.
 - f. All provisions of the Ohio Fire Code are met prior to issuance of a permit.
- C. No person shall establish, operate or cause the establishment or operation of any adult oriented business in violation of the provisions of this section. Nothing in this section shall be construed to prohibit or limit the display, sale or rental of descriptive, printed, film or video material or any live performance which, taken as a whole, contains serious literary, artistic, political, medical, educational or scientific value.
- D. As amended, any adult oriented business lawfully operating on the effective date of Section 22.16 of this Resolution that is in violation of that section of the Resolution shall be deemed a nonconforming use. An adult oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a church, public or private school, public park or playground, fairgrounds, or any social services facility or neighborhood center within one thousand (1000) feet, or a residential district within three hundred (300) feet, of the adult oriented business. When a nonconforming adult oriented business use of a structure or premises is voluntarily discontinued or abandoned for more than six (6) months, the structure, building, or premises shall not thereafter be used except in conformity with the subdivision of uses for the use district in which it is located.
- E. Revocation
- The Painesville Township Board of Trustees, after affording notice and hearing, upon recommendation of the Chief of Painesville Township Fire Department, the Lake County Sheriff's Department, the Zoning Inspector, or on their own authority, may at any time suspend the Zoning Permit for the applicant's failure to comply with any applicable sections of this Resolution.

22.16 A Child Day Care Center shall be defined as a "Child day care center" as that term is defined in Ohio Revised Code Section 5104.01(L), as amended and revised. No Zoning Permit shall be effective until the individual or entity obtaining the permit has been properly licensed as required by Ohio Law. All child day care centers shall obtain certification from the director of the Lake County Department of Job and Family Services, and make any

modifications to the facility recommended and approved by said director. (Adopted by Trustee Resolution 2006-31, effective April 20, 2006.)