

CLAY TOWNSHIP
MONTGOMERY COUNTY, OHIO

November 18, 1985

Zoning Enacted

CLAY TOWNSHIP ZONING RESOLUTION

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TABLE OF CONTENTS

	<u>Page</u>
CHAPTER I - ZONING ADMINISTRATION	
Article 1 Intent and Interpretation.....	1-1
Article 2 Definitions.....	2-1
Article 3 Enforcement: Penalties and Fees.....	3-1
Article 4 Board of Zoning Appeals.....	4-1
CHAPTER II - ZONING DISTRICTS	
Article 5 Zoning Districts and Boundaries.....	5-1
Article 6 Township Zoning Commission: District Changes and Resolution Amendments.....	6-1
CHAPTER III - RESIDENTIAL DISTRICT REGULATIONS	
Article 7 Rural Agricultural District.....	7-1
Article 8 Rural Transition District.....	8-1
Article 9 "R-1" Single-Family Residential District.....	9-1
Article 10 "R-2" Single-Family Residential District.....	10-1
Article 11 "R-3" Multiple Family Residential District.....	11-1
Article 12 For Future Expansion.....	
Article 13 For Future Expansion.....	
Article 14 For Future Expansion.....	
Article 15 For Future Expansion.....	
Article 16 For Future Expansion.....	
Article 17 For Future Expansion.....	

CHAPTER IV - BUSINESS DISTRICT REGULATIONS

Article 18	"B-1" Neighborhood Business District.....	18-1
Article 19	"B-2" General Business District.....	19-1
Article 20	"B-3" Highway Business District.....	20-1
Article 21	"OBLI" Office, Business, Light Industrial District.....	21-1
Article 22	For Future Expansion.....	

CHAPTER V - INDUSTRIAL DISTRICT REGULATIONS

Article 23	"I-1" General Industrial District.....	23-1
Article 24	For Future Expansion.....	
Article 25	For Future Expansion.....	

CHAPTER VI - SPECIAL DISTRICT REGULATIONS

Article 26	"F" Flood Plain District.....	26-1
Article 27	"NR" Natural Resources District.....	27-1
Article 28	For Future Expansion.....	
Article 29	For Future Expansion.....	
Article 30	For Future Expansion.....	

CHAPTER VII - PLANNED DEVELOPMENT

Article 31	Planned Development.....	31-1
Article 32	Planned Residential District.....	32-1
Article 33	Planned Conservation Residential District.....	33-1
Article 34	For Future Expansion.....	

CHAPTER VIII - GENERAL REGULATIONS

Article 35	Existing and Nonconforming Uses.....	35-1
Article 36	Provisions Affecting Area, Yards and Courts.....	36-1
Article 37	Accessory Uses.....	37-1
Article 38	Exceptions, Modifications and Interpretations.....	38-1
Article 39	Exemptions from Zoning Provisions.....	39-1
Article 40	Storm Water Management, Drainage and Ponds.....	40-1

CHAPTER IX - SPECIAL REGULATIONS

Article 41	Sign and Billboard Regulations.....	41-1
Article 42	Off-Street Loading Areas.....	42-1
Article 43	Off Street Parking.....	43-1
Article 44	Noise.....	44-1
Article 45	Private and Commercial Golf Courses, Swimming Pools, Tennis Courts, and Gun Clubs.....	45-1
Article 46	Home Occupations.....	46-1
Article 47	Telecommunication Towers.....	47-1

CHAPTER X - SPECIAL PROVISIONS

Article 48	Community Residential Social Service Facilities.....	48-1
Article 49	Sexually Oriented Businesses.....	49-1
Article 50	Temporary Uses.....	50-1
Article 51	Sanitary and Construction Material Landfill.....	51-1
Article 52	When Effective, Validity.....	52-1

CHAPTER I

ZONING ADMINISTRATION

ARTICLE 1 - INTENT AND INTERPRETATION

SECTION 101 TITLE

This Resolution shall be known and may be cited and referred to as the "Clay Township Zoning Resolution."

SECTION 102 PURPOSE

A Resolution establishing comprehensive zoning regulations for the Township of Clay, Montgomery County, Ohio, and providing for the administration, enforcement and amendment thereof, in accordance with the provisions of Chapter 519, Ohio Revised Code.

Whereas Chapter 519, Ohio Revised Code, empowers the Township to enact a Zoning Resolution and to provide for its administration, enforcement, and amendment; and

Whereas the Clay Township Trustees deem it necessary for the purpose of promoting the health, safety, morals, or general welfare of the Township to enact such a Resolution; and

Whereas the Trustees, pursuant to the provisions of Chapter 519.04, Ohio Revised Code, have appointed a Zoning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein; and

Whereas the Zoning Commission has divided the Township into districts and has prepared regulations pertaining to such districts in order to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements; and

Whereas the Zoning Commission has given reasonable consideration among other things to be the character of the districts and their peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the Township; and

SECTION 102 (continued)

Whereas the Zoning Commission and Township Trustees have given the public notice of hearings relating to zoning districts to zoning districts, regulations, and restrictions and have held such public hearings; and

Whereas all requirements of Chapter 519, Ohio Revised Code, have been met;

NOW, THEREFORE, BE IT RESOLVED BY THE PEOPLE OF THE TOWNSHIP OF CLAY, COUNTY OF MONTGOMERY, STATE OF OHIO:

To establish comprehensive zoning regulations for the Township of Clay, Montgomery County, Ohio, and provide for administration and enforcement thereof.

SECTION 103

INTERPRETATION AND CORRELATION OF STANDARDS

In their interpretation and application, the provision of this Zoning Resolution shall be held to be minimum requirements. Where this Zoning Resolution imposes a greater restriction than is imposed or required by other provisions of the law or by any other rules, regulations, or resolutions, the provisions of this Zoning Resolution shall control.

ARTICLE 2

DEFINITIONS

SECTION 201 PURPOSE AND APPLICABILITY

The purpose of this article is to promote consistency and precision in the interpretation of the zoning regulations. The meaning and construction of words and phrases defined in this Article shall apply throughout the Zoning Resolution, except where the context of such words or phrases clearly indicates a different meaning or construction.

SECTION 202 GENERAL RULES FOR CONSTRUCTION OF LANGUAGE

- A. The following general rules of construction shall apply to the text of the Zoning Resolution:
1. The particular shall control the general.
 2. In case of any difference of meaning or implication between the text of any provision and any caption or illustration, the text shall control.
 3. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
 4. References in the masculine and feminine genders are interchangeable.
 5. The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.
 6. The word "shall" is a mandatory requirement; the word "may" is a permissive requirement; and the word "should" is a preferred requirement.
 7. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
 8. The word "lot" includes the words "plot" or "parcel."

SECTION 203 DEFINITIONS (beginning with letter "A")

203.01 ACCESSORY USE

An accessory use is one which (1) is subordinate to and serves a principal structure or a principle use; (2) is subordinate in area, extent, and purpose to the principal structure or use served; (3) is located on the same lot as the principal structure or use served except as otherwise expressly authorized by provisions of this Resolution; and (4) is customarily incidental to the principal structure or use. Among other things, "Accessory Use" includes anything of subordinate nature attached to or unattached from a principal structure or use, such as fences, walls, sheds, garages, parking spaces, decks, etc. Except as otherwise required in this Resolution, an accessory use shall be a permitted use.

ADULT ENTERTAINMENT ESTABLISHMENTS

See Article 49, Section 4902 – Definitions Regarding Adult Entertainment Establishments.

AGRICULTURE

As used in section 519.02 to 519.25 of the Ohio Revised Code, "agriculture" includes farming; ranching; 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; 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.

AGRICULTURAL MARKET

Any fixed or mobile retail food establishment, which is engaged primarily in the sale of raw agricultural products, but may include as accessory to the principal use the sale of factory-sealed or prepackaged food products that normally do not require refrigeration. *(See Ohio Revised Code Sec. 519.21)*

AGRICULTURAL SOILS, PRIME

Those soils, which are best suited for the production of food, fiber and other crops. These soils have been determined by Montgomery County based upon average yields per acre of principal crops and the capability grouping of each soil type. Prime soils fall within capability Class I and II as they are described in the Soil Survey of Montgomery County, Ohio published by the United States Department of Agriculture, Soil Conservation Service, issued June, 1976.

AGRICULTURAL USE, INTENSIVE

The use of lands, buildings or structures for the practice of confined raising of livestock, including poultry in such intensity and/or scale which has the potential to produce environmental hazards. In this regard such uses necessitate special control of operation and disposal of liquid and solid wastes. Intensive agricultural activities also include those facilities involving more than 400 head of cattle or their animal unit equivalent in a single farm location. An animal unit is equal to a 1,000 pound animal; e.g., one beef steer, two and a half hogs, 100 hens, etc. *(See definition of animal units)*

AIRPORT

A place where aircraft can land or take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers. This excludes private airstrips.

ALTERATION

Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."

AMUSEMENT ARCADE

A commercial facility in which five or more pinball machines, video games, or other similar player-operated amusement devices are maintained.

ANIMAL HOSPITAL

(See Veterinary Animal Hospital)

ANIMAL KENNEL

(See Kennel)

ANIMAL UNITS

Animal units is a term used as an index of the amount of manure produced by a designated number of animals. The following is the definition of 1,000 animal units as provided by the Division of Soil and Water within the Department of Natural Resources:

- 1,000 beef steers
- 700 dairy cows
- 2,500 hogs over 55 pounds
- 500 horses
- 10,000 sheep
- 5,000 turkeys
- 100,000 laying hens or broilers with continuous overflow watering, dry manure
- 30,000 layers or broilers with liquid manure
- 5,000 ducks

APARTMENT

(See Dwelling, Apartment)

APARTMENT BUILDING

(See Dwelling, Apartment Building)

APARTMENT, GARDEN

(See Dwelling, Garden Apartment)

AQUIFER

A geologic formation, group of geologic formations, or a portion of a geologic formation capable of yielding ground water to wells or springs.

AQUIFER RECHARGE AREA

An area that has soils and geological features conducive to allowing significant amounts of surface water to percolate into groundwater.

ARCHITECTURAL ELEVATION

A scale drawing of the front, side or rear of a building or structure.

ARTERIAL STREET

(See Thoroughfare, Major Arterial)

AUTOMATIC CAR WASH

A structure containing facilities for washing automobiles using a chain conveyer or other method of moving cars along or fixed car with moving mechanism, and automatic or semiautomatic application of cleaner, brushes, rinse water and heat for drying.

AUTOMOBILE BODY SHOP

A building, lot, or portion of a lot used or intended to be used for the business of collision service, which shall include body, frame, or fender straightening or repair; painting and glass replacement; and the reconditioning of motor vehicles, which shall include repainting, re-sculpturing, rust repair and undercoating.

AUTOMOBILE DETAILING SHOP

A building, lot, or portion of a lot used or intended to be used for the detailing of motor vehicles that are in an operable, undamaged condition. The detail work shall be intended to alter the appearance of the motor vehicle to the particular specifications of the vehicle owner. The work shall be limited to pin-stripping and exterior detailing, cosmetic work.

AUTOMOBILE FULL SERVICE STATION

A building, lot, or portion of a lot used or intended to be used for the retail dispensing of vehicular fuels, and including as an accessory use no more than three bays for minor mechanical repair and the dispensing of lubricants, tires, batteries, and other similar accessories. The storage of junk or inoperable vehicles shall not be included in this definition.

AUTOMOBILE OR TRAILER SALES AREA

An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition, and where no repair work is done.

AUTOMOBILE QUICK SERVICE FACILITY

A building, lot or portion of a lot used or intended to be used for periodic maintenance of motor vehicles; where the service being provided is completed in two hours or less. A business operating as a Quick Service Facility will specialize in a single category of operation. The dispensing of vehicular fuels shall not be included in this definition.

AUTOMOBILE REPAIR GARAGE

A building, lot, or portion of a lot used or intended to be used for the business of general motor vehicle repair and service including engine rebuilding or reconditioning of motor vehicles, but excluding automobile body shops or junkyards as defined in this section.

AUTOMOBILE SALES, RENTAL OR LEASE

A building, lot, or portion of a lot used or intended to be used for the display, sale, rent or lease of new or used motor vehicles in operable condition and where repair service is to be incidental and subordinate to the sale or rental use.

AUTOMOBILE SELF-SERVICE GAS STATION/ MINI MARKET

A building, lot, or portion of a lot used or intended to be used for the retail dispensing of vehicular fuels, and may as an accessory use sell prepackaged convenience food items and lubricants, but not including any repair or storage of vehicles.

AUTOMOBILE TRANSMISSION SHOP

A building, lot, or portion of a lot used or intended to be used for the service and repair of motor vehicle drive trains, excluding repair work to motor vehicle engines.

AUTOMOBILE WASH FACILITIES

A building, lot, or portion of a lot used or intended to be used for washing automobiles.

AUTOMOBILE WRECKING

The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, non-operating or wrecked vehicles or their parts.

203.02 DEFINITIONS (beginning with letter "B")

BASEMENT

That portion of a building located partly underground but having less than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground. *(See definition of Cellar and Illustration C on page 70 .)*

BED AND BREAKFAST — HOME STAY ESTABLISHMENT

A single-family dwelling in which the principal use is permanent residential quarters, and in which, as a Conditional Use, no more than two bedrooms are made available for transient occupancy, generally for not more than three days, nor by more than four guests at one time, for compensation.

BIOSOLIDS

Solid organic matter recovered from a sewage treatment process that has typically been stabilized for beneficial reuse.

BOARD

The Board of Zoning Appeals of Clay Township, Montgomery County, Ohio.

BOARDING HOUSE OR ROOMING HOUSE

A building, other than a hotel, not exceeding ten sleeping rooms where for compensation and by pre-arrangement for definite periods, meals, or lodging and meals are provided for three or more persons. A rooming house or a furnished room in a house shall be deemed a boarding house for the purpose of this Resolution.

BOARDING STABLE

A structure designated for the feeding, housing and exercising of horses not owned by the owner of the premises.

BOND

Any form of security including a cash deposit, surety bond, collateral property, or instrument of credit in an amount and form satisfactory to Clay Township. All bonds shall be approved by the Township whenever a bond is required by these regulations.

BUFFER STRIP

A strip of land established to protect one type of land use from another with which it is incompatible. Buffer zones are described in the Resolution with reference to neighboring districts. Where a commercial district abuts a residential district, for example, additional use, yard, or height restrictions may be imposed to protect residential properties. Normally, a buffer zone is landscaped and kept in open space uses.

BUILDABLE AREA or Building Envelope

The portion of a lot remaining after required yards have been provided. *(See Illustration A on page 68 .)*

BUILDING

Any covered structure built for the support, shelter or enclosure of persons, animals, chattels or moveable property of any kind; and which is permanently affixed to the ground by means of a footer and foundation as defined in the Montgomery County Building Code. *(Also See Structure)*

BUILDING, ACCESSORY

A building that (1) is subordinate to and serves a principal structure or a principal use; (2) is subordinate in area, extent, and purpose to the principal structure or use served; (3) is located on the same lot as the principal structure or use served except as otherwise expressly authorized by provisions of this Resolution; and (4) is customarily incidental to the principal structure or use. Any portion of a principal structure devoted or intended to be devoted to an accessory use is not an accessory structure.

(See Illustration B on page 69 .)

BUILDING, ATTACHED

A building attached to another building by a common wall (such wall being a solid wall with or without windows and doors) and/or a common roof.

BUILDING, COVERAGE

The horizontal area measured within the outside of the furthest extending exterior walls of all principal and accessory buildings on a lot.

BUILDING, FRONTAGE

For the purpose of computation of number and area of signs permitted on buildings, in cases where lineal feet of building frontage is a determinant, the frontage of a building shall be computed as the horizontal distance across the front as nearly at ground level as computation of horizontal distance permits. In cases where the measurement is indeterminate or cannot be applied, the Zoning Administrator shall select building frontage on the basis of the interior layout of the building, traffic on adjacent streets, or other indicators available.

BUILDING, HEIGHT

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip and gambrel roofs. *(See Heights, Roof, and also Illustration F on page 73 .)*

BUILDING LINE

A line parallel to the street right-of-way line at any story level of a building and representing the distance that all or any part of the building is to be set back from said right-of-way. Said building line shall be measured from the adjacent street right-of-way line upon which the lot fronts as established within the most current Official Thoroughfare Plan of Montgomery County, Ohio. *(See Yard, Front).*

BUILDING PERMIT

Written permission issued by the proper authority for the construction, repair, alteration or addition to a structure.

BUILDING, PRINCIPAL

A building in which is conducted the main or principal use of the lot on which said building is situated, and including areas such as garages, carports, storage sheds, etc., which are attached to and architecturally integrated with the principal building. *(See Illustration B on page 69 .)*

BUILDING SETBACK

The closest point at which a building may be constructed in relation to the lot line.

BUSINESS, GENERAL

Commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend, in addition to serving day-to-day needs of the community, to also supply the more durable and permanent needs of the whole community. General business uses include, but need not be limited to, such activities as supermarkets; stores that sell hardware, apparel, footwear, appliances, and furniture; department stores; and discount stores.

BUSINESS, HIGHWAY

Commercial uses which generally require locations on or near major thoroughfares and/or their intersections and which tend to serve the motoring public. Highway business uses include, but need not be limited to, such activities as filling stations; truck and auto sales and service; restaurants and motels; and commercial recreation.

BUSINESS OR TRADE SCHOOLS

A use, a college or university providing education or training in business, commercial, similar activity or pursuit, and not otherwise defined as a home occupation or private educational facility.

BUSINESS, WHOLESALE

Business establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers, and/or other wholesale establishments. These commodities are basically for future resale, for use in the fabrication of a product, or for use by a business service.

203.03 DEFINITIONS (Beginning with letter "C")

CAMPING EQUIPMENT

(See Recreational Vehicles and Camping Equipment)

CARPORT

A roofed shelter, open on at least two sides, designed as a shelter for automobiles or other vehicles. A carport may be freestanding or may be formed by extension of a roof from the side of a building. A carport shall not be considered a private garage.

CARRY-OUT, RESTAURANT

A place of business where food and beverages are purchased for consumption on or off of the premises.

CELLAR

A portion of a building located partly or wholly underground and having one-half or more of its clear floor-to-ceiling height below the average grade of the adjoining ground. *(See definition of Basement; also see Illustration C on page 70.)*

CENTRAL SEWER AND WATER SYSTEM

- A. **Public** – Any system other than an individual septic tank, tile, field, or individual well that is operated by a municipality, governmental agency, or a public utility for the collection, treatment and disposal of wastes or furnishing of potable water.
- B. **Private** – An EPA approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community, or region. Also, EPA approved water system for furnishing potable water.

CEMETERY

A cemetery is land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries, if operated in connection with, and within the boundaries of, such cemetery.

CERTIFICATE OF OCCUPANCY

A document issued by the proper authority allowing the occupancy or use of the building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable Township codes and resolutions. *(Also see Zoning Certificate)*

CHURCH

A building or structure, or group of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith, including parish house and educational unit.

CLINIC

An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists or social workers and where patients are not usually lodged overnight.

CLUB, PRIVATE

A building or portion thereof or premises owned or operated for social, literary, political, educational or recreational purposes primarily for the exclusive use of members and their guests but not operated for profit. Food service may be secondary and incidental to the promotion of some other common objective of the organization, and further provided that the sale or serving of food is in compliance with all applicable federal, state, county and local law.

CLUSTER DEVELOPMENT

A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

COMMERCIAL ENTERTAINMENT FACILITIES

Any profit-making activity that is generally related to the entertainment field, such as motion picture theaters, carnivals, nightclubs, cocktail lounges, and similar entertainment activities.

COMMERCIAL RECREATION

A use providing recreation including bowling lanes, billiard parlors, skating arenas, and similar facilities for patron participation operated on a non-profit or for-profit basis, but excluding uses defined as outdoor recreation service.

COMMERCIAL SERVICE

The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical system, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, cellular poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment connection herewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities, or governmental departments for the general health, safety or welfare.

COMMISSION

The Clay Township Zoning Commission, Montgomery County, Ohio.

COMMUNITY-ORIENTED RESIDENTIAL SOCIAL SERVICE FACILITIES

A dwelling unit in which personal care, supervision and accommodations are provided to a group of individuals of whom four or more are unrelated to the provider. These individuals are either mentally or physically impaired and are provided services to meet their needs. This category includes uses licensed, supervised, or under contract by any federal, state, county, or other political subdivision. This definition shall not include Halfway Houses or Nursing Homes.

COMPREHENSIVE PLAN

A plan, or any portion thereof, adopted by the Planning Commission and the Board of County Commissioners of Montgomery County, Ohio, showing the general location and extent of present and proposed physical facilities within Clay Township including residential, industrial and commercial uses, agricultural land, major thoroughfares, parks, schools, and other community facilities. This plan establishes the goals, objectives, and policies for Clay Township, Montgomery County, Ohio.

CONDITIONAL USE

A use permitted within a district other than a principally permitted use, requiring a Conditional Use Permit and approval of the Board of Zoning Appeals.

CONDITIONAL USE PERMIT

A permit issued by the Zoning Administrator upon approval by the Board of Zoning Appeals to allow a use other than a principally permitted use to be established within the district.

CONDOMINIUM

A building or group of buildings in which units are individually owned but the structure, common areas and facilities are owned on a proportional undivided basis by all of the owners.

CONGREGATE HOUSING

(See Independent Housing Alternatives for the Elderly)

CONSTRUCTION, BEGINNING OF

The utilization of labor and/or materials on the footings, foundations, walls, roofs and other portions of the building or structure.

CONVENIENCE STORE

A retail store that caters to the motoring public where the sale of food items such as hot or cold drinks, prepackaged foods and tobacco, road maps, magazines and other publications; automotive maintenance items such as brake fluid, oil, polishes, anti-freeze, and similar products; and other retail items may be readily purchased. A convenience store may also sell gas and fuel. Such stores shall have a ground floor area of less than 5,000 square feet.

COVENANT

A private legal restriction on the use of land contained in the deed to the property or otherwise formally recorded. There may be certain legal requirements for formal establishment of a covenant such as a written document, a mutual interest in the property, that the covenant be concerned with the use of the land rather than individual characteristics of the ownership, etc. Covenants are most commonly used in the establishment of a subdivision to restrict the use of all individual lots in the development to a certain type of use; e.g., single-family dwellings.

CUL-DE-SAC

(See Thoroughfare, Cul-de-sac)

CURB CUT

The opening along the curb line at which point vehicles may enter or leave the roadway.

203.04 DEFINITIONS (Beginning with letter "D")

DAY CARE, ADULT

A building which is used or intended to be used to provide shelter and care for ambulatory persons who are 18 years of age or older and who are elderly, physically ill or infirm, physically handicapped, mentally retarded or who have a mental handicap or illness such that they do not require constant supervision or treatment.

DAY CARE, CHILD

Administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four hour day in a place or residence other than the child's own home. The following are child day care facilities:

Day Care Center, Child

Any place in which child day care is provided, with or without compensation, for 13 or more children at any one time; or any place that is not the permanent residence of the licensee or administrator in which child day care is provided, with or without compensation, for seven to 12 children at any one time. In counting children for the purpose of this definition, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises shall be counted.

Day Care Home, Type A Family

A permanent residence of the administrator in which child day care is provided for four to 12 children at any one time, if four or more children are under two years of age. In counting children for the purposes of this definition, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the Type A home shall be counted. The term "Type A family day-care home" does not include a residence in which the needs of children are administered to, if all such children are siblings of the same immediate family and the residence is their home.

Day Care Home, Type B Family

A permanent residence of the provider in which child day care or child day care services are provided for one to six children at one time and in which no more than three children may be under two years of age at any one time. In counting children for the purposes of this definition, any children under six years of age who are related to the provider and are on the premises of the Type B home shall be counted. The term "Type B family day-care home" does not include a residence in which the needs of children are administered to, if all such children are siblings of the same immediate family and the residence is their home.

DEAD-END STREET

(See Thoroughfare, Dead-End Street)

DECIBEL

A unit of sound pressure level.

DECIDUOUS

Plants that drop their leaves before becoming dormant in winter.

DEED RESTRICTIONS

(See Covenant)

DENSITY

A unit of measurement; the number of dwelling units per acre of land.

A. Gross Density

The number of dwelling units per acre of the total land to be developed.

B. Net Density

The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

DETENTION BASIN (POND)

A facility for the temporary storage of storm water run-off.

DEVELOPMENTALLY DISABLED

Having a severe, chronic disability that is attributable to a mental or physical impairment or a combination of mental and physical impairments. *(See Ohio Revised Code Sec. 5123.01)*

DISH ANTENNA

(See Satellite Dish Antenna)

DISTRICT

(See Zoning District)

DOUBLE WIDE UNIT

Two mobile home units, attached side by side, which constitute the complete mobile home.

DRAINAGE

(1) Surface water run-off; (2) the removal of surface water or groundwater from land by drains, grading or other means which include run-off controls to minimize erosion and sedimentation during and after construction or development; (3) the means for preserving the water supply and the prevention or alleviation of flooding.

DRAINAGE AREA

That area in which all of the surface run-off resulting from precipitation is concentrated into a particular tile, open ditch, pond, stream or river.

DRAINAGE DISTRICT

A district established by a governmental unit to build and operate facilities for drainage.

DRAINAGEWAY

A water course, gully, dry stream, creek, or ditch which carries storm water run-off, which is subject to flooding or ponding, which is fed by street or building gutters or by storm water sewers, or which serves the purpose of draining water from the lands adjacent to such water course, gully, dry stream, creek or ditch.

DRIVE-IN RESTAURANT

(See Restaurant, Drive-In)

DRIVE-IN USE

An establishment which by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

DUPLEX

(See Dwelling, Two-Family)

DWELLING

Any building or portion thereof occupied or intended to be occupied exclusively for residential purposes, but not including a tent, cabin, recreational vehicle or other temporary or transient structure or facility. A Dwelling shall include conventionally constructed single-family units, multi-family units, a Modular Industrialized Unit, and a Manufactured Home but not a Mobile home.

DWELLING, APARTMENT

A room or suite of rooms within an apartment house, arranged, intended or designed to be used as a home or residence of one family with kitchen facilities for the exclusive use of the one family. Apartments shall not be permitted to have outside doors to bedrooms.

DWELLING, APARTMENT BUILDING

A building which is used or intended to be used as a home or residence for three or more families living in separate apartments, in which the yard areas, hallways, stairways, balconies and other common areas and facilities are shared by families living in the apartment units.

DWELLING, ATTACHED

A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

DWELLING, DETACHED

A dwelling not attached to any other dwelling by any means.

DWELLING, GARDEN APARTMENTS

A garden apartment is a multi-family dwelling. The commonly accepted configuration of a garden apartment in terms of density: usually ten to 15 dwelling units per acre in a suburban community somewhat higher in an urban area and lower in a rural area; height: usually not more than a maximum of two and one-half stories or 35 feet with two levels of dwelling units. Access is usually from a common hall, although individual entrances can be provided. Dwelling units can be located on top of each other, and communities may opt to permit or prohibit the back-to-back type of units.

DWELLING GROUP

A group of two or more detached dwellings located on a parcel of land in one ownership and having a yard or court in common.

DWELLING, MODULAR INDUSTRIALIZED UNIT

A factory-fabricated, transportable building consisting of one or more units designed to be assembled into a permanent structure at a building site on a permanent foundation, which meets the standards and specifications for Industrial Units of Closed Construction certified by the State of Ohio in conformity with the Ohio Basic Building Code as amended and authorized by the Board of Building Standards pursuant to the Ohio Revised Code Section 3781.10 et seq. as amended. A Modular Home shall not include a "Mobile or Manufactured" Home as defined herein.

DWELLING, MULTIPLE-FAMILY

A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, PATIO HOUSE

A single family attached or detached dwelling unit, usually one story; "L" shaped or "U" shaped with the customary side and rear yards consolidated into one or more open garden courts, partially or completely enclosed by the walls of the house.

DWELLING, QUADRUPLEX

Four attached dwellings in one structure in which each unit has two open space exposures and shares one or two walls with adjoining unit or units.

DWELLING, SEMI-DETACHED

A one-family dwelling attached to one other one-family dwelling by a common vertical wall, and each dwelling located on a separate lot.

DWELLING, SINGLE-FAMILY DETACHED

A dwelling which is designed for and occupied by not more than one family, surrounded by open space or yards and which is not attached to any other dwelling by any means. (*See Dwelling, Detached*).

DWELLING, TOWNHOUSE

A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside; no unit is located over another unit; and each unit is separated from any other unit by one or more common fire resistant wall(s).

DWELLING, TRIPLEX

A dwelling containing three dwelling units, each of which has direct access to the outside or to a common hall.

DWELLING, TWO-FAMILY

A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

DWELLING UNIT

One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis; physically separated from any other rooms or dwelling units that may be in the same structure; and containing independent cooking and sleeping facilities.

DWELLING UNIT, EFFICIENCY

A dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities.

203.05 DEFINITIONS (Beginning with letter "E")

EARTH TONES

Earth Tones are muted shades of gray and muted shades and medium to dark tones of the following colors: burnt umber, raw umber, raw sienna, burnt sienna, Indian red, English red, yellow, ochre, chrome green, terra verde.

EASEMENT

A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

EDUCATIONAL/INSTITUTION

Schools and/or seminaries administered by churches or religious organizations; schools, colleges or universities operated under charter or license from the state and any nonprofit institution, residence or home operated for the education of five or more students.

EGRESS

An exit.

ELDERLY AND/OR HANDICAPPED PERSONS

(1) Persons who are 62 years of age or over; (2) families where either husband or wife is 62 years of age or older; and (3) handicapped persons under 62 if determined to have physical impairments which (a) are expected to be of long, continued and indefinite duration; (b) substantially impede the ability to live independently; and (c) are of such a nature that the ability to live independently could be improved by more suitable housing conditions.

ELDERLY HOUSING

A building or buildings containing dwellings and related facilities, such as dining, recreational services or therapy uses, where the occupying of the dwelling is restricted to elderly persons as defined herein. Such use may include facilities for independent or semi-independent living, day care, personal care nursing facilities or services to the elderly of the community when it is an ancillary part of one of the above.

ELECTRONIC, MECHANICAL OR VIDEO GAMES

Any machine, apparatus, contrivance, appliance, or device which may be operated or played upon the placing or depositing therein of any coin, check, token, slug, ball or any other article or device, or by paying therefore either in advance of or after use, involving in its use either skill or chance. Zoning provisions for such machines or facilities exclude sample or "demonstrator" machines in a retail sales, rental or service facility.

ENCLOSED

A covered space fully surrounded by walls, including windows, doors, and similar openings or architectural features.

ENFORCING OFFICER

The person in charge of enforcing the provisions of this code; the Zoning Administrator or his/her designee.

ENVIRONMENTAL IMPACT STATEMENT (EIS)

A statement on the effect of development proposals and other major actions that significantly affect the environment.

ESSENTIAL SERVICES

The location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement by public utilities or County or other governmental agencies of underground or overhead gas, electrical, steam, or water generation, transmission, or distribution systems, including buildings, structure, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment or accessories and the use of land in connection therewith, for the furnishing of adequate service by such public utilities for County or other governmental agencies or for the public health, safety, and morals. This definition excludes telecommunication towers and their accessory structures.

EXISTING USE

The use of a lot or structure at the time of the enactment of a zoning ordinance.

EXTENDED CARE FACILITY

A long-term care facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged or a governmental medical institution. *(See Life Care Retirement Center and Nursing Home).*

203.06 DEFINITIONS (beginning with letter "F")

FABRICATION

The stamping, cutting, assembling or otherwise shaping of processed materials into useful objects, excluding the refining or other initial processing of basic raw materials.

FACADE

The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

FAMILY

A group of persons related by blood, marriage or adoption, and/or no more than three unrelated persons who are living together in a single dwelling unit and maintain a common household. Family as defined within the provisions for Community Residential Social Services Facilities as well as those defined under Shared and Congregate Housing are exempt from the definition.

FARMLAND, PRIME

(See Agricultural Soils, Prime.)

FAST FOOD RESTAURANT

(See Restaurant, Fast Food)

FEEDLOT

- A. "Feedlot" shall mean any premises used principally for the raising or keeping of animals in a confined feeding area.
- B. "Confined feeding area" shall mean any livestock feeding, handling, or holding operation or feed yard where animals or fowl are concentrated in an area:
 - 1. Which is not normally used to pasture or for growing crops and in which animal wastes may accumulate; and
 - 2. Where the space per animal unit is less than six hundred (600) square feet.
- C. "Feedlot" is not intended to otherwise preclude the raising of animals as part of a general farming and/or livestock operation such as an FFA, 4-H, or other student project in an agricultural zone.
- D. "General farming and/or livestock operation" shall mean one in which the confined feeding of animals is an incidental part of the total livestock operation.

FENCE

A fence shall mean an artificial barrier or divider constructed to prevent escape or intrusion, to mark a boundary, or to enclose an area.

FINANCE, INSURANCE AND REAL ESTATE

Establishments such as, but not limited to, banks and trust companies, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodity exchanges, insurance agents, brokers, lessors, lessees, buyers, sellers, agents and developers of real estate.

FLEA MARKET

An occasional or periodic sales activity held within a building structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales.

FLOOD

A temporary rise in stream level that results in inundation of areas not ordinarily covered by water.

FLOOD FREQUENCY

The average frequency, statistically determined, for which it is expected that a specific flood level or discharge may be equaled or exceeded within a 100-year period.

FLOOD HAZARD AREA

The floodplain consisting of the floodway and the flood fringe area. (*See Floodplain*)

FLOOD DESIGN ELEVATION

The highest elevation expressed in feet above sea level, of the level of floodwaters, which delineates the flood fringe area.

FLOOD INSURANCE RATE MAP

The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD PROTECTION ELEVATION

The elevation to which uses regulated by this Resolution are required to be elevated or flood-proofed.

FLOOD, REGIONAL

A flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur on a particular stream. The regional flood generally has a frequency of approximately 100 years as is determined by an analysis of floods in a particular stream and other streams in the same general region.

FLOODPLAIN

That land, including the flood fringe and the floodway, subject to inundation by the regional flood. (*See Illustration D on page 71 .*)

FLOODPLAIN, REGIONAL

The area inundated by the regional flood (100 Year Frequency Flood). This is the floodplain area which shall be regulated by the standards and criteria in this Resolution.

FLOODPROOFING

A combination of structural provisions, changes or adjustments to properties and structures subject to flooding for the reduction or elimination of flood damage to properties, water and sanitary facilities and other utilities, structures and the contents of the buildings.

FLOODWAY

The channel of a natural stream or river and portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river. *(See Illustration D on page 71 .)*

FLOODWAY FRINGE

That portion of the regional floodplain located outside of the floodway. *(See Illustration D on page 71 .)*

FLOOR AREA (Gross)

The sum of the gross horizontal area of all the floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. Floor area shall include the area of basements when used for residential, commercial, or industrial purposes, but shall not include a basement or portion of a basement used for storage or the housing of mechanical or central heating equipment. In calculating floor area, the following shall not be included:

- A. Attic space providing structural head room of less than seven feet, six inches
- B. Uncovered step
- C. Terraces, breezeways and open porches
- D. Automobile parking space in a basement or private garage
- E. Accessory off-street loading berths, but not to exceed twice the space required by the provisions of this Resolution.

FLOOR AREA (Net)

The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

FLOOR AREA, RATIO

The floor area ratio of the building or other structure on any lot is determined by dividing the gross floor area of such building or structure by the area of the lot on which the building or structure is located. When more than one building or structure is located on a lot, then the floor area ratio is determined by dividing the total floor area of all buildings or structures by the area of the lot. The floor area ratio requirements, as set forth under each zoning district, shall determine the maximum floor area allowable for buildings or other structures, in direct ratio to the gross area of the lot. *(See Illustration E on page 72)*

FOSTER CARE HOMES

An owner-occupied residence providing care and supervision for not more than three adults, children or adolescents who are mentally ill, mentally retarded, developmentally disabled, physically handicapped; or aged who are in need of assistance and supervision provided by a foster family in a home setting; and for children or adolescents who for various reasons cannot reside with natural family.

FRATERNAL ORGANIZATION

A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal written membership requirements.

FRONT FOOT

A measure of land width being one (1) foot along the front lot line of a property.

FRONT LOT LINE

(See Lot Line, Front)

FRONT YARD

(See Yard, Front)

FRONTAGE

That portion of a lot, parcel, tract or block abutting upon a thoroughfare. *(See Yard, Front)*

203.07 **DEFINITIONS (beginning with letter "G")**

GARAGE, PRIVATE

A private garage shall mean a detached accessory building or a portion of the principal building used for the storage of automobiles or trailers by only the family resident on the premises. A carport or carporch shall be construed to be a private garage.

GARBAGE

Animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking and serving of foods; but does not include human excretion or sewage.

GARDEN CENTER

The selling and growing of plants, flowers, vegetables, shrubs and trees including the selling and warehousing of garden equipment and supplies and the storage of bulk gardening items, bagged and/or on pallets. Such facilities may also include a sunroom or artificially heated structure in which to grow out of season plants, flowers or vegetables.

GRADE, FINISHED

The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

GREEN AREA

Land shown on a development plan, comprehensive plan or official map for preservation, recreation, landscaping or parks.

GREENBELT

A strip of land parallel to and extending inwardly from the lot lines or right-of-way lines. Said greenbelt shall be maintained at all times in grass, trees, shrubs or plantings and no structures, parking areas, or signs shall be permitted.

GREENHOUSE

A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment. (*See Nursery*).

GROCERY

A retail establishment selling staple foodstuffs, and incidental commodities to the general public. Groceries shall be differentiated from a supermarket in that they shall not exceed 10,000 (gross) square feet of floor area.

GROSS HABITABLE FLOOR AREA

(*See Floor Area, Net*)

GROUND COVER

Grasses or other plants grown to keep soil from being blown or washed away.

DEFINITIONS (beginning with letter "H")**HALFWAY HOUSES**

A facility owned and/or operated by an agency or an individual authorized to provide housing, food, treatment or supportive services for individuals on supervised release from the criminal justice system and who have been assigned by a court to a residential home in lieu of placement in a correctional institution; or for individuals who have been institutionalized and released from the criminal justice system, or who have had alcohol or drug problems which make operation in society difficult and who require the protection of a supervised group setting.

HEALTH CARE FACILITY

A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing homes, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, and home health care agency.

HEIGHT, ROOF

The vertical distance from the average finished grade at the front of the building and,

- A. In the case of a flat roof, the highest point of the roof surface or the parapet, whichever is greater.
- B. In the case of a mansard roof, the deck roof line, and
- C. In the case of a gable, hip or gambrel roof, the mean heights between the eaves and ridge, exclusive of any accessory roof construction such as the chimney, tower, steeple, television antenna, mechanical penthouse or elevator shaft. (*See Illustration F, page 73 .*)

HOME OCCUPATION

An occupation conducted solely by members of the family residing in the premises which is clearly incidental and subordinate to the use of the dwelling for residential purposes. (See Article 46, Home Occupations)

HOMEOWNERS ASSOCIATION

A formally constituted nonprofit association or corporation made up of the property owners and/or residents of a fixed area for the purpose of owning, operating, and maintaining various common properties.

203.09 DEFINITIONS (beginning with letter "I")

INDEPENDENT HOUSING ALTERNATIVES FOR THE ELDERLY

Housing arrangements for elderly persons completely capable of independent living, who do not require protective supervision and are not mentally retarded, mentally ill or disabled, or require rehabilitation.

A. Shared Housing

A housing arrangement for more than three independent elderly persons who pool their resources to maintain a single housekeeping unit.

B. Conglomerate Housing

A housing arrangement for more than three elderly persons who are independent adults where at least meal services are provided. Other services provided to the residents from within the home may include transportation and housekeeping. Personal assistance or care is not provided. This definition includes homes licensed by the Ohio Department of Human Services under the category of Family Group Homes.

INDUSTRIAL PARK

A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation and open space.

INDUSTRIALIZED UNIT

"Industrialized unit" means a building unit or assembly of closed construction fabricated in an off-site facility that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized unit" does not include a manufactured home as defined by division (C)(4) of Section 3781.06 or a mobile home as defined by division (C)(4) of Section 4501.01 of the Ohio Revised Code.

INDUSTRY, HEAVY

A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials; or a use engaged in the storage of, or manufacturing processes using, flammable or explosive materials; or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

INDUSTRY, LIGHT

A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

INGRESS

Access or entry.

INSTITUTIONAL USE

A non-profit or quasi-public use or institution such as a church, library, public or private school, hospital or municipally owned or operated building, structure or land used for public purpose.

203.10 DEFINITION (beginning with letter "J")

JUNK

Old or scrap copper, brass, rope, rags, batteries, paper, rubber; junked, dismantled, wrecked, inoperative or unlicensed motor vehicles or parts thereof; iron, steel and other old or scrap ferrous or nonferrous materials, which are not held for sale or remelting purposes by an establishment having facilities for processing such materials.

JUNK MOTOR VEHICLES

(See Ohio Revised Code, Sec. 4513.63)

JUNKYARD

An establishment or place of business (other than an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap for sale for remelting purposes), which is maintained or operated for the purpose of storing, keeping, buying, or selling junk; or for the maintenance or operation of any automobile graveyard, except an establishment or place where automobiles, wrecked or otherwise, are held or impounded for a period not to exceed 90 days exclusively for storage, repair, or result without alteration.

A junkyard includes any such area of more than 200 square feet, but does not include uses established entirely within enclosed buildings. Two or more unlicensed, inoperative or unlicensed vehicles shall be construed to be a junkyard. Such facilities shall have a valid Ohio Salvage License.

203.11 DEFINITION (beginning with letter “K”)

KENNEL

Any lot or premises on which five or more small domesticated animals more than four months of age are commercially housed, groomed, bred, boarded, trained, or sold.

203.12 DEFINITIONS (beginning with letter "L")

LANDFILL

A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.

LANDSCAPING

Changing, rearranging, or adding to the original vegetation or scenery of a piece of land to produce an aesthetic effect appropriate for the use. It may include reshaping the land by moving the earth, as well as preserving the original vegetation or adding vegetation.

LAND USE

The way land is occupied or utilized.

LAND USE PLAN

The land use element of the Comprehensive Plan showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational uses and other public and private purposes or combination of purposes. (*Also see Comprehensive Plan*)

LIFE CARE RETIREMENT CENTER

Nursing homes, convalescent homes which include individual dwelling units for the elderly as an integral part of the facility where the total floor area devoted to individual dwelling units does not exceed 70 percent of the total floor area of the entire facility.

LIVABILITY SPACE

Part of the open space as found in Planned Development which includes all land not covered by roof or devoted to streets, easements of access and parking.

LIVE ENTERTAINMENT

Any entertainment, other than music mechanically produced by jukeboxes or other devices for the dissemination of recorded music. Not to include adult entertainment.

LOADING SPACE

An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials which abuts upon a street, alley or other appropriate means of access.

LOT

A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and its accessory buildings and uses, including all open spaces required by this Zoning Resolution, and having frontage on a public street.

- A. **Corner**
A lot abutting upon two or more streets at their intersection or upon two parts of the same street, and in either case forming an interior angle of 135 degrees or less. *(See Illustration G, page 74.)*
- B. **Double Frontage/Through**
A lot having a frontage of two nonintersecting streets, as distinguished from a corner lot. *(See Illustration G, page 74.)*
- C. **Flag**
A lot with access provided to the bulk of the lot by means of a narrow corridor. *(See Illustration G, page 74.)*
- D. **Interior**
A lot having single street frontage. *(See Illustration G, page 74.)*
- E. **Zoning**
A parcel of land not separated by street or alley that is designed by its owner or developer at the time of applying for a zoning certificate, as a tract all of which is to be used developed, or built upon as a unit under single ownership. As long as it satisfies the above requirements, such lot may consist of:
 - 1. A single lot or record; or
 - 2. A portion of a lot of record; or
 - 3. A combination of complete lots and portions of lots of record, or portions of lots of record.

LOT COVERAGE

(See definition of Building Coverage. Also, see Illustration I, page 76).

LOT FRONTAGE

The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section.

LOT LINES

- A. **Front**
A street right-of-way line forming the boundary of a lot. On a corner lot, the street right-of-way lines with the least amount of street frontage shall be the front lot line.
- B. **Rear**
The lot line, that is most distant from, and is, or is most nearly parallel to, the front lot line. If a rear lot line is less than 15 feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least 15 feet long, lying wholly within the lot, parallel to the front lot line.

LOT LINES (CONTINUED)

C. Side

A lot line, which is neither a front lot line nor a rear lot line. On a corner lot, the street right-of-way line with the greatest amount of street frontage shall be a side lot line. *(See Illustration A, page 68.)*

LOT, MINIMUM AREA OF

The area of a lot is computed exclusive of any portion of the right-of-way of any public or private street. Exception: In Rural Agriculture District, area is computed inclusive of any right-of-way.

LOT MEASUREMENTS

A lot shall be measured as follows:

A. Depth

The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

B. Width

The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building set-back line.

LOT OF RECORD

A lot which is part of a subdivision, the plat of which has been recorded in the office of the Recorder of Montgomery County; or a parcel of land, the deed to which was of record as of the effective date of this Zoning Resolution.

203.13 DEFINITIONS (beginning with letter "M")

MANUFACTURED HOME

A building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403 and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards.

Permanent foundation means permanent masonry, concrete, or a locally approved footing or foundation, to which a manufactured or mobile home may be affixed.

Permanently sited manufactured home means a manufactured home that meets all of the following criteria:

- a) The structure is affixed to a permanent foundation and is connected to appropriate facilities;
- b) The structure, excluding any addition, has a width of at least 22 feet at one point, a length of at least 22 feet at one point, and a total living area, excluding garages, porches, attachments, of at least 900 square feet;
- c) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering;
- d) The structure was manufactured after January 1, 1995;
- e) The structure is not located in a manufactured home park as defined by section 3733.01 of the Ohio Revised Code.

MANUFACTURING

The assembling, altering, converting, fabricating, finishing, processing or treatment of a product.

MARQUEE

Any hood, canopy or awning of permanent construction that projects from a wall of a building, usually above an entrance.

METES AND BOUNDS

A system of describing and identifying land by measures (metes) and direction (bounds) from an identifiable point of reference such as a monument or other marker, the corner of intersecting streets, or, in rural areas, a tree or other permanent feature. It is the most precise of the three most common forms of urban land description (the others are by street number of house and by blocks and lots in tract subdivision). It is used with precision where land values are high and, more loosely in rural areas.

MOBILE HOME

“Mobile home” as described in the Ohio Revised Code means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than 35 body feet in length or , when erected on site, is 320 or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C)(4) of section 3781.06 of the Ohio Revised Code or as industrialized unit as defined in division (C)(3) of section 3781.06 of the Ohio Revised Code.

MOBILE HOME PARK

A parcel of land under single ownership on which three or more mobile homes are located.

MOBILE HOME SUBDIVISION

A subdivision designed and/or intended for the sale of lots for the placement of mobile homes.

MOBILE STRUCTURE

Any structure that is transportable in one or more sections but is not self-propelled, regardless of the presence of wheels, runners, or a chassis; is designed to be used as some sort of a non-residential building and which may be placed on a temporary or permanent foundation.

MORATORIUM

A temporary halting or severe restriction on specified development activities. Moratoriums on the issuance of building permits or on sewer hookups, for example, may be imposed to allow the community to build the necessary utilities to accommodate the new development. Interim zoning can be considered a form of moratorium which gives time for the zoning resolution to be changed (or a new one prepared) to allow for changing conditions and needs.

MOTEL

A series of attached, semi-detached or detached rental units containing a bedroom, bathroom, and closet space in an individual rental unit. Units shall provide for overnight lodging and are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicle.

203.14 DEFINITIONS (beginning with letter "N")

NATIONAL FLOOD INSURANCE PROGRAM

A Federal program, which authorized the sale of federally subsidized flood insurance in communities where such flood insurance is not available privately.

NONCONFORMING PARCEL

A parcel which lawfully existed at the time of the Resolution, or an amendment hereto became effective, but which does not now comply with the regulations applicable in the zoning district in which it is located.

NONCONFORMING SIGN

Any sign lawfully existing on the effective date of the Resolution, or an amendment thereto, which renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended resolution.

NONCONFORMING STRUCTURE OR BUILDING

A structure or building for which the size, dimensions or location was lawful prior to adoption, revision or amendment to a zoning resolution, but which fails by reason of such adoption, revision or amendment, to conform to the present requirement of the zoning district.

NONCONFORMING USE

The lawful use of any dwelling, building, or structure, and of any land or premises as existing and lawful at the time of enactment of the Resolution, or amendment thereof, may be continued, although such use does not comply with the provisions of such Resolution, or amendment. If any such non-conforming use is voluntarily discontinued for two (2) years or more, any future use of such land shall be in conformity with Chapter 519 of the Ohio Revised Code, unless modified herein.

NURSERY, RETAIL

A space including accessory building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping.

NURSERY, WHOLESALE

A space including accessory building or structure for the growing or storage of live trees, shrubs or plant materials not offered for retail sale on the premises, including products used for gardening or landscaping.

NURSING HOME

Means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care, and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care. *(See Ohio Revised Code, Sec. 3721.01)*

203.15 DEFINITIONS (beginning with letter "O")

OBSTRUCTION (RFP Regional Floodplain District)

Any wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit, culvert, building, wire, fence, rock, gravel refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, or regional flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

OCCUPANCY PERMIT

A required permit allowing occupancy of a building or structure after it has been determined that the building meets all the requirements of applicable resolutions used by Clay Township or its agent.

OFFICE, GENERAL

An office for the use of (1) professional persons such as doctors, lawyers, accountants, etc.; or (2) general business office such as insurance companies, trade associations, manufacturing companies, investment concerns, banks and trust companies, real estate companies, etc., but not including any type of retail or wholesale store or warehouse, except as otherwise provided herein; (3) quasi-commercial uses which may often be transitional between retail business and/or manufacturing and residential uses. Office business generally accommodates such occupations as administrative, executive, professional, accounting, writing, clerical, stenographic, and drafting. Institutional offices of a charitable, philanthropic, or religious or educational nature are also included in this classification.

OPAQUE

The term opaque shall mean completely screened from view through the use of a man-made screen and/or natural landscaping which serves to visually shield or obscure an abutting or nearby area from another.

OPEN SPACE

A parcel of land or an area of water or combination of both land and water within a site designed as a planned development and designed and intended for the use and enjoyment of the residents of the planned development. Open space includes easements, parks, recreation areas, public open space, or other facilities dedicated by the developer for public use. Open space shall be substantially free of structures or may contain such improvements as are approved and are part of the general development plan and are appropriate for the residents or occupants of the planned development.

OPEN STORAGE

Storing or keeping of chattels not enclosed in a building.

203.16 DEFINITIONS (beginning with letter "P")

PARCEL

A lot or tract, or contiguous groups or portions of such lots and/or tracts shown on the auditor's roll of Montgomery County, or contiguous area of land under legal control of any one person, partnership, firm corporation, syndicate, agency or institution. (*Also see Lot*).

PARKING SPACE, OFF-STREET

An area of definite length and width; said area shall be exclusive of drives, aisles or entrances giving access thereto and shall be fully accessible for the storage or parking of permitted vehicles. Such area shall be located totally outside of any street or alley right-of-way.

PARKING SPACE, PUBLIC

An off-street parking area publicly or privately owned available for public use whether free, for compensation or as an accommodation for clients or customers.

PERFORMANCE BOND OR SURETY BOND

A financial guarantee accepted by the Township in the form of cash, certified check, performance bond, surety bond, or certificate of deposit endorsed to the Township for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the developer's agreement.

PERFORMANCE STANDARDS

A minimum requirement or maximum allowable limit on the effects or characteristics of a use, usually written in the form of regulatory language. A building code, for example, might specify a performance standard referring to the fire resistance of a wall rather than specifying its construction materials. Performance standards in zoning might describe allowable uses with respect to smoke, odor, noise, heat, vibration, glare, traffic generation, visual impact, and so on, instead of the more traditional classifications of "light" or "heavy" lists of uses.

PERIMETER

The boundaries or borders of a lot, tract or parcel of land.

PERMITTED USE

A use by right which is specifically authorized in a particular zoning district. It is contrasted with Conditional Uses, which are authorized only if certain requirements are met and after review and approval by the Board of Zoning Appeals.

PERSONAL SERVICES

A use providing services of a personal convenience nature, cleaning, repair, or sales incidental thereto, and including art, dance, or music studios, beauty and barber shops, shoe repair, self-service laundry and cleaning service, laundry and cleaning pick-up stations (where bulk cleaning and servicing is done elsewhere), repair and fitting of clothes and personal accessories, copying, and similar services.

PLANNING

The decision-making process in which goals and objectives are established, existing resources and conditions analyzed, strategies developed, and controls enacted to achieve the goals and objectives to which they relate.

PLANNED UNIT DEVELOPMENT

Planned Unit Development is:

- A. Land under unified control, planned and developed as a whole, and
- B. In a single development operation or a definitely programmed series of development operations including all lands and buildings, and
- C. According to comprehensive and detailed plans which include not only streets, utilities, lots, or building sites and the like, but also site plans and designs constructed, used, and related to each other; and detailed plans for other uses and improvements on the land as related to buildings, and
- D. With a program for provision, operation, and maintenance of such areas, improvements, and facilities necessary for common use by some or all of the occupants of the development, but which will not be provided, operated, or maintained at general public expense.

POLICE POWER

The authority of government to exercise controls to protect the public's health, safety, morals, and general welfare.

PRIME, AGRICULTURAL LAND

(See Agricultural Soils, Prime)

PRINCIPAL USE

The primary or predominant use of any lot.

PRIVATE EDUCATIONAL FACILITY

A privately owned school including schools owned and operated by religious organizations, offering instruction in the several branches of learning and study required to be taught in the public schools by the State of Ohio.

PUBLIC HEARING

A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

PUBLIC NOTICE

The advertisement of a public hearing in a paper of general circulation in the area, and through other media sources, indicating the time, place and nature of the public hearing.

PUBLIC SEWER AND WATER SYSTEM

(See Central Sewer and Water.)

PUD

(See Planned Unit Development)

203.17 DEFINITIONS (beginning with letter “Q”)

QUASI-PUBLIC USE

Churches, Sunday schools, parochial schools, colleges, hospitals, and other facilities of an educational charitable, philanthropic, or non-profit nature.

203.18 DEFINITIONS (beginning with letter "R")

REACH

A hydraulic engineering term to describe longitudinal segments of a stream or river. A reach will generally include the segment of the flood hazard area where flood heights are influenced by a man-made or natural obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would typically constitute a reach.

REAR YARD

(See Yard, Rear)

REASONABLE USE DOCTRINE

A common law principle that people do not have the right to use their property in a way which deprives others of the lawful enjoyment of their property.

RECREATION FACILITY, COMMERCIAL

A recreation facility operated as a business and open to the public for a fee.

RECREATION FACILITY, PRIVATE

A recreation facility operated by a nonprofit organization, and open only to bona fide members and guests of such nonprofit organization.

RECREATION FACILITY, PUBLIC

A recreation facility operated by a governmental agency and open to the general public for a fee.

RECREATIONAL CAMP

Any tract of land upon which five or more portable camping units are placed and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the camp. A tract of land that is subdivided for lease or other contract of the individual lots is a recreation camp if five or more portable camping units are placed on it for recreation, vacation, or business purposes.

RECREATIONAL VEHICLE PARK/CAMP

"Recreational vehicle park" means any tract of land used for parking five or more self-contained recreational vehicles and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the park facilities and any tract of land that is subdivided for lease or other contract of the individual lots for the express or implied purpose the of placing self-contained recreational vehicles for recreation, vacation, or business purposes.

"Combined park-camp" means any tract of land upon which a combination of five or more self-contained recreational vehicles or portable camping units are placed and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the park facilities. A tract of land that is subdivided for lease or other contract of the individual lots is a combined park-camp if a combination of five or more recreational vehicles or portable camping units are placed on it for recreation, vacation, or business purposes.

RECREATIONAL VEHICLES AND CAMPING EQUIPMENT

Vehicular, portable structures or objects designed and constructed to be used as temporary dwellings for travel, recreational and vacation uses, and utility uses, and including:

- A. "Motor Home" means a self-propelled recreational vehicle that is constructed with permanently installed facilities for cold storage, cooking and consuming of food , and for sleeping.
- B. "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American National Standard Institute Standard A119.5(1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.
- C. "Pick-up Camper or Truck Camper" is a structure designed primarily to be mounted on a pick-up or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational or vacation use.
- D. "Travel Trailer" is a structure designed to provide temporary living quarters for recreational, camping or travel uses, constructed with integral wheels to make it mobile and/or towable by a motor vehicle, not to exceed eight feet in width and a body length not exceeding 35 feet, and contains less than three hundred twenty square feet of space when erected on site. "Travel trailer" includes a tent-type fold-out camping trailer as defined in section 4517.01 of the Ohio Revised Code.
- E. "Water Craft" is any unit that is used for water travel or pleasure, either mounted on a boat trailer or unmounted; also boat trailer without boat mounted.

RECYCLING CENTER

A facility which is not a junkyard and in which recoverable resources, such as newspapers, glassware and metal cans, are collected, stored, flattened, crushed, or bundled.

RECYCLING COLLECTION POINT

An incidental use which serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items would be allowed. This facility would generally be located in a shopping center parking lot or in other public/quasi-public areas such as churches or schools.

RECYCLING PLANT

A facility which is not a junk yard and in which recoverable resources such as newspapers, magazines, books and other paper products, glass, metal cans, and other products are recycled, reprocessed and treated to return such products to a condition in which they may again be used for production.

REFUSE

Refuse shall mean combustible and noncombustible waste materials, except garbage, rubber, leather, tree branches, metals, mineral matter and dust.

RESIDENTIAL DENSITY

The number of dwelling units per area of residential land.

RESTAURANT

An establishment where food and drink is prepared, served and consumed primarily within the principal building. *(See Carry-Out; Restaurant, Drive-In; Restaurant, Fast-food; Restaurant, Standard).*

RESTAURANT, DRIVE-IN

A retail outlet where food or beverages are sold to a substantial extent for consumption by customers in parked motor vehicles.

RESTAURANT, FAST FOOD

An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried, or grilled quickly, or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table, and food is generally served in disposable wrapping or containers.

RESTAURANT, STANDARD

An establishment whose principal business is sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics: (1) customers, normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; (2) a cafeteria-type operation where food and beverages are generally consumed within the restaurant building.

RESTRICTIVE COVENANT

(See Covenant).

RETAIL SERVICES

Establishments providing services or entertainment, as opposed to products, to the general public, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal services, motion picture, amusement and recreation services, health, educational and social services, museums and galleries.

RETENTION POND

A pond, pool, or basin used for the permanent storage of storm-water runoff.

REZONING

An amendment to or a change in the zoning resolution. Rezoning can take three forms:

- 1) a comprehensive revision or modification of the zoning text and map;
- 2) a text change in zone requirements; and
- 3) a change in the map, i.e., the zoning designation of a particular parcel or parcels.

RIGHT-OF-WAY

A strip of land taken or dedicated for use as a public way. In addition to the pavement it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

RIGHT-OF-WAY LINES

The lines that form the boundaries of a right-of-way.

ROADSIDE STAND

(See Agricultural Market)

ROOM, HABITABLE

A room occupied or designed to be occupied by one or more persons for living, sleeping, eating or cooking, including kitchens serving a dwelling unit; but not including bathrooms, toilet compartments, laundries, pantries, cellars, attics for storage and other similar spaces.

ROOMING HOUSE

(See Boarding House)

RUN WITH THE LAND

A covenant or restriction to the use of land contained in a deed and binding on the present and all future owners of the property.

203.19 DEFINITION (beginning with letter "S")

SATELLITE DISH ANTENNA

A device incorporating a reflective surface that is solid, open mesh, or bar configured, and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transport and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

SCHOOL, VOCATIONAL

A school offering training and instruction in vocations including, but not limited to medical, dental, and animal health technicians, barbers, and beauty operators.

SCREENING

The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms or other features. *(See also Buffer Strip).*

SELF-SERVICE STORAGE FACILITY

A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customer's goods or wares.

SERVICE CLUBS

An association organized and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee, or similar body chosen by the members. Food, meals and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available.

SERVICE STATION

(See Automobile, Full Service Station and Automobile Quick Service Facility).

SETBACK LINE

Line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed. *(See Building Line).*

SEWERS, CENTRAL OR GROUP

(See Central Sewer and Water.)

SEWERS, ON-SITE

A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of the sewage, and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

SEXUALLY ORIENTED BUSINESSES

For definitions of Sexually Oriented Businesses, see Article 49 of this Resolution.

SHARED HOUSING

(See Independent Housing Alternatives for the Elderly)

SHOPPING CENTER

A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

Shopping centers are further defined by size and the area their shoppers come from: (1) a Super Regional center includes retail, office, and service uses, occupies over 100 acres, has four or more anchor stores and contains over one million square feet of gross leasable space; it draws its clientele from more than a 45 minute drive away; (2) a Regional shopping center contains a wide range of retail and service establishments, occupies 50 to 100 acres of land, has at least one or more anchor stores and contains over 400,000 square feet of gross leasable space. It draws its clientele from as much as a 45-minute drive away; (3) Community shopping centers will feature a junior department store with approximately 150,000 square feet of gross leasable area, and have a site area of 10 to 25 acres. Its clientele will come a radius of a ten-minute drive from the center; (4) a Neighborhood shopping center generally sells goods necessary to meet daily needs, occupies up to ten acres, has up to 100,000 square feet of gross leasable area, and draws its clientele from a five-minute radius from the center.

SIDE YARD

(See Yard, Side)

SIGHT TRIANGLE

A triangular shaped portion of land established at street intersections or driveways in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

SIGN

A name, identification, description, display or illustration which is affixed to or painted upon or represented directly or indirectly upon a building, structure or piece of land; or affixed to the glass on the outside or inside of a window so as to be seen from the outside of a building and which directs attention to an object, product, place, activity, person, institution, organization, or business.

SIGN (CONTINUED)

The following are types of signs and definitions of related terms:

- A. Advertising**
A sign that directs attention to a business, product, activity or service which is not conducted, sold or offered upon the premises where such sign is located.
- B. Animated**
Any sign, which, by method or manner of illumination, flashes on and off, winks, or blinks varying light intensity, shows motion, or creates the illusion of motion or revolves in a manner to create the illusion of moving.
- C. Area**
The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, or any figure of similar character together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. The necessary supports or uprights on which such sign is placed, not being advertising matter, shall not be included in computation of surface area.
- D. Awning, Canopy or Marquee**
A sign that is mounted on, painted on, or attached to an awning, canopy or marquee.
- E. Banner**
A sign made of fabric, plastic, paper or other non-ridged material with no enclosing framework. Such signs are classified as temporary signs and regulated as such.
- F. Business**
A sign, which directs attention to a business, profession, service, product or activity sold or offered upon the premises where such sign is located.
- G. Bulletin Board**
A structure containing a surface upon which is displayed the name of a religious institution, school or library, auditorium, stadium, athletic field or area of similar use for the announcement of services or activities to be held therein.
- H. Changeable Copy Sign**
A sign or portion thereof designed to periodically accommodate message or price changes. Changeable copy signs include the following:

 - a. Electronically controlled signs
 - b. Manually controlled signs for business purposes
 - c. Manually controlled Bulletin Board Sign located on the property of a public, institutional, religious or charitable organization which are used to identify the name of the institution or organization and to announce its activities

- I. Construction**
A sign advertising the development or improvement of a property by a builder, contractor, or other person furnishing services, material, or labor to said premises, which sign is intended for a limited period of display and erected on the same lot as the work being done.
- J. Directional**
A sign directing vehicular or pedestrian movement onto or within a premise with no identification or advertising on the sign.
- K. Domestic Advertising**
A sign advertising the sale of household goods previously used by an individual or his family, when such sign is located at the place of residence of the individual or family.
- L. Electronic Message Board**
Any sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. (Such signs shall not fall under the category of Animated signs).
- M. Festoon**
A string of ribbons, tinsels, small flags, pinwheels or lights typically strung overhead in loops.
- N. Flag**
A banner of distinctive design used as a symbol of a nation, state, or other governmental entity.
- O. Flashing**
Any illuminated sign on which the artificial light or any part thereof has conspicuous or intermittent variation in intensity or color.
- P. Free-Standing**
A sign supported by one or more uprights, poles, braces, or bases in or upon the ground, and not attached to any building. Freestanding signs include "monument signs," "pole signs," "bulletin board" and "ground signs."
- Q. Frontage, Building**
The length of the portion of a building occupied by a single business facing a street abutting the premises on which the business is located.
- R. Frontage, Lot**
The length of the front lot line measured at the street right-of-way line between side lot lines.
- S. Gasoline Price Sign**
A sign which is used to advertise the price of gasoline. In the event that the brand identification sign is attached to or is a part of the sign advertising price, that portion of the sign used for advertising price shall be considered the gasoline price sign.
- T. Governmental**
A sign erected and maintained pursuant to and in discharge of any governmental functions, or required by law, resolution or other governmental regulation.

- U. Ground**
 A freestanding sign supported by one or more uprights or pylons located in or upon the ground, or something requiring location on the ground, including "billboards.
- V. Height**
 The vertical distance from the uppermost point used in measuring the area of the sign to the crown of the road on which the property fronts.
- W. Holiday Decoration**
 Temporary signs, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local or religious holiday.
- X. Identification**
 A sign limited to the name, address and number of a building, institution or persons and to the activity carried on in the building or institution, or the occupancy of the person.
- Y. Illumination**
 Any sign illuminated by electricity, gas, or other artificial light including reflecting or phosphorescent light.

 - a. Indirect Illumination — A light source not seen directly.
 - c. Internal Illumination — A light source concealed or, contained within the sign, and which becomes visible in darkness through a translucent surface.
- Z. Incidental**
 A small sign, emblem, or decal informing the public of goods or services available on premises. Examples of incidental signs include credit card signs, signs indicating hours of operations, no smoking signs, signs used to designate bathrooms, and business affiliation signs.
- AA.. Interior, Exterior**
 Interior signs are located within a structure, and are not intended to be seen from the exterior. Signs affixed to a window or the walls enclosing the display area behind a window, which are obviously intended for viewing from the exterior, shall be considered exterior signs.
- BB. Marquee**
 A permanent rooflike structure or canopy supported by and extending from the face of the building. The sign is attached to or supported by the marquee structure.
- CC. Memorial**
 A sign, tablet or plaque memorializing a person, event, structure or site.
- DD. Monument**
 A type of freestanding sign located in close proximity to driveway entrances to a commercial, office or industrial establishment. A monument sign is an integrated component of an overall entryway design theme that typically includes landscaping, lighting and signage.

- EE. Name Plate**
A sign designating only the name and address or the name and professional occupation and address of a person or persons residing in or occupying space in such building or premises.
- FF. Off-Premise Advertising**
A sign which contains a message unrelated to a business, profession, commodity, service, activity, sold or offered upon the premises where such sign is located. A billboard is a type of off-premise advertising sign.
- GG. On-Premises**
Any sign related to a business or profession conducted or a commodity or service sold or offered upon the premises where such sign is located.
- HH. On-Site Informational**
A sign commonly associated with, and not limited to, information and directions necessary or convenient for visitors coming on the property including signs marking entrances and exits, parking areas, circulation direction, restrooms, and pick-up and delivery areas.
- II. Pole**
A sign that is mounted on a free-standing pole or other support so that the bottom edge of the sign is above grade.
- JJ. Political**
A sign affixed to any building or part thereof, or structure, extending beyond the building wall or parts thereof, or structure, by more than 12 inches. A projecting sign shall not include a ground sign as herein defined.
- KK. Portable**
A sign that is attached to wheels, skids, or other forms of mounting, which is not permanently affixed in or to the ground.
- a. **Folding Portable Sign** — Any sign supported by an "A-frame" or "T-frame" base which is designed to be easily movable and is intended for advertising price and/or incidental goods or services.
 - b. **Trailer Sign** — Any sign attached to, supported by or part of a structure which is designed to be moved on trailer wheels, skids or other similar device or transported, pushed or pulled by a motor vehicle.
- LL. Projecting**
A sign affixed to any building or part thereof, or structure, extending beyond the building wall or parts thereof, or structure, by more than 12 inches. A projecting sign shall not include a ground sign as herein defined.
- MM. Promotion**
A temporary sign, the function of which is to announce a special event.

NN. Real Estate

A sign advertising for sale, lease or rent the parcel or real estate on which the sign is located. Also, temporary directional signs less than four square feet in message area displayed during the hours in which an "open house" showing of real property for sale, lease or rent is actually being conducted shall be considered real estate signs, even though they may not be located on the parcel of real estate being advertised. "Sold" signs shall be considered commercial advertising signs.

OO. Roof-Mounted

Any sign which is erected over the roof or parapet above the roofline and/or receives any or all its support from the roof structure.

PP. Structure

The supports, uprights, bracing or framework for signs.

QQ. Subdivision

A sign advertising the sale or development of subdivision lots, parcels or tracts and erected upon the property being subdivided and advertised for sale.

RR. Temporary

A banner, pennant, poster display or illustration which is affixed to or painted upon or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product place, person, institution, organization or business and is constructed of cloth, plastic sheet, cardboard or other like materials and which is intended to be displayed for a limited period of time.

SS. Wall

Any sign painted on, attached to, or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall and extending not more than twelve (12) inches from the face of the wall.

TT. Warning

Any sign indicating danger or a situation which is potentially dangerous.

UU. Window, Permanent

Any sign visible from the exterior of a building or structure which is painted, attached, glued or otherwise affixed to a window or depicted upon a card, paper, or other material and placed on, taped on, or hung immediately behind the window or displayed from a window for the specific purpose of identifying the proprietor or name of business to the passer-by.

VV. Window, Temporary

Any sign visible from the exterior of a building or structure which is painted on a window, depicted upon a card, paper, or other material or placed on, taped on, or hung immediately behind the window, or displayed from a window for the specific purpose of attracting attention of the passer-by to a sale, or to promotional items, or other products or services.

SITE

A plot of land intended or suitable for development; also the ground or area on which a building or town has been built. (*See also Parcel; Site Plan*).

SITE PLAN

A plan, prepared to scale, showing accurately and with complete dimensioning, pertinent elements of a proposed development which shall include within the context of the overall physical design, the location and physical characteristics of buildings and structures, interior and perimeter vehicular access, screening, signage, provisions for drainage and other utilities as well as any additional relevant information requested by the Township.

SKETCH (Concept, Outline) PLAN OR PLAT

A generalized map that is prepared by a developer, usually before the pre-application conference, to let the developer/subdivider save time and expense in reaching agreement with the Zoning Commission as to the form of the plan and the purposes of the regulation. Its purpose is simply to serve as a basis for discussion without either side making commitments.

SLUDGE

(See Biosolids.)

SOIL EROSION AND SEDIMENTATION PLAN

A plan that indicates necessary land treatment measures, including a schedule for installation, which will effectively minimize soil erosion and sedimentation.

SPOT ZONING

Zoning a relatively small area differently from the zoning of the surrounding area, usually for an incompatible use and to favor the owner of a particular piece or pieces of property.

STABLE, COMMERCIAL

Buildings or land where horses, ponies, mules, donkeys or other equine animals are kept for hire, sale, boarding, driving, riding or show for remuneration.

STABLE, PRIVATE

Buildings, incidental to an existing residential principal use, that shelters horses, ponies, mules, donkeys or other equine animals for the exclusive use of the occupants of the premises.

STACKING

The area of a parking lot used for the temporary storage of vehicles at ingress and egress points of premises or drive-through aisles for uses such as drive-through banking, fast food restaurants, and convenience stores.

STATEMENT OF PURPOSE (STATEMENT OF INTENT)

A statement of policy or objectives, often incorporated in a zoning resolution, which outlines the broad purpose of the ordinance and its relationship to the Comprehensive Plan; frequently, a statement preceding regulations for individual districts, which helps to characterize the districts, and their legislative purpose. When the application of particular district requirements is challenged in court, the courts rely on the intent statement in deciding whether the application is reasonable and related to a defensible public purpose

STEEP SLOPES

Land area where the inclination of the land, from the horizontal, is 12 percent or greater.

STORAGE

A place for the collection of goods.

STORM SEWER

A sewer that carries storm water and surface water, street wash and other wash waters, or drainage, but excludes domestic waste water and industrial wastes. Also called a storm drain.

STORY

That portion of a building, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

STREET, MAJOR

A street with a right-of-way of 82 feet or greater as shown on the Official Thoroughfare Plan for Montgomery County, Ohio.

STRIP ZONING

A zone usually consisting of a ribbon of uses fronting both sides of an arterial roadway and extending inward for half of a block. Strip commercial development is the most common form and occurs nearly everywhere. In suburban areas or along well-traveled roads, it is usually characterized by an assortment of gas stations, drive-in and fast food restaurants, motel tourist shops and some automobile sales and service operations. In fringe areas, such uses may be interspersed with a few farm and farm service outlets like feed distributors and large equipment sales; unlimited highway access to such uses severely reduces road carrying capacity. Strips of convenience stores and other retail stores are found scattered within residential neighborhoods.

STRUCTURAL ALTERATION

Any change in the supporting members of a building, such as the bearing walls, beams, or girders, or any change in the dimension or configuration of the roof or exterior walls.

STRUCTURE

Anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, and billboards.

STUDIO APARTMENT

(See Dwelling Unit, Efficiency)

STUDIO, COMMERCIAL

A commercial operation that includes the sale of, and may include the instruction in, arts and crafts, dance, music, and instruments, commercial photography, and other similar commercially oriented operations.

STUDIO, INSTRUCTIONAL

An operation involving fine arts and crafts, oriented primarily to instruction, such as the studio of an artist, sculptor, ceramics teacher, or other similar person teaching arts and crafts, not including dance, or music lessons.

SUBDIVISION

- (1) The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax role, into two or more parcels, sites, or lots, any one of which is less than five acres, for the purpose, whether immediate or future, of transfer of ownership; provided, however, that the division or partition of land into parcels of more than five acres not involving any new streets or easements of access and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted; or
- (2) The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax role, into two or more parcels, sites, or lots, any on streets or easements of access and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted; or
- (3) The improvement of one or more parcels of land for residential, commercial or industrial structures of groups or structures involving the division or allocation of land for the opening, widening, or extension of any street or streets except private streets serving industrial structures; the division or allocation of land as open space for common use by owners, occupants, or lease holders, or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities. (*See Subdivision, Minor*).

SUBDIVISION, MINOR

A division of a parcel of land that has the following characteristics: (1) land is located along an existing public road; (2) no opening, widening, or extension of any road is involved; (3) no more than five lots (after the original tract is completely subdivided) are involved; (4) the request for division is not contrary to platting, subdividing, or zoning regulations.

SUPERMARKET

A retail establishment selling staple foodstuffs and incidental commodities to the general public residing within and beyond the immediate neighborhood. Supermarkets shall be differentiated from grocery stores in that they shall exceed 10,000 (gross) square feet of floor area.

SUPPLY YARDS

A commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods.

SWALE

A depression in the ground that channels run-off.

SWIMMING POOL

Any body of water or receptacle for water having a depth greater than two feet, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above the ground outside a building.

- A. Private.** Exclusively used without paying an additional charge for admission by the residents and guests of a single household, a multifamily development or a community, the members and guests of a club, or the patrons of a motel or hotel; an accessory use.
- B. Community.** Operated by a governmental jurisdiction.

203.20 DEFINITIONS (Beginning with letter "T")

TANK FARM

An open-air facility containing a number of above-ground, large containers for the bulk storage of material in liquid, powder or pellet form.

TAVERN

An establishment used primarily for the serving of liquor by the drink to the general public and where food or packaged liquor may be served or sold only as accessory to the primary use.

TELECOMMUNICATIONS TOWER

The Telecommunications Act of October 31, 1996 defines "telecommunications tower" for the purposes of establishing the scope of county and township zoning authority and identifying the towers for which notice of intent to construct has to be provided. "Telecommunications Tower" means any free-standing structure, or any structure to be attached to a building or another structure, that meets all of the following criteria in 519.211(B)(1).

- A. The free-standing or attached structure is proposed to be constructed on or after the act's effective date;
- B. The free-standing or attached structure is proposed to be owned or principally used by a public utility engaged in the provision of telecommunication services;
- C. The free-standing or attached structure is proposed to be located in an unincorporated area of the township, in an area zoned for Agriculture/Residential or Residential use;
- D. The free-standing structure is proposed to top at a height that is greater than the maximum allowable height of residential structures within the zoned area as set forth in the applicable zoning regulations, or the maximum allowable height of such a free-standing structure as set forth in any applicable zoning regulations in effect immediately prior to the October 31, 1996, Act's effective date or as those regulations subsequently are amended;
- E. The attached structure is proposed to top at a height that is greater than either the height of the building or other structure to which it is to be attached, or the maximum allowable height of such an attached structure as set forth in any applicable zoning regulations in effect immediately prior to the Act's effective date of October 31, 1996, or as those regulations subsequently are amended;
- F. The free-standing or attached structure is proposed to have attached to it radio frequency transmission or reception equipment. *(See Conditional Use segments, Article 47).*

TEMPORARY BUSINESS

A. Temporary Sales

A business activity not intended to be of permanent duration that sells or offers to sell any good, product, ware or other item from an enclosure not permanently affixed to a zoning lot.

TEMPORARY BUSINESS (CONTINUED)

B. Temporary Sales, Seasonal

A business activity not intended to be of permanent duration, which sells only seasonal, non-manufactured items from an enclosure not permanently affixed to a zoning lot.

THOROUGHFARE PLAN

The Official Thoroughfare Plan of, and as adopted by, the Planning Commission of Montgomery County, establishing the location and official right-of-way widths of principal highways and streets in Montgomery County, on file in the Office of the Recorder, together with all amendments thereto subsequently adopted.

THOROUGHFARE

The full width between property lines bordering every public way of whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:

- A. Alley**
Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.
- B. Arterial, Principal**
The principal arterial system involves major thoroughfares serving the major activity centers of the metro area. Principal arterials carry a high proportion of the total urban area travel on a minimum of mileage.
- C. Arterial, Minor**
The minor arterial system involves major thoroughfares of a lesser scale than principal arterials. Such facilities may carry local bus routes and provide intra-community continuity but usually do not penetrate identifiable neighborhoods.
- D. Collector Street**
A major collector typically contains 70 feet of right-of-way while a minor collector generally contains 60 feet of right-of-way. Both primarily carry traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
- E. Cul-De-Sac**
A local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.
- F. Dead-End Street**
A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.
- G. Local Street**
The local street system comprises all facilities not on one of the higher systems. It serves primarily to provide direct access to abutting land and access to the high order systems. Service to through traffic movement is deliberately discouraged.

H. Loop Street

A type of local street, each end of which terminates at an intersection with the same arterial or collector street, and whose principal radius points of the 180-degree system of turns are no more than 1,000 feet from said arterial or collector street, nor normally more than 600 feet from each other.

I. Marginal Access Street

A local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets (also called frontage street).

TOPOGRAPHY

The configuration of a surface area showing relative elevations.

TRAILER

A structure standing on wheels, towed or hauled by another vehicle and used for short-term human occupancy, carrying materials, goods or objects, or as a temporary office. *(See Recreational Vehicles and Camping Equipment.)*

TRAILER STRUCTURE

A structure without any foundation or footings which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

TRAVEL TRAILER PARK

(See Recreational Vehicle Park.)

TRAILER, UTILITY

Any non-self-propelled vehicle designed, constructed, reconstructed, or added to by means of accessories to permit the unit to be used to transport materials or goods.

TRUCK STOP

Any building, premises or land other than a truck terminal, in which or upon which a business, service or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles, the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop also may include overnight accommodations and restaurant facilities primarily for the use of truck crews.

TRUCK TERMINAL

Premises which are used for loading or unloading of trucks upon which storage of cargo is incidental to the primary function of motor freight shipment or shipment point, and which is designed to accommodate the simultaneous loading or unloading of two or more trucks. Such facilities may also include storage areas for trucks, and buildings or areas for the repair and maintenance of trucks associated with the terminal.

TWO-FAMILY DWELLING OR DUPLEX

(See Dwelling, Two-Family)

203.21 DEFINITIONS (beginning with letter "U")

USABLE FLOOR AREA

For the purpose of computing parking, that area used for or intended to be used for the sale of merchandise or services or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, or for utilities, shall be excluded from this computation of "Usable Floor Area." Measurement of floor area shall be the sum of the building, measured from the interior faces of the exterior walls.

USABLE OPEN SPACE

Outdoor or unenclosed area on the ground, or on a roof, balcony, deck, porch, or terrace, designed and accessible for outdoor living, recreation, pedestrian access or landscaping, but excluding parking facilities, driveways, utility or service areas, or any required front or street side yard, and excluding any space with a dimension of less than 80 square feet.

USE

The specific purpose for which land or building is designated, arranged, intended, or for which it is or may be occupied or maintained.

USE, NONCONFORMING

(See Nonconforming Use.)

USE, PERMITTED

(See Permitted Use.)

USE, PRINCIPAL

(See Principal Use.)

USE, TEMPORARY

A use permitted in a specific district or districts that may exist for a specifically defined temporary period of time.

203.22 DEFINITIONS (Beginning with letter "V")

VAN

- (1) A closed vehicle with a capacity of approximately eight to 12 passengers or a similar-sized vehicle modified for commercial purposes;
- (2) A self-propelled recreational vehicle containing sleeping facilities but not bathroom or cooking facilities;
- (3) A large truck for carrying furniture or freight.

VARIANCE

A modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions of the property, not the result of actions of the applicant, literal enforcement of the regulations would result in unnecessary and undue hardship.

VEHICLES

The following definitions are found within Section 4503 of the Ohio Revised Code:

- A. "Agricultural tractor" and "traction engine" means any self-propelling vehicle that is designed or used for drawing other vehicles or wheeled machinery, but has no provisions for carrying loads independently of such other vehicles, and that is used principally for agricultural purposes.
- B. "Bus" means any motor vehicle that has motor power and is designed and used for carrying more than nine passengers; except any motor vehicle that is designed and used for carrying not more than 15 passengers in a ridesharing arrangement.
- C. "Collector's vehicle" means any motor vehicle or agricultural tractor or traction engine that is of special interest, that has a fair market value of one hundred dollars or more, whether operable or not, and that is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment, but not as the owner's principal means of transportation. "Licensed collector's vehicle" means collector's vehicle, other than an agricultural tractor or traction engine, that displays current, valid license tags issued under section 4503.45 of the Ohio Revised Code, or a similar type of motor vehicle that displays current, valid license tags issued under substantially equivalent provisions in the laws of other states.
- D. "Commercial car" means any motor vehicle that has motor power and is designed and used for carrying merchandise or freight, or that is used as a commercial tractor.
- E. "Commercial tractor," except as defined in division (C) of this section, means any motor vehicle that has motor power and either is designed or used for drawing other motor vehicles, or is designed or used for drawing another motor vehicle while carrying a portion of the other motor vehicle or its load, or both.
- F. "Farm machinery" means all machines and tools that are used in the production, harvesting, and care of farm products, and includes trailers that are used to transport agricultural produce or tractor or traction engine, that displays current, valid license tags issued under section 4503.45 of the Ohio Revised Code, or a similar type of motor vehicle that displays current valid license tags issued under substantially equivalent provisions in the laws of other states

- G. "Historical motor vehicle" means any motor vehicle that is over 25 years old and is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but that in no event is used for general transportation.
- H. "Motor vehicle" means any vehicle, including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires. "Motor vehicle" does not include motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, well-drilling machinery, ditch-digging machinery, farm machinery, trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed of 25 miles per hour or less, threshing machinery, hay-baling machinery, corn sheller, hammermill and agricultural tractors, machinery used in the production of horticultural, agricultural, and vegetable products, and trailers that are designed and used exclusively to transport a boat between a place or storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of no more than ten miles and at a speed of 25 miles per hour or less.
- I. "Noncommercial motor vehicle" means any motor vehicle, including a farm truck as defined in section 4503.04 of the Ohio Revised Code, designed by the manufacturer to carry a load of no more than one ton and is used exclusively for purposes other than engaging in business for profit.
- J. "Noncommercial trailer" means any trailer, except a travel trailer or trailer that is used to transport a boat as described in division (B) of this section, but, where applicable, includes a vehicle that is used to transport a boat as described in division (M) of this section, that has a gross weight of no more than 3,000 pounds, and that is used exclusively for purposes other than engaging in business for a profit.
- K. "Passenger car" means any motor vehicle that is designed and used for carrying not more than nine persons and includes any motor vehicle that is designed and used for carrying not more than 15 persons in a ridesharing arrangement.
- L. "Semi-trailer" means any vehicle of the trailer type that does not have motive power and is so designed or used with another and separate motor vehicle that in operation a part of its own weight or that of its load, or both, rests upon and is carried by the other vehicle furnishing the motive power for propelling itself and the vehicle referred to in this division, and includes, for the purpose only of registration and taxation under those chapters, any vehicle of the dolly type, such as a trailer dolly, that is designed or used for the conversion of the semi-trailer into a trailer.
- M. "Trailer" means any vehicle without motive power that is designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle, and includes any such vehicle that is formed by or operated as a combination of a semi-trailer and a vehicle of the dolly type such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or drawn or towed on a public road or highway at a speed greater than 25 miles per hour, and a vehicle that is designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of more than ten miles or at a speed of more than 25 miles per hour. "Trailer" does not include a manufactured home or a travel trailer.

VETERINARY ANIMAL HOSPITAL OR CLINIC

A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention and may include overnight accommodations on the premises for treatment, observation and/or recuperation. It may also include boarding that is incidental to the primary activity.

VICINITY MAP

A drawing located on a plat which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the general area in order to better locate and orient the area in question.

203.23 DEFINITIONS (Beginning with letter "W")

WAREHOUSE

A building used primarily for the storage of goods and materials.

WAREHOUSING AND DISTRIBUTION

A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are inflammable or explosive, or that create hazardous or commonly recognized offensive conditions.

WATER COURSE

Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.

WETLAND

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydroponic vegetation.

WHOLESALE TRADE

Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WOODLAND, MATURE

An area of mature deciduous trees covering one (1) acre or more and consisting of thirty (30) percent or more largely deciduous canopy trees having a ten (10) inch or greater caliper or any grove of deciduous trees consisting of eight (8) or more trees having an eighteen (18) inch or greater caliper.

WOODLAND, YOUNG

An area of deciduous or evergreen trees covering one (1) acre or more and consisting of seventy (70) percent or more of canopy trees having a three (3) inch caliper or greater.

WRECKING YARD

(See Junkyard)

203.24 DEFINITIONS (Beginning with letter "Y")

YARD, FRONT

An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified.

1. Least Depth — The shortest distance, measured horizontally, between any part of the building, and the front lot line.
2. Method of Measurement — Depth shall be measured from the right-of-way line of the existing street upon which the lot fronts. Said right-of-way line is the proposed right-of-way line as established within the most current Official Thoroughfare Plan for Montgomery County. *(See Illustration H, page 75 .)*

YARD, REAR

An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified.

Least Depth — The average distance measured horizontally between any part of a building and the nearest rear lot line. *(See Illustration H, page 75 .)*

YARD, SIDE

An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified.

1. Least Width — The shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted, and the nearest side lot line.
2. Method of Measurement — Such width shall be measured from the nearest side lot line. On a corner lot when the side lot line is a side street lot line, the required side yard shall be the same as the required front yard of the lot adjacent thereto. *(See Illustration H, page 75 .)*

203.25 DEFINITIONS (Beginning with letter "Z")

ZERO LOT LINE

The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

ZONING ADMINISTRATOR

The Zoning Administrator or his authorized representative, appointed by the Board of Township Trustees of Clay Township, Montgomery County, Ohio, who is responsible for the enforcement of the Clay Township Zoning Resolution.

ZONING CERTIFICATE

That document signed by the Zoning Inspector or the authorized agent, which certifies that the use to be made of a particular property is a permissible use according to the terms of this Zoning Resolution.

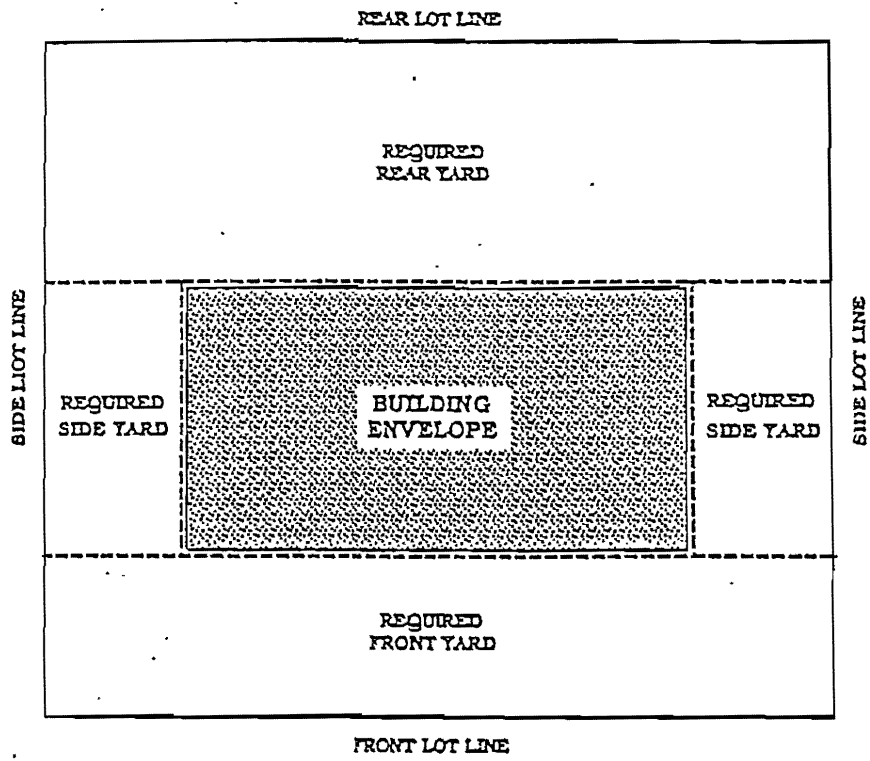
ZONING DISTRICT

An area delineated on the Clay Township Zoning Map and authorized within the Clay Township Zoning Resolution wherein specific uses, structural types, developmental standards and other certain requirements are respectively designated.

ZONING MAP

The Zoning Maps of the unincorporated areas of Clay Township or portion thereof, together with all amendments thereto subsequently adopted.

ILLUSTRATION A



BUILDING ENVELOPE

ILLUSTRATION B

ACCESSORY STRUCTURE AND PRINCIPAL BUILDING DEFINITION

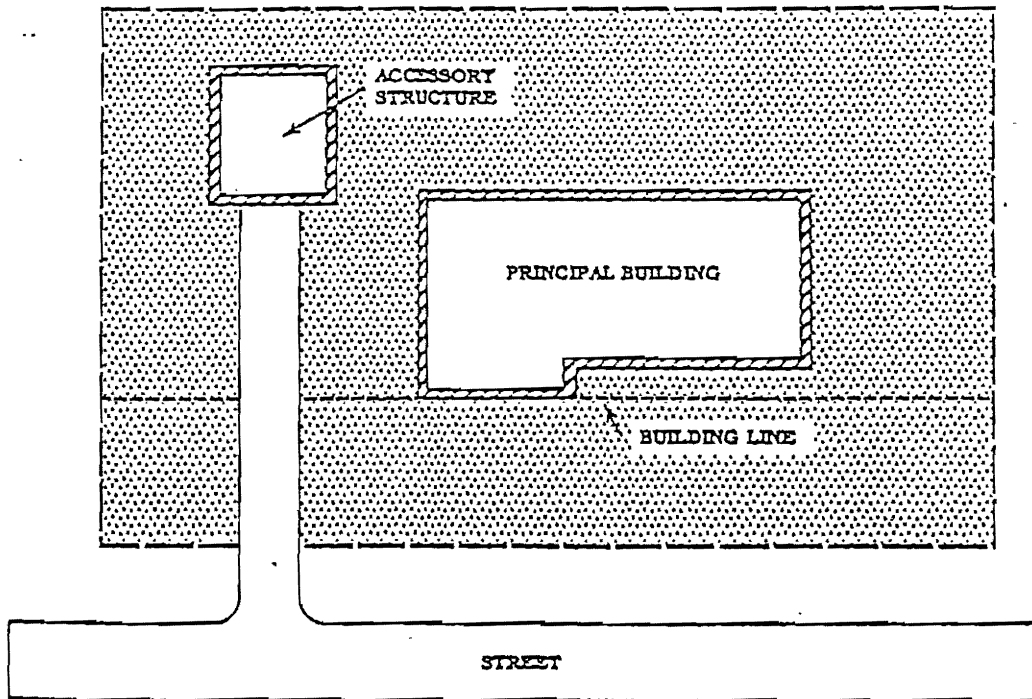
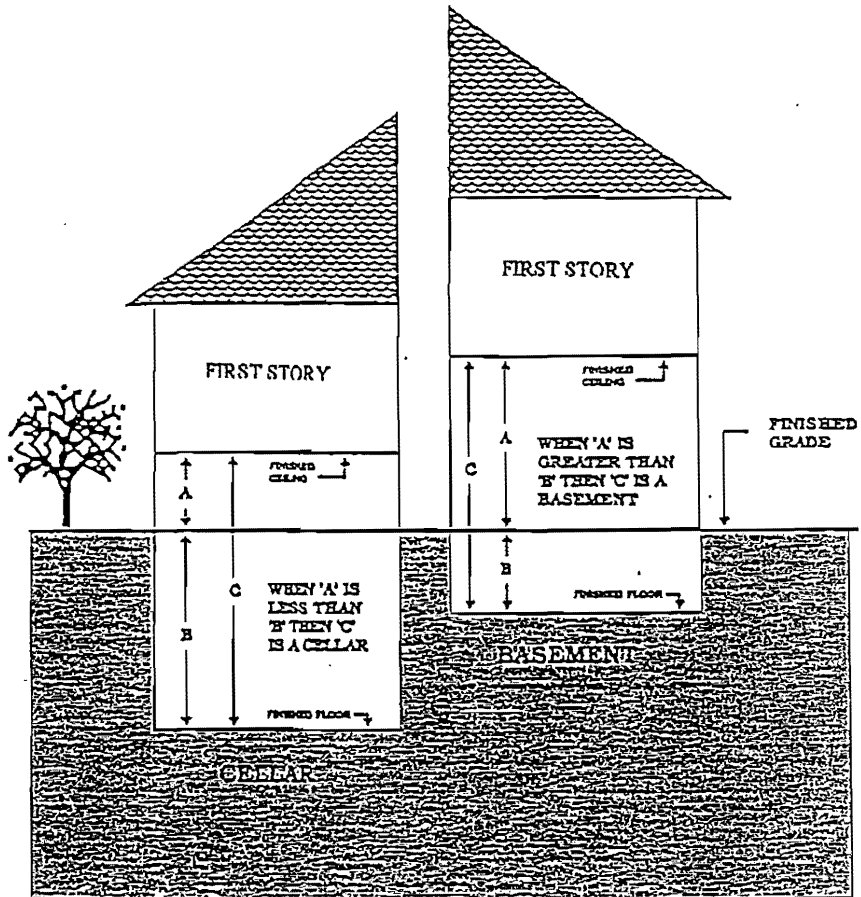


ILLUSTRATION C



BASEMENT AND CELLAR DEFINITIONS

ILLUSTRATION D

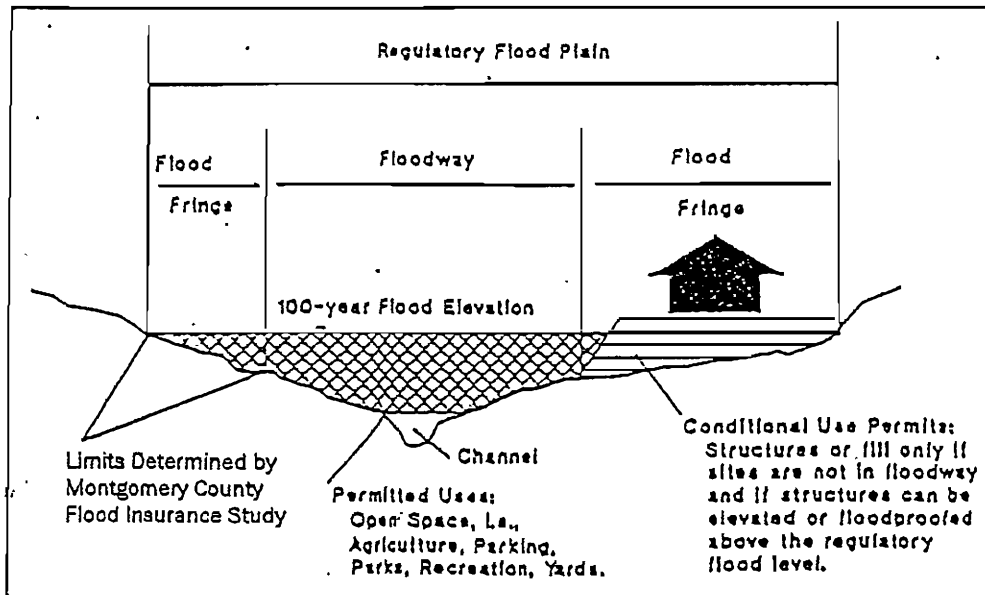
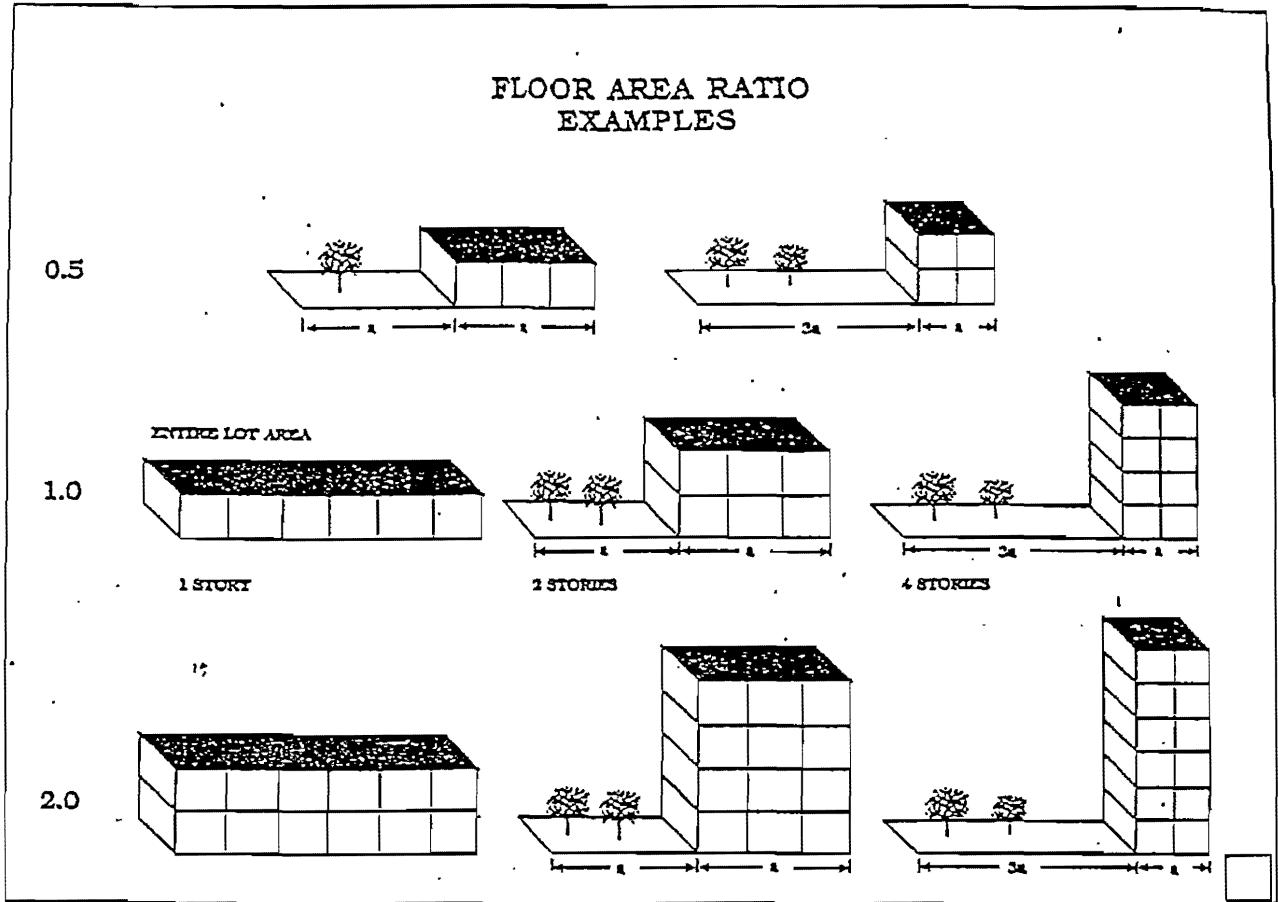


ILLUSTRATION E



HEIGHT DEFINITIONS

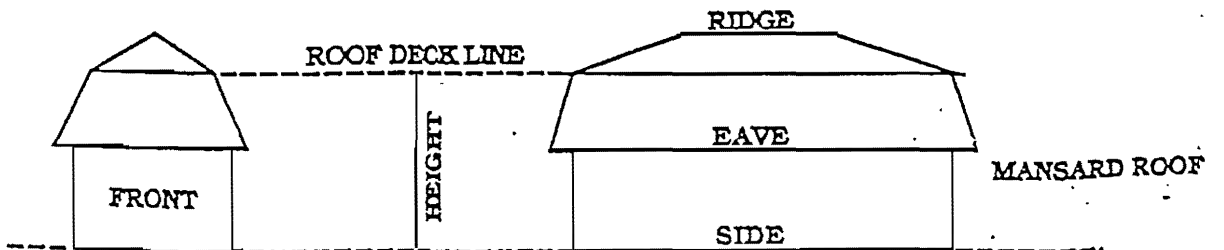
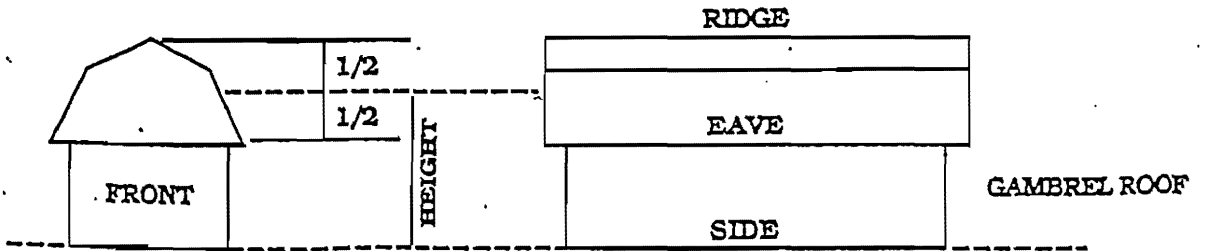
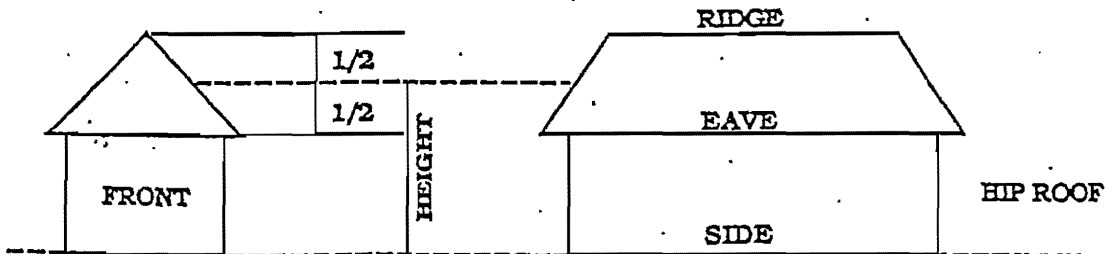
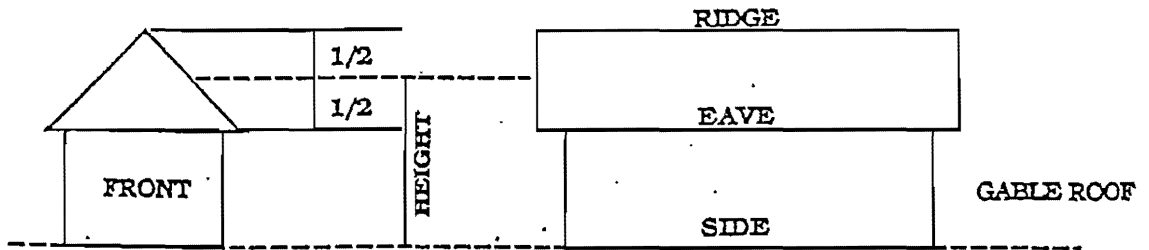
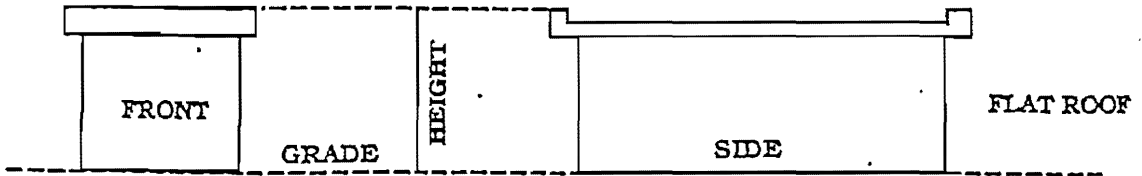
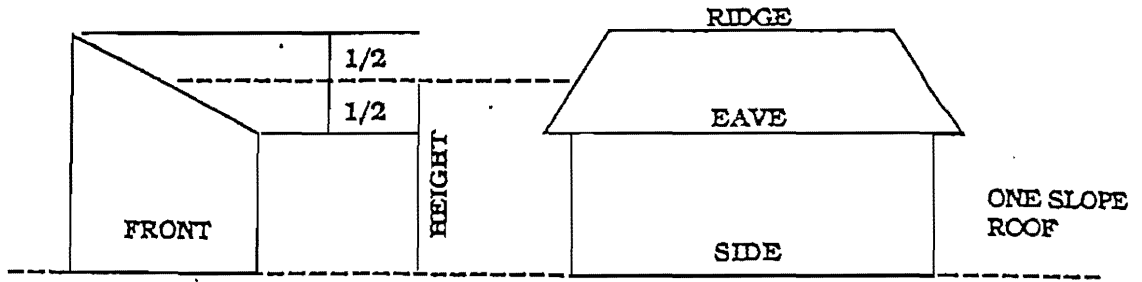
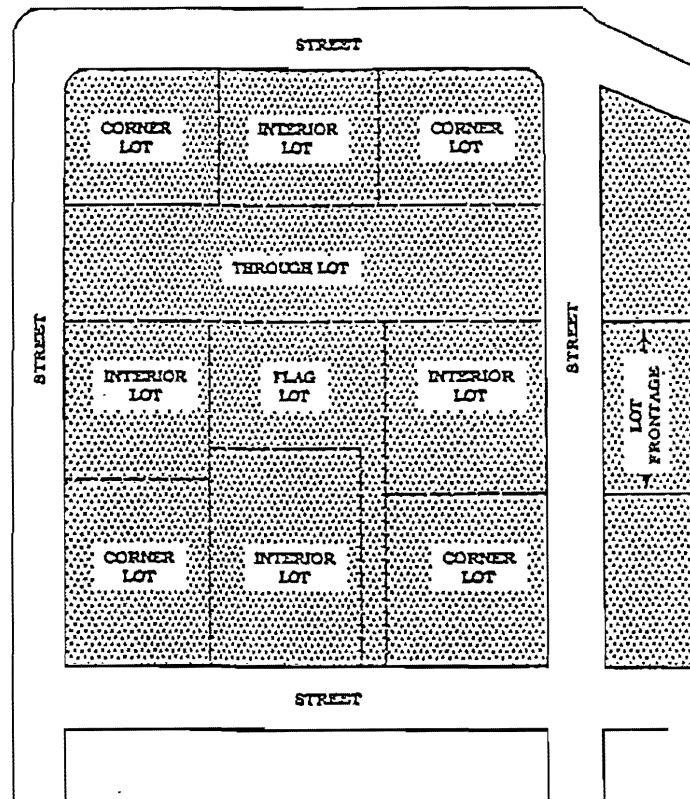


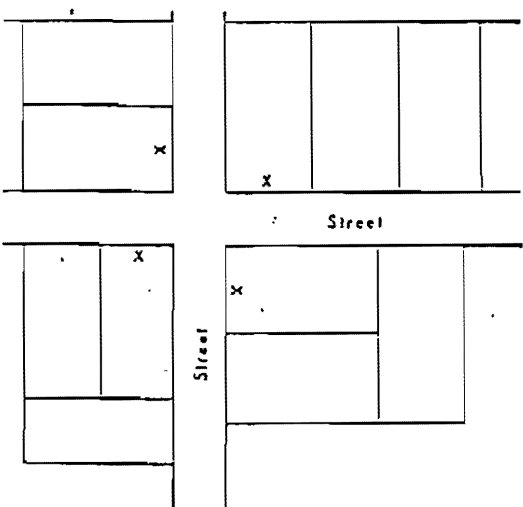
ILLUSTRATION G



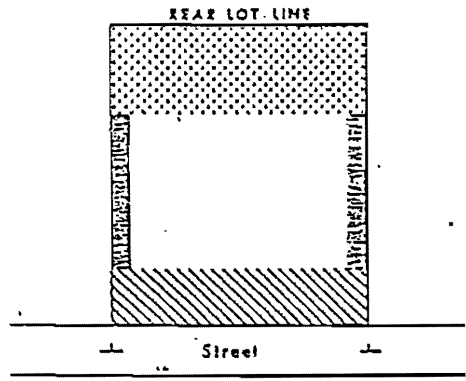
DEFINITION OF TYPES
OF LOTS

ILLUSTRATION H

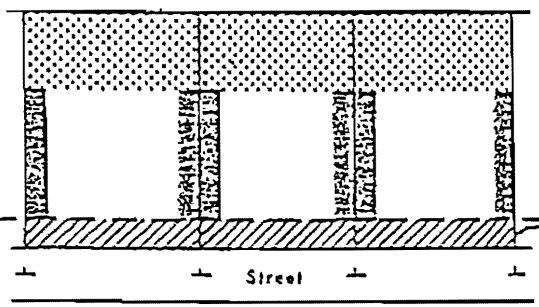
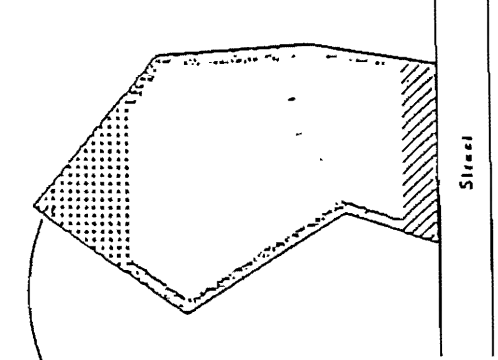
YARDS AND LOT LINES



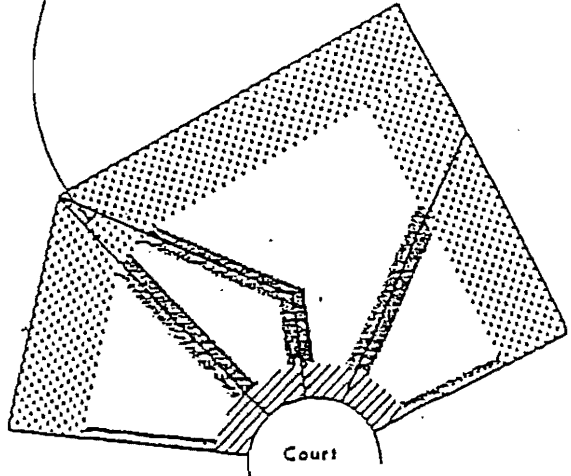
LOT LINE WITH LEAST AMOUNT OF STREET FRONTAGE DETERMINES FRONT YARD.






REAR LOT LINE 15' LONG AND PARALLEL TO FRONT LOT LINE.



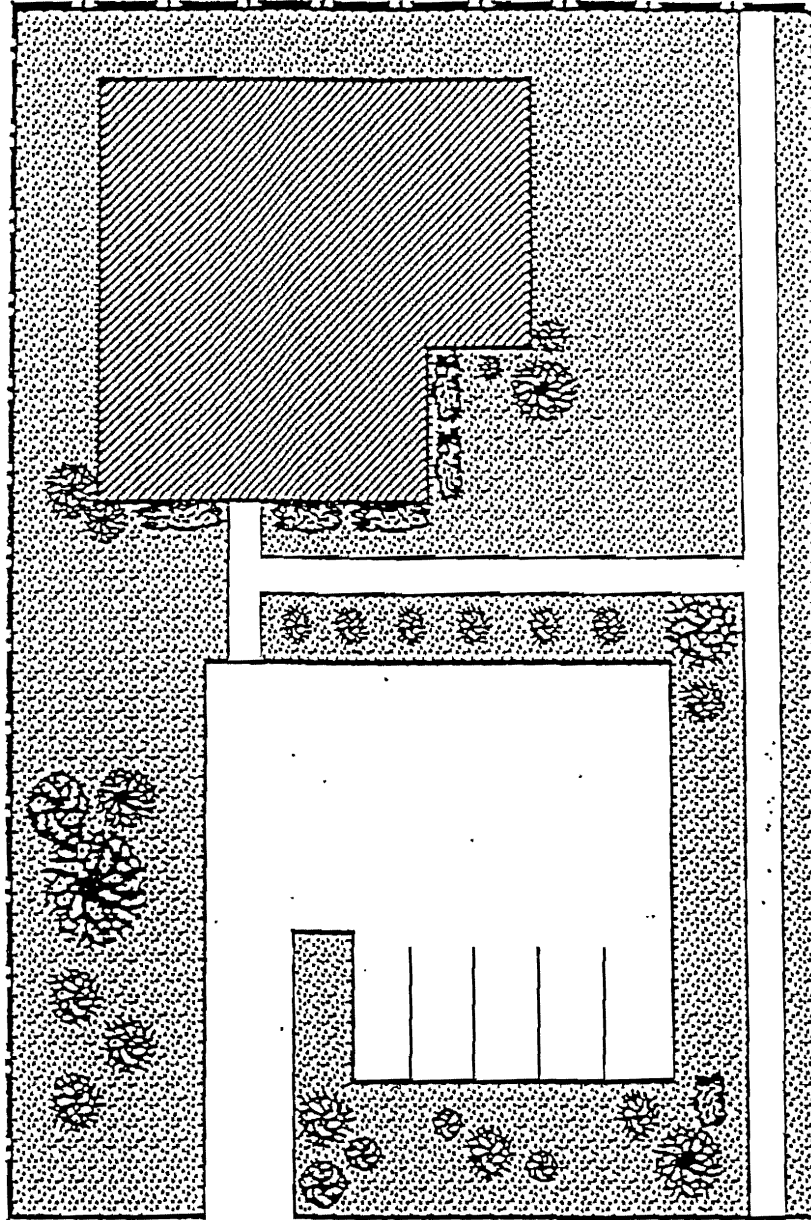
FRONT YARD IS MEASURED FROM RIGHT-OF-WAY LINE.



- XIT
-  FRONT YARD AREA
-  SIDE YARD AREA
-  REAR YARD AREA

IMPERVIOUS SURFACE
ILLUSTRATION

ILLUSTRATION I



LOT COVERAGE



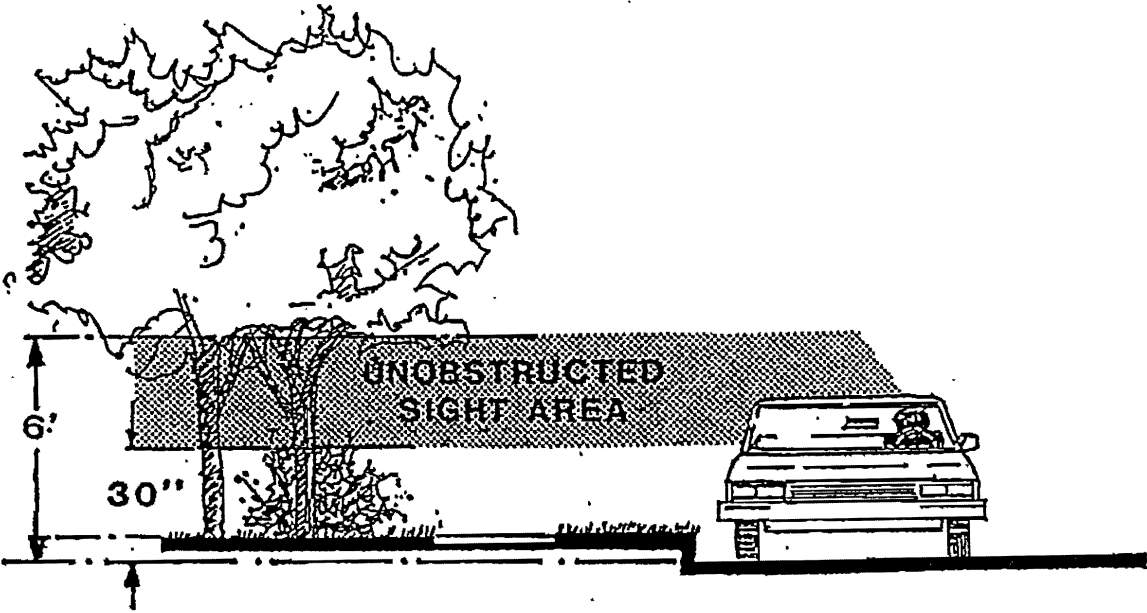
IMPERVIOUS SURFACE



PERVIOUS SURFACE



Illustration J



ARTICLE 3 - ENFORCEMENT: PENALTIES AND FEES

SECTION 301 ENFORCEMENT BY THE ZONING INSPECTOR

There is hereby established the office of the Township Zoning Administrator. It shall be the duty of the Zoning Administrator, as provided under Chapter 519.02 et. seq. Of the Revised Code of the State of Ohio, to enforce this Resolution in accordance with the administrative provisions of this Resolution. All departments, officials, and public employees of Montgomery County which are vested with the duty or authority to issue certificate or license shall conform to the provisions of this Resolution and shall issue no certificate or license for any use, building, or purpose, if the same is in conflict with the provisions of this Resolution. Any certificate or license issued in conflict with the provisions of this Resolution shall be null and void.

SECTION 302 ZONING CERTIFICATES

Until a zoning certificate has been obtained from the Zoning Administrator,

- A. The construction, building, moving, remodeling, or reconstruction of any non-agricultural building or structure shall not be commenced.
- B. The improvement of land preliminary to any use of such land shall not be commenced.
- C. The use of land, buildings, or structures for temporary and accessory uses and home occupations shall not be commenced.
- D. A certificate pertaining to the temporary or permanent use of land, buildings, or structures shall not be issued by any official officer, employee, department, board or bureau of Montgomery County.

302.01 APPLICATION FOR ZONING CERTIFICATE

Each application for a zoning certificate shall be accompanied by a site plan in triplicate and three (3) sets of construction drawings drawn to scale, two (2) copies of which shall be returned to the owner upon approval. The site plan shall show the following: (except commercial construction shall require four (4) sets of drawings)

- A. The actual dimensions of the lot, including easements.

302.01 APPLICATION FOR ZONING CERTIFICATE (continued)

- B. The exact size and location of all buildings existing on the lot
- C. The proposed new construction.
- D. The existing and intended use of all parts of the land or buildings.
- E. Such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Zoning Resolution.
- F. Drainage and water run-off map. (Topo map) (Z-4-90)

302.02 ISSUANCE OF ZONING CERTIFICATES

Zoning certificates shall be issued or refusal thereof given within ten (10) working days after the date of application. Written notice of such refusal and reason thereof shall be given to the applicant.

302.03 PERIOD OF VALIDITY

A zoning certificate shall become null and void twelve (12) months after the date on which it is issued unless within such twelve (12) month period construction, building, moving, remodeling, or reconstruction of a building or structure is commenced or a use is commenced.

SECTION 303. VIOLATIONS - REMEDIES

In case any building is or is proposed to be located, constructed, reconstructed, enlarged, changed, maintained, or used or any land is or is proposed to be used in violation of this Resolution or any amendments or supplements thereto, the Board of Township Trustees, the Township Zoning Administrator, or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action, actions, proceedings to prevent, enjoin, abate, or removed such unlawful location, erection, construction, enlargement, change, maintenance or use.

SECTION 304

VIOLATIONS AND PENALTIES

It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain, or use any building or land in violation of any regulation in or any provisions of this Resolution or any amendment or supplement thereto adopted by the Board of Township Trustees of Clay Township under Chapter 519.02 et seq. Of the Revised Code of the State of Ohio. Any person, firm, or corporation violating any regulation in, or any provision of the Resolution, or any amendment or supplement thereto shall be deemed guilty of a misdemeanor and, upon conviction thereof shall be fined not more than one hundred (100) dollars and be required to restore the premises to their prior condition. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance, or use continues may be deemed a separate offense.

SECTION 305

FEEES

Any application under this Resolution for a zoning certificate, variance, conditional use permit, sign permit, planned development, amendment, or filing of a notice of appeal shall be accompanied by such fee as shall be specified from time to time by resolution of the Board of Township Trustees.

The fees shall be in addition to the regular building permit fees and any other fees which may be imposed under applicable resolution of Clay Township. The fees imposed by this Resolution are intended to defer most of the costs involved in such applications, such as publishing and/or posting and mailing the notices of the hearing or hearings. Such fees are not refundable regardless of the outcome of the application

ARTICLE 4 - BOARD OF ZONING APPEALS

SECTION 401 APPOINTMENT

There shall be a Clay Township Board of Zoning Appeals consisting of five (5) members and two alternates, appointed by the Clay Township Trustees as provided by Chapter 519.13 of the Revised Code of the State of Ohio.

SECTION 402 ORGANIZATION

The Board of Zoning Appeals shall organize and adopt rules in accordance with the provisions of this Zoning Resolution. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman or, in his absence, the acting Chairman, may administer oaths; and the Board may compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Office of the Township Trustees and shall be public record. A copy of the decision for each case shall be furnished to the Township Zoning Commission and by certified mail to the applicant.

SECTION 403 JURISDICTION

The Board of Zoning Appeals shall have the following jurisdiction:

A. Administrative Appeal

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Inspector in the enforcement of this Zoning Resolution.

B. Variances

1. Variances on Lots

To authorize, upon appeal, in specific cases, such variance from the terms of this Zoning Resolution as will not be contrary to the public interest, where owing to special conditions of the land (i.e., an irregular shaped lot of exceptional topography; or an exceptionally narrow, shallow, or irregular lot, existing and of record at the time of the passage of this Zoning Resolution), a literal enforcement of the provisions of this Zoning Resolution will result in unnecessary hardship. In granting such variance, the Board of Zoning Appeals

SECTION 403

JURISDICTION (continued)

B. 1. Variances on Lots (continued)

shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the Zoning District in conformity with this Zoning Resolution.

2. Variances on Existing Buildings and Structures

To grant the projection of an existing building or structure into a required yard to secure an addition to the building or structure practicable in its construction and arrangement. Such projection shall not exceed one-third (1/3) of the required depth or width of the required yard. In granting such variance, the Board of Zoning Appeals shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the Zoning District in conformity with this Zoning Resolution.

This section shall not be construed to permit variances which shall, in effect, amend the Use Provisions of this Zoning Resolution.

C. Conditional Use

To grant conditional zoning certificates for the use of land, buildings, or other structures if such certificates for specific uses are provided for in the Zoning Resolution.

D. Nonconforming Uses

To rule on nonconforming uses as provided in Article 35 of this Resolution.

SECTION 404

PROCEDURE FOR ADMINISTRATIVE APPEAL

404.01 AUTHORIZATION

An appeal from a decision of the Zoning Administrator with respect to the interpretation or application of this Resolution may be taken to the Board of Zoning Appeals by any person aggrieved or his agent or by any officer of the Township affected by such decision of the Zoning Administrator.

404.02 NOTICE OF APPEAL

Appeals to the Board shall be filed within twenty (20) days after the decision of the Zoning Administrator by filing a written notice of appeal with the Zoning Administrator and with the Board of Zoning Appeals.

404.02 NOTICE OF APPEAL (continued)

The Notice of Appeal shall specify the grounds for such appeal. Upon receipt of a notice of appeal, the Zoning Administrator shall forthwith transmit to the Board all of the papers constituting the record upon which the decision being appealed was based.

404.03 HEARING ON APPEAL

The Board shall select a time and place for the hearing of an appeal and give at least ten (10) days written notice thereof to the owners of property within five hundred (500) feet of the applicant's property, as they shall appear on the notice of appeal.

In addition, public notice of such hearings as to the time, place, date, and subject of the hearing shall be published in a newspaper of general circulation at least ten (days) prior to the date of the hearing. Any party in interest may appear and be heard at the hearing in person, by agent, or by attorney.

404.04 DECISION ON APPEAL

The Board shall have all the powers of the Zoning Administrator with respect to such decisions. The concurring vote of a majority of the members of the Board shall be necessary to reverse or modify any decision of the Zoning Administrator under this Resolution. The Board shall render a written decision on the applicant without unreasonable delay after the close of a hearing, and, in all cases, within thirty (30) days after the close of the hearing. A copy of the decision and findings of fact shall be sent to the Board of Township Trustees, the Township Zoning Commission and by certified mail to the applicant.

SECTION 405

PROCEDURE FOR OBTAINING A VARIANCE

A variance is permission to deviate in a specific manner from the terms of the Zoning Resolution, where, owing to special conditions of the land itself, a literal enforcement of the provisions of this Zoning Resolution will result in unnecessary hardship and provided that only deviations from development standards shall be permitted.

405.01 AUTHORIZATION

The Board of Zoning Appeals may authorize variances from the terms of this Resolution as stated in Section 403 B when the Board has made findings of fact, based upon the standards set out in Subsection 405.05 of this resolution.

405.02 APPEAL FOR VARIANCE

An application for a zoning certificate shall be filed with the Zoning Administrator; and, if the application is rejected, a copy of the application and its written rejection shall be forwarded to the Secretary of the Board. The applicant may file an appeal for a variance, which shall contain the following:

A. Description of Property and Nature of Variance

1. The nature of the variance, i.e., including the specific provisions of the Zoning Resolution from which the variance is requested.
2. A description sufficient to identify the property, including a reference of the volume and page of the last recorded deed.
3. A statement of the special circumstances or conditions applying to the land or structure and not applying generally throughout the Zoning District.
4. A statement showing that the special conditions and circumstances do not result from the actions of the applicant.
5. A statement showing that the granting of the variance is necessary to the preservation and enjoyment of substantial property rights.
6. Such other information regarding the appeal as may be pertinent or required for appropriate action by the Board of Zoning Appeals.

B. Plot Plan

The appeal shall be accompanied by eight (8) copies of a plot plan drawn to an appropriate scale showing the following:

1. The boundaries and dimensions of the lot.

405.02 APPEAL FOR VARIANCE (continued)

B. Plot Plan (continued)

2. The size and locations of existing and proposed structures.
3. The proposed use of all parts of the lot and structures, including accessways, walks, off-street parking and loading spaces, and landscaping.
4. The relationship of the requested variance to the standards set by the Zoning Resolution.
5. The use of land and location of structures on adjacent property.

405.03 INFORMATION FOR ZONING COMMISSION

The Zoning Administrator shall file one (1) copy of the appeals and plot plan with the Clay Township Zoning Commission within ten (10) days after the filing of such appeal by the applicant for informational purpose.

405.04 HEARING ON VARIANCE

A hearing on the appeal shall be held by the Board and notice thereof given as specified under Sub-section 404.03 of this Resolution.

405.05 STANDARDS FOR VARIANCES

The Board shall not grant a variance unless it shall in each case make specific findings of fact directly based upon the particular evidence presented to it, that support conclusions that:

- A. The variance requested arises from special conditions of, or involving, the property which are unique; that is, a situation which is not ordinarily found in the same Zoning District, and that the situation results from the enforcement of this Resolution and not by an action or actions of the property owner, the applicant, or any other person or party who has control of the property.
- B. The strict application of the provisions of this Resolution from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

405.05 STANDARDS FOR VARIANCES (continued)

C. The variance desired will not adversely affect the public health, safety, and morals.

D. The variance desired will not compromise the general spirit and intent of this Resolution.

405.05 CONDITIONS AND RESTRICTIONS

In granting a variance, the Board may impose such conditions, safeguards and restrictions upon the premises benefitted by the variance as may be necessary to comply with the standards set out in Sub-section 405.05 of this Resolution to reduce or minimize potentially injurious effects of such variance upon other property in the neighborhood and to carry out the general purpose and intent of this Resolution.

405.07 DECISION ON VARIANCE

The Board shall have all the powers of the Zoning Administrator with respect to such decision. The concurring vote of a majority of the members of the Board shall be necessary to reverse or modify any decision of the Zoning Administrator under this Resolution. The Board shall render a written decision on the application without unreasonable delay after the close of a hearing, and, in all cases, within thirty (30) days after the close of the hearing. A copy to the decision and findings of fact shall be sent to the Board of Township Trustees, the Township Zoning Commission, and by certified mail to the applicant.

405.08 PERIOD OF VALIDITY

A variance granted by the Board shall terminate at the end of six (6) months from the date on which the Board grants the variance unless within such six (6) month period a zoning certificate is obtained.

SECTION 406

PROCEDURE FOR OBTAINING A CONDITIONAL USE CERTIFICATE

406.01 AUTHORIZATION

Specifically listed Conditional Uses are provided within the Zoning District regulations in recognition that such uses, although desirable, will more intensely affect the surrounding area in which they are located than the Permitted Uses of such Zoning District.

406.01 AUTHORIZATION (continued)

The intent of the procedure for authorizing a Conditional Use is to set forth the development standards are critical for locating and developing a Conditional Use in accordance with the nature of the surrounding area, conditions of development, and with regard to appropriate plans.

406.02 APPLICATION FOR CONDITIONAL USE

Any person owning or having an interest in property may file an application to use such property for one or more of the Conditional Uses provided for by this Resolution in the Zoning District in which the property is situated. An application for a Conditional Use certificate shall be filed in duplicate with the Zoning Administrator, who shall forward without delay a copy to the Secretary of the Board

The application for a Conditional Use shall contain the following:

A. Description of Property and Intended Use

1. A description sufficient to identify the property, including a reference of the volume and page number of the last recorded deed.
2. The proposed use of the property.
3. A statement of the necessity or desirability of the proposed use to the neighborhood or community.
4. A statement of the compatibility of the proposed use to adjacent property and land use.
5. Such other information regarding the property, proposed use, and statements from adjacent property owners as may be pertinent to the application or required for appropriate action by the Board of Zoning Appeals.

B. Plot Plan

The application shall be accompanied by eight (8) copies of the plot plan, drawn to an appropriate scale, clearly showing the following:

406.02 APPLICATION FOR CONDITIONAL USE (continued)

B. Plot Plan (continued)

1. The boundaries and dimensions of the lot.
2. The size and location of existing and proposed structures.
3. The proposed use of all parts of the lot and structures, including accessways, walks, off-street parking and loading spaces, and landscaping.
4. The relationship of the proposed development to the development standards of the existing Zoning District.
5. The use of land and location of structures on adjacent property.

406.03 INFORMATION FOR TOWNSHIP ZONING COMMISSION

The Zoning Administrator shall file one (1) copy of the application and plot plan with the Clay Township Zoning Commission within three (3) days after the filing of such application for informational purpose.

406.04 HEARING ON CONDITIONAL USE

A hearing on the application shall be held by the Board and notice thereof given as specified under Sub-section 404.03 of this Resolution.

406.05 STANDARDS FOR CONDITIONAL USE

The Board shall not grant a Conditional Use unless it shall, in each specific case, make specific findings of fact directly based on the particular evidence presented to it that support conclusions that:

- A. The proposed Conditional Use will comply with all applicable regulations of this Resolution, including lot size requirements, development standards and use limitations.
- B. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- C. Adequate access roads or entrance and exit drives will be provided and will be so designed as to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets and alleys.

406.05 STANDARDS FOR CONDITIONAL USE (continued)

D. All necessary permits and license for the use and operation of the Conditional Use have been or evidence has been submitted that such permits are obtainable for the proposed Conditional Use on the subject property

E. All exterior lights for artificial open-air illumination are so shaded as to avoid casting direct light upon any property located in a Residential District.

F. The location and size of the Conditional Use, the nature and intensity of the operation involved or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is located.

G. The location, nature, and height of buildings, structures, walls, and fences on the site and the nature and extent of landscaping and screening on the site shall be such that the use will not unreasonable hinder or discourage the appropriate development, use, and enjoyment of adjacent land, buildings and structures.

H. The Conditional Use desires will not adversely affect the public health, safety, and morals.

406.06 CONDITIONS AND RESTRICTIONS

In granting a Conditional Use certificate, the Board may impose such conditions, safeguards, and restrictions upon the premises benefitted by the Conditional Use as may be necessary to comply with the standards set out in Sub-section 406.05 to reduce or minimize potentially injurious effects of such Conditional Uses upon other property in the neighborhood and to carry out the general purpose and intent of this Resolution.

406.07 PERIOD OF VALIDITY

A Conditional Use certificate granted by the Board shall terminate at the end of one (1) year from the date on which the Board grants the Conditional Use, unless within the one (1) year period a building permit is obtained and the erection or alteration of a structure is started.

The Conditional Use certificate will suffice as the Zoning Certificate required by Article 3, Section 302 of this Resolution.

CHAPTER II

ZONING DISTRICTS

Effective January 2, 2004 - Amended 4/1/04
ARTICLE 5 - ZONING DISTRICTS AND BOUNDARIES

SECTION 501 DISTRICTS ESTABLISHED

The unincorporated territory of Clay Township, Montgomery County, Ohio, zoned under Chapter 519.02 et seq. Of the Revised Code of the State of Ohio, shall be, and is hereby divided into the following districts:

"RA"	Rural Agricultural District
"RT"	Rural Transition District
"R-1"	Single-Family Residential District
"R-2"	Single-Family Residential District
"R-3"	Multiple Family Residential District
"PD-1"	Planned Residential District
"PD-2"	Planned Office District
"PD-3"	Planned Business District
"PD-4"	Planned Industrial District
"B-1"	Neighborhood Business District
"B-2"	General Business District
"B-3"	Highway Business District
"OBLI"	Office, Business, Light Industrial District
"I-1"	General Industrial District
"F"	Flood Plain District
"NR"	Natural Resources District
"PCR"	Planned Conservation Residential District

SECTION 502 BOUNDARIES

502.01 INCORPORATION

The boundaries of these districts are hereby established as shown on the Zoning Maps of the unincorporated areas of Clay Township in Montgomery County, Ohio, which maps are hereby made a part of this Resolution. The said "Zoning Maps" and all notations and references and other matters shown thereon shall be and are hereby made part of this Resolution. Said "Zoning Maps" properly attested shall be and remain on file in the office of the Township Zoning Administrator, the Board of Township Trustees, and the Township Zoning Commission of Clay Township, Montgomery County, Ohio.

502.02 AREAS SHOWN ON MAP

It is the intent of this Zoning Resolution that the entire area under the jurisdiction of Clay Township zoning, including all land, water areas, rivers, streets, alleys, railroads, and other rights-of-way be included in the districts established by this Resolution. Any area not shown on the Official Zoning Maps of the Township as being included in any district shall be deemed to be in the "RA" Rural Agriculture District.

502.03 RULES OF INTERPRETATION

In the event uncertainty exists with respect to the intended boundaries of the various districts as shown on the Official Zoning Maps, the following rules shall apply:

- A. Where the designation of a boundary line on the Zoning Maps coincides with the location of a street or alley, the centerline of such street or alley shall be construed to be the boundary of such district.
- B. Where the district boundaries do not coincide with the location of streets or alleys but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.
- C. Where the district boundaries do not coincide with the location of the streets, alleys, or lot lines, the district boundaries shall be determined by the use of the scale shown on the Zoning Maps.

502.03 RULES OF INTERPRETATION (continued)

D. All streets, alleys, public ways, waterways, and railroad rights-of-way, if not otherwise specifically designated, shall be in the same zone as the property immediately abutting upon such streets, alleys, public ways, waterways, and railroad rights-of-way.

E. Where the centerline of a street, alley, public way, waterway, or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to the centerline.

**ARTICLE 6 - TOWNSHIP ZONING COMMISSION:
DISTRICT CHANGES AND RESOLUTION AMENDMENTS**

SECTION 601 TOWNSHIP ZONING COMMISSION

601.01 ORGANIZATION

The Board of Township Trustees of Clay Township, proceeding under Chapter 519.01 to 519.99, inclusive, of the Ohio Revised Code, shall create and establish a Township Zoning Commission. The Commission shall be composed of five (5) members and two alternates who reside in the unincorporated area of the Township, included within this Zoning Plan, to be appointed by the Board of Township Trustees; and the terms of the members shall be of such length and so arranged that the term of one member will expire each year. The Board of Township Trustees may appoint a member of either the County or Regional Planning Commission to serve on the Township Zoning Commission.

601.02 REMOVAL

Each member shall serve until his successor is appointed and qualified. Members of the Zoning Commission shall be removable in accordance with Chapter 519.04, Ohio Revised Code.

SECTION 602 DISTRICT CHANGES AND RESOLUTION AMENDMENTS

Applications for amendments to the Zoning Plan shall be filed in accordance with the filing procedures adopted by the Clay Township Zoning Commission, adapted from Chapter 519.12, Ohio Revised Code, and summarized as follows:

An amendment, supplement, reclassification, or change may be initiated by a verified application of one (1) or more of the owners or lessees of property within the area proposed to be changed or affected by this Resolution.

Once the application is filed and fees paid, the Township Zoning Commission shall set a date for a public hearing, which shall not be less than twenty (20) nor more than forty (40) days from the filing date. Notice of the hearing shall be given in a newspaper of general circulation in the Township at least fifteen (15) days before the hearing date.

602.01 PROCEDURE FOR DISTRICT CHANGES (continued)

If the proposed amendment or supplement requests re-zoning or redistricting of ten (10) or less parcels of land as listed on the tax duplicate, written notice of the hearings shall be mailed to property owners within 500 feet of the proposed area. The failure of delivery of such notice shall not invalidate any such amendment or supplement.

Within five (5) days after the adoption of such motion or the certification of such resolution or the filing of such application, the Township Zoning Commission shall transmit a copy thereof, together with text and map pertaining thereto, to the County Planning Commission. The County Planning Commission shall make recommendations regarding each request to the Township Zoning Commission for consideration at its public hearing.

The Township Zoning Commission shall, within thirty (30) days after such hearing, recommend the approval or denial of the proposed amendment or supplement or the approval of some modification thereof and submit such recommendation to the Board of Township Trustees.

The Board of Township Trustees shall, upon receipt of such recommendations, set a time for public hearing on the proposal, which date shall not be more than thirty (30) days from the date of the receipt of such recommendation from the township Zoning Commission. Notice of the hearing shall be given in a newspaper of general circulation in the Township at least fifteen (15) days before the hearing date.

Within twenty (20) days after such public hearings, the Board of Township Trustees shall either adopt or deny the recommendations of the Zoning Commission or adopt some modification thereof. The Board of Township Trustees may deny or modify the zoning Commission recommendation, but it shall require the unanimous vote of the Board.

Such amendment or supplement adopted by the Board of Trustees shall become effective in thirty (30) days after the date of such adoption unless, within thirty (30) days after the adoption of the amendment or supplement, there is presented to the Board of Township Trustees a petition, signed by a number of qualified voters residing in the unincorporated area of the Township or part thereof included in the Zoning Plan equal to not less than eight (8) percent of the total vote cast for all candidates for governor in such area at the last preceding general election at which a governor was elected, requesting the Board of Trustees to submit the amendment or

602.01 PROCEDURE FOR DISTRICT CHANGE (continued)

supplement of the electors of such area for approval or rejection at the next primary or general election.

No amendment or supplement for which such referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the amendment. Upon certification by the Board of Elections that the amendment has been approved by the voters, it shall take immediate effect.

602.02 WRITTEN APPLICATION

Eight (8) copies of a provided application form shall be filed with the Township Zoning Commission at their public office.

A. Description of Change

The application shall include the following statements:

1. A description or statement of the present and proposed provisions of this Zoning Resolution or the boundaries of the Zoning District Map.
2. A description sufficient to identify the property, including a reference of the volume and page of the last recorded deed.
3. The proposed use of the property.
4. A statement of the necessity or desirability of the proposed use to the neighborhood or community.
5. A statement of the relationship of the proposed use to the adjacent property and land use.
6. A list of the owners of property within five hundred (500) feet from such area to be re-zoned. Such list is to be in accordance with the Montgomery County Auditor's current tax list.
7. Such other information regarding the property, proposed use, or surrounding area as may be pertinent to the application or required for appropriate action by the Township Zoning Commission or Township Trustees.

602.02 WRITTEN APPLICATION (continued)

B. Plot Plan

The application shall be accompanied by eight (8) copies of a plot plan, prepared by a registered engineer, architect, or surveyor of the State of Ohio, drawn to an appropriate scale, clearly showing the following:

1. The boundaries and dimensions of the lot.
2. The approximate size and location of existing and proposed structures on the land to be re-zoned if desired by applicant.
3. The proposed use of all parts of the lot and structures, including accessways, walks, off-street parking and loading spaces, and landscaping if desired by applicant.

C. Sworn Affidavit

The application shall include the following affidavit:

"I/we, having by duly sworn, hereby state that as owner (owners) of the land in question that I/we have thoroughly, to the best of my/our knowledge and my/our ability, presented the arguments on behalf of the application herewith submitted and that the statement and attached exhibits above-referred to are in all respects true and correct to the best of my/our knowledge and belief."

Applicant(s)

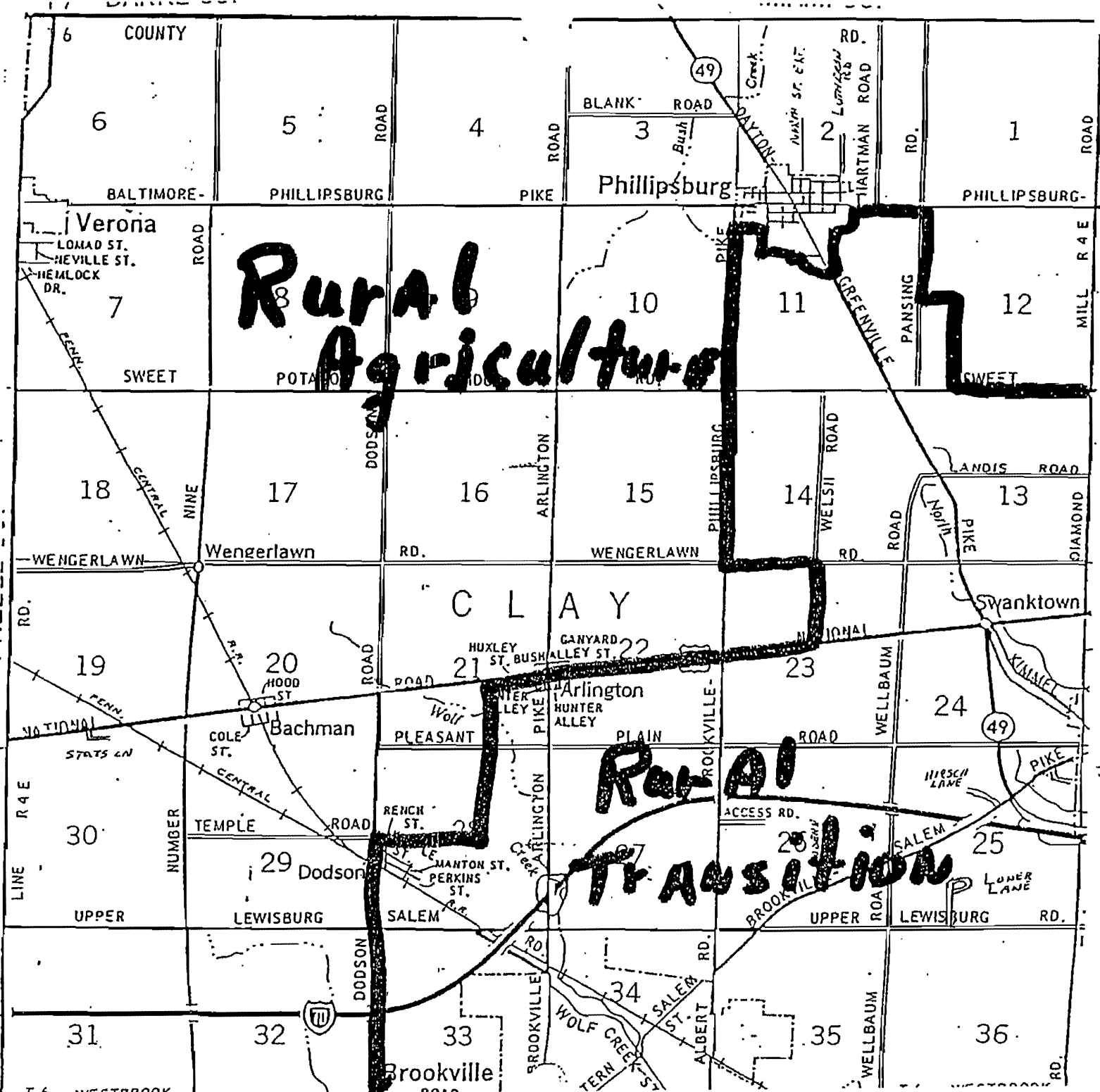
Sworn to and subscribed before me on this _____ day of _____, 20_____.

Notary Public

ARTICLE 7
FOR FUTURE EXPANSION

CHAPTER III

RESIDENTIAL DISTRICT REGULATIONS



**Rural
Agriculture**

**Rural
Transition**

*effective
12/1/2000*

JACKS LANE

ARTICLE 7 - RA RURAL AGRICULTURAL DISTRICT

SECTION 701 PURPOSE

This district is established for the following purposes:

1. To protect active farming enterprises from incompatible non-farm development whose effects would be detrimental to the continued future of the farming industry; and
2. To protect land best suited for agricultural use, as well as the Township's natural resources in general from the detrimental effects that often result from the encroachment of scattered urban type uses.

SECTION 702 AGRICULTURAL EFFECT ADVISORY

Lands within the Agricultural District are intended for commercial agricultural production. Owners, residents and other users or property within this district may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including, but not limited to: noise odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, the application of fertilizers, herbicides and pesticides. Owners, residents and users of property within this district should, therefore, be prepared to accept these conditions, and are hereby placed on official notice that "right to farm" provisions within the Ohio Revised Code may bar them from obtaining a legal judgment against such normal agricultural operations.

Farming comprises all the characteristics of heavy industry; and as in all industrial zoning districts, unrelated residential use is emphatically discouraged.

SECTION 703 USES

A. Permitted Uses

1. Agriculture
2. Single-family dwelling
3. Publicly owned and operated buildings and facilities

SECTION 703

USES (continued)

A. Permitted Uses (continued)

4. Accessory buildings incidental to the principal use. Such facilities are subject to regulation under Article 37 of this Resolution.

5. Temporary uses as regulated by Article 50.

B. Conditional Uses

The following Conditional Uses are subject to review and conditions in accordance with Article 4 of this Resolution.

1. Intensive agricultural uses

2. Sale of produce and plants raised on the premises, or seasonal sale of produce and plants not raised on the premises, provided that any structures associated with such sales shall be only those structures ordinarily used for the sale of produce and plants raised on the premises.

3. Single-family residential non-farm lots in the RA Rural Agricultural District.

a) The area subdivided into small non-farm lots shall not exceed 20 percent of the existing parcel as of the effective date of this section of the resolution December 6, 2000, provided that the remaining parcel complies with the minimum lot standards of 600 feet frontage and a minimum area of 20 acres.

b) The minimum lot area shall be 80,000 square feet, with the minimum road frontage of 200 feet on a public road. The Board of Zoning Appeals (BZA) may permit less frontage and lot area if the applicant can show that, due to special conditions of the land, such as topography or the proximity of the existing buildings to the road and/or existing lot lines, the proposed lot(s) can be better designed to protect prime farmland by using lesser frontage and/or area. The BZA may also vary the setback requirements if necessary. The lot depth shall not exceed 400 feet unless

SECTION 703

USES (continued)

B. Conditional Uses (continued)

the BZA approves a greater depth where warranted by field conditions.

In cases where the proposed development does not front on an existing road, the BZA may permit development of not more than 5 lots using a private drive with a minimum right-of-way width of 50 feet, and a minimum pavement width of 18 feet. Dead-end drives shall not exceed 1,000 feet in length, shall include a turnaround with a minimum radius of 38.5 feet, and shall meet County Engineer's standards.

c) All principal structures to be located on non-farm lots shall have a minimum front and rear yard of 50 feet, and a minimum side yard of 50 feet on each side.

d) All residential lots must be approved by the Dayton/Montgomery County Combined Health District in regard to the availability of sufficient potable water in both quality and quantity; and the suitability of the lot for an on-site sewerage disposal system.

e) The dwellings and their lots shall be located on the least productive farmland wherever practical

f) The lot layout shall be located and designed so that it is separated as much as possible from adjacent farming, including minimizing the length of property lines shared by the residential lots and adjoining farms.

4. Agricultural Services

a) Agricultural services shall include commercial activity that primarily serves the farming community, such as welding shops, grain elevators farming machinery repair if determined by the Board of Zoning Appeals to be needed or appropriate.

b) Structures used for agricultural services and/or related storage shall be a minimum distance of:

1.) 100 feet from any neighboring dwelling

2.) 100 feet from any Residential District

c) The site shall have adequate access onto a hard-surfaced County or Township road that is regularly maintained and adequate to handle the additional traffic generated by the use.

d) Adequate parking shall be provided so as not to interfere with vehicular traffic on adjacent thoroughfares.

e) The applicant shall demonstrate that the proposed operations will not be detrimental to the vicinity or surrounding properties.

f) No outdoor disassembly or repair of farm machinery shall be permitted, unless screened from the adjacent road(s) and adjacent property.

g) All equipment used in the operations shall be constructed, maintained, and operated in such a manner as to eliminate, so far as practical, noise, vibration or dust which would injure or annoy persons living in the vicinity.

h) All exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any adjoining residence or property in a Residential District.

5. Airports and Landing Strips

a) The applicant shall demonstrate that the proposed operations will not be detrimental to the vicinity or surrounding properties.

b) The proposed facility shall meet the appropriate FAA registration standards, including type of landing area proposed, as per FAA Form 74-80-1.

SECTION 703

USES (continued)

c) The airport, in accordance with the standards and requirements of the Federal Aviation Administration, will not require the heights of structures on adjacent land to be less than the height limit specifically prescribed for the district in which such land is situation.

d) All runways and service aprons shall have dustless surface.

e) No area used by any aircraft under its own power shall be located within a distance of 200 feet from any property lines; 1,000 feet from any public or private institution; or 1,000 feet from any Residential or Commercial District on the approach and departure ends of the runway. Buildings, hangars, or other structures shall be at least 200 feet from any property line, and no parking of vehicles shall be allowed within 100 feet from any property line.

f) Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon any adjacent property or any adjacent public street.

6. Animal Hospitals, Veterinary Clinics, and Kennels

a) Structures shall be designed and maintained in a manner so as to prevent the development of unsanitary conditions which could result in unpleasant odor or vermin nuisance.

b) Rooms intended to accommodate animals shall be insulated, or otherwise soundproofed and vented so that animal noises will not be audible at any point in the perimeter of the property.

c) Outside runs shall be at least 200 feet from all property lines.

d) A solid wood fence or masonry wall six feet high shall be constructed along any property line adjacent to a Residential District.

7. Cemeteries

a) For purposes of this section, an office, crematorium, mausoleum, and other buildings or structures necessary to the operation of a cemetery shall be permitted as accessory uses thereto.

b) Minimum site area shall be 20 acres.

c) The site shall be located with at least 300 feet of frontage on a street designated as a secondary arterial or higher.

d) Minimum setback lines of at least 50 feet shall be provided along all street right-of-way lines and adjoining property lines. However, internments, markers, and gate houses may be located not closer than 30 feet to any adjoining property line when not in excess of 15 feet in height.

e) Mausoleums or crematoriums shall be a distance of at least 200 feet from adjacent property lines and street right-of-way lines.

8. Home Occupations Subject to the Conditions in Article 46.

9. Riding Academies, Stables

a) Minimum lot area shall be ten acres

b) Minimum setback lines for any structures, pens or corrals housing animals shall be 200 feet from an adjoining property line, except where animals are kept in soundproofed, air-conditioned buildings, in which case the required setback line is 100 feet.

c) Adequate fencing shall be provided to enclose the activities therein, and landscape screening shall be provided whenever such use abuts a residentially zoned district.

10. Sanitary and Construction Material Landfill as regulated by Article 51.

SECTION 704

SITE DEVELOPMENT REGULATIONS

The following minimum requirements shall be observed except as otherwise regulated by Section 703B, Conditional Uses:

A. Lot Requirements

- | | |
|-------------------------|----------|
| 1. Minimum lot area | 20 acres |
| 2. Minimum lot frontage | 600 feet |

Lot frontage must be continuous frontage along one road.

B. Yard Requirements

- | | |
|---|---------|
| 1. Minimum front yard depth | 50 feet |
| 2. Minimum rear yard depth | 50 feet |
| 3. Minimum side yard width on each side | 50 feet |

C. Structural Requirements

- | | |
|--|---------------|
| 1. Maximum building height | 40 feet |
| 2. Minimum floor area for residential structures | 1,800 sq. ft. |

SECTION 705

PARKING REQUIREMENTS

See Article 43 for off-street parking requirements

SECTION 706

SIGNS

See Article 41 for type and size of permitted signs.

ARTICLE 8 - RT RURAL TRANSITION DISTRICT

SECTION 801 PURPOSE

This district is established for the following purposes:

1. To protect active farming enterprises and natural resources within the Township, and;
2. To provide the opportunity for limited non-farm residential development within areas which are undergoing pressure for such development and/or are characterized by an existing pattern of such non-farm development.

In effect, this district is designed to function as an area of transition or changing character between the rural agricultural area of the Township and more urban areas.

SECTION 802 AGRICULTURAL EFFECT ADVISORY

Lands within the Rural Transition District contain active farming activities. Purchases of property adjacent to commercial agricultural production areas within this district may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including, but not limited to: noise, odors, dust; the operation of machinery of any kind including aircraft, the storage and disposal of manure, the application of fertilizers, herbicides and pesticides. Owners, residents and users of property within this district should, therefore, be prepared to accept these conditions, and are hereby placed on official notice that "right to farm" provisions within the Ohio Revised Code may bar them from obtaining a legal judgment against such normal agricultural operations.

Farming comprises all the characteristics of heavy industry; and as in all industrial zoning districts, unrelated residential use is emphatically discouraged.

SECTION 803

USES

A. Permitted Uses

1. Agriculture
2. Single-family dwellings
3. Publicly owned and operated buildings and facilities
4. Accessory buildings incidental to the principal use. Such facilities are subject to regulation under Article 37 of this Resolution.
5. Temporary Uses as regulated by Article 50.

B. Conditional Uses

The following Conditional Uses are subject to review and conditions in accordance with Article 4 of this Resolution.

1. Intensive agricultural uses
2. Sale of produce and plants raised on the premises, or seasonal sale of produce and plants not raised on the premises, provided that any structures associated with such sales shall be only those structures ordinarily used for the sale of produce and plants raised on the premises.
3. Agricultural services as regulated by Section 703B.4.
4. Single-family dwellings on sites of less than 20 acres, but not less than 80,000 square feet.
 - a) A maximum of 20 percent of the total land area of the parcel may be subdivided into lots less than 20 acres, not to exceed 15 non-farm lots, provided the remaining parcel complies with the minimum lot standards of 600 feet frontage and a minimum area of 20 acres.
 - b) The minimum lot area shall be 80,000 square feet, with the minimum continuous road frontage of 200 feet on a public road. The Board of Zoning Appeals (BZA) may permit less frontage and lot area if the applicant can show that, due to special conditions of the land such as topography or the proximity of the existing

SECTION 803

USES (continued)

buildings to the road and/or existing lot lines, the proposed lot(s) can be better designed to protect prime farmland by using lesser frontage and/or area. The BZA may also vary the setback requirements if necessary. The lot depth shall not exceed 400 feet, unless the Board approves greater depth where warranted by field conditions.

In cases where the proposed development does not front on an existing road, the BZA may permit development of not more than 5 lots, using a private drive with a minimum right-of-way width of 50 feet, and a minimum pavement width of 18 feet. Dead-end drives shall not exceed 1,000 feet in length, shall include a turnaround with a minimum radius of 38.5 feet, and shall meet County Engineer's standards.

A minimum lot size of one (1) acre with a minimum road frontage of 200 feet is permitted if utilities (central sewer and water) will be provided within three years. The installation of "dry" sewer and water lines are required in this regard. Larger proposals may also be considered for rezoning to a more urban residential zoning district, such as the R-1 District, dependent upon location and availability of utilities.

c) All principal structures to be located on non-farm lots shall have a minimum front and rear yard of 50 feet and a minimum side yard of 50 feet on each side.

d) All residential lots must be approved by the Dayton-Montgomery County Combined Health District in regard to the availability of sufficient potable water in both quality and quantity; and the suitability of the lot for an on-site sewerage disposal system.

e) The dwellings and their lots shall be located on the least productive farm land wherever practical.

f) The lot layout shall be located and designed so that it is separated as much as possible from adjacent farming, including minimizing the length of property lines shared by the residential lots and adjoining farms.

5. Cemeteries as regulated by Section 703 B.7.

SECTION 803

USES (continued)

6. Aircraft landing fields as regulated by Section 703B.

7. Schools; primary, intermediate, and secondary.

a) For the purposes of this section, schools are deemed to include public and private schools. Accessory uses and buildings necessary for carrying out the school program are permitted.

1) Minimum lot size is 5 acres.

2) All school structures must comply with all applicable public safety and fire regulations.

b) Locations: an elementary school site shall be located with at least 200 feet of frontage on a street designed as a collector street or higher. Junior High and High Schools shall be located with at least 200 feet of frontage on a street designed as a major collector or minor arterial.

c) Minimum setback lines of at least 50 feet shall be provided along all street right-of-way lines and adjoining property lines.

8. Churches, Chapels, Temples and Synagogues.

a) Minimum lot area shall be five acres.

b) All sites shall have access only from an arterial or a collector street or shall provide access in a manner that does not cause heavy traffic on residential streets.

c) All structures and active outdoor recreation uses shall be set back a minimum of 50 feet from any residential property. However, any outdoor recreation area with night lighting shall be set back 100 feet from an residential property.

d) Parking spaces for church buses shall be located as far distant from any adjacent property line as possible. A minimum of 50 feet shall be required in any case.

SECTION 803

USES (continued)

- e) All exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any adjoining residence or property in a Residential District.
9. Private and publicly owned commercial and non-commercial recreation areas, uses and facilities, including fishing lakes, riding academies, rodeos and accessory retail and service uses, golf courses (but not including miniature golf courses), parks, forests, wildlife preserves, and similar areas and uses.
10. Campgrounds
11. Bed and Breakfast homes as defined in Article 2.
12. Home Occupations as regulated by Article 46.
13. Clubs, private and public, Golf and Country Clubs, and Lodges operated by educational, social or fraternal organizations.
- a) Accessory uses necessary to the operation of such use, such as clubhouses, restaurants, swimming pools and similar activities, shall be permitted, provided the conduct of business is not the principal activity.
 - b) Golf and Country Clubs shall be located so that access is from a minor collector street.
 - c) Clubs, private and public, and Lodges operated by educational social, or fraternal organization shall be located so that access is from a major collector street or higher.
 - d) Minimum setback lines shall be 100 feet from an adjoining property line. The distance from the center and centerline of all greens and fairways shall be at least 150 feet from an adjoining property line.
 - e) When any softball, baseball, soccer or football field, tennis court, structured play area, or parking area is located less than 150 feet from any residential property, a continuous planting screen not less than six (6) feet in height shall be provided.

SECTION 804

SITE DEVELOPMENT REGULATIONS

The following minimum requirements shall be observed except as otherwise regulated by Section 803B, Conditional Uses.

A. Lot Requirements

- | | |
|-------------------------|----------|
| 1. Minimum lot area | 20 acres |
| 2. Minimum lot frontage | 600 feet |

B. Yard Requirements

- | | |
|------------------------------------|---------|
| 1. Minimum front yard depth | 50 feet |
| 2. Minimum rear yard depth | 50 feet |
| 3. Minimum yard width on each side | 50 feet |

C. Structural Requirements

- | | |
|--|---------------|
| 1. Maximum building height | 40 feet |
| 2. Minimum floor area for residential structures | 1,800 sq. ft. |

SECTION 805

PARKING AND LOADING REQUIREMENTS

See Article 42 for off-street parking requirements

SECTION 806

SIGNS

See Article 41 for type and size of permitted signs.

Effective September 20,2002

ARTICLE 9 - "R-1" SINGLE FAMILY RESIDENTIAL DISTRICT

PREAMBLE This district has been established to provide for single family dwellings on large tracts and areas of open land with a maximum density of 1.5 dwelling units per acre.

SECTION 901 PRINCIPAL PERMITTED USES

- A. Single family dwellings
- B. Public parks, playgrounds, and community centers

SECTION 902 ACCESSORY USES

- A. Accessory uses, buildings, or other structures customarily incidental to any aforesaid permitted use, including private garages, provided that such accessory uses shall not involve the conduct of any business, trade, or industry, or any private way or walk giving access to such activity.
- B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- C. Other accessory uses permitted for this District by Article 37 of this Resolution.

SECTION 903 CONDITIONAL USES

The following Conditional Uses subject to approval in accordance with Article 4, Section 406 of this Resolution.

- A. Home occupations as defined in Article 2, Section 203.08 and subject to the provisions of Article 46 of this Resolution.
- B. Foster homes for children and Foster homes for adults as defined in Article 2, Section 203.06 and pursuant to the standards in Article 48 of this Resolution.

SECTION 903

CONDITIONAL USES (continued)

C. Bed and Breakfast – home stay establishment.

D. Telecommunication towers as defined in Article 2, Section 203.20 and as regulated by Article 47 of this Resolution.

E. Churches, chapels, temples and synagogues subject to requirements in Section 8, Article 803.

F. Schools—primary, intermediate, and secondary both public and private subject to requirements in Article 8, Section 803.

SECTION 904

DEVELOPMENT STANDARDS

In addition to the provisions of Chapters VIII and IX, General Regulations and Special Regulations, of this Resolution, the following standards for arrangement and development of land and building are required in the R-1, Single Family Residential District.

904.01 HEIGHT REGULATIONS

No structure shall exceed thirty (30) feet in height.

904.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall be observed:

Maximum Overall Density	1.5 dwelling units per acre
Lot Area	24,000 sq. ft.
Lot Frontage	150 feet
*Front Yard Depth	40 feet
Side Yard Least	18 feet
Rear Yard Depth	50 feet
Minimum Floor Area	2,000 sq. ft.

* The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan for Montgomery County or the existing right-of-way, whichever is greater.

SECTION 904 DEVELOPMENT STANDARDS (continued)

904.03 CENTRAL SEWER AND WATER

A minimum lot size of 80,000 square feet with a minimum road frontage of 200 feet is required if utilities (central sewer and water) will not be provided with three (3) years of construction. The installation of dry sewer and water lines are required in this regard.

Effective September 20, 2002

ARTICLE 10 - "R-2" SINGLE FAMILY RESIDENTIAL DISTRICT

PREAMBLE This district has been established to provide for single family dwellings with a maximum density of three (3) dwelling units per acre.

SECTION 1001 PRINCIPAL PERMITTED USES

A. Single family dwellings.

B. Public parks, playgrounds, and community centers.

SECTION 1002 ACCESSORY USES

A. Accessory uses, buildings, or other structures customarily incidental to any aforesaid permitted use, including private garages; provided that such accessory uses shall not involve the conduct of any business, trade, or industry, or any private way or walk giving access to such activity.

B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

C. Other accessory uses permitted for this District by Article 37 of this Resolution.

SECTION 1003 CONDITIONAL USES.

The following conditional uses subject to approval in accordance with Article 4, Section 406 of this Resolution.

A. Home occupations as defined in Article 2, Section 203.08 and subject to the provisions of Article 46 of this Resolution.

B. Foster Homes for children and Foster Homes for adults as defined in Article 2, Section 203.06 and pursuant to the standards in Article 48 of this Resolution.

SECTION 1003 CONDITIONAL USES (continued)

C. Bed and Breakfast – home stay establishment.

D. Telecommunication towers as defined in Article 2, Section 203.20, and as regulated by Article 47 of this Resolution.

E. Churches, chapels, temples and synagogues subject to requirements in Article 8, Section 803.

F. Schools—primary, intermediate and secondary, both public and private subject to requirements in Article 8, Section 803.

SECTION 1004 DEVELOPMENT STANDARDS

In addition to the provisions of Chapters VIII and IX, General Regulations and Special Regulations of this Resolution, the following standards for arrangement and development of land and building are required in the R-2, Single Family Residential District.

1004.01 HEIGHT REGULATIONS

No structure shall exceed thirty (30) feet in height.

1004.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall be observed:

Maximum Overall Density	3 dwelling units per acre
Lot Area	12,000 sq. ft.
Lot Frontage	90 ft.
* Front Yard Depth	35 ft.
Side Yard Least	13 ft.
Rear Yard Depth	50 ft.
Minimum Floor Area	1,800 sq. ft.

* The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan for Montgomery County or the existing right-of-way, whichever is greater.

SECTION 1004.03 CENTRAL SEWER AND WATER

A minimum lot size of 80,000 square feet with a minimum road frontage of 200 feet is required if utilities (central sewer and water will not be provided within three (3) years of construction. The installation of dry sewer and water lines are required in this regard.

Effective September 20, 2002

ARTICLE 11 - "R-3" MULTIPLE FAMILY RESIDENTIAL DISTRICT

PREAMBLE This district has been established to provide for multiple family dwelling units with a maximum density of six (6) dwelling units per acre.

SECTION 1101 PRINCIPAL PERMITTED USES

- A. Single family dwellings.
- B. Two family dwellings.
- C. Multiple family dwellings.
- D. Conversions of single family or two family dwellings into multiple family dwellings, provided these conform with the development standards prescribed for such multiple family dwellings in this Article and with all other applicable requirements under this Zoning Resolution.
- E. Publicly owned and operated buildings and facilities.
- F. Public parks, playgrounds, and community centers.

SECTION 1102 ACCESSORY USES

- A. Accessory uses, buildings, or other structures customarily incidental to any aforesaid permitted use, including private garages; provided that such accessory uses shall not involve the conduct of any business, trade or industry or any private way or walk giving access to such activity.
- B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- C. Other accessory uses permitted for this District by Article 37 of this Resolution.

SECTION 1103

CONDITIONAL USES

The following Conditional Uses subject to approval in accordance with Article 4, Section 406 of this Resolution.

A. Home occupations as defined in Article 2, Section 203.08 and subject to the provisions of Article 46 of this Resolution.

B. Foster Homes for children and Foster Homes for adults as defined in Article 2, Section 203.06 and pursuant to the standards in Article 48 of this Resolution.

C. Nursery, Child or Adult Day Care Facilities provided:

1. The outdoor recreation area is located in the rear yard and is enclosed with a chain link fence or its equivalent in strength and protective character to a height of four (4) feet but not more than eight (8) feet.

2. No exterior alternations of the structure shall be made which depart from the residential character of the building. All new structures proposed shall be of compatible residential design with the surrounding neighborhood.

3. One identification sign as regulated by Article 41 of this Resolution shall be permitted.

D. Bed and Breakfast – home stay establishment

E. Telecommunication Towers as defined in Article 2, Section 203.20 and as regulated by Article 47 of this Resolution.

F. Churches, chapels, temples, and synagogues as outlined in Article 8, Section 803.

G. Schools—primary, intermediate and secondary, both public and private subject to requirements in Article 8, Section 803.

H. Colleges and universities.

SECTION 1104 DEVELOPMENT STANDARDS

In addition to the provisions of Chapters VIII and IX, General Regulations and Special Regulations of this Resolution, the following standards for arrangement and development of land and building are required in the R-3 Multiple Family Residential District.

SECTION 1104.01 HEIGHT REGULATIONS

No structure shall exceed thirty (30) feet in height.

1104.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall be observed:

MULTIPLE FAMILY DWELLING:

Lot Area	30,000 sq. ft.
Lot Frontage	150 ft.
Lot Area Per Dwelling Unit	7,500 sq. ft.
*Front Yard Depth	35 ft.
Side Yard Least Width	15 ft.
Side Yard Total Width	30 ft.
Rear Yard Depth	40 ft.

OTHER PERMITTED USES:

Lot Area	12,000 sq. ft.
Lot Frontage	90 ft.
*Front Yard Depth	35 ft.
Side Yard Least Width	13 ft.
Side Yard Total Width	26 ft.
Rear Yard Depth	50 ft.
Minimum Floor Area	1,600 sq. ft.

1104.03 MAXIMUM LOT COVERAGE

Forty (40) percent of lot area.

* The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan for Montgomery County or the existing right-of-way, whichever is greater.

SECTION 1104.04 CENTRAL SEWER AND WATER

A minimum lot size of 80,000 square feet with a minimum road frontage of 200 feet is required if utilities (central sewer and water) will not be provided within three (3) years of construction. The installation of dry sewer and water lines are required in this regard.

CHAPTER IV

BUSINESS DISTRICT REGULATIONS

Effective April 19, 2002

ARTICLE 18 - "B-1" NEIGHBORHOOD BUSINESS DISTRICT

PREAMBLE

This district has been established to provide for relatively small office, business, and service establishments which may be placed in a residential or rural area to serve primarily nearby residents. This district is also intended to provide appropriate zoning requirements for land recommended for local business uses in the Township's Comprehensive Plan.

SECTION 1801 PRINCIPAL PERMITTED USES

- A. Baked goods shop, retail only.
- B. Barber and beauty shops.
- C. Candy and ice cream stores.
- D. Pickup stations for dry cleaning and laundry.
- E. Dry cleaning and laundromats of the self-service type.
- F. Grocery and delicatessen stores, excluding supermarkets.
- G. Nursery, adult care, and child care centers.

SECTION 1802 ACCESSORY USES

- A. Accessory uses, buildings or other structures customarily incidental to any of the foregoing permitted uses.
- B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- C. Signs as regulated by Article 41 of this Resolution.

SECTION 1803

REQUIRED CONDITIONS

No zoning certificates shall be issued for a "B-1" use until the applicant shall have certified to the Zoning Administrator that:

A. The business activity is open to the public only between the hours of 6:00 A.M. and 11:00 P.M.

B. The business activity shall be conducted wholly within a completely enclosed building.

C. The business establishment shall not offer goods, services, food, beverages or make sales directly to customers in automobiles, except for drive-in windows for pickup or delivery and which will be provided with adequate driveway space on the premises for waiting vehicles.

D. All business shall be of retail or service character.

E. No manufacturing, processing, packaging, repair or treatment of goods shall be carried on, except when incidental or accessory to the performance of services or the sale of goods to the public on the premises.

F. All premises shall be furnished with all-weather hard surface walks of a material such as bituminous or portland cement concrete, wood, tile, terrazzo or similar material, and, except for parking spaces, the grounds shall be planted and landscaped.

G. Where the property lines separate a Business District from a residentially used property, or portion thereof, a visual and mechanical barrier, a minimum of six (6) feet in height shall be provided along the common lot line, which may consist of any of the following:

1. An evergreen hedge used with a chain link fence not less than three (3) feet in height.
2. Masonry wall.
3. Other materials and methods as approved by the Board of Zoning Appeals.

SECTION 1803

REQUIRED CONDITIONS (continued)

H. No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provision of Article 44 of this resolution.

I. No emission of toxic or noxious matter, which is injurious to human health, comfort or enjoyment of life and property or to animal or plant life shall be permitted. Where such emissions could be produced as a result of accident or equipment malfunction, adequate safeguards considered suitable for safe operation in the business involved shall be taken.

J. The emission of smoke or other air pollutants shall not violate the standards and regulations of the Montgomery County Combined Health District. Dust and other types of air pollution borne by the wind shall be kept to a minimum by appropriate landscaping, paving, or other acceptable means.

K. There will be no emission of odors or odor-causing substances which can be detected without the use of instruments at or beyond the lot lines.

L. There will be no vibrations which can be detected without the use of instruments at or beyond the lot lines.

M. Prohibited is the open storage of (but not limited to): junk, refuse, miscellaneous discarded items inoperative items, inoperative or unlicensed motor vehicles and recreational equipment, auto parts and accessories, or inoperative appliances.

N. Maximum size of any building shall be 7,000 square feet.

O. Exterior lighting shall be shaded and full cutoff fixtures used wherever necessary to avoid casting direct light upon any property zoned or used for residential purposes.

Failure to comply with any of the Required Conditions by property owners or users will be considered a zoning violation appropriate for prosecution under the terms of this Resolution.

SECTION 1804 DEVELOPMENT STANDARDS

In addition to the provisions of Chapters VIII and IX, General Regulations and Special Regulations, the following standards for arrangement and development of land and buildings are required in the "B-1" Neighborhood Business District.

1804.01 HEIGHT REGULATIONS

No structure shall exceed twenty-five (25) feet or two (2) stories, whichever is the greater.

1804.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirement shall be observed:

Lot Area	Lot Frontage	Front Yard Depth*	Side Yard Least Width	Rear Yard Depth
20,000 Sq. Ft.	100 Ft.	50 Ft.	15 Ft.	50 Ft.

1804.03 MAXIMUM LOT COVERAGE

Thirty (30) percent of lot area.

1804.04 MAXIMUM FLOOR AREA RATIO

0.35

* The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan for Montgomery County.

Effective April 19, 2002

ARTICLE 19 - "B-2" - GENERAL BUSINESS DISTRICT

PREAMBLE

This district has been established to provide for retail and service establishments serving the needs of a larger consumer population than served by the "B-1" District. This District also provides for commercial and recreational activities.

SECTION 1901 PRINCIPAL PERMITTED USES

Any commercial retail sales or service activity, such as those enumerated below as examples, which fulfills all the requirements of the other sections of this Article.

1. Agriculture implement sales and services
2. Antiques
3. Appliance sales and services
4. Art and school supplies
5. Automobile accessories (see note #1)
6. Automobile washing (see note #1)
7. Bakeries, retail
8. Barber and beauty schools
9. Barber and beauty shops
10. Bicycle sales, rental and repair
11. Blue printing, photo copying, and photo finishing
12. Book stores and card shops
13. Bowling alleys (see note #1)
14. Bridal consultants
15. Computer sales and service
16. Cameras - photo supplies
17. Candy and confectionery
18. Carpet and floor covering
19. Catering services (see note #1)
20. China, glassware
21. Cigarettes, cigars, tobacco
22. Community centers
23. Costume rental

SECTION 1901**PRINCIPAL PERMITTED USES (continued)**

24. Dairy products - retail
25. Dancing schools (see note #1)
26. Delicatessen
27. Draperies
28. Dressmaking, seamstress
29. Driver training schools
30. Drug stores
31. Dry cleaning and laundromats (self-service)
32. Dry cleaning and laundry pick-up stations, including package dry cleaning plants (see note #1)
33. Exterminating services
34. Fabric stores
35. Farm supply stores
36. Florists
37. Furniture and home furnishings (see note #1)
38. Furniture and upholstery repair
39. Gift shops
40. Government facilities
41. Hardware
42. Heating, air conditioning, electrical and plumbing supplies, service and repair (see note #1)
43. Hobby shops
44. Interior decorating shops
45. Indoor recreation and sports facilities, excluding any adult entertainment (wholly enclosed places of recreation not heretofore appearing as a permitted use) (see note #1)
46. Lawn mower sales, service and repair (see note #1)
47. Leather goods, luggage
48. Locksmiths
49. Mail order catalog stores
50. Music, musical instruments, music schools (see note #1)
51. Offices
52. Office furniture and supplies
53. Optical goods
54. Paint, glass and wallpaper
55. Party supplies
56. Pet sales and supplies
57. Photo studios
58. Electronics sales and service (see note #1)
59. Restaurants (see note #1)
60. Shoe repair

SECTION 1901

PRINCIPAL PERMITTED USES (continued)

- 61. Specialty food stores
- 62. Sporting goods
- 63. Tailor shops
- 64. Taxidermists
- 65. Tent and awning sales and service
- 66. Travel bureaus and ticket offices
- 67. Watch, clock and jewelry sales and service
- 68. Wig shops
- 69. Window cleaning services

NOTE #1: Building or structure must be located two hundred (200) feet or more from land zoned or used for residential purposes.

SECTION 1902

ACCESSORY USES

- A. Accessory uses, buildings or other structures customarily incidental to any of the foregoing permitted uses.
- B. Signs as regulated by Article 41 of this Resolution.
- C. Temporary buildings or structures for uses incidental to construction work, which buildings or structures shall be removed upon the completion or abandonment of the construction work.

SECTION 1903

CONDITIONAL USES

The following uses and their customary accessory buildings, structures or uses, subject to approval by the Board of Zoning Appeals, as set forth in Article 4 of this Resolution.

- A. Auction house
- B. Automobile service stations—provided all activities, except refueling, shall be conducted within a completely enclosed building and providing further that service station is located adjacent to an arterial street. (See note #1)
- C. Automobile rental and lease
- D. Automobile repair garages

SECTION 1903

CONDITIONAL USES (continued)

E. Automobile and truck sales, new and used (elevated stands used for the display of an automobile or truck shall be prohibited).

F. Boat and marine equipment sales, rental and service.

G. Department stores (see note #1).

H. Eating places (drive-in).

I. Equipment rental services (not including auto, truck & trailers) (see note #1).

J. Funeral homes.

K. Garden stores, garden centers, greenhouses and nurseries.

L. Government facilities

M. Motorcycle sales and service.

N. Outdoor recreation (non-enclosed places of recreation or amusement not heretofore appearing as a permitted use).

O. Service clubs (see note #1)

P. Theaters (see note #1)

Q. Utility trailer sales and rentals.

Note #1: Building or structure must be located two hundred (200) feet or more from land zoned or used for residential purposes.

SECTION 1904

DEVELOPMENT STANDARDS

In addition to the provisions of General Regulations, the following standard for arrangement and development of land and buildings are required in the "B-2" General Business District.

SECTION 1904 DEVELOPMENT STANDARDS (continued)

A. HEIGHT REGULATIONS

No building or structure shall exceed forty (40) feet or four (4) stories in height.

B. LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall be observed:

Lot Area - None

Lot Frontage - None

*Front Yard Depth - 60 feet

1. Side Yard:

None, when the side lot adjoins another lot in a "B" District. Forty (40) feet when the side lot line adjoins a lot in an "RA" or "RT" District. When a side lot line adjoins a lot in any "R" District, then equal to the required depth of the rear yard in said adjoining "R" District.

2. Rear Yard:

None, when the rear lot line adjoins another lot in a "B" District. Forty (40) feet when the rear lot line adjoins a lot in an "RA" or "RT" District. When rear lot line adjoins a lot in any "R": District, then equal to the required depth of rear yard in said adjoining "R" District.

The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan for Montgomery County.

SECTION 1905 REQUIRED CONDITIONS

No zoning certificate shall be issued for a "B-2" District use until the applicant shall have certified to the Zoning Administrator that:

A. The business activity will be conducted wholly within a completely enclosed building or structure, unless otherwise approved by the Board of Zoning Appeals.

*The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan for Montgomery County.

B. The business establishment shall not directly offer goods, services, food, beverages or make sales to customers in automobiles, except for drive-through windows which will be provided with adequate driveway space on the premises for waiting vehicles.

C. No manufacturing, processing, packaging, repair or treatment of goods, shall be carried on, except when incidental or accessory to the performance of services or the sale of goods to the public on the premises.

D. Exterior lighting shall be shaded and full cutoff fixtures used wherever necessary to avoid casting direct light upon any property zoned or used for residential purposes, or upon any public street.

E. All premises shall be furnished with all-weather hard surface walks of a material such as bituminous or portland cement concrete, wood, tile, terrazzo or similar material, and except for parking areas, the grounds shall be planted and landscaped.

F. Where the property lines separate a Business District from land zoned or used for residential purposes and the business activity is being conducted at fifty (50) feet or less distance from the residential property line, a visual and mechanical barrier, a minimum of four (4) feet and a maximum of eight (8) feet in height shall be provided and maintained by the business concern along the common lot line if requested by one of the property owners or lessees. This request may be made in writing to the Zoning Administrator within a twelve (12) month period after the establishment of or the intensification of the business activity. The visual and mechanical barrier may consist of any of the following:

1. An evergreen hedge or dense planting of evergreen shrubs at least four (4) feet thick and maintained in good condition. Until the density shall be sufficient to prevent children and adults from passing through, the Board of Zoning Appeals may require wire fencing or other types of protection as a temporary measure.
2. A masonry wall.
3. Other materials and methods as approved by the Board of Zoning Appeals.

G. Off-street parking and loading and/or unloading shall be provided in accordance with Article 43 of this Resolution.

SECTION 1905

REQUIRED CONDITIONS (continued)

H. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed container which must be screened from surrounding properties as per General Regulations.

I. No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provisions of Article 44 of this Resolution.

J. No emission of toxic or noxious matter which is injurious to human health, comfort or enjoyment of life and property to animal or plant shall be permitted. Where such emissions could be produced as a result of accident or equipment malfunction, adequate safeguards considered suitable for safe operation in the business involved shall be taken.

K. The emission of smoke or other air pollutants shall not violate the standards and regulations of the Montgomery County Combined General Health District. Dust and other types of air pollution borne by the wind shall be kept to a minimum by appropriate landscaping, paving, or other acceptable means.

L. There will be no emission of odors or odor causing substances which can be detected without the use of instruments at or beyond the lot lines.

M. There will be no vibrations which can be detected without the use of instruments at or beyond the lot lines.

N. Maximum size of any building shall be fifty thousand (50,000) sq. ft., including multi-unit buildings.

O. Minimum distance between two buildings shall be as follows:

<u>Combined Sq. Ft.</u>	<u>Distance</u>
0 - 24,999	10 ft.
25,000 - 49,999	25 ft.
50,000 - 74,999	50 ft.
75,000 - 100,000	75 ft.

SECTION 1905

REQUIRED CONDITIONS (continued)

P. A minimum of sixty-five percent (65%) of each side of the exterior of the building shall be full-sized standard brick, decorative masonry unit, or stone, excluding windows and doors. The remaining thirty-five percent (35%) of the exterior finish materials shall not be concrete block. Brick or stone must be earth tone and not painted material. Samples of materials shall be submitted for approval. *(Note: Under the Planned Development District, other building materials and colors may be submitted for consideration providing they are architecturally compatible with the surrounding neighborhood).*

Q. Mechanical equipment, transformers, and other utility hardware shall be screened from public view with materials harmonious with the building or landscaping.

R. Dumpster, trash, and recycling receptacles must be enclosed by brick, decorative masonry unit, or stone on three (3) sides and of a color harmonious with the building. Dumpsters shall be located to the side or behind the building.

S. Green space shall be a minimum of twenty percent (20%) of the land area and shall not be used or occupied by permanent building, structures, or parking. A minimum of one-half of the required green space shall be located within the parking area, excluding dumpsters, signs and sidewalks.

T. Earth tone base and accent colors shall be used.

SECTION 1906

SIGN REQUIREMENTS

The following standards are in addition to the requirements of Article 41 of this Resolution, Sign and Billboard Regulations. Where there are conflicting regulations, the most restrictive shall apply:

A. Signs shall be an integral design component of the building architecture, building materials, landscaping and overall site development.

1. Attached signs shall be integrated with the primary physical features of the building and should not be incongruous to the building architecture.

a. Internally illuminated cabinet signs shall provide opaque backgrounds so that only the sign copy is illuminated, except where the background is colored to mute the amount of illumination or where the background is integral to the design of a corporate image or trademark.

b. Attachment devices that are visible shall be the same color as the surface upon which they are placed.

2. Detached Signs: Freestanding signs shall, where feasible, incorporate design features associated with the buildings or structures and should constitute an architectural component of the overall development.

a. Sign structures shall be monument style with a base of stone or masonry construction with appropriate landscaping.

b. Exterior materials, finishes, and colors shall be in harmony with or an upgrade to those of the buildings or structures on site.

c. Internally illuminated signs shall provide an opaque background so that the sign copy is illuminated, except where the background is colored to mute the amount of illumination, or where the background is integral to the design of a corporate image or trademark.

Effective April 19, 2002

ARTICLE 20 - "B-3" HIGHWAY BUSINESS DISTRICT

PREAMBLE

The Highway Business District as herein established is intended to provide for servicing the needs of automobile highway traffic at the interchange areas on feeder roads. The avoidance of undue congestion along feeder roads, the promotion of smooth traffic flow at the interchange area and on the expressway, and the protection of adjacent properties in adjacent districts from adverse influences of traffic are prime considerations in the application of this district.

SECTION 2001 PRINCIPAL PERMITTED USES

- A. Automobile service stations.
- B. Retail establishments to service the needs of the highway traveler including such facilities as: drugstores, gift shops, restaurants.
- C. Motels, hotels, and transient lodging facilities.
- D. Other uses similar to the above.

SECTION 2002 CONDITIONAL USES

- A. Other uses similar to those listed in Principal Permitted Uses with the approval of the Board of Zoning Appeals.

SECTION 2003 ACCESSORY USES

- A. Accessory uses, buildings or other structures customarily incidental to any of the foregoing permitted uses.
- B. Signs as regulated by Article 41 of this Resolution.
- C. Temporary buildings or structures for uses incidental to construction work, which buildings or structures shall be removed upon the completion or abandonment of the construction work.

SECTION 2004 DEVELOPMENT STANDARDS

In addition to the provision of Chapters VIII and IX, General Regulations and Special Regulations, the following standards for arrangements and development of land and building are required in the "B-3" Highway Business District.

2004.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet or four (4) stories.

2004.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirement shall be observed:

Lot Area	None
Lot Frontage	None
*Front Yard Depth	35 Ft.

1. Side Yard: None, except when adjacent to Residential or Planned Residential District. In such case the side yard shall be not less than one-fourth (1/4) of the sum of the height and depth of the structure, but in any event not less than fifteen (15) feet.

2. Rear Yard: A rear yard shall be required adjacent to a Residential Zoning District or a Planned Residential District. Such rear yard shall not be less than one-fourth (1/4) of the sum of the height and width of the structure, but in no case shall be less than twenty (20) feet deep.

If a use is to be serviced from the rear, a yard shall be provided not less than forty (40) feet deep.

2004.03 MAXIMUM LOT COVERAGE

Fifty (50) percent of lot area.

2004.04 MAXIMUM FLOOR AREA RATIO

.50

* The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan for Montgomery County.

SECTION 2005

REQUIRED CONDITIONS

No zoning certificate shall be issued for a "B-3" District use until the applicant shall have certified to the Zoning Administrator that:

A. All development shall be physically separated from the public road by a curb and planting strip or other suitable barrier. Such barrier shall effectively eliminate unchanneled vehicle ingress and egress except for authorized access ways.

B. Each separate use, grouping of buildings or grouping of uses as part of a single development shall not have more than two (2) access ways from a public road. Such access ways shall not be located closer than three hundred (300) feet to the point of intersection of an entrance or exit ramp and the public road.

C. No open storage of (but not limited to): junk, refuse, miscellaneous discarded items, inoperative items, inoperative or unlicensed motor vehicles and recreational equipment, auto parts and accessories, or inoperative appliances.

D. A minimum of sixty-five percent (65%) of each side of the exterior of the building shall be full-sized standard brick or stone, excluding windows and doors. The remaining thirty-five percent (35%) of the exterior finish materials shall not be concrete block. Brick or stone must be earth tone and not painted material. Samples of materials shall be submitted for approval.

E. Mechanical equipment, transformers, and other utility hardware shall be screened from public view with materials harmonious with the building or landscaping.

F. Dumpster and trash receptacles must be enclosed by brick or stone on three (3) sides and of a color harmonious with the building. Dumpsters shall be located to the side or behind the building.

G. Green space shall be a minimum of twenty percent (20%) of the land area and shall not be used or occupied by permanent building, structures, or parking. A minimum of one-half of the required green space shall be located within the parking area.

H. Where the property lines separate a Business District from a Residential District and the business activity is being conducted at fifty (50) feet or less distance from the residential property line, a visual and mechanical barrier, a minimum of four (4) feet and a maximum of eight (8) feet in height shall be provided and maintained by the business concern along the common lot line if requested by one of the property owners or lessees. This request may be made in writing to the Zoning Administrator within a twelve (12) month period after the establishment of or the intensification of the business activity. The visual and mechanical barrier may consist of any of the following:

1. An evergreen hedge or dense planting of evergreen shrubs at least four (4) feet thick and maintained in good condition. Until the density shall be sufficient to prevent children and adults from passing through, the Board of Zoning Appeals may require wire fencing or other types of protection as a temporary measure.
2. A masonry wall.
3. Other materials and methods as approved by the Board of Zoning Appeals.

ARTICLE 21 -"OBLI" - OFFICE, BUSINESS, LIGHT INDUSTRIAL DISTRICT

PREAMBLE

This district is intended to provide for a mix of industrial, commercial, and office uses having a minimum impact upon the surrounding environment. The uses allowed are intended to enhance employment opportunities in the industrial, manufacturing, and trade sectors with supporting business and professional office functions. Retail uses are appropriate on a limited basis, and only as a secondary use within the district. This district is also intended to provide appropriate zoning requirements for land recommended for Office/Business/Light Industrial uses in the Township's Comprehensive Plan.

SECTION 2101 PRINCIPAL PERMITTED USES

A. Research and Development: uses which involve either some degree of product creation, testing, evaluation and development or the providing of testing and evaluation services for products produced by others. However, this use does not include the actual manufacture, assembly, fabrication or other processing techniques which result in either the distribution or sale, either wholesale or retail, of products from the premises.

B. Assembly of mechanical and/or component parts.

C. Machine shops and tool and die shops.

D. Printing and publishing.

E. Manufacturing, assembling or repairing of electrical and electronic products, components and equipment.

F. Radio and television broadcasting studios.

G. Publicly owned buildings and facilities.

H. Financial institutions.

I. Manufacturing or assembling of the following:

SECTION 2101

PRINCIPAL PERMITTED USES (continued)

1. Medical, dental, optical and similar precision instruments.
2. Musical instruments.
3. Orthopedic or medical appliances.
4. Toys
5. Watches, clocks and clock operated devices.
6. Small home appliances.

J. Land development services (e.g., surveying, soils testing, mapping, architecture, engineers).

K. Sales and repair of office equipment.

L. Limousine service.

M. Business and professional offices, including but not limited to finance, insurance, real estate, accounting and bookkeeping services, advertising services, photographic studios, computer and data processing services, correspondence and vocational schools, legal services, travel agencies, corporate offices and medical and dental offices.

N. Retail trade. Retail uses as a secondary use within any one building that has as its primary occupant an office, industrial or service use, but only to the extent that the floor area for all retail uses shall not exceed twenty-five percent (25%) of the floor area of the total building. Although the intent of the zoning district is to allow retailing of items manufactured, fabricated or wholesaled on-site, additional retail uses may be allowed. Such additional uses may include, but are not limited to:

1. Apparel and accessory stores.
2. Bakeries.
3. Camera and photographic equipment and supplies.
4. Hobbies, games, toys.
5. Jewelry, gifts and novelties.
6. Luggage and leather goods.
7. Mail order houses.
8. Electronics.
9. Seasonal holiday items.
10. Sporting goods.

O. Labor union meeting halls.

SECTION 2102 ACCESSORY USES

Permitted accessory uses are as follows:

- A. Accessory buildings, as regulated by Article 37 of this Resolution.
- B. Any use or structure customarily accessory and incidental to any of the permitted uses, as regulated by Article 37 of this Resolution.
- C. Signs as regulated by Article 41 of this Resolution.

SECTION 2103 CONDITIONALLY PERMITTED USES

The following conditional uses are subject to approval in accordance with Article 4, Section 406 of this Resolution.

- A. Day care/nurseries.
- B. Self-service storage facilities.
- C. Contractor and trade services (e.g., general contractor, electrician, plumbers, heating and air-conditioning, landscape services, exterminators, equipment tool rental).
- D. Building materials sales and lumber yards.
- E. Hotels and motels.
- F. Warehouses which have a maximum lot coverage of seventy-five percent (75%) and a maximum floor area ratio of 0.75.
- G. Wholesale houses and storage facilities.
- H. Buildings of over fifty thousand (50,000) sq. ft., but not exceeding seventy five thousand (75,000) sq. ft.

SECTION 2104 REQUIRED CONDITIONS

No zoning certificate shall be issued for an "B-4" District use until the applicant shall have certified to the Zoning Administrator that:

- A. The industrial activity will be conducted wholly within a completely enclosed building.
- B. No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provisions of Article 44 of this Resolution.

SECTION 2104

REQUIRED CONDITIONS (continued)

C. No emission of toxic or noxious matter, which is injurious to human health, comfort or enjoyment of life and property or to animal or plant life shall be permitted. Where such emissions could be produced as a result of accident or equipment malfunction, adequate safeguards considered suitable for safe operation in the industry involved shall be taken.

D. The emission of smoke or other air pollutants shall not violate the standards and regulations of the Montgomery County Combined General Health District. Dust and other types of air pollution borne by the wind shall be kept to a minimum by appropriate landscaping, paving, oiling or other acceptable means.

E. There will be no emission of odors or odor-causing substances which can be detected without the use of instruments at or beyond the lot lines.

F. There will be no vibrations which can be detected without the use of instruments at or beyond the lot lines.

G. Off-street parking and loading and/or unloading shall be provided in accordance with Article 43 of this Resolution.

H. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed container.

I. Exterior lighting shall be shaded and full cut-off fixtures used wherever necessary to avoid casting direct light upon property located in a Residential District or upon any public street.

J. No building or structure shall be used for residential purposes on the premises.

K. No raw materials shall be processed into any of the following basic products: metals of any kind, glass, plastic, textiles, leather or paper.

L. All premises shall be furnished with all weather hard surface walks of a material such as bituminous or portland cement concrete, wood, tile, terrazzo or similar material, and except for parking areas, the grounds shall be planted and landscaped.

SECTION 2104

REQUIRED CONDITIONS (continued)

M. The handling of radioactive materials, the discharge of such materials into the air and water, and the disposal of radioactive wastes shall be in strict conformance with:

1. The applicable regulations of the Nuclear Regulatory Commission.
2. The applicable regulations of any instrumentality of the State of Ohio.

2104.01 MINIMUM AREA REQUIREMENTS

The minimum area requirements for the "B-4" District is five (5) acres.

2104.02 MINIMUM LOT AREA AND WIDTH

There shall be no minimum lot area for properties in the "B-4" District with a width of not less than one hundred (100) feet.

2104.03 MINIMUM FRONT YARD SETBACK

The minimum front yard setback for properties in the "B-4" District shall be fifty (50) feet.

2104.04 MINIMUM SIDE YARD SETBACK

The minimum side yard setback for properties in the "B-4" District shall not be less than the height of the principal building except when abutting residential uses, then the minimum side yard setback shall be fifty (50) feet.

2104.05 MINIMUM REAR YARD SETBACK

The minimum rear yard setback for properties in the "B-4" District shall not be less than the height of the principal building except when abutting residential uses, then the minimum rear yard setback shall be fifty (50) feet.

2104.06 MAXIMUM HEIGHT REGULATIONS

The maximum height regulations for properties in the "B-4" District shall be as follows:

- A. No principal structure shall exceed forty (40) feet in height.
- B. No accessory structure shall exceed sixteen (16) feet in height, but in no case shall it exceed the height of the principal structure.

SECTION 2105 OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be required as specified in Article 43 of this Resolution, Off-Street Parking and Loading.

SECTION 2106 BUILDING DESIGN REQUIREMENTS

A. Maximum size of any building shall be fifty thousand (50,000) square feet. For buildings over 50,000 sq. ft., refer to Section 2103 (H).

B. Minimum distance between buildings shall be seventy-five (75) feet if the gross square footage of any one building is fifty thousand (50,000) square feet or larger.

C. A minimum of sixty-five percent (65%) of each side of the exterior of the building shall be full-sized standard brick or stone, excluding windows and doors. The remaining thirty-five percent (35%) of the exterior finish materials shall not be concrete block. Brick or stone must be earth tone and not painted material. Samples of materials shall be submitted for approval. Other building materials and colors may be submitted for consideration providing they are architecturally compatible with the surrounding neighborhood.

D. Except when used on flat roofs that are not generally visible, roll roofing, build-up tar and gravel, metal roofing, plastic, or fiberglass, other than fiberglass reinforced asphalt shingles, roofing materials shall be prohibited.

E. Reflective surfaces shall not be used in locations which may produce excessive reflections or glare. Mirrored window glazing is not permitted.

SECTION 2106

BUILDING DESIGN REQUIREMENTS (continued)

F. Mechanical equipment, transformers, and other utility hardware shall be screened from public view with materials harmonious with the building or landscaping.

G. Dumpsters must be enclosed by brick or stone on three sides and must be located to the side or behind the building.

SECTION 2107

SIGN REQUIREMENTS

The following standards are in addition to the requirements of Article 41 of this Resolution, Sign and Billboard Regulations. Where there are conflicting regulations, the most restrictive shall apply:

A. Signs shall be an integral design component of the building architecture, building materials, landscaping and overall site development.

1. Attached signs shall be integrated with the primary physical features of the building and should not be incongruous to the building architecture.

a. Internally illuminated cabinet signs shall provide opaque backgrounds so that only the sign copy is illuminated, except where the background is colored to mute the amount of illumination or where the background is integral to the design of a corporate image or trademark.

b. Attachment devices that are visible shall be the same color as the surface upon which they are placed.

2. Detached Signs: Freestanding signs shall, where feasible, incorporate design features associated with the buildings or structures and should constitute an architectural component of the overall development.

a. Sign structures shall be monument style with a base of stone or masonry construction with appropriate landscaping.

SECTION 2107

SIGN REQUIREMENTS (continued)

b. Exterior materials, finishes, and colors shall be in harmony with or an upgrade to those of the buildings or structures on site.

c. Internally illuminated signs shall provide an opaque background so that the sign copy is illuminated, except where the background is colored to mute the amount of illumination, or where the background is integral to the design of a corporate image or trademark.

SECTION 2108

LANDSCAPING

The following requirements are in addition to the requirements in Article 19 of this Resolution.

A. A minimum of twenty percent (20%) of the net site shall be devoted to landscaping:

B. A minimum of fifty percent (50%) of the required landscaping shall be in the parking area.

C. Where the property lines separate a Business District from a Residential District and the business activity is being conducted at fifty (50) feet or less distance from the residential property line, a visual and mechanical barrier, a minimum of four (4) feet and a maximum of eight (8) feet in height shall be provided and maintained by the business concern along the common lot line if requested by one of the property owners or lessees. This request may be made in writing to the Zoning Administrator within a twelve (12) month period after the establishment of or the intensification of the business activity. The visual and mechanical barrier may consist of any of the following:

1. An evergreen hedge or dense planting of evergreen shrubs at least four (4) feet thick and maintained in good condition. Until the density shall be sufficient to prevent children and adults from passing through, the Board of Zoning Appeals may require wire fencing or other types of protection as a temporary measure.

2. A masonry wall.

3. Other materials and methods as approved by the Board of Zoning Appeals.

ARTICLES 20, 21 AND 22

FOR FUTURE EXPANSION

CHAPTER V

INDUSTRIAL DISTRICT REGULATIONS

Effective June 5, 2008

ARTICLE 23 - "I-1" - GENERAL INDUSTRIAL DISTRICT

PREAMBLE The intent of this District is to accommodate a broad range of industrial activities diverse in products, operational techniques, and size which have a greater potential impact upon their environment than those permitted in the "B-4" Office, Business, Light Industrial District.

SECTION 2301 PRINCIPAL PERMITTED USES

- A. Professional administrative offices.
- B. Research and development laboratories.
- C. Medical and dental laboratories.
- D. Radio and television broadcasting studios.
- E. Publicly owned buildings and facilities.
- F. Business and industrial sales and service.
- G. Printing establishments.
- H. Electrical supply company.
- I. Bakeries, wholesale.
- J. Manufacturing and assembly facilities.
- K. Machine shops and tool and die shops.
- L. Carpenter and cabinet shops.
- M. Laundries, dry cleaning plants and linen supply companies.
- N. Mail order houses/distribution centers.
- O. Air conditioning, heating, plumbing, roofing shops, and general contracting companies.
- P. Monument sales and finishing.

SECTION 2301 PRINCIPAL PERMITTED USES (continued)

Q. Trade or industrial schools.

R. Labor union meeting halls.

S. Service clubs.

T. Grain elevators, mills, or other facilities for the storage, sorting, or other preliminary processing of agricultural products.

U. Adult Entertainment Establishment. (See Article 49 of this Resolution for additional definitions and regulations pertaining to Adult Entertainment Establishments.)

SECTION 2302 CONDITIONAL USES

The following Conditional Uses may be approved, subject to the conditions hereinafter imposed for each use and subject to review and approval in accordance with Article 4, Section 406 of this Resolution.

A. Truck and motor freight terminals and hauling services.

B. Retail and service uses which have an industrial character in terms of their outdoor storage requirements or activities, such as but not limited to: lumber yards, building materials outlets, boat and trailer sales, automobile and truck sales, and agriculture implement sales.

C. Automobile repair garages, including body shops.

D. Contractors' storage and equipment yards, but excluding salvage materials or debris.

E. Compounding, processing and packaging of chemical products, but not including any materials which decompose by detonation.

F. Junk yards in compliance with Section 4735.05 et seq of the Ohio Revised Code.

G. Storage yards for travel trailers and recreational equipment.

H. Beverage distributors and bottling plants.

SECTION 2302 CONDITIONAL USES (continued)

- I. Indoor shooting ranges.
- J. Warehouses & storage facilities.
- K. Truck repair facilities.
- L. Truck Stops. (See Article 2 - Definitions.)
- M. Buildings of over fifty thousand (50,000) sq. ft., but not exceeding seventy-five thousand (75,000) sq. ft.

SECTION 2303 ACCESSORY USES

- A. Accessory uses, buildings, or other structures customarily incidental to any aforesaid uses.
- B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

SECTION 2304 REQUIRED CONDITIONS

No zoning certificate shall be issued for an "I-1" use until the applicant shall have certified to the Zoning Administrator that:

- A. The industrial activity will be conducted wholly within a completely enclosed building, except for uses approved by the Board of Zoning Appeals as conditional uses.
- B. Noise or vibrations caused by any operation conducted on the premises shall not violate the provisions of Article 44 of this Resolution.
- C. No emission of toxic or noxious matter which is injurious to human health, comfort, or enjoyment of life and property or to animal or plant life shall be permitted. Where such emissions could be produced as a result of accident or equipment, or process malfunction, adequate safeguards considered suitable for safe operation in the industry involved shall be taken.
- D. The emission of smoke or other air pollutants shall not violate the standards and regulations of federal, state, and local agencies. Dust and other types of air pollution borne by the wind shall be kept to a minimum by appropriate landscaping, paving, oiling, or other acceptable means.
- E. There will be no emission of odors or odor-causing substances which can be detected without the use of instruments at or beyond the lot line.

SECTION 2304

REQUIRED CONDITIONS (continued)

F. Where an Industrial District adjoins or faces a Residential District, a visual and mechanical barrier, a minimum of six (6) feet and a maximum of eight (8) feet in height shall be provided and maintained along the adjoining or facing industrial lot line, which may consist of any of the following:

1. An evergreen hedge or dense planting of evergreen shrubs at least four (4) feet thick and maintained in good condition. The density shall be sufficient to prevent children and adults from passing through. Wire fencing or other types of protection may be required or permitted by the Board of Zoning Appeals as a temporary measure. Planting and fences should be arranged to allow good visibility by police officers or security personnel.
2. A wooden fence, complementary in design to the principal structure.
3. A masonry wall.
4. Other materials and methods as approved by the Board of Zoning Appeals.

G. Exterior lighting shall be shaded and full cut-off fixtures used wherever necessary to avoid casting direct light upon residence or any property located in any public street.

H. No raw materials shall be processed into any of the following basic products: metals of any kind, glass, plastics, textiles, leather or paper.

I. All premises shall be furnished with all-weather hard-surface walks, parking areas, and outdoor sales areas, with a dust-free and properly maintained material such as bituminous or portland cement, concrete, wood, tile, terrazzo, or similar material; and except for parking areas, the grounds shall be planted and landscaped.

J. No building or structure shall be used for residential purposes on the premises unless approved by the Board of Zoning Appeals.

K. The storage, utilization, and manufacture of solid, liquid, and gaseous chemicals and other materials shall be permitted, subject to the following conditions:

SECTION 2304

REQUIRED CONDITIONS (continued)

1. The storage, utilization, or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted but only if said materials or products are stored, utilized, or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.

2. All activities involving the use and/or storage and/or disposal of flammable liquids or materials which produce flammable or explosive vapors or gases shall be provided with adequate safety and protective devices against hazards of fire and explosion as well as with adequate fire-fighting and suppression equipment and devices standard to the industry involved. All above-ground storage shall be in enclosed fire-proof vaults.

3. The storage, utilization or manufacture of pyrophoric and explosive powders and dusts and of materials and products which decompose by detonation is prohibited.

4. The manufacture of flammable liquids or materials which produce flammable or explosive vapors or gases is prohibited.

5. The storage and utilization of flammable liquid or of materials that produce flammable or explosive vapors or gases shall be permitted on any lot in accordance with the applicable requirements set forth in the "Ohio Rules and Regulations of the Division of State Fire Marshall for the Manufacture, Storage, Handling, Sale and Transportation of Flammable and Combustible Liquids."

6. All activities involving the use and/or storage, and/or disposal of hazardous waste (as defined in the Resource Conservation and Recovery Act of 1976 as amended) shall be prohibited except for the use or storage of such wastes which are generated on the site by an otherwise acceptable manufacturing or treating process. Such use or storage of hazardous wastes generated on site shall be permitted on that site in accordance with all applicable requirements set forth in local, state, and federal regulations.

L. No industrial operations shall cause intense heat or glare beyond any abutting lot line.

SECTION 2304

REQUIRED CONDITIONS (continued)

M. No discharge at any point into any sewer, sewage disposal system, stream, or into the ground of any materials of such nature or temperature as can

contaminate any water supply, interfere with bacterial processes in sewage treatment, or otherwise cause the emission of dangerous or offensive elements shall be permitted except in accordance with standards approved by applicable state or local governmental agencies having jurisdiction of such activities.

N. The handling of radioactive materials, the discharge of such materials into the air and water, and the disposal of radioactive wastes shall be in strict conformance with:

1. The applicable regulations of the Nuclear Regulatory Commission.
2. The applicable regulations of any instrumentality of the State of Ohio.

Failure to comply with any of the required conditions by property owners or users will be considered a zoning violation appropriate for prosecution under the terms of this Resolution.

SECTION 2305 DEVELOPMENT STANDARDS

In addition to provisions of Chapters VIII and IX, "General Regulations and Special Regulations" of this Resolution, the following standards for arrangement and development of land and buildings are required in the "I-1" General Industrial District.

2305.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height unless approved by the Board of Zoning Appeals.

2305.02 LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

The following minimum requirements shall be observed:

Lot Area	40,000 sq. ft.
Lot Frontage	200 ft.
*Front Yard Depth	60 ft.
Side Yard Least Width	30 ft.
Rear Yard Depth	40 ft.

*The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan for Montgomery County or the existing right-of-way, whichever is greater.

SECTION 2305.03 CENTRAL SEWER AND WATER

The installation of dry sewer and water lines are required if central sewer and water will not be provided within three years of construction.

SECTION 2306 OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be required as specified in Article 43 of this Resolution, “Off-Street Parking and Loading.”

SECTION 2307 BUILDING DESIGN REQUIREMENTS

A. Maximum permitted size of any building shall be fifty thousand (50,000) square feet. For buildings over 50,000 sq. ft., refer to Section 2302 (M).

B. Minimum distance between buildings shall be seventy-five (75) feet if the gross square footage of any one building is fifty thousand (50,000) sq. ft. or larger.

C. A minimum of sixty-five percent (65%) of each side of the exterior of the building shall be full-sized standard brick or stone, excluding windows and doors. The remaining thirty-five percent (35%) of the exterior finish materials shall not be concrete block. Brick or stone must be earth tone and not painted material. Samples of materials shall be submitted for approval. Other building materials and colors may be submitted for consideration providing they are architecturally compatible with the surrounding neighborhood.

D. Except when used on flat roofs that are not generally visible; roll roofing, build-up tar and gravel, metal roofing, plastic, or fiberglass, other than fiberglass reinforced asphalt shingles, roofing materials shall be prohibited.

E. Reflective surfaces shall not be used in locations which may produce excessive reflections or glare.

F. Mechanical equipment, transformers, and other utility hardware shall be screened from public view with materials harmonious with the building or landscaping.

G. Dumpsters must be enclosed by brick or stone on three sides and must be located to the side or behind the building.

SECTION 2308 SIGN REQUIREMENTS

The following standards are in addition to the requirements of Article 41 of this Resolution, “Sign and Billboard Regulations.” Where there are conflicting regulations, the most restrictive shall apply:

A. Signs shall be an integral design component of the building architecture, building materials, landscaping and overall site development.

1. Attached signs shall be integrated with the primary physical features of the building and should not be incongruous to the building architecture.

a. Internally illuminated cabinet signs shall provide opaque backgrounds so that only the sign copy is illuminated, except where the background is colored to mute the amount of illumination or where the background is integral to the design of a corporate image or trademark.

b. Attachment devices that are visible shall be the same color as the surface upon which they are placed.

2. Detached Signs: Freestanding signs shall, where feasible, incorporate design features associated with the buildings or structures and should constitute an architectural component of the overall development.

a. Sign structures shall be monument style with a base of stone or masonry construction with appropriate landscaping.

b. Exterior materials, finishes, and colors shall be in harmony with or an upgrade to those of the buildings or structures on site.

c. Internally illuminated signs shall provide an opaque background so that the sign copy is illuminated, except where the background is colored to mute the amount of illumination, or where the background is integral to the design of a corporate image or trademark.

SECTION 2309 LANDSCAPING

A. A minimum of twenty percent (20%) of the lot area shall be devoted to landscaping.

B. A minimum of fifty percent (50%) of the required landscaping area shall

be in the parking area.

CHAPTER VI

SPECIAL DISTRICT REGULATIONS

ARTICLE 26 - "F" FLOOD PLAIN DISTRICT

PREAMBLE

Certain areas within the unincorporated territory of Clay Township, Montgomery County, Ohio, may be subject to periodic flooding and are not readily usable or suitable for residential, commercial, or industrial uses. This district is subject to the provisions of Article 3903.

SECTION 2601

Principal Permitted Uses

A. Agricultural operations, according to Article 2, Subsection 201.02; but this shall not include or permit the spreading, accumulation, feeding or use of garbage in any manner on the open surface of the ground.

B. Forestry.

C. Wildlife refuge, fish hatchery, or wildlife propagation.

SECTION 2602

Conditional Uses

The following conditional uses are subject to approval in accordance with Article 4, Section 406.

Before taking action on such request, the Board shall secure a written recommendation from the Montgomery County Soil & Water conservation District regarding the advisability and approval of the request and setting the necessary standards and conditions for the proper operation of the proposed use.

A. Public and private park recreation areas, including parks, playgrounds, picnic grounds, golf course, fishing lakes, boat docks (private and commercial), and the leasing of fishing and recreational equipment and sale of bait.

B. Riding stables, provided that any buildings in which such animals are housed shall be at least five hundred (500) feet distant from any lot or tract in any Residential District.

ARTICLE 27 - "NR" NATURAL RESOURCES DISTRICT

PREAMBLE

The "NR" Natural Resources District is designated with the recognition that the sand and gravel deposits within the Township's land area are unrenovable material resources necessary and beneficial to the economy of the Township and the regional area about it and the welfare of its citizens. To provide for the utilization of this resource in a manner compatible with nearby Residential Districts and to insure complete restoration of the sand and gravel areas ready for another land use at the conclusion of excavation and treatment, this Natural Resources District is hereby established. This District is subject to the provisions of Article 3903.

SECTION 2701

PRINCIPAL PERMITTED USE

- A. Extraction of sand and gravel.
- B. Processing of sand and gravel.
- C. Mining of deposits of limestone or other similar material.

SECTION 2702

CONDITIONAL REQUIREMENTS

No zoning certificate shall be issued for a "NR" use until the applicant shall have certified to the Zoning Administrator that he meets the following requirements of this and subsequent sections of Article 27.

The removal of sand, gravel, limestone, or similar materials by excavation, stripping, mining, or otherwise taking and including on-site operations appurtenant to the taking, including washing, grading, sorting, grinding operations, shall be carried on within the limits of the "NR" district. All extraction from new pits begun subsequent to the effective date of this Resolution shall be washed, graded, and further processed and/or stored within the limits of the "NR" District. No material resource extracted outside the limits of this District shall be brought in for washing, grading, or further processing except in the event of a public emergency as declared by the Township Board of Trustees, requiring the use of said natural resources. Resource-related industries including but not limited to concrete batching plants and asphalt mixing plants shall not be permitted as a part of this Natural Resource District.

SECTION 2703

APPLICATION, REVIEW, AND PERMIT RENEWAL
PROCEDURE

A. Filing of Petition.

Petitions for the granting of permits for natural resources operations shall be filed with the Zoning Inspector by the owners and lease holders, if any, of the land proposed for natural resources development. Two (2) copies of the petition shall be submitted, full supplemented by data, maps, and aerial photographs specified and shall be accompanied by a fee as established by resolution of the Township Trustees. A permit for such use shall be issued for a one (1) year period by the Trustees after recommendation by the Township Zoning Commission. Unless the owner of the petition ignores and/or violates the restoration plan, the permit is automatically renewable for one (1) year periods. Petitions shall be accompanied by the following:

1. Name of the owner or owners of land from which removal is to be made.
2. Name of the applicant making request for such a permit.
3. Name of the person or corporation conducting the actual mining operations.
4. Vertical aerial photograph, showing site, contiguous land, and accessible public roads. (One inch equals two hundred [200] feet.)
5. Location, description, and size of the area from which the removal is to be made (one inch equals two hundred [200] feet), drawn by a registered engineer or land surveyor.
6. Location of the processing plant to be used and any accessory or kindred operations that may be utilized in connection with the operation of the processing plant by the mining processor or any other firm, person, or corporation. The processing plant shall be located as to minimize the problems of dust, dirt, and noise, insofar as reasonably possible.
7. A detailed plan and timetable of the type of resources or materials to be removed.
8. Proposed method of removal and whether or not blasting or other use of explosives will be required.

SECTION 2703

**APPLICATION, REVIEW, AND PERMIT RENEWAL
PROCEDURE (continued)**

9. General description of the equipment to be used.
10. Method of rehabilitation and reclamation of the mined-out area, including a grading plan showing existing contours in the area to be excavated and the proposed future contours showing the topography of the area after completion. Such plan shall include the surrounding area within five hundred (500) feet of the property boundary line, drawn to an appropriate scale with contour lines at intervals of five (5) feet or less.
11. Report by a qualified soil scientist, soil engineer, or geologist regarding the effect the proposed operation will have upon the watershed of the area, with particular attention being devoted to the water table, and, if water bodies are to be created, the anticipated permanence of such.

SECTION 2704

DEVELOPMENT STANDARDS

- A. Excavation, washing, and stockpiling of extracted material shall not be carried on closer than fifty (50) feet to any property line or such greater distance as specified by the Board where such is deemed necessary for the protection of adjacent property, except that this distance requirement may be reduced by the written consent of the owner or owners of abutting property; but, in any such event, adequate lateral support shall be provided for said abutting property.
- B. In the event that the site of the mining operation is adjacent to the right-of-way of any public street or road or adjacent residentially zoned districts, no part of such operation shall take place closer than one hundred fifty (150) feet to the nearest line of such right-of-way or residential district, except as may otherwise be provided by Chapter 4153.11 of the Revised Code of the State of Ohio.
- C. Any excavated area adjacent to the right-of-way of any public street or road shall be backfilled for a distance of one hundred fifty (150) feet from the right-of-way line.
- D. Each tract of land for natural resources development shall have a minimum frontage on a major or secondary thoroughfare of at least two hundred (200) feet, which shall provide the only approved access to the property, except that the Township Trustees may approve the following:

SECTION 2704

DEVELOPMENT STANDARDS (continued)

1. A lesser frontage, if written consent of owner in fee of adjacent property is first secured.
2. If tract has no frontage but is fronted by a natural resource operation properly zoned and if written permission for access to major secondary thoroughfare is first secured from owner in fee and leaseholder, if any.

E. Fencing or other suitable barrier, including the planting of suitable plants, shall be erected and maintained around the entire site or portions thereof where, in the opinion of protection of the public safety and shall be of a type specified by the Trustees.

F. All equipment and machinery shall be operated and maintained in such manner as to minimize dust, noise, and vibration. Access roads shall be maintained in a dust-free condition by surfacing or other treatment as may be specified by the Trustees.

G. Quarrying shall not be carried out closer than three hundred (300) feet to any adjoining property line unless the written consent of such adjoining property owner has first been obtained.

H. Operation shall take place during daylight hours only.

SECTION 2705

REHABILITATION REQUIREMENTS

All mined-out areas shall, within a reasonable length of time, be reclaimed and rehabilitated; and the Trustees, at their discretion, may fix a bond in a reasonable amount to assure that such rehabilitation and reclamation will be carried out. The Trustees shall be guided by the following standards with respect to rehabilitation and reclamation of mined-out areas:

A. All excavation shall be made either to a water-producing depth, such depth to be not less than five (5) feet below the water mark, or shall be graded or backfilled with non-noxious, non-combustible, and non-inflammable solids to secure:

1. That the excavated area shall not collect and permit to remain therein stagnant water; or

REHABILITATION REQUIREMENTS (continued)

2. That the surface or such area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions thereof so as to produce a gently rolling surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.
- B. The banks of all sand and gravel excavations in a water-producing excavation and to the pit bottom in a dry operation shall be sloped to the water line, at a slope which will not be less than three (3) feet horizontal to one (1) foot vertical; and said banks shall be restored with vegetation in a manner set forth in Paragraph C.
- C. Vegetation shall be restored by the spreading of sufficient soil and by appropriate seeding of grasses or planting of shrubs and trees in all parts of said mining area where the same is not submerged under water.
- D. Proper drainage shall be provided for the mined-out area.
- E. All equipment and structures shall be removed from the mined-out area within six (6) months of the completion of the mining therefrom.
- F. The Trustees may impose such other reasonable conditions and restrictions as they may deem necessary for the protection of the public and to encourage the mining and processing of the sand and gravel from the authorized area.
- G. Due to the inherent difficulties in reclaiming and rehabilitating areas from which stone has been quarried, the Trustees are hereby empowered to impose such reasonable standards for reclamation as may be necessary to protect the public interest without unduly restricting the operation of the mine owner.

ARTICLES 28, 29 AND 30

FOR FUTURE EXPANSION

CHAPTER VII

PLANNED DEVELOPMENT

ARTICLE 31 - PLANNED DEVELOPMENT

SECTION 3101 PURPOSE

This article is intended to permit the creation of Planned Development Districts in accordance with Section 519.021 of the Ohio Revised Code. Such districts are for the purpose of conserving land through more efficient allocation of private lots, multi-family dwelling units, common grounds, non-residential uses, greater efficiency in providing public and utility services, and securing benefits from new techniques in community development and renewal. Such regulations need not be uniform, but may vary in order to promote public health, safety, and morals.

SECTION 3102 TYPES OF PLANNED DEVELOPMENT AND PERMITTED USES

A. "PD-1" Planned Residential District

1. Residential and/or recreational uses developed in a unified manner in accordance with the approved development plan.
2. Mobile Home parks as per Section 3111.

B. "PD-2" Planned Office District

1. Office establishments developed, operated and maintained within an organized development of associated office activities in accordance with the approved development plan.

C. "PD-3" Planned Business District

1. Retail and service establishments developed, operated and maintained within an organized development of associated activities in accordance with the approved development plan.

D. "PD-4" Planned Industrial District

1. Manufacturing, processing, warehousing, and industrial service activities developed, operated, and maintained within an organized development of associated activities in accordance with the approved development plan.
2. Uses permitted in Paragraph B and C of this Section.

SECTION 3103 DEVELOPMENT STANDARDS

In addition to the provisions of Chapters VIII and IX, General Regulations and Special Regulations, the development plan must comply with the following requirements unless specifically waived by the Board of Township Trustees with the recommendation of the Zoning Commission.

3103.01 AREA REQUIREMENTS

No minimum land area shall be required.

3103.02 LAND USE INTENSITY

For Planned Residential District, other than single family detached developments having overall density of less than four (4) dwelling units per acre, the maximum density shall not exceed eight (8) dwelling units or trailers per acre.

3103.03 LAND COVERED BY BUILDINGS

The total ground floor area of all buildings in the Office, Business, and Industrial District shall not exceed sixty percent (60%) of the tract, provided, however, that underground parking structures, the highest portions of which are not more than thirty (30) inches above the level of the centerline of the nearest adjacent street, shall not be included in computing the area of land covered by buildings.

3103.04 PLANNING REQUIREMENTS

A. The physical character of the site shall be suitable for development in the manner proposed, without hazards to persons or property on or off the site from possible flooding, erosion, subsidence, or other dangers, annoyances, or inconveniences.

B. The site shall have direct access to a major street and not generate traffic on minor residential streets outside the district. This requirement does not apply to single family detached residential developments having an overall density of four (4) dwelling units per acre or less.

C. Utilities and public facilities shall be developed at no cost to the public.

D. The development shall provide for efficient, safe, convenient, and harmonious grouping of structures, uses, and facilities.

SECTION 3103.04 PLANNING REQUIREMENTS (continued)

E. There shall be an appropriate relationship of space inside the outside buildings to intended uses and structural features.

F. Provisions shall be made at points on ingress, egress, and within the district to insure a free and safe flow of vehicular and pedestrian traffic.

G. Common open space required.

H. Off street parking for more than three (3) cars, service areas for loading and unloading vehicles and area for storage and collection of trash and garbage shall be properly screened.

3103.05 PARKING AND LOADING

A. Residential and Office

Off street parking and loading spaces shall be required as set forth under Article 42 and Article 43 of this resolution.

B. Business

Off street parking shall be provided at the minimum ratio of 5.5 spaces per one thousand (1,000) square feet of gross leasable area. In addition, two (2) off street parking spaces shall be provided for each dwelling or lodging unit. "Gross leasable area" shall mean total floor area designed for tenant occupancy and use, including basements, expressed in square feet, measured from the centerline of joint partitions and from the outside wall faces; but shall exclude parking areas in structures reserved for tenant occupancy and use.

A minimum of two percent (2%) of the area devoted to off street parking shall be maintained in landscaping in such parking areas.

Off street loading space shall be provided with area, location and design appropriate to the needs of the shopping center and specific uses within it, and no space designated for off street parking shall be used as off street loading space.

3103.05 PARKING AND LOADING (continued)

C. Industrial

Off street parking and loading spaces shall be required as set forth under Articles 42 and 43 of this Resolution.

Off street loading space shall be provided with area, location, and design appropriate to the needs of the industrial park and specific uses within it, and no space designated for off street parking shall be used as off street loading space.

SECTION 3104 PROCEDURE

The following procedure shall be followed when applying for a change of zoning district to one of the Planned Development Districts.

3104.01 SUBMISSION OF APPLICATION

A. The owner(s) or lessee(s) with written permission from the owner of a tract of land may request that the Zoning District Maps be amended to a Planned Development District. Such amendment shall be processed, noticed and heard in the manner prescribed in Article 6 and as described herein.

B. The applicant is encouraged to engage in informal consultations with the Staff of the Clay Township zoning Commission prior to filing an application; however, no statement or representation by members of the staff shall be binding upon either the Commission or upon any zoning body.

C. An application for a Planned Development may be processed, noticed, and heard by the Clay Township Zoning Commission concurrently with an application for a proposed subdivision or re-subdivision of the same property pursuant to the Subdivision Regulations of Montgomery County.

D. The following options are available at the applicant's discretion:

1. Submission of a Preliminary Development Plan, processed in the manner described in Article 6, and the subsequent submission of a Final Development Plan for any portion of the approved Preliminary Development Plan the applicant wishes to develop. The Final Development Plan submitted according to this option shall be processed in the manner described in Section 3106.

3104.01 SUBMISSION OF APPLICATION (continued)

2. Submission of a Final Development Plan without a Preliminary Development Plan, pursuant to Section 3107. A Final Development Plan so submitted shall be processed in the manner described in Article 6.

E. No Zoning Certificate shall be issued for any property for which Planned Development classification is requested and no construction shall begin until an approved Final Development Plan is in effect for that phase or property, whichever of the above options is chosen by the applicant, and approved as per Section 3110.

SECTION 3105 PRELIMINARY DEVELOPMENT PLAN

3105.01 SUBMISSION OF PRELIMINARY PLAN

Two (2) copies of the Preliminary Development Plan and one (1) 88-1/2" x 11" photostat of the Preliminary Development Plan shall be submitted and shall include in text and map form:

A. A survey of the tract that is to be developed showing existing features of the property including streets, alleys, easements, utility lines, existing land use, general topography and physical features.

B. A preliminary site plan showing the approximate areas and arrangement of the proposed uses, the relationship of abutting land uses and zoning districts, proposed lots and blocks, if any, proposed public or common open space, if any, including parks, playgrounds, school sites, and recreational facilities, proposed access points, proposed parking and drives, and proposed buffers.

C. Evidence that the applicant has sufficient control over the tract to effect the proposed plan, including a statement of all the ownership and beneficial interests in the tract of land and the proposed development.

D. In the case of a Residential Planned Development, the proposed density to which the development shall be limited.

E. In the case of Office, Business, or Industrial, a statement identifying the principal types of office, business and/or industrial uses that are to be included in the proposed development.

3105.02 ACTION BY THE ZONING COMMISSION

The Zoning Commission shall hold a public hearing on the Preliminary Development Plan as provided in Article 6 of this Resolution.

Such public hearing shall consider all aspects of the Preliminary Development Plan, including all proposed stages and/or units of development. Within thirty (30) days after the last public hearing on such plan, the Zoning Commission shall prepare and transmit to the Township Trustees and to the applicant recommendations with respect to the action to be taken on the Preliminary Development Plan. The Commission may recommend disapproval, approval, or approval with amendments, conditions or restrictions. Copies of the findings and recommendations of the Zoning Commission shall be made available to any other interested persons.

3105.03 ACTION BY THE TOWNSHIP TRUSTEES

The Board of Township Trustees shall hold a public hearing on the Preliminary Development Plan as provided in Article 6 of this Resolution.

If the application is granted, the area of land involved shall be re-designated as a "PD" District by Resolution and such Resolution shall incorporate the Plan, including any condition or restriction that may be imposed by the Township Trustees.

SECTION 3106 SUBMISSION OF FINAL DEVELOPMENT PLAN IN ACCORDANCE WITH AN APPROVED PRELIMINARY DEVELOPMENT PLAN

A Final Development Plan may be filed for any portion of an approved Preliminary Development Plan the applicant wishes to develop, and it shall conform substantially to the approved Preliminary Development Plan. The filing fee shall be the same as that required for a change in zoning district. Eight (8) copies of the Final Development Plan and one (1) 8-1/2" x 11" photostat of the Final Development Plan shall be submitted and shall include in text and map form:

A. Any changes necessary to the survey described in Section 3105.01A.

B. A site plan showing the exact location and arrangement of all existing and proposed structures, the proposed traffic circulation pattern within the development, the areas to be developed for parking, the points of ingress

SECTION 3106

SUBMISSION OF FINAL DEVELOPMENT PLAN IN ACCORDANCE WITH AN APPROVED PRELIMINARY DEVELOPMENT PLAN (continued)

B. (continued)

and egress, including access streets where required, the relationship of abutting land uses and zoning districts, proposed lots and blocks, if any, and proposed public or common open space, if any, including parks, playgrounds, school sites and recreational facilities.

C. A statement of the proposed total gross floor area and the percentage of the site which is to be occupied by structures.

D. Sketches of the proposed structures and landscaping.

E. When a Planned Development is to be constructed in stages or units, a schedule for the development of such stages or units shall be submitted. No such stage or unit shall exceed the proposed density of the entire Planned Development by more than twenty percent (20%). When a Planned Development provides for common open space, the total area of common open space provided at any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire Planned Development as the stages or units completed or under development bear to the entire Planned Development.

F. Evidence that the applicant has sufficient control over the tract to effect the proposed plan, including a statement of all the ownership and beneficial interest in the tract of land and the proposed development.

G. In the case of Office, Business, or Industrial Planned Development, a statement identifying the principal types of office, business and/or industrial uses that are to be included in the proposed development.

H. When a Planned Development includes provisions for common open space or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted.

I. Copies of any restrictive covenants that are to be recorded with respect to property located in the Planned Development District.

3106.01

ACTION BY THE ZONING COMMISSION

The Zoning Commission shall evaluate and take action on the Final Development Plan at a regular public meeting. The applicant shall submit the Final Development Plan at least twenty (20) days prior to the Zoning Commission meeting and at the same time submit the names and addresses of property owners with lot lines common to the area within the Plan. The Zoning Commission shall hold a public meeting on the Final Development Plan considering all aspects of the Final Development Plan. Property owners shall be given seven (7) days advance written notice of the public meeting, said notice being given by regular mail. The Commission shall make specific findings of fact with respect to the extent to which the Final Development Plan complies with the standards set out in Sections 3103 and 3109. The Zoning Commission shall disapprove, approve, or approve the Final Development Plan with amendments, conditions or restrictions. If the Plan is not disapproved, the Plan shall be incorporated into the Zoning Resolution and that "PD" Zoning District for which the Plan is proposed, including any condition or restriction that may be imposed by the Zoning Commission. Upon approval by the Zoning Commission, the Final Development Plan will go into immediate effect. Such approval does not, however, constitute authority for the applicant to proceed with actual physical development of the property. Authority for the applicant to proceed and for the issuance of required zoning certificates shall be dependent upon approval of the subdivision plat as set forth in Section 3110 when applicable.

SECTION 3107

SUBMISSION OF FINAL DEVELOPMENT PLAN WITHOUT AN APPROVED PRELIMINARY DEVELOPMENT PLAN

The applicant need not file a Preliminary Development Plan if he files a Final Development Plan for his entire site, incorporating all requirements of both the Preliminary and Final Development Plans as described in the Section. The Final Development Plan shall be processed, noticed and heard in the manner prescribed in Article 6. Two (2) copies of the Final Development Plan and one (1) 8-1/2" x 11" photostat of the Final Development Plan shall be submitted and shall include in text and map form:

A. A survey of the tract that is to be developed showing existing features of the property, including streets, alleys, easements, utility lines, existing land use, general topography and physical features.

SECTION 3107

SUBMISSION OF FINAL DEVELOPMENT PLAN WITHOUT AN APPROVED PRELIMINARY DEVELOPMENT PLAN (continued)

B. A site plan showing the location and arrangement of all existing and proposed structures, the proposed traffic circulation pattern with the development, the area to be developed for parking, the points of ingress and egress, including access streets where required, the relationship of abutting land uses and zoning districts, proposed lots and blocks, if any, and proposed public or common open space, if any, including parks, playgrounds, school sites, and recreational facilities.

C. A statement of the proposed total gross floor area and the percentage of the development which is to be occupied by structures.

D. Sketches of the proposed structures and landscaping.

E. When a Planned Development is to be constructed in stages or units, a schedule for the development of such stages or units shall be submitted. No such stage or unit shall exceed by more than twenty percent (20%) the proposed density of the entire Planned Development. When a Planned Development provides for common open space, the total area of common open space provided at any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire Planned Development as the stages or units complete or under development bear to the entire Planned Development.

F. Evidence that the applicant has sufficient control over the tract to effect the proposed plan, including a statement of all the ownership and beneficial interests in the tract of land and the proposed development.

G. In the case of Office, Business, or Industrial development, a statement identifying the principal types of office, business, and/or industrial uses that are to be included in the proposed development.

H. When a Planned Development includes provisions for common open space or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed article of incorporation and by-laws of such entity shall be submitted.

I. Copies of any restrictive covenants that are to be recorded with respect to property included in the Planned Development District.

3107.01 ACTION BY THE ZONING COMMISSION

The Zoning commission shall hold a public hearing on the Final Development Plan as provided by Article 6 of this Resolution. Such public hearing shall consider all aspects of the Final Development Plan including an proposed stages and/or units of development. Within thirty (30) days after the last public hearing on such plan, the Commission shall prepare and transmit to the Township Trustees and to the applicant specific findings of fact with respect to the extent to which the Final Development Plan complies with the standards set out in Sections 3103 and 3109 and with respect to the action to be taken on the Final Development Plan. The Commission may recommend disapproval, approval, approval with amendments, conditions or restrictions. Copies of the findings and recommendations of the Commission shall be made available to any other interested persons.

3107.02 ACTION BY THE TOWNSHIP TRUSTEES

The Township Trustees shall hold a public hearing on the Final Development Plan as provided by Article 7 of this Resolution. If the application is granted, the area of land involved shall be re-designated as a "PD" District by Resolution and such Resolution shall incorporate the Development Plan, including any condition or restriction that may be imposed by the Township Trustees. Such approval does not, however, constitute authority for the applicant to proceed with actual physical development of the property. Authority for the applicant to proceed and for the issuance of required zoning certificate shall be dependent upon approval of the Subdivision Plan as set forth in Section 3110 when applicable.

SECTION 3108 MODIFICATION OF FINAL DEVELOPMENT PLAN

Because of the difficulty in being able to supply precise data at the time of approval of the Final Development Plan, it may be necessary to make certain modifications to the Final Development Plan at a later date. Such modification shall have the approval of the Zoning Commission without additional public hearings. Adjacent property owners will be mailed notice of the time at which the Zoning Commission will review the request for modification. Such notice will be mailed at least seven (7) days prior to such review by the Zoning Commission.

Modification to the Final Development Plan shall not deter from the general intent and purpose as originally approved by the Township Trustees. No modification shall be approved that will increase density or intensity, decrease parking and loading areas, reduce usable open space or

SECTION 3108

MODIFICATION OF FINAL DEVELOPMENT PLAN (continued)

reduce distance between structures and the perimeter property line. If the modification is approved, the Final Development Plan will be changed to reflect the modification and notice will be sent to the Building Inspection Department and Zoning Inspector.

SECTION 3109

STANDARDS FOR PLANNED DEVELOPMENTS

A. The Planned Development can be substantially complete within the period of time specified in the schedule of development by the developer, but in any case shall be completed no more than two (2) years after the effective date of approval.

Any PD not begun within twelve (12) months of effective date of approval expires and automatically reverts to the zoning classification that was in effect prior to the PD.

B. The Planned Development will not jeopardize public health, safety, and morals.

C. The street and driveways on the site will be adequate to serve the residents or occupants of the proposed development. Traffic control signals/signs will be provided without expense to Montgomery County or the Township when the County Engineer or Township Superintendent determines that such signals are needed on or off site to prevent traffic hazards or congestion generated by the development.

D. The development will not impose an undue burden on public services and facilities such as fire and police protection.

E. The Development Plan contains such proposed covenants, easements and other provisions relating to the proposed development standards as reasonably are required for public health, safety and morals.

F. The location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible with the surrounding land uses and any part of the Planned Development not used for structures, parking and loading areas, or accessways shall be landscaped or otherwise improved.

SECTION 3110 SUB-DIVISION PLAT REQUIREMENT

No Zoning Certificate shall be issued for any structure in any portion of a Planned Development unless and until the final sub-division plat for that portion has been approved by the proper planning authority and recorded in the public record of the County. This requirement may be waived by the Montgomery County Planning Commission when it is deemed that a sub-division plat is not required.

SECTION 3111 REQUIRED CONDITIONS FOR MOBILE HOME PARKS

A. Each lot in a mobile home park shall be served with sanitary sewer and water.

B. A twenty (20) foot greenbelt shall be located and effectively maintained at all times along all park boundary lines except at established entrances and exits serving the park.

C. Each park shall provide a recreational area or areas equal in size to at least eight percent (8%) of the gross area of the park. Streets, parking areas, park service facility areas, and greenbelt shall not be considered as parts of the required recreational area.

D. All exterior park lights shall be so located and shielded as to prevent direct illumination of any areas outside the park.

E. Each mobile home site shall have a minimum width of fifty (50) feet and minimum area of 5,000 sq. ft.

F. The minimum distance between a mobile home and another mobile home or structure shall be twenty (20) feet.

G. Each mobile home shall be located at least ten (10) feet from the greenbelt.

H. Each mobile home site shall be provided with a stand consisting of a solid concrete slab of a thickness and size adequate to support the maximum anticipated loads during all seasons.

I. One and one-half (1-1/2) off-street parking spaces for each dwelling unit shall be required.

J. Accessory uses shall be located at least one hundred (100) feet from the greenbelt.

SECTION 3111

REQUIREMENTS FOR MOBILE HOME PARKS (continued)

J. (continued)

1. Coin operated laundry and laundry and dry cleaning pick-up stations for use of tenants only. No external signs of any nature whatsoever shall be permitted.
2. Other accessory uses, buildings, or structures customarily incidental to the aforesaid use.

Entire Article replaced Case #Z-1-95

CHAPTER VIII

GENERAL REGULATIONS

Adopted May 15, 2003

ARTICLE 33 - PLANNED CONSERVATION RESIDENTIAL DISTRICT (PCR)

SECTION 3301 PURPOSE

The Planned Conservation Residential (PCR) District is provided as an additional option to the requirements of the standard residential districts. It is intended to promote imaginative, well-designed developments which preserve open space, respect the physical qualities and limitations of the land, and provide improved living environments. Opportunities to reduce development costs also may be provided by the PCR District.

A. BENEFITS OF PCR DISTRICT

To achieve these goals the PCR District provides the following:

1. Flexibility in required yard areas.
2. Flexibility in residential types.
3. Flexibility in minimum lot frontage requirements.
4. Privately maintained streets, open space and other amenities or improvements.
5. Consideration of other unique design features.

B. RESPONSIBILITIES OF APPLICANT

In order to be eligible for consideration under the provisions of the PCR District, the applicant is required to provide all information listed herein. If an applicant does not provide required information or meet standards established by this Resolution, it shall be interpreted as forfeiture of the applicant's option to consideration under the terms of the Planned Conservation Residential (PCR) District.

SECTION 3302 PERMITTED USES

Land and buildings in the Planned Conservation Residential (PCR) District shall be limited to one or more of the following uses:

- A. Detached single-family residences.
- B. Single-family zero lot lines, attached single-family residences or other innovative forms of residential development, provided all density criteria and applicable requirements are met.
- C. Accessory buildings and uses in association with a permitted dwelling, in accordance with the standards of Article 37.
- D. Parks, playgrounds and play fields open to the public without fee.

SECTION 3303 TRACT AND DENSITY CRITERIA

In all areas except those zoned RA Rural Agricultural District, the owner(s) of a tract of land containing ten (10) acres or more may request that the zoning district map be amended to include such tract in the Planned Conservation Residential (PCR) District.

The overall density of the development within the PCR District shall not exceed a total of 3 dwelling units per gross acre.

Section 3304 PROCEDURE

A. SITE PLAN

In exchange for flexibility, the Planned Conservation Residential (PCR) District requires that the applicant provide some details which are traditionally found in the subdivision stage of development approval. It is therefore suggested that the applicant informally discuss his plans with the County Planning Commission and the Township Zoning Commission prior to submitting a formal application. This site plan phase is mandatory if private streets are proposed.

B. DEVELOPMENT PLAN SUBMISSION

Eight (8) copies of a Development Plan, signed by a registered engineer or surveyor and architect or landscape architect, shall be submitted with the application. Such Development Plan shall conform to the following:

1. The preliminary plan requirements of the Montgomery County Subdivision Regulations.
2. The proposed location and size of areas of residential use, indicating dwelling unit densities, dwelling unit types, the total number of dwelling units for each density area, and the total number of dwelling units proposed in the Development Plan.
3. The proposed size, location, and use of non-residential portion of the tract, including usable open areas, parks, play grounds, and other areas and spaces with the suggested ownership of such areas and spaces.
4. Architectural design concepts to be utilized, landscaping plans, street views of typical improvements, and other information relating to the architectural and landscape themes.
5. The proposed traffic circulation patterns, including all public and private streets, parking areas, walks, and other access ways.
6. The proposed time schedule of site development.
7. The relationship of the proposed development to existing and future land use in the surrounding area, the street system, community facilities, services and other public improvements.
8. Evidence that the applicant has sufficient control over the land to effectuate the proposed Development Plan.
9. Deed restrictions, protective covenants, and other legal statements or devises to be used to control the use, development and maintenance of the land, the improvements thereon, including those areas which are to be commonly owned and maintained.

B. DEVELOPMENT PLAN SUBMISSION (continued)

10. In areas that do not have public sewer and water, the applicant shall submit evidence that the Health Department will approve on-site sewage disposal systems and that there is adequate ground water available to serve the development.

In small lot cluster developments where the lot area is not of sufficient size to accommodate the on-site sewage disposal system, it may be possible to use the common open space for this purpose.

11. Other information, as may be required by the Zoning Commission and/or the Township Trustees, in order to determine compliance with this Resolution.

C. BASIS OF APPROVAL

The basis for approving a Planned Conservation (PCR) District shall be the following:

1. The proposed development is consistent in all respects with the purpose, intent, and applicable standards of this Zoning Resolution;
2. The proposed development is in conformity with a comprehensive plan or portion thereof as it may apply;
3. The proposed development advances the general welfare of the Township and the immediate vicinity;
4. The benefits to the Township, improved arrangement, and the design of the proposed development justify the deviation from standard residential development requirements included in this Zoning Resolution.

D. EFFECT OF APPROVAL

If the application is granted, the area of land involved shall be redesignated PCR District by Resolution and such Resolution shall incorporate the Plan, including any conditions or restrictions that may be imposed by the Township Trustees.

SECTION 3305 DEVELOPMENT STANDARDS

The following standards for arrangement and development of land and buildings apply to the Planned Conservation Residential (PCR) District.

A. OPEN SPACE

Resource protected areas are areas containing fragile natural features such as forests, flood plains, steep slopes, and open space that can be adversely impacted by development. In all districts it is possible that areas must be set aside as open space for resource protection. At least thirty-five percent (35%) of the gross area of the tract included in the Development Plan shall be designated as open space. Such land shall either be preserved in its natural state or developed for recreational purposes. Up to one-third (1/3) of any land within the One Hundred (100) Year Flood Plain may be included in the open space calculation. The open space shall be of a size, shape, topography and location to be usable and accessible.

B. LOT AND YARD AREAS

The minimum lot area shall be 15,000 square feet, except that for cluster developments, the minimum lot area for each dwelling unit may be reduced to any size which is justified in an approved Development Plan, provided that the overall density of the tract covered by the Development Plan does not exceed 3 dwelling units per gross acre. Minimum lot width shall be 90 feet; minimum setback shall be 25 feet from the street right-of-way line; minimum side yard shall be 10 feet; and minimum rear yard shall be 20 percent of lot depth. These minimum standards shall also be subject to adjustment, if justified, in an approved development plan.

C. PRIVATE ROADS

Private roads may be utilized, provided the following criteria are met:

1. Preliminary street plans and typical sections are submitted and approved with the Development Plan.
2. Township fire and police departments provide a written statement indicating to the Township Trustee that the private roads will provide suitable access for emergency vehicles.
3. Private maintenance responsibilities are clearly indicated in legal documents.

SECTION 3305 DEVELOPMENT STANDARDS (continued)

D. PARKING

Off-street parking shall be provided in accordance with Article 43 of this Resolution.

E. BUFFER AREA

The Zoning Commission shall have the discretion to require the developer to plan and develop buffer areas where the particular location causes the necessity of buffering. Size, location, type and density of buffering shall be defined by the Zoning Commission when deemed necessary.

SECTION 3306 NATURAL RESOURCE PROTECTION

Flood plains, steep slopes, mature and young forests, wetlands, and drainage ways shall be protected as required.

3306.01 WETLANDS

A. DETERMINATION

Wetland areas shall be determined by reference to the following sources in the order indicated below. If the first source is considered inaccurate or inappropriate, the succeeding techniques may be used:

1. Wetland inventory maps.
2. Field survey of plant material by a botanist.
3. Soil borings provided by a registered soil engineer or soils scientist.

B. PROTECTION LEVELS

One hundred (100) percent of all wetland areas shall be protected except as follows:

1. Where disturbance of filling is essential to provide access to the buildable portions of the property, if no other alternative is feasible.
2. Where required to provide access to a water-related use.

3306.01 PROTECTION LEVELS (continued)

3. Crossing a wetland may be permitted if the following criteria are met:

- a.) The street cannot, as a practical matter, be located outside a wetland; and
- b.) The street is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:
 - 1.) The street shall be designed and constructed for the minimum cross-section practical to serve the intended use;
 - 2.) Street construction activities are to be carried out in the immediate area of the road bed only; and
 - 3.) Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is to be done must be necessary for the construction or maintenance of the street.

C. DISRUPTION AND/OR MODIFICATION

All development proposals which will disrupt the wetlands shall, in addition to the provisions of this Resolution, provide proof of approval by the U.S. Army Corp of Engineers.

3306.02 DRAINAGE WAYS

A. DETERMINATION

Drainage ways are determined by any one of the following:

1. The land, except where areas are designated as flood plain, on either side of and within fifty (50) feet of the center line of any intermittent or perennial stream shown on the U.S. Geological Survey's 7½ minute quadrangle sheets covering Clay Township.
2. The land, except where areas are designated as flood plain, on either side of and within twenty-five (25) feet of the centerline of any swale identified by topography and hydrologic analysis as serving as the principal storm water outfall rather than tributary for, at a minimum, the sub-basin of a sub-watershed area.

3306.02 DRAINAGE WAYS (continued)

3. The land included within the following soil classes as mapped in the soil maps provided by the U.S. Department of Agriculture as published in Soil Survey of Montgomery County determined to be flood plain soils:

- ▶ Algiers silt loam
- ▶ Landes sandy loam
- ▶ Lanier sandy loam
- ▶ Medway silt loam
- ▶ Ross silt loam
- ▶ Shoals silt loam
- ▶ Sloan silt loam

B. PROTECTION LEVELS

Drainage ways shall be provided with one hundred (100) percent protection levels from all land uses except as follows:

1. Crossing a drainage way may be permitted if the following criteria are met:

- a.) The street cannot, as a practical matter, be located outside the drainage way; and
- b.) The street is designed and constructed to minimize the adverse impact upon the natural functions of the drainage way and meets the following standards:
 - i.) The street shall be designed and constructed for the minimum cross-section practical to serve the intended use; and drainage openings shall be sufficient to discharge flood flows without increasing flood heights.
 - ii.) Street construction activities are to be carried out in the immediate area of the road bed only; and
 - iii.) Any filling, tiling, or excavating that is to be done must be necessary for the construction or maintenance of the street.

2. All such protected areas shall be permanent open space.

3306.03 FLOOD PLAINS

A. DETERMINATION

The definition of flood plain as applied to this section appears in Article 2 of this Zoning Resolution. The One Hundred (100) Year recurrence interval flood plain and flood ways shall be determined by the National Flood Insurance Rate Maps published by the Federal Emergency Management Agency.

B. PROTECTION LEVELS

All protected areas shall be retained in permanent open space. No uses or improvements, other than those permitted herein, shall be permitted in any area consisting of flood way or One Hundred (100) Year recurrence interval flood plain as defined by this Zoning Resolution.

3306.04 WOODLANDS

A. DETERMINATION

The determination of woodland boundaries shall be based on a field tree survey compiled by a registered land surveyor, engineer, landscape architect, or forester.

B. METHODOLOGY

Woodland areas shall be measured and graphically indicated on either a topographic or property boundary survey and submitted with the development plan. Such woodland area drawing shall graphically indicate those forest areas of the property pursuant to the "Woodland" definition in Article 2.

C. PROTECTION LEVELS

No less than 50 percent of the trees within the wooded area in "mature woodlands" shall be preserved. No less than 20 percent of the trees within the wooded area in "young woodlands" shall be preserved.

Effective January 2, 2004
ARTICLE 35 - EXISTING AND NON-CONFORMING USES

SECTION 3501 CONFORMANCE REQUIRED

Except as hereinafter specified, no land, building, structure, or premises shall hereafter be used and no building or part thereof or other structure shall be located, erected, moved, reconstructed, extended, enlarged, or altered except in conformity with the regulations herein specified for the district in which it is located.

3501.01 Extent of damage and modification to any structure shall be determined by the Township Zoning Administrator.

SECTION 3502 INTENT

The legitimate interests of those who lawfully established these non-conformities are recognized in this article by permitting such non-conformities to continue, subject to regulations for and limitations upon their completion, restoration, reconstruction, extension and substitution. It is recognized, however, that non-conformities substantially and adversely affect the orderly development, maintenance, use, and taxable value of other property in the district, property that is itself subject to the regulations of this Zoning Resolution. In order to secure eventual compliance with the standards of this chapter, it is necessary to regulate non-conformities strictly and to prevent the re-establishment of non-conformities that have been discontinued.

SECTION 3503 NON-CONFORMING VACANT LOTS

3503.01 NON-CONFORMING VACANT LOTS IN RURAL AGRICULTURE, RURAL TRANSITION AND RESIDENTIAL DISTRICT

In any district where dwellings are permitted, a one single-family detached dwelling may be erected on any lot of official record as of the effective date of adoption or amendment of the Revised Zoning Resolution of Clay Township, when by reason of its lot area, width or depth it does not meet minimum requirements for a lot under these regulations, provided, however, that no lot shall be deemed to be less than forty (40) feet wide for the calculation of yard requirements and provided, further:

3503.01

NON-CONFORMING VACANT LOTS IN RA, RT & RESIDENTIAL DISTRICT (continued)

A. The sum of side yards on any such lot of record shall be at least twenty-five percent (25%) of the lot width.

B. In no case shall the width of any side yard be less than ten (10) percent of the width of the lot, except that on a corner lot the width of the side yard adjoining the side street lot line shall be no less than ten (10) feet.

C. 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.

D. If the width of such lot meets the standards of this Resolution but the depth is such that the total area is less than 80,000 square feet in areas zoned RA and RT or 12,000 square feet in other zoning districts, the rear yard for such lot shall have a minimum of thirty (30) percent of the depth of the lot but in no case shall it be less than thirty (30) feet.

3503.02

NON-CONFORMING VACANT LOTS IN OTHER DISTRICTS

In any district other than Rural Agriculture, Rural Transition or Residential Districts, a building designed for any permitted use in such district may be erected on any lot of official record as of the effective date of the Zoning Resolution of this Township, provided that:

A. Such building shall comply with all regulations applicable in the district in which the lot in question is located, provided, however, the width of any required side yard need not be greater than that derived by applying the following equation, where "X" equals the required side yard width:

$$\frac{X}{\text{Actual Lot Width}} = \frac{\text{Minimum side yard required By side regulations}}{\text{Minimum lot width required By district regulations}}$$

SECTION 3504 NON-CONFORMING STRUCTURES

3504.01 CONTINUATION

Any structure which is devoted to a use which is permitted in the zoning district in which it is located but which is located on a lot which does not comply with the applicable lot size requirements and/or development standards may be continued, so long as it remains otherwise lawful, subject to the restrictions of Subsection 3504.02 through 3504.04

3504.02 ENLARGEMENT, REPAIR AND ALTERATIONS

Any such structure described in Subsection 3504.01 may be enlarged, maintained, repaired, or structurally altered, provided, however, that no such enlargement, maintenance, repair, or structural alteration shall either create any additional non-conformity or increase the degree of existing non-conformity of all or any part of such structures, except that, as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be determined by Subsection 3503.01 or 3503.02, whichever is applicable.

3504.03 DAMAGE OR DESTRUCTION

In the event that any such structure described in 3504.01 is damaged or destroyed by any means to the extent of more than fifty (50) percent of the current replacement cost of the entire structure, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located, provided that structures located on a lot that does not comply with the applicable lot size requirements shall not in any event be required to provide a side yard that exceeds the yard requirements in 3502.01 or 3502.02, whichever is applicable. When a structure is damaged to the extent of fifty (50) percent or less, no repairs or restoration shall be made unless a zoning certificate is obtained and restoration is actually begun within one year after the date of such partial destruction.

3504.04 MOVING

No structure described in 3504.01 shall be moved in whole or in part for any distance whatever to any other location on the same or any other lot, unless the entire structure shall thereafter conform to the regulations of the zoning district in which it will be located after being moved.

SECTION 3505 NON-CONFORMING USES

3505.01 CONTINUATION

Any lawfully existing non-conforming use of part or all of a structure or any lawfully existing non-conforming use of land not involving a structure may be continued, so long as otherwise lawful, subject to the restrictions of Subsection 3505.02 through 3505.09

3505.02 REPAIR AND MAINTENANCE

A. Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the non-conforming use. This paragraph shall not be deemed to authorize any violation of Subsections 3505.03 through 3505.09.

B. Nothing in this Resolution shall be deemed to prevent the structural alteration, strengthening, or restoring to a safe condition of a building or other structure (other than a damaged or destroyed building or other structure, subject to the provisions of Subsection 3505.05) in accordance with the order of a public official who is charged with protecting the public safety and who declares such building or other structure to be unsafe and orders its restoration to a safe condition.

C. All non-conforming residential buildings in a Business or Industrial District may be maintained, repaired, improved, modernized or enlarged in accordance with the development standards of Section 904, provided, however, that no increase in the number of dwelling units shall be permitted. A dwelling may not, however, be demolished and a new dwelling constructed unless the new dwelling is in full compliance with this Resolution.

3505.03 STRUCTURAL ALTERATION

Structural alterations to non-conforming single family residences within any zoning district shall be permitted in accordance with the development standards of Section 904, provided, however, that no increase in the number of dwelling units shall be permitted.

EXTENSION AND ENLARGEMENT

The Board of Zoning Appeals may permit a non-conforming building or structure to be extended, expanded, enlarged, or increased in intensity, subject to the following conditions:

A. A non-conforming use may be extended throughout any part of such building or other structure that was lawfully and manifestly designed or arranged for such use on the effective date of this Resolution.

B. The Board may permit either an expansion of a non-conforming building or structure or a substitution of a non-conforming use in such a building or structure.

C. A non-conforming building or structure may be extended or enlarged upon the lot occupied by such building on the effective date of this Resolution or on an adjoining lot, provided such lot was under the same ownership as the lot in question on the effective date of this Resolution. Such non-conforming building may be enlarged or extended to an extent not exceeding twenty-five percent (25%) of the gross floor area of such non-conforming structure or building lawfully existing at the time of the adoption of this Resolution.

D. The extension or enlargement of a non-conforming building or structure may not occupy ground space suitable and otherwise available for meeting the off-street parking requirements of this Resolution.

E. A non-conforming use of land may not be extended, enlarged, or increased in intensity.

F. Nothing contained in this Section shall in any way prohibit a non-conforming use from acquiring additional off-street parking space.

G. Application for an extension or enlargement in accordance with Paragraphs A through F shall be noticed and heard in the manner prescribed for appeals in Section 404 hereof.

H. In granting an extension or enlargement, the Board may impose such reasonable safeguards and restrictions upon the premises benefitted by the extension or enlargement as may be necessary to reduce or minimize any potentially injurious effect of such extension or enlargement upon other property in the neighborhood and to carry out the general purpose and intent of this chapter.

3505.05 DAMAGE OR DESTRUCTION

A. Nothing in this Resolution shall be deemed to prevent the total restoration of any legal non-conforming single family residence, so long as such restoration is actually begun within one (1) year after the date of its damage or destruction.

B. In the event that any building or other structure, except single family residences pursuant to Section 3505.05A that is devoted in whole or in part to a non-conforming use is damaged or destroyed by any means to such an extent that the cost of restoration to the condition in which it was before such damage or destruction exceeds fifty (50) percent of the current replacement cost of the entire building or other structure, exclusive of foundation, such building or other structure shall not be restored unless such building or other structure and the use thereof shall thereafter conform to the regulations of the district in which it is located. Moreover, even if such damage is fifty (50) percent or less, no repair or restoration shall be made unless a building permit is obtained, and restoration is actually begun, within one year after the date of such partial destruction.

3505.06 MOVING

No structure devoted in whole or in part to a non-conforming use shall be moved to any other location on the same lot or any other lot unless the entire structure and the use thereof shall thereafter conform to the regulations of the district in which it will be located after being so moved. Moreover, no non-conforming land use shall be relocated in whole or in part to any other location on the same or any other lot unless such use shall thereafter conform to the regulations of the district in which it is located after being moved.

3505.07 CHANGE

The Board of Zoning Appeals may permit a substitution for a non-conforming use in a building or structure lawfully existing at the time of the adoption of this Resolution, subject to the following conditions:

A. The Board may permit either an expansion of a non-conforming building or structure or a substitution of a non-conforming use, but not both.

B. A non-conforming use of land (as opposed to a building or structure) may not be changed.

CHANGE (continued)

C. Application for a substitution in accordance with Paragraph A shall be noted and heard in the manner prescribed for appeals in Article 4 of this Resolution.

D. The proposed use shall be of no greater intensity and shall be more compatible with the surrounding neighborhood than the existing non-conforming use.

E. The Board shall not grant a substitution unless it shall, in each specific case, make specific findings of fact directly based upon the particular evidence presented to it that support conclusions that:

1. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
2. Adequate access roads or entrance and exit drives shall be provided and will be designed so as to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets.
3. All exterior lighting fixtures are shaded wherever necessary to avoid casting direct light upon any property located in a residential district.
4. The proposed substitution will not cause substantial injury to the value of other property in the neighborhood in which it is located and will contribute to and promote the convenience and welfare of the public.
5. In granting a substitution, the Board may impose such reasonable safeguards and restrictions upon the premises benefitted by the substitution as may be necessary to comply with the above standards and to reduce or minimize any potentially injurious effect of such substitution upon other property in the neighborhood and to carry out the general purpose and intent of this chapter.

F. If a non-conforming use is changed to any use other than a conforming use without obtaining approval pursuant to this paragraph, that change shall constitute a discontinuance of the non-conforming use, and the property involved shall thereafter be used only for conforming uses.

3505.08 DISCONTINUANCE

A. Discontinuance of non-conforming use of land: In the event that operation of a non-conforming use of land is voluntarily discontinued for a period of two (2) years, such non-conforming use shall not thereafter be re-established, and any subsequent use or occupancy of such land shall conform to the regulations of the district in which it is located.

B. Discontinuance of non-conforming use of buildings or structures: In the event that operation of a non-conforming use of all or part of a building or other structure is voluntarily discontinued for a period of two (2) years, such non-conforming use shall not thereafter be re-established, and any subsequent use or occupancy of such building or other structure shall conform to the regulations of the district in which it is located.

C. When any lawful non-conforming use of any structure or land in any zoning district has been changed to a conforming use, it shall not thereafter be changed back to any non-conforming use.

3505.09 NON-CONFORMING ACCESSORY USE

No non-conforming accessory use shall continue after the principal use to which it is accessory has been discontinued.

ARTICLE 36 - PROVISIONS AFFECTING AREA, YARDS AND COURTS

SECTION 3601 STREET FRONTAGE REQUIRED

Except as permitted by other provisions of the Zoning Resolution, no lot or parcel shall contain any building unless the front lot line of such lot abuts fully on a dedicated street. There shall be no more than one principal building for each lot. Each lot shall meet the frontage requirements of the zoning district in which it is located.

SECTION 3602 TRAFFIC VISIBILITY ACROSS CORNER LOTS

A. No fence, wall, structure, signs, or planting shall be erected, established or maintained on any lot that will obstruct the view of drivers in vehicles approaching an intersection of two (2) roads or the intersection of a road and a driveway (see Article 2, Illustration J). Fences, walls, structures, signs, or plantings located in the unobstructed site area described below shall not be permitted to obstruct traffic cross-visibility between a height of thirty (30) inches and six (6) feet above the lowest point of the intersecting road(s).

B. Trees shall be permitted in the unobstructed sight area provided that limbs and foliage are trimmed so that they do not extend into the cross-visibility area or otherwise create a traffic hazard. Landscaping, except required grass or ground cover, shall not be located closer than five (5) feet from the edge of any driveway or road pavement within the unobstructed sight area.

C. Unobstructed Sight Area – The unobstructed site area shall meet the minimum standards as required in the Ohio Department of Transportation's Location and Design Manual, Volume I.

SECTION 3603 REDUCTION OF AREA OR SPACE

No lot, yard, court, parking area, or other space shall be reduced in area or dimensions, thereby making said area or dimension less than minimum required by this Zoning Resolution; and, if already less than the minimum required by this Zoning Resolution, said area or dimension shall not be further reduced. No part of a yard, court, parking area, or other space provided about or for any building or structure for the purpose of complying with the provisions of this Zoning Resolution shall be included as part of a yard, court, parking area, or other space required under this Zoning Resolution for another building or structure.

SECTION 3604 OFF-STREET PARKING AND LOADING

In any district, spaces for off-street parking and for loading or unloading shall be provided in accordance with the provisions of Articles 42 and 43.

Effective January 2, 2004
ARTICLE 37 - ACCESSORY USES

SECTION 3701 PERMITTED ACCESSORY USES - RESIDENTIAL AND
AGRICULTURE RESIDENTIAL DISTRICTS

The following accessory uses are permitted in each Residential District:

A. A structure incidental to a permitted use as defined in Section 203.01.

B. Recreational equipment, subject to the following conditions:

1. Parked or stored camping and recreational equipment as defined by Article 2 may, for maintenance purposes, be connected to electricity, water, gas, or sanitary sewer facilities; but at no time shall this equipment be used for living or housekeeping purposes.

2. Any parked or stored camping or recreational equipment located in the front yard must be located in the driveway or on a hard surface or graveled area as may be determined by the Zoning Administrator.

C. Shelter for the protection of school age children from the elements, subject to the following conditions: (Z-3-90)

1. Shall not be permanently affixed to the ground.

2. Shall not exceed twenty (20) square feet in floor area nor eight (8) feet in height.

3. Shall be maintained so as not to detract from the residential character of the neighborhood.

4. Shall not be placed in the right-of-way.

5. A Zoning Certificate shall not be required.

D. Temporary housing for living purposes during construction of the permanent dwelling for a six (6) month period. Should an extension be needed, a variance from the Board of Zoning Appeals is required with a maximum of eighteen (18) months total. At the end of the permit time and/or occupancy, whichever occurs first, the temporary housing shall be removed. (Z-4-90)

SECTION 3701 PERMITTED ACCESSORY USES (continued)

E. Garage Sales (Entire - Z-1-93)

(Including patio, basement, yard or block sales) may be held from 8:00 a.m. to sundown.

1. No sale may extend for more than three (3) consecutive days (or portions thereof).
2. No more than three (3) garage sales per dwelling unit may be held on any such zoning lot in any calendar year.
3. No person conducting a garage sale under the provisions of this Article shall sell or offer for sale any food or beverage for consumption on the premises. Food or beverage may be provided for such consumption at no cost to the consumer, but only if permit is obtained in advance from the Board of Health.
4. No fee or other charge shall be imposed upon members of the public attending any such sale.
5. One non-illuminated sign not exceeding four (4) square feet in size, nor more than three (3) feet in height above grade may be displayed on the property where the sale is being held.
6. Off-premises directional type signs (a maximum of two (2) signs) may be used in conjunction with such garage sale providing they do not exceed four (4) feet in height, and are limited in number to not more than one (1) such directional sign per collector or arterial type roadway. All signs shall be removed within twenty-four (24) hours following the conclusion of the garage sale.
7. Streamers, special lighting, noise making devices, or other similar advertising displays or notices shall not be used to call attention to garage sale.

SECTION 3702 PERMITTED ACCESSORY USES - BUSINESS AND INDUSTRIAL DISTRICTS

In a Business or Industrial District, any use which is customarily found in conjunction with and required for the full utilization and economic viability of the principal use which meets the definition of accessory use in Subsection 201.01 and which complies to the applicable standards of the district in which it is located is permitted.

SECTION 3703 ACCESSORY USES NOT PERMITTED - AGRICULTURE DISTRICTS

No accessory use shall be permitted which constitutes a danger to life, safety, morals or the general welfare of the people of Clay Township.

SECTION 3704 PORTABLE STORAGE UNITS

A. Portable Storage Unit shall mean any enclosed unit of whatever type construction or material designed for permanent or temporary storage which can be transported by a vehicle and left on-site.

B. Portable Storage Units are not permitted as a principal permitted accessory use or as a conditional use in any residential, office business, business or agricultural zoning district.

C. The prohibition above in 3704-A and B for Portable Storage Units shall not apply to the following:

1. Temporary construction sites.
2. When necessary to facilitate clean-up and/or restoration activities resulting from a natural disaster of fire or flood for a period of no more than one hundred eighty (180) days provided that a permit is obtained from the Zoning Department.
3. When the occupant of the property is relocating, a portable storage unit may be located on the property for a period not to exceed ten (10) consecutive days and not more than twice per year, provided that a permit is obtained from the Zoning Department and that the unit is not placed in the public street, road, alley, or public right-of-way.

SECTION 3704 PORTABLE STORAGE UNITS (continued)

4. The unit must not be stored in the grass and should be on a hard surface on lots of less than one acre.

5. No storage of hazardous materials is permitted.

SECTION 3705 STANDARDS

A. An accessory building may be erected as an integral part of a principal building, or it may be connected thereto by a breezeway or other similar structure.

B. An accessory building may be erected, detached from the principal building. No detached accessory building shall be erected in any required yard or court except a rear yard and shall not occupy more than thirty-five percent (35%) of the area of the required rear yard.

C. For computing the percentage of occupancy of rear yard as required in Subsection B hereof, if a detached accessory building is connected to the principal building by a breezeway, the ground area of such breezeway shall be considered as a part of the accessory building and be included in the computation.

D. A detached accessory building shall not exceed twenty-five (25) feet in height.

E. A detached accessory building shall be at least ten (10) feet from the rear and side lot lines or one (1) foot for every foot of side wall height, whichever is greater.

F. On a corner lot abutting in the rear the side lot line of a lot in a Residential District, any accessory building or part thereof shall not be closer to the side street lot line than the least depth of the front yard required on such other lot fronting the side street.

G. Any accessory building if not located in the rear yard shall be an integral part of or connected with the principal building to which it is accessory and shall be so placed as to meet all yard and court requirements for a principal building of the same height and other dimensions as said accessory building.

SECTION 3705 STANDARDS (continued)

H. A swimming pool, bathhouse, tennis court, and other recreational facilities designed for the use of the occupants of the single family dwelling and their guests. Such facilities shall comply with the following conditions and requirements:

1. The facilities shall not be located in any yard except the rear yard and shall be no closer to the side lot line than the side yard requirement for the district in which it is located.
2. The swimming pool, or the entire property on which it is located, shall be walled or fenced to prevent uncontrolled access by children from the street or from adjacent properties. Said fence or wall shall not be less than four (4) feet in height and maintained in good condition with a gate and lock.

ARTICLE 38 - EXCEPTIONS, MODIFICATIONS AND INTERPRETATIONS

SECTION 3801 APPLICATION

The requirements and regulations previously specified in this Zoning Resolution shall be subject to the following exceptions, modifications and interpretations.

SECTION 3802 HEIGHT LIMITS

Height limitations stipulated elsewhere in this Zoning Resolution shall not apply:

A. To barns, silos, or other farm buildings or structures on farms, provided these are not less than fifty (50) feet from every lot line; to church spires, belfries, cupolas and domes, monuments, water towers, masts and aerials; to parapet walls extending not more than four (4) feet above the limiting height of the building.

B. To places of public assembly in churches, schools, and other permitted public and semi-public buildings.

C. To bulkheads, elevator penthouses, water tanks, monitors, scenery lofts, towers, and monuments; to fire towers, hose towers, cooling towers, grain elevators, gas holders, or other structures, where the manufacturing process requires a greater height.

SECTION 3803 AREA REQUIREMENTS WITHOUT UTILITIES

In any district where neither public water supply nor public sanitary sewer is accessible, the otherwise specified lot area and frontage requirements, if less than the following, shall be:

Lot area ----- 80,000 sq. ft

Lot frontage at building line ---- 200 feet

SECTION 3804 DOUBLE FRONTAGE LOTS

Buildings on lots having frontage on two (2) non-intersecting streets shall have the minimum required front yard setback on both streets.

SECTION 3805

PROJECTIONS INTO REQUIRED YARDS

Architectural features may project into required yards or into courts, as follows:

A. Into any required front or side yard adjoining a side street;

1. Cornices, canopies, eaves, or other architectural features may project a distance not to exceed two (2) feet, six (6) inches.
2. Fire escapes may project a distance not to exceed four (4) feet, six (6) inches.
3. An open stair and necessary landing may project a distance not to exceed six (6) feet.
4. A front porch may project into a front yard a distance not to exceed six (6) feet, provided it is open on three (3) sides, except for railing or banisters.

B. Subject to the limitations in the preceding subsections, the above-named features may project into any required side yard adjoining an interior side lot line a distance not to exceed three (3) feet.

C. Subject to the limitations in Paragraph A, the features named therein may project into any required rear yards or into any required outer court the same distance they are permitted to project into a front yard.

SECTION 3806

FENCES, WALLS AND HEDGES

A fence, wall, hedge, or planting other than grass may be erected, placed, maintained, or grown along a lot line in a Residential or Agriculture Residential District or adjacent thereto, to a height not exceeding eight (8) feet above the ground level, except that no such fence, wall, hedge or planting which is located in a required front or corner side yard shall not exceed a height of four (4) feet and shall be subject to the traffic visibility requirements for a corner lot or driveway. No such fence, wall, hedge, or planting other than grass may be erected, placed, maintained, or grown in the public right-of-way. Electrified fences shall be prohibited in all zoning districts except the "A" district unless specifically permitted by the Board of Zoning Appeals pursuant to Article 4, Section 406.

SECTION 3807

NON-CONFORMING VACANT LOTS IN RESIDENTIAL DISTRICTS

- 3807.01** Two or more non-conforming lots in a Residential District with continuous frontage and in single ownership and which are of record as of a date preceding the date of enactment of this Resolution by nine (9) months shall be permitted the erection of a single family residence on each lot or combination of lots by the Zoning Administrator.
- 3807.02** Issuance of such permits exempting ownership provisions of Article 3502 shall be based upon the suitability of such lot to residential construction as in Article 35, Section 3502.02, and the maintenance of the general character of the immediate area.
- 3807.03** The provisions of this section are not transferrable to a new ownership except by inheritance.

SECTION 3808

EXOTIC, DANGEROUS AND WILD ANIMALS (Z-4-90)

3808.01 DEFINITIONS

A. Dangerous Animals - Any animal, reptile, mammal, bird or fowl which is carnivorous, is not naturally tame, is wild in nature, and because of its size and/or wild nature or other characteristics constitutes a danger to human life.

B. Endangered and Protected Wildlife - Any species of animal including, but not limited to fish, reptiles, amphibians, mammals, birds or fowl that are listed by the United States Department of the Interior as being an endangered or protected species.

C. Exotic Animals - Any animal, reptile, amphibian, mammal, bird or fowl that is not indigenous to the State of Ohio.

D. Wild Animals - Any animal, reptile, amphibian, mammal, bird or fowl that generally lives in its original, natural state and habitat and is not normally domesticated.

3808.02 PERMIT REQUIRED

No person, firm, or corporation shall own, harbor, keep, breed, sell or import into the Township any dangerous, exotic or wild animal until a zoning certificate has been obtained from the Township to do so.

3808.03 ENDANGERED AND PROTECTED WILDLIFE

Unless specifically authorized by the United States Department of the Interior to do so, no person shall own, keep, breed, sell or import any endangered or protected wildlife within any zoning district within the Township.

3808.04 WHERE PROHIBITED

Within any flood plain, residential, office/residential, office, business/commercial or industrial district no person shall own, harbor, keep, breed, sell or import any dangerous, exotic, or wild animal(s).

3808.05 WHERE PERMITTED

Within the "A" Agricultural District, dangerous, exotic, or wild animals may be kept provided:

A. Specific Requirements:

1. There shall be a minimum site are of one (1) acre.
2. When located adjacent to any residential district, the animal shall not be located within one hundred (100) feet of any residential district.
3. All structures and buildings used to confine or house any animal shall be considered accessory structures and shall be located only in the rear yard.
4. The animal is maintained at all times in a safe, secure manner so as not to constitute a danger to human life.
5. Adequate safeguards are maintained that will prevent unauthorized access to any animal by the general public.
6. The keeping of any animal does not constitute a nuisance or health hazard.
7. The animal is kept in a manner that constitutes a humane condition as outlined by the Humane Society of Greater Dayton.
8. All federal, state and county licenses and/or permits have been obtained for each species of animal to be kept on the premises.

SECTION 3808

EXOTIC, DANGEROUS, AND WILD ANIMALS (continued)

3808.05

WHERE PERMITTED (continued)

- A. 9. The owner of each exotic, dangerous, or wild animal shall obtain an insurance policy from a company licensed to do business within the State of Ohio. The certificate of insurance stating that the individual named thereon has a minimum of one hundred thousand dollars (\$100,000.00) of liability insurance. The liability insurance shall be payable to any claimant for any bodily injury, including death, resulting from contact with the dangerous, exotic, or wild animal. The certificate of insurance shall provide that no cancellation of the policy shall be initiated unless thirty (30) days written notice is first given to the Township.

B. Registration Required

Before maintaining any dangerous, exotic, or wild animal on any property within the Township, the property owner or person in charge of the property where such dangerous, exotic, or wild animal is going to be kept shall submit to and register with the Township the following information:

1. The species name for each specific type of animal being maintained on the premises.
2. A description of each animal being maintained on the premises.
3. A copy of the bill of sale for the animal, indicating previous owner's name, where the animal was purchased, and date of the sale.
4. A notarized statement attesting to the fact that the animal is not an endangered or protected species of wildlife.
5. A copy of all federal, state and county licenses and/or permits required to keep dangerous, exotic, or wild animals.
6. A copy of the certificate of insurance for each animal as required in Section 3808.05. (9)
7. The security provisions that will be maintained to ensure the animal does not constitute a danger to human life.

SECTION 3808 EXOTIC, DANGEROUS, AND WILD ANIMALS (continued)

3808.05 WHERE PERMITTED (continued)

B. 8. The safeguards that will be maintained to prevent unauthorized access to the animal by the general public.

9. Plot plan showing the location each structure and/or building used to confine and/or house each animal.

3808.06 REVIEW OF SAFEGUARDS, ENCLOSURE AND SECURITY PROVISIONS

In reviewing the proposed safeguards, enclosures, and security provisions that will be used to ensure the animal will not constitute a danger to human life and to prohibit access by the general public, the Township may employ such technical expertise in the reviewing of a zoning certificate application for a dangerous, exotic, or wild animal as needed to ensure the adequacy of the safeguards, enclosure and security provisions. All costs incurred in the review process by outside consultants and/or experts will be passed through to the applicant.

3808.07 EXCEPTIONS AND SPECIAL PROVISIONS

The provisions of this section shall not apply to the following:

A. Dangerous, exotic, or wild animals held by universities, research institutions or government agencies when such animals are used for research.

B. Any agency or institution having legal authority to possess dangerous, exotic or wild animals, and/or endangered and protected species of wildlife.

SECTION 3809 NON-CONFORMING JUNK YARDS OR SALVAGE YARDS

For the protection of public health, safety, morals and general welfare, owners of non-conforming junk yards must maintain a list of vehicles in stock and submit the list to the Zoning Commission or Board of Trustees on request. (ORC 519.02 "Other Purposes")

SECTION 3810 EXCAVATIONS, DUMPS AND LANDFILLS

No excavations or the excess dumping of earth, gravel, stone or other natural products, except for the purpose of grading and filling shall be carried on in any district unless the same is permitted by the Board, subject to such conditions and safeguards as it may determine for the protection of the public health, safety and morals of the people of Clay Township.

Dumping of refuse or waste matter and/or the burning of such land, natural land cavity, existing excavations, or quarries shall be prohibited in any district unless the said use exists at the time of the enactment of this Resolution, and in that case, the Board may establish the necessary community. (ORC 519.02 "Other Purposes")

SECTION 3811 NUISANCES

No use shall be permitted or authorized to be established which, when conducted in compliance with the provisions of the Resolution and any additional conditions and requirements prescribed is or may become hazardous, noxious, or offensive due to emission of odor, smoke, fumes, cinders, dust, noise, gas, vibration, electrical interference, refuse matter, water carried wastes, or which will interfere with adjacent landowners' enjoyment of the use of their lands. (Z-3-93) (effective 2/17/94)

SECTION 3812 ACCESSORY USES NOT PERMITTED - RURAL AGRICULTURE, RURAL TRANSITION, RESIDENTIAL AND BUSINESS DISTRICTS (Z-3-93 -2//17/94)

A. Overnight parking or outdoor storage of trucks over one (1) ton rated capacity, buses, or mobile homes shall not be permitted as an Accessory Use in an Rural Agriculture, Rural Transition, Residential, or Office District where they may possibly become a nuisance or a detriment to the neighborhood.

B. Outdoor storage such as, but not limited to junk, wood, lumber, building materials, parking of inoperative and/or unlicensed motor vehicles or similar items of property, unless specifically permitted by the specific zoning district regulations shall not be permitted as an Accessory Use in Rural Agriculture, Rural Transition, Residential, Office or Business Districts.

ARTICLE 39 - EXEMPTIONS FROM ZONING PROVISIONS

SECTION 3901 ESSENTIAL SERVICES

Essential services shall be permitted as authorized and regulated by law and other resolutions. It is the intention hereof to exempt such essential services from the application of this Zoning Resolution.

SECTION 3902 UNSAFE BUILDINGS

Nothing in this Zoning Resolution shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

SECTION 3903 EXISTING BUILDING PERMITS

Nothing contained in this Zoning Resolution shall require any change in the overall 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 Zoning Resolution, the construction of which, conforming with such plans, shall have been started prior to the effective date of this Zoning Resolution and continued to completion without interruption, except for causes beyond the builder's control.

ARTICLE 40 - STORM WATER MANAGEMENT, DRAINAGE AND PONDS

SECTION 4001 STORM WATER MANAGEMENT

1. All lots, tracts or parcels shall be graded to direct water away from buildings and into a natural drainage pattern without causing erosion. In addition, each lot will be graded in such a way in order to accept water runoff that naturally flows onto the lot, including surface and subsurface flow. Runoff from each lot will be directed to a natural drainage pattern, such as stream, open ditch, swale, or storm sewer. The peak discharge will not be increased.
2. Water management plans shall be submitted to the Zoning Office prior to ANY construction.

SECTION 4002 CONSTRUCTION AND BUILDING

1. ANY subsurface drain (tile) that is damaged during construction shall be repaired to its original condition. Prior to relocating any subsurface drain, a map showing the existing and planned relocation shall be submitted to the Zoning Office and approved prior to beginning any construction, earth moving, or relocation. The Montgomery Soil and Water Conservation District will provide technical assistance to the Township and landowners if requested.
2. Eavespouts or downspouts and other runoff will not be outletted directly into a subsurface drain through surface inlets unless the capacity of the drain can be shown to be adequate. If post construction runoff exceeds pre-development runoff, on-site storage will be required and will not exceed pre-development runoff. Subsurface drains will not be used to outlet storage facilities unless adequate capacity can be shown. Pre-construction approval from the Zoning Office is required.

SECTION 4003 MAINTENANCE

1. Drainage is an important requirement for developing land in Clay Township. Nearly every land unit will have a subsurface drain. Maintenance of these systems is the responsibility of the property owner. Should "blowholes" or other damage occur, the property owner or his/her agent shall repair/replace/or reroute the drain so as to assure its original capacity and condition.

SECTION 4003 MAINTENANCE (continued)

2. There are several drainage projects in Clay Township that have been completed through petition. The improvements were paid by landowners in the watershed. Periodically, maintenance assessments will be placed on real estate tax statements. Procedures followed under this petition process are outlined in ORC Section 1515.

SECTION 4004 PONDS

Anyone building a pond shall submit a plan to the Clay Township Zoning Office. Plans must meet the standards and specifications followed by the Montgomery Soil and Water Conservation District. A letter stating that the plans meet their standards and specifications from the District will accompany pond plans submitted to the Zoning Office. Ponds will be certified by the District after construction, including seeding. (Z-4-97)

CHAPTER IX

SPECIAL REGULATIONS

Effective 11/1/02

ARTICLE 41 - SIGN AND BILLBOARD REGULATIONS

SECTION 4101 PURPOSE AND INTENT

It is hereby determined that regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services and facilities without difficulty and confusion, to promote traffic safety, safeguard public health and welfare, and prevent wasteful use of natural resources in competition among businesses for attention.

In addition, it is the intent of this Resolution is to assure the continued attractiveness of the total community environment through the adoption of discretionary controls designed to preserve scenic, aesthetic, and economic values within the Township. It is further determined that signs lawfully erected and maintained under the provisions of this Section are consistent with customary usage.

The standards contained herein are intended to be content neutral while achieving the following objectives:

A. Recognize the proliferation of signs is unduly distracting to motorists and non-motorists travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates the potential for vehicular crashes.

B. Prevent signs that are potentially dangerous to the public because of structural deficiencies or disrepair.

C. Reduce visual pollution and physical obstructions caused by a proliferation of signs which could diminish the Township's image, property values, and quality of life.

D. Recognize that the principal intent of commercial signs, to meet the purpose of these standards and serve the public interest, should be for identification of an establishment on the premises, and not for advertising special events, brand names, or off-premise activities; alternative channels of advertising communication and media are available for advertising that does not create visual blight and compromise safety of the motoring public.

E. Enable the public to locate goods, services and facilities without excessive difficulty and confusion by restricting the number and placement of signs.

F. Prevent placement of signs that will conceal or obscure signs of adjacent uses.

G. Protect the public right to receive messages, especially non-commercial messages such as religious, political, economic, social, philosophical and other types of information projected by the First Amendment of the U.S. Constitution.

H. Achieve a substantial government interest for public safety, aesthetics, and protection of property values.

I. Maintain and improve the image of the Township by encouraging signs that are compatible with and complementary to related buildings, uses, and adjacent street through the establishment of specific standards for various commercial areas in the Township.

SECTION 4102

GENERAL PROVISIONS

The following general provisions are applicable to all signs unless modified by the general requirements or standards of a specific zoning district.

4102.01

SCOPE OF REQUIREMENTS

It shall be unlawful for any person, firm, or corporation to erect, construct, or alter any sign in the Township except in conformance with the provisions of this Resolution, subject to issuance of a permit, except as otherwise provided herein.

4102.02

LOCATION

A. Setback Requirements.

- 1) All signs shall be set back five (5) feet from the existing right-of-way or right-of-way as shown on the Official Thoroughfare Plan for Montgomery County, whichever is greater, unless otherwise exempted.
- 2) Signs shall be setback at least three (3) feet from the closest edge of any parking lot.
- 3) Freestanding signs shall be located no closer than fifty (50) feet to any residential or agricultural district.

B. Clear Corner Vision. No sign shall be erected on any lot which will obstruct the view of drivers in vehicles approaching an intersection of two roads or the intersection of a road and a driveway as required in SECTION 3602 TRAFFIC VISIBILITY ACROSS CORNER LOTS, INTERSECTIONS, AND DRIVES.

4102.03 CONSTRUCTION STANDARDS

A. General Requirements. All signs shall be designed and constructed in a safe and stable manner in accordance with the County's adopted building code, electrical code, and other applicable codes and ordinances. All electrical wiring associated with a freestanding sign shall be installed underground.

B. Erector's Imprint. Signs which require a permit under this Article must carry the identification and address of the sign installer, electrical voltage (when applicable), and date of erection in clearly legible letters whether for the initial erection or re-hanging of a sign. In case of re-hanging or re-erection of any sign, the new erector must place his identification, address and the date on the sign.

C. Fastenings. All signs must be erected in such a manner and with such materials to remain safe and secure during the period of use and all bolts, cables, and other parts of such signs shall be kept painted and free from corrosion.

D. Freestanding Signs. Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is no danger that either the sign or the supportive structure may be moved by the wind or other forces and cause injury to persons or property.

E. Sanitation/Landscaping. Property surrounding any freestanding sign shall be kept clean, sanitary and free from obnoxious and offensive substances, weeds, debris, rubbish, and flammable material. All plant materials and other landscaping surrounding a freestanding sign shall be maintained on a regular basis, including pruning, mowing, watering, fertilizing and replacement of dead and diseased materials.

4102.04 MEASUREMENT

A. Sign Area. Sign area shall be computed as follows:

1. General Requirements. Where a sign consists of a generally flat surface or sign face on which lettering and other information is affixed, the sign area shall be computed by measuring the entire face of the sign.

2. **Individual Letters.** Where a sign consists of individual letters and logo affixed directly to a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.

3. **Freestanding Sign.** The area of a double-faced freestanding sign shall be computed using only one (1) face of the sign provided that: 1) the outline and dimensions of both faces are identical, and 2) the faces are back-to-back so that only one face is visible at any given time.

4. **Ground Sign.** The area of a ground sign shall be computed by measuring the entire vertical surface of a face upon which the letters and logo are attached. In the case of a multi-faced ground sign, the area of the sign shall be computed using only one face of the sign.

5. **Cylindrical Sign.** The area of a cylindrical sign shall be computed by multiplying the sign diameter by its height.

B. Setback and Distance Measurements. The following guidelines shall be used to determine compliance with setback and distance measurements:

1. The distance between two signs shall be measured along a straight horizontal line that represents the shortest distance between the two signs.

2. The distance between a sign and a parking lot or building shall be measured along a straight horizontal line that represents the shortest distance between the outer edge of the parking lot or building.

C. Height Measurements. Sign height shall be computed as follows:

1. The height of a freestanding sign shall be determined by measuring the vertical distance between the top part of the sign or its structure or frame, whichever is highest, to the elevation of the ground directly beneath the sign.

The Zoning Administrator shall use the elevation of the street curb nearest the location of the sign for determining sign height when a freestanding sign is located on a hill or earth berm.

2. The height of an awning, canopy, marquee or window sign shall be determined by measuring the vertical distance between the top part of the of a sign letter, symbol, panel, or frame, whichever is highest to the elevation of ground underneath the sign.

3. Any material whose major function is to provide structural support for a sign shall be considered part of the sign for purposes of determining sign height.

4102.05 ILLUMINATION

A. **General Requirements.** Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign, or internal to it.

B. **Non-Glare, Shielded Lighting.** Use of glaring, unshielded or undiffused lights or bulbs shall be prohibited. Lights shall be shielded so as not to project onto adjoining properties or thoroughfares.

C. **Traffic Hazards.** Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.

D. **Bare Bulb Illumination.** Illumination by bare bulbs or flames is prohibited.

4102.06 SIGN DESIGN FEATURES

The following standards shall apply to all signs:

A. **Character.** All signs shall be designed, constructed, and maintained so as to be appropriate in appearance with the existing character of their vicinity and so as not to change the essential character of such area.

B. **Location.** Signs shall not cover architectural details such as arches, transom windows, doors, moldings, columns, capitals, sills, cornices and similar details.

C. **Material.** Sign materials shall complement the construction materials and architectural style of the building facade.

D. **Lettering Style.** Lettering style shall be clean and simple to assure readability and shall be in harmony with the style of architecture of the building. No more than two (2) different type styles shall be used on each sign.

E. **Colors.** No more than three (3) colors that are in harmony with the building color and architecture may be used per sign.

EXEMPTED SIGNS

The following signs are not subject to the provisions of this Resolution:

A. Government signs for control of traffic and other regulatory purposes, street signs, warning signs, railroad crossing signs, and signs of public service companies for the purpose of safety.

B. Flags, emblems, and insignia of any governmental agencies or subdivision and temporary displays of a patriotic, religious, charitable, or civic character.

C. Commemorative plaques placed by recognized historical agencies.

D. On-site informational signs, set back requirements exempted only, subject to the following conditions:

1. On-site informational signs, such as directional signs, shall not contain logos or other forms of advertising.

2. On-site informational signs shall not exceed three (3) square feet in area, or three (3) feet in height.

E. Signs that designate a site, building, facility, or portion thereof as barrier-free.

F. Address numbers with a numeral height no greater than six (6) inches for residences and eighteen (18) inches for businesses.

G. Nameplates identifying the occupants of the building, not to exceed one (1) square foot.

H. Incidental window signs, provided that total of all such signs shall not exceed two (2) square feet.

I. Portable real estate "open house" signs with an area no greater than six (6) square feet in area advertising the sale, rental, or lease of that particular property.

J. "Help wanted" signs soliciting employees for the place of business where posted, provided that the maximum area for all such signs shall be four (4) square feet.

K. "No Trespassing," "No Hunting," and "No Dumping" signs.

L. Political campaign signs announcing the candidacy of persons running for public office, or relating to issues to be voted on in an election or providing other election related information are permitted only on private property and can only be put up sixty (60) days before the election and remain fourteen (14) days after the election. Political signs shall be no larger than two (2) feet by three (3) feet.

M. Permanent signs on vending machines, fuel pumps, automatic teller machines (ATM) or ice containers indicating only the contents and operational instructions for the devices, provided that the sign area for each device shall not exceed four (4) square feet.

N. Agricultural signs advertising seed when displayed on a field planted with the same brand and type of seed. Such signs shall not exceed eight (8) square feet.

O. Agricultural signs advertising agricultural commodities that are produced on the premises. Such signs shall not exceed six (6) square feet.

4102.08

MAINTENANCE AND INSPECTION

A. All signs and sign structures shall be kept in repair and in a proper state of preservation. Signs that are structurally unsafe or otherwise cause a public safety hazard by reason of inadequate maintenance, dilapidation, or abandonment shall be repaired in accordance with Section 4102.13 Sign Owner Responsibility or removed in accordance with Section 4102.09 Removal of Signs.

B. **Inspection of Existing Signs.** The Township Zoning Administrator shall have the authority to routinely enter onto property to inspect existing signs. In conducting such inspections, the Zoning Administrator, with a County building official, shall determine whether the sign is adequately supported, painted to prevent corrosion, and so secured to the building or other support as to safely bear the weight of the sign and pressure created by the wind.

C. **Correction of Defects.** If the Township Zoning Administrator or County building official finds that any sign is unsafe, insecure, improperly constructed, or poorly maintained, the sign erector, owner of the sign, or owner of the land shall make the sign safe and secure by completing any necessary re-construction or repairs, or entirely remove the sign in accordance with the timetable established by the Zoning Administrator.

4102.09 REMOVAL OF SIGNS

Any sign that no longer identifies a business that is in operation, or that identifies an activity or event that has already occurred, shall be considered abandoned and shall be removed by the owner, agent, or person having use of the building or structure. Upon vacating a commercial or industrial establishment, the proprietor shall be responsible for removal of all signs used in conjunction with the business.

Signs which are no longer functional or are abandoned or identifies an activity or event that has already occurred shall be removed in compliance with the provisions of this Resolution within thirty (30) days following such malfunction or abandonment.

4102.10 NONCONFORMING SIGNS

A. Any signs erected prior to the enactment of this Resolution and not conforming to the provisions of this Resolution shall be deemed to be nonconforming. This shall not prohibit the posting or maintaining in a safe condition any sign which is nonconforming.

B. Any nonconforming sign which is altered, relocated, or replaced shall comply with all provisions of this Resolution.

C. Normal maintenance shall be permitted, provided that any nonconforming sign that is destroyed by any means to an extent greater than fifty (50) percent of the sign's pre-catastrophe fair market value, exclusive of the foundation, shall not be reconstructed. Normal maintenance shall include painting of chipped or faded signs; replacement of faded or damaged surface panels; or, repair or replacement of electrical wiring or electrical devices. A non-conforming sign shall not be structurally altered to prolong the life of the sign.

4102.11 PERMITS

A. **Permit Required.** Building and zoning permits shall be obtained for erection, construction, enlargement, relocation or modification of any size sign, as regulated by the Building Inspection Department of Montgomery County and the Clay Township Zoning Resolution.

B. **Fee.** A permit shall require payment of a fee, which shall be established by the Township Trustees. Permits for sign construction shall expire six (6) months from the date they are issued.

C. Permit Applications. Application for a sign permit shall be made upon forms provided by the Zoning Administrator. The following information shall be required:

1. Name, address, and telephone number of the applicant.
2. Location of the building, structure, or lot on which the sign is to be attached or erected.
3. Position of the sign in relation to building facade, nearby buildings, structures, and property lines.
4. Plans showing sign dimensions, materials, colors, lettering as it will appear on the completed sign, method of construction, and attachment to the building or in the ground.
5. Name and address of the person, firm, or corporation owning, erecting, and maintaining the sign.
6. Other information required by the Zoning Administrator to make the determination that the sign is in compliance with all applicable laws and regulations.
7. Written consent of owner or lessee of the premises upon which sign is to be erected.

D. Issuance of a Permit. The applicant shall be given a permit by the Zoning Administrator after a complete sign application is submitted for the Zoning Administrator's review and approval. Sign applications that are not complete or do not meet the minimum standards required in this Resolution shall not be approved.

E. Inspection. All signs for which a permit has been issued shall be inspected by the Zoning Administrator when erected. Approval shall be granted only if the sign has been constructed in compliance with the approved plans and applicable Zoning Resolution and Building Code standards. In cases where fastenings or anchorages are to be eventually bricked in or otherwise enclosed, the sign erector shall advise the Zoning Administrator when such fastenings are to be installed so that inspection may be completed before enclosure.

F. Exceptions. A new permit shall not be required for ordinary servicing or repainting of an existing sign message, cleaning of a sign, or changing of the message on the sign where the sign is designed for such changes (such as lettering on a marquee or numbers on a gasoline price sign). Furthermore, a permit shall not be required for certain exempt signs listed in Section 4102.07.

PROHIBITED SIGNS

A. No signs shall be attached or otherwise applied to trees, bus shelters, utility poles, benches, trash receptacles, vending machines, or any other unapproved supporting structure or otherwise placed in the public right-of-way.

B. Pennants, banners, streamers, festoons, spinners, balloons, and similar type devices.

C. No sign shall be spinning devices affixed to the ground or otherwise affixed in a permanent manner to an approved supporting structure.

D. Signs which are not securely affixed to the ground or otherwise affixed in a permanent manner to an approved supporting structure.

E. No wall sign shall extend above the wall or parapet of a building to which it is affixed.

F. All blinking, flashing, or intermittent lighting; however, time and temperature signs shall be permitted.

G. Moving, revolving, or rotating signs.

H. Off-premise advertising signs within six hundred and sixty (660) feet from the nearest edge of the right-of-way of all interstate highways and freeways.

I. Roof signs or signs mounted on marquees.

J. Portable signs, except where expressly permitted in this Resolution.

K. No sign shall be erected at or near any intersection of any streets, driveway entrance or exit, or any railway and any street in such a manner as to obstruct free and clear vision or at any location where, by reason of position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device or which makes use of the words, "stop," "look," "danger," or other word, phrase, or symbol in such manner as to interfere with, mislead, or confuse traffic.

L. Any sign containing obscene, indecent, or immoral matter.

M. Off-premise advertising signs, except where expressly permitted in this Resolution.

N. Real estate signs no longer valid due to the sale, rental, or lease of the property.

O. String lights used for commercial purposes, other than holiday decorations.

P. Signs affixed to a parked motor vehicle or truck trailer which is being used principally for advertising purposes, rather than for transportation purposes

Q. Any sign not expressly permitted.

R. Abandoned signs, as specified in Section 4102.09.

S. Projecting signs.

4102.13 SIGN OWNER RESPONSIBILITY

A. The property owner shall be held responsible for the removal and subsequent disposal of all abandoned signs, including the complete blocking out of painted wall signs.

B. The owner of the sign shall be held responsible for sign maintenance, repair, and upkeep.

C. If any sign reaches a state of disrepair and is deemed unsightly or unsafe or abandoned by the Clay Township Zoning Administrator and is not properly renovated, it shall be condemned and an order issued for its removal immediately at the expense of the sign owner or property owner.

4102.14 SIGNS NEAR "R" DISTRICTS

A. No sign shall be located in a business or industrial district within one hundred (100) feet of any residentially zoned district in such a manner as to be primarily viewed from residentially zoned property or from any street or alley within an residential district.

B. Illumination resulting from all signs and lighting on any property in a non-residential zoning district shall not exceed one-half (1/2) foot candles at a height of five (5) feet when measured at any point on property in a residential zoning district.

SECTION 4103 TEMPORARY SIGNS

4103.01 STANDARDS AND REQUIREMENTS

A. Shall be located on the premises to which they refer.

B. Shall not be illuminated.

Temporary Sign Standards (Section 4103)

Type of Sign	District Permitted	Type of Sign Permitted	Maximum Size	Maximum Height	Maximum Number	Permit Required	Required Setback	Permitted Duration
Construction Sign	All	Ground Wall	64 sq. ft.	10 ft.	1	Yes	[a]	From: issuance of Building Permit. To: issuance of Certificate of Occupancy.
Real Estate - sale or lease of individual home or residential lot	Agriculture Residential	Portable Ground	6 sq. ft.	6 ft.	[b]	No	[d]	Remove within 30 days of sale or lease
Real Estate - sale or lease of individual business or vacant lot	Business Industrial	Portable Ground Wall	16 sq. ft.	10 ft.	[b]	No	[d]	Remove within 30 days of sale or lease
Real Estate - sale or lease of unplatted vacant land	All	Portable Ground	64 sq. ft.	10 ft.	[b]	Yes	[d]	Remove within 30 days of sale or lease
Real Estate Development Sign	All	Portable Ground	64 sq. ft.	10 ft.	[c]	Yes	[d]	Remove within 30 days after all units lots are sold or leased
Grand Opening Sign	Business	Ground Wall	16 sq. ft.	10 ft.	1	No	[a]	30 days
Garage Sale Sign	All	Ground Wall	6 sq. ft.	5 ft.	1	No	[d]	7 consecutive days
Community/Institutional Special Event Sign	All	[e]	[e]	[e]	[e]	No	[a]	30 days prior and during the event. Remove all signs 14 days after the event.
Political Sign	All	Ground Wall	16 sq. ft.	6 ft.	2 [b]	No	[d]	60 days prior to election. Must be removed within 14 days after election
Temporary Window Sign	Business	Paper Plastic Fabric	[f]	[f]	[f]	No	-	[g]
Seasonal Signs Advertising Agricultural Commodities	All	Portable Ground	16 sq. ft.	10 ft.	2	No	[d]	During the seasonal selling period

C. Temporary signs shall be permitted as specified in the following table.

Temporary Sign Standards (Section 4103)

Footnotes

- [a] The temporary sign shall comply with the setback requirements for the district in which it is located.
- [b] On a corner parcel two (2) signs, one (1) facing each street, shall be permitted.
- [c] One sign shall be permitted for each frontage on a secondary or major thoroughfare.
- [d] The temporary sign may be located in the required setback area, but shall not be located within the road right-of-way.
- [e] Community special event signs may include ground or wall signs, subject to obtaining a permit from the Zoning Administrator. Banners, pennants, or similar displays may be permitted subject to Zoning Board approval.
- [f] The total of all window signs, temporary and permanent, shall not exceed one-half (1/2) of the total window area. Temporary window signs shall not exceed ten (10) square feet. The area of permanent window signs shall also be counted in determining compliance with standards for total area of wall signs.
- [g] Temporary window signs that are faded, yellowed, ripped or otherwise damaged shall be removed immediately.
- [h] Any costs incurred by the Township in removing political signs shall be assessed against the candidate, the committee designated pursuant to Chapter 519 of the Ohio Revised Code or other legal means available under current law and such other person or entity responsible for erecting the sign. In any prosecution for violation of the requirements concerning political signs, proof that a sign contains a message advocating the election of a candidate shall be deemed prima facie evidence that such candidate is responsible for the erection and maintenance of such sign. In addition, where a sign is located on private property, proof that a person or entity is the owner or is in control of such property shall be deemed prima facie evidence that such person or entity is responsible for the erection and maintenance of such sign.

SECTION 4104. OFF-PREMISE ADVERTISING SIGNS (BILLBOARDS)

Freestanding off-premise advertising signs shall be permitted in non-residential zoning districts, subject to the following requirements:

4104.01 STANDARDS

A. Maximum Size. No such sign shall exceed one thousand two hundred (1,200) square feet in area per sign face facing an interstate highway, or three hundred (300) square feet next to a state highway. Off-premise advertising signs shall not have more than two (2) sign faces.

B. Maximum Height. The maximum height for such signs shall be equal to the height restrictions set for principal structures within the zoning district in which it is located.

C. Locations Permitted. Off-premise advertising is permitted in agriculture, business and industrial districts located adjacent to an interstate highway. Off-premise advertising signs are also permitted adjacent to state highways, excluding highways designated as scenic byways, in business and industrial districts. Off-premises advertising signs shall not be located on or over the roofs of buildings.

D. Setbacks.

1. **Highway Right-of-way.** No off-premise advertising device shall be erected or maintained within six hundred sixty (660) feet of the edge of the right-of-way of an interstate highway.

2. **Property Lines.** Off-premise advertising signs shall comply with the building setback requirements for the district in which they are located.

3. **Non-compatible Use or Structure.** No part of any such sign shall be located closer than five hundred (500) feet to any residential dwelling unit, residential zoning district, park, school, church, hospital, cemetery, or government building.

E. Distance from Other Signs.

1. There shall be a minimum of two thousand (2,000) feet between off-premise advertising signs along any interstate highway. Only one (1) off-premise sign may be located on either side of an interstate highway for each two thousand (2,000) foot segment, including signs in adjacent municipalities.

2. There shall be a minimum of two hundred fifty (250) feet between any off-premises advertising sign and any on-premise sign.

F. Content. Each face of the sign shall exhibit no more than two pictorials and/or two written messages about one use, product, service, goods, event or facility located on other premises. No face of a sign shall be so designed as to give the impression of more than two signs.

G. Any off-premise sign not in use for advertising purposes shall have unused surfaces kept uniformly white in color overall. However, the owner of the sign shall be permitted to place a phone number on it to which inquiries for advertisement may be directed.

H. **Bi-annual Permit.** A copy of the State of Ohio required bi-annual permit shall be forwarded to the Clay Township Zoning Administrator.

I. **Additional Requirements.** All outdoor advertising signs shall comply with all applicable requirements and conditions to the Ohio Revised Code and Administrative Code for advertising device control.

SECTION 4105 SIGNS IN RESIDENTIAL AND AGRICULTURAL DISTRICTS

4105.01 PERMITTED SIGNS

The following signs shall be permitted in residential and agricultural zoning districts.

A. **Identification Signs.** A nameplate sign and street address shall be permitted in accordance with Section 4102.07.

B. **Temporary Signs.** Real estate signs, garage sale signs, and other temporary signs shall be permitted in accordance with Section 4103.

C. **Residential Entranceway or Identification Signs.** Permanent residential entranceway or identification signs shall be permitted in accordance with the following regulations:

1. There shall be no more than one (1) such sign located at each entrance to a subdivision or other residential development.
2. Sign materials shall complement the construction materials and architectural style of the houses within the subdivision. Landscaping shall be provided to create an aesthetically pleasing and safe identification for the residential development.
3. Entranceway structures shall not exceed four (4) feet in height and thirty-two (32) square feet in area.
4. The area of the sign message shall cover no more than fifty (50) percent of the entranceway structure.
5. Such signs shall be set back a minimum distance of five (5) feet from any property line or right-of-way line consistent with the standards of Section 4102.02 A and Section 4102.02B.

D. HOME OCCUPATION SIGNS

1. Permits for home occupation signs shall be issued by the Zoning Administrator.
2. Home occupation signs shall be limited to signs placed on the facade of the structure in which the home occupation is conducted.
3. No more than one (1) non-illuminated sign shall be allowed for each home occupation. Said sign shall display only the name and occupation of the residents on the premises.
4. No sign for a home occupation shall have more than one (1) face, nor shall any sign face exceed three (3) square feet in area.

E. Signs for Nonresidential Uses in Residential Districts

Nonresidential uses in residential districts, such as schools, colleges, museums, municipal buildings, churches, and country clubs shall be permitted to erect the following signage:

1. Freestanding Signs including Bulletin Boards.

- a. **Size.** There shall be no more than one (1) freestanding sign per parcel. The total area of the permitted free standing sign shall not exceed thirty two (32) square feet.
- b. **Setbacks.** Freestanding signs shall be set back a minimum distance of five (5) feet from any property line or right-of-way line consistent with the standards of Section 4102.02.A and Section 4102.02.B.
- c. **Setback from Building.** A minimum two (2) foot horizontal separation and six (6) foot vertical separation shall be maintained between any freestanding sign and any building or other structure
- d. **Height.** The maximum height of any freestanding sign shall be seven (7) feet.

2. Wall signs.

- a. **Size.** There shall be no more than one (1) wall sign per parcel. The total area of wall sign shall not exceed one (1) square foot per linear foot of building frontage, not to exceed thirty-two (32) square feet in area.

b. **Location.** Wall signs shall be permitted only on the side of a building which faces the front lot line.

c. **Height.** The top of a wall sign shall not be higher than whichever is lowest:

i. The maximum height specified for the district in which the sign is located.

ii. The height of the building facing the street on which the sign is located.

F. **Management Office Identification.** Rental or management offices in the residential district shall be permitted one (1) identification sign not to exceed six (6) square feet in area.

SECTION 4106 SIGNS IN NON-RESIDENTIAL DISTRICTS

4106.01 PERMITTED SIGNS

The following signs shall be permitted in non-residential districts.

A. Signs for Residential Uses in a Nonresidential District

Signs for nonconforming residential uses in nonresidential districts shall be governed by the sign regulations for residential district uses set forth in Section 4105.

B. **Temporary Signs.** Real estate signs and other temporary signs shall be permitted in accordance with Section 4103.

C. Wall Signs

Wall signs shall be permitted in business and industrial districts subject to the following regulations:

1. **Number.** One (1) wall sign shall be permitted per street or highway frontage on each parcel. In the case of a multi-tenant building or shopping center, one (1) wall sign shall be permitted for each tenant having an individual means of public access. Tenants who occupy a corner space in a multi-tenant structure shall be permitted to have one (1) sign on each side of the building. Where several tenants use a common entrance in a multi-tenant structure, only one (1) wall sign shall be permitted, but the total sign area may be allocated on an equal basis to all tenants.

2. Size.

a. **Single Tenant Building.** The total area of a wall sign shall not exceed one (1) square foot per lineal foot of building frontage not to exceed seventy (70) square feet.

b. **Multi-tenant Building.** The total area of a wall sign shall not exceed one (1) square foot per lineal foot of building frontage not to exceed sixty-four (64) square feet. The center of the wall sign shall be placed in the center of the unit on which it is affixed.

c. **Vertical Dimensions.** The maximum vertical dimension of any wall sign shall not exceed thirty (30) percent of the building height.

d. **Horizontal Dimensions** The maximum horizontal dimension of any wall-mounted sign shall not exceed seventy-five (75) percent of the width of the building.

e. **Height.** The top of a wall sign shall not be higher than whichever is lowest:

i. The maximum height specified for the district in which the sign is located.

ii. The top of the sills at the first level of windows above the first story.

iii. The height of the building facing the street on which the sign is located.

D. FREESTANDING SIGNS

Freestanding signs, as defined herein, shall be permitted in business and industrial districts subject to the following regulations:

1. **Number.** One (1) freestanding sign shall be permitted per street or highway frontage on each parcel. However, only one (1) sign shall be permitted on lots having frontage on more than one street if a single sign can be located such that it is visible from both streets. In multi-tenant buildings or shopping centers the sign area may be allocated for use by individual tenants.

2. Size.

a. **Single Tenant Building.** The total area of the freestanding sign shall not exceed one (1) square feet per lineal foot of lot-frontage, not to exceed eighty (80) square feet.

b. **Multi-tenant Building.** The total area of the freestanding sign shall not exceed one (1) square feet per lineal foot of lot-frontage, not to exceed one-hundred (100) square feet. A maximum of fifty (50) percent of the sign area may be changeable copy signage.

c. **Size Bonus.** The sign area may be increased up to a maximum of ten (10) percent for signs that meet each of the following standards as determined by the Zoning Administrator or Zoning Commission:

i. Are constructed out of high quality building materials such as brick, stone, decorative block, faux wood and similar attractive and durable building materials.

ii. Are compatible with the character of the building that it advertises and with the overall character of the surrounding area. The sign should complement and enhance building architecture.

iii. Contain the minimal amount of information as possible to reflect simplicity and improve sign legibility. Sign content should be limited to company name and identification logo.

iv. Have an appropriate contrast with a limited use of harmonious colors. A sign or a series of signs shall have a continuity of design throughout the sign and sign area.

v. A landscaping area equal to the sign area shall be provided around the sign base. The landscape area shall include living plants aesthetically located and maintained. Impervious material shall not be permitted within the landscape area.

3. Height

a. **Single Tenant Building.** The height of a freestanding sign in any nonresidential district shall not exceed six (6) feet in height, measured above the grade of the nearest street.

b. **Multi-tenant Building.** The height of a freestanding sign in any nonresidential district shall not exceed ten (10) feet in height, measured above the grade of the nearest street.

4. **Setback from Residential Districts.** Freestanding signs shall be located no closer than fifty (50) feet to any residential district.

5. **Street Address.** The street address number shall be clearly displayed on the sign in numerals not less than six (6) inches or more than twelve (12) inches in height. Required street address numbers are not counted in the total area of the sign.

E. **Gasoline Price Signs.** Gasoline price signs shall be permitted subject to the following standards:

1. **Number.** In addition to other permitted signs, one (1) gasoline price sign shall be permitted per street frontage.

2. **Size.** Gasoline price signs shall not exceed twenty (20) square feet in area. The area permitted for gasoline signs can be added to the area of a freestanding sign. The maximum height of the freestanding sign combined with a gasoline price sign shall be nine (9) feet.

F. **Marquee Signs.** Marquee signs shall be permitted for theaters located in commercial districts subject to the following requirements:

1. **Construction.** Marquee signs shall consist of hard incombustible materials. The written message shall be affixed flat to the vertical face of the marquee.

2. **Vertical Clearance.** A minimum vertical clearance of ten (10) feet shall be provided beneath any marquee.

3. **Projection.** Limitations imposed by this Ordinance concerning projection of signs from the face of a wall or building shall not apply to marquee signs, provided that marquee signs shall comply with the setback requirements for the district in which they are located.

4. **Number.** One (1) marquee shall be permitted per lot.

G. **Awnings and Canopies.** Signs on awnings and canopies in commercial and industrial districts shall be permitted, subject to the following standards:

1. **Coverage.** The total area of the lettering and logo shall not exceed twenty-five (25) percent of the total area of the awning or canopy that would be visible in a drawing of a facade on which the awning is located.

2. Compliance with size Requirements for Wall Signs. The area of signs on awnings or canopies shall be counted in determining compliance with the standards for total area of wall signs permitted on the parcel.

3. Projection. Limitations imposed by this Resolution concerning projection of signs from the face of a wall or building shall not apply to awning and canopy signs, provided that such signs shall comply with the setback and Building Code requirements for the district in which they are located.

H. Window Signs. Temporary, incidental, and permanent window signs shall be permitted on the inside in business districts provided that the total combined area of such signs shall not exceed fifty (50) percent of the total window area. The area of permanent window signs shall be counted in determining compliance with standards for total area of wall signs on the parcel.

ARTICLE 42 - OFF STREET LOADING AREAS

SECTION 4201 OFF STREET LOADING SPACES REQUIRED

In connection with every building or part thereof hereafter erected, except dwellings, there shall be provided, on the same lot with such buildings, off street loading spaces or berths for uses which customarily receive or distribute material or merchandise by vehicle, in accordance with the requirements of Section 4202 of this Article.

SECTION 4202 OFF STREET LOADING STANDARDS

A. Dimension: Each off street loading space shall be at least ten (10) feet in width by twenty-five (25) feet in length having vertical clearance of fifteen (15) feet or more, plus adequate area for ingress and egress.

B. Surfacing: All open loading spaces shall be graded and improved with bituminous concrete or Portland cement concrete.

C. Drainage: All loading spaces shall be provided with adequate drainage facilities as approved by the County Engineer.

D. Location: All required loading spaces shall be off street and shall be located on the same lot as the specific use to be served. No loading shall be located within a required front or side yard when adjacent to a Residential District. No permitted or required loading space shall be located within fifty (50) feet of the nearest point of intersection of any two (2) streets or highways.

ARTICLE 43 - OFF STREET PARKING

SECTION 4301 OFF STREET PARKING REQUIRED

In connection with every use, there shall be provided, at the time any building or structure is erected or at the time any use of land is extended, off street parking as provided in Section 4302 of this Article, except that no off street parking space shall be required for users in existence as of the effective date of this Zoning Resolution.

SECTION 4302 OFF STREET PARKING REQUIREMENTS

Off street parking requirements shall be as follows:

<i>USE</i>	<i>NUMBER OF SPACES REQUIRED</i>
<u>Group #1-Dwelling and Lodging Uses</u>	
One and two family dwellings.	One space for each dwelling unit.
Three family dwelling and mobile home parks.	One and one-half spaces for each dwelling unit.
Four or more dwelling units.	Two spaces for each dwelling unit.
University owned or leased housing, fraternities sororities.	One space for each three occupants calculated on the designed capacity of the building.
Hotels and motels.	One space for each rental unit plus one space for each employee on the maximum work shift plus such spaces as required by this Resolution for restaurants, assembly rooms and affiliated facilities.
Housing for the elderly.	One space for each two dwelling units.
Rooming houses.	One space for each two roomers or boarders based on the designed capacity of the building plus two spaces for a resident owner or resident manager.

SECTION 4302

OFF STREET PARKING REQUIREMENTS (continued)

<i>USE</i>	<i>NUMBER OF SPACES REQUIRED</i>
<u>Group #2 - Business & Commercial</u>	
All business and commercial establishments, except those specified hereafter.	One space for each 300 sq. ft. of floor area.
Retail stores.	One space for each 250 sq. ft. of floor area.
Barber shops, beauty parlors, or similar personal service.	Four spaces per chair.
Eating places.	One space for each 100 sq. ft. of floor area with a minimum of fifteen (15) spaces for eating places—drive-in, and ten (10) spaces for eating places—carry-out.
Automobile service stations	Six spaces, plus one for each employee on the largest shift, except that stations which primarily dispense only petroleum products and have no under-roof facilities for the repair and servicing of motor vehicles will require only two spaces, plus one for each employee on the largest shift.
Furniture stores, appliance stores, automobile sales-rooms and new and used car lots.	One space for each 1,000 sq. ft. of enclosed floor area and one space for each 3,000 sq. ft. of open lot area devoted to the sale and display of motor vehicles.
Laundromats.	One space for each two washing or cleaning machines.
Private clubs and lodges.	One space for each member of the staff, plus one space for each three club members, plus one space for each room which can be used to provide lodging accommodations for members or their guests.

SECTION 4302

OFF STREET PARKING REQUIREMENTS (continued)

<i>USE</i>	<i>NUMBER OF SPACES REQUIRED</i>
<u>Group #3-Office</u>	
Administrative or business office.	One space for each 300 sq. ft. of floor area.
<u>Group #4-Medical and Health</u>	
Dental clinics and offices.	Two (2) spaces for each examination or treatment room, plus one space for each dentist and other employees.
Medical clinics and offices.	Three (3) spaces for each examination or treatment room, plus one space for each doctor and other employees.
Life care retirement center.	One space for each two beds plus one space for each two individual dwelling units.
Hospital or similar medical facility.	One space for each hospital bed, plus one space for each two employees and staff on the combined major work shift.
Nursing home, rest home and convalescent homes.	One space for each two beds.
Funeral homes.	One space for each 50 sq. ft. of floor area in public rooms, plus one space for each vehicle maintained on the premises, plus one space for each employee.
<u>Group #5-Education</u>	
Elementary schools, junior high schools, public or private.	One space for every 30 classroom seats, plus one space for each teacher or other employee.
High schools, public and private.	One space for each 6 students based on the Design capacity of the building, plus one space for each teacher or other employee.

SECTION 4302

OFF STREET REQUIREMENTS (continued)

<i>USE</i>	<i>NUMBER OF SPACES REQUIRED</i>
<u>Group #5-Education</u> <u>(Continued)</u>	
Nursery or child-care centers.	Two spaces, plus one space for each staff member.
Colleges and universities.	One space for each five (5) classroom seats, plus one space for each three (3) seats in an auditorium.
Trade or commercial schools.	One space for each student based on the design capacity of the building, plus one space for each teacher or other employee.
Libraries, museums, art galleries, and other public buildings.	One space for each 300 sq. ft. of floor area.
<u>Group #6-Recreation and Religion</u>	
Churches, chapels, temples synagogues, auditoriums, gymnasiums, stadiums, and other places of public assembly.	One space for each three (3) seats or bench seating spaces.
Theaters.	One space for each two seats.
Assembly halls, dance halls, exhibition halls, or rooms without seats.	One space for each 50 sq. ft. of floor area.
Golf courses, swimming pools or similar places.	One space for each three (3) patrons the establishment is designed to serve.
Enclosed place or amusement or recreation or similar place of assembly.	One space for each 50 sq. ft. of floor area devoted to assembly.

SECTION 4303

OFF STREET PARKING REQUIREMENTS (continued)

<i>USE</i>	<i>NUMBER OF SPACES REQUIRED</i>
<u>Group #6-Recreation And Religion</u>	
Bowling establishments.	Five (5) spaces for each bowling lane, plus such additional space as may be required for affiliated uses.
Health spa.	One space for each 50 sq. ft. of floor area.
<u>Group #7-Industry</u>	
Manufacturing, warehousing, wholesaling or similar establishments.	One space for each two (2) employees on the combined work shifts, plus one space for Each 10,000 sq. ft. of floor area, plus one space for each vehicle maintained on the premises.
Cartage, express, parcel delivery, and freight terminals.	One space for each two (2) employees on the combined work shifts, plus one space for Each motor vehicle maintained on the premises.

OFF STREET PARKING STANDARDS

4303.01

GENERAL

A. Utilization

Required off street parking facilities as listed in Section 4302 shall be solely for the parking of motor vehicles in operating conditions, of patrons, occupants or employees of such uses.

B. Size

A required off street parking space shall be at least ten (10) feet in width and at least twenty (20) feet in length, exclusive of access drives or aisles, ramps, columns, office or work areas.

GENERAL (continued)**C. Access**

Each required off street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space, and which, except for single and two family residences, does not require a vehicle to back into a public street or highway. Such aisle or driveway shall not be used for the parking of other vehicles, except that the driveway of a single family residence may be counted as one parking space.

D. Required Yards

Structures and buildings containing off street parking shall be subject to the yard requirements applicable in the district in which located. Off street parking areas open to the sky may be located on any yard, except that:

1. In any "RA" "RT" or "R" District, off street parking shall not be located in required front yard except on the driveway, or an area approved by the Board of Zoning Appeals.
2. In any "RA", "RT", "R", or "B" District on a corner lot devoted to a residential use, the off street parking shall not be located closer to the side lot line bounding a street than the minimum side yard width prescribed by the development standards for the district.
3. If a lot is devoted to a non-residential use and if its front lot line, side lot line or rear lot line separates the lot from a lot in a Residential District, the off street parking facilities located thereon shall not be closer to such lot line than the minimum front yard depth, side yard width, or rear yard depth prescribed by the development standard for the district.

E. Location

All required parking spaces shall be located as follows:

1. In any "RA", "RT", "R", or "B-1" District on the same lot as the building or use served.
2. Non-contiguous parking lots shall not be separated from the building or use by a major street unless a signalized crosswalk is available within one hundred (100) feet.

GENERAL (continued)**E. Location (continued)**

3. In any Industrial District on the same lot as the building or use served, or a contiguous parcel or within one thousand (1,000) feet of the nearest point of the principal structures; provide, however, that no off street parking facilities for a business or industrial use shall be located in a Residential District.

F. Restricted Parking Lots - Conditional Use

Notwithstanding the provisions of Subsection 4303.01- E., the Board of Zoning Appeals may permit the use of land lying in a zoning district in which parking lots otherwise are not a permissible use as restricted parking lots.

1. The Board's approval of a restricted parking lot must be based on a finding that:

a) The parcel to be used is located not more than fifty (50) feet from the parcel on which is located the land use requiring such parking facilities.

b) the parking lot or parking lots shall be for use in connection with a permissible use in an adjacent zoning district (whether such adjacent district is within the territory subject to this Resolution or is within a territory subject to the zoning restrictions of another zoning authority). Such parking lot shall be used solely for the parking passenger vehicles.

c) The parking lot shall not be used for repair work or vehicle servicing or loading of any kind, and no advertising signs of any kind shall be erected on the lot.

d) The parking lot shall be closed between 11:00 pm and 7:00 am; except as may be otherwise permitted by the Board of Zoning Appeals.

2. Application for a Conditional Use Certificate shall be treated, processed, notice and heard in the manner prescribed for in Section 406 hereof.

4303.01

GENERAL (continued)

F. Restricted Parking Lots - Conditional Use (continued)

3. The Board shall impose further conditions such as screening and landscaping, as may be deemed necessary and appropriate in order to reduce the adverse effect of a parking lot upon the preservation of the residential character and development of the Residential District in which the parking lot is proposed to be located.

4303.02

MAINTENANCE

A. Surfacing

All open off street parking areas (except a required parking space accessory to a single family dwelling) shall be graded, and provided with a hard surface of bituminous or Portland cement concrete.

B. Separation

All open off street parking areas shall be separated from public sidewalks by a space at least four (4) feet in width, and a six (6) inch high barrier (curb) shall be provided on the parking lot side of the four (4) foot width.

C. Screening

When any open off street parking area containing more than five (5) parking spaces is adjacent to a Residential District, an effective buffer or screen, consisting of a solid wall, fence, or dense living hedge, shall be provided at the lot line to protect the privacy of the adjoining residential uses. Such wall, fence, or hedge shall not be less than six (6) feet in height.

D. Lighting

Any lighting used to illuminate off street parking areas shall be equipped with suitable shielding or be so designed as to prevent a glare at eye level on surrounding public or private property.

E. Repair and Service

No motor vehicle repair work or service of any kind, except emergency repairs, shall be permitted in or in association with any off street parking area.

4302.02

MAINTENANCE (continued)

F. All open off street parking areas shall be provided with adequate drainage facilities as approved by the County Engineer. Said approval will not be required for off street parking in Districts A" through "R-7".

G. Interior Design

All parts of open off street parking areas which are unusable, either for parking or for traffic, shall be paved or landscaped with planting of grass, flowers, shrubs, and/or trees, which shall be continuously maintained.

H. Marking

Designated parking spaces shall be marked on the surface of the parking area with paint or permanent marking materials and maintained in clearly visible condition.

4303.03

UNITS OF MEASUREMENT

For the purpose of determining off street parking requirements, the following units of measurements shall apply:

A. Floor Area

Floor area for non-residential purposes shall be the sum of the gross horizontal area of all the floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings.

B. Hospital Bassinets

In hospitals, bassinets shall not be counted as beds.

C. Places of Public Assembly

1. Benches

In stadiums, sports arenas, churches and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities, each twenty (20) inches of such seating facilities shall be counted as one seat for the purpose of determining the off street parking requirements of this Zoning Resolution.

4303.03

UNITS OF MEASUREMENT (continued)

C. Places of Public Assembly (continued)

2. Fixed Seats and Assembly Area

In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.

D. Fractions

When units of measurement determining the number of required parking spaces result in requirement of a fractional space, any fraction up to one-half ($\frac{1}{2}$) shall be disregarded and fractions of over and including one-half ($\frac{1}{2}$) shall require one parking space.

4303.04

ADDITIONS AND EXTENSIONS

Whenever any addition to a building or extension of land use, results in an increase in the number of units used to measure required off street parking spaces, and such addition or extension creates a need for an increase of more than ten (10) percent in the number of required off street parking spaces, additional off street parking shall be provided on the basis of the increase in the number of such units of measurement.

A. Exception

In the case of additional dwelling units created by conversion of an existing dwelling, one off street parking space shall be required for each additional dwelling unit so created.

4303.05

MIXED OCCUPANCIES AND USES NOT SPECIFIED

In the case of mixed uses, the total requirements for off street parking facilities shall be the sum of the requirements for the various uses computed separately. Where a use is not specifically mentioned in Section 4302, the requirements for a use which is so mentioned and to which said use is similar shall apply. Off street parking facilities for one use shall not be considered as providing requirements for any other use, except as specified for joint use.

4303.06

COLLECTIVE PROVISION

Nothing in this Article shall be construed to present collective provision of off street parking facilities for two (2) or more buildings or uses, provided that the total of such off street parking spaces supplied collectively shall not be less than the sum of the requirements for the various uses computed separately; provided, however, that the requirements set forth in Subsection 4303.01-E as to maximum distance between parking areas and establishments served shall apply to each establishment participating in the collective provisions of parking.

ARTICLE 44 - NOISE

SECTION 4401 METHOD OF MEASUREMENT

For the purposes of enforcing the provisions of these regulations, noise shall be measured in dBA using a sound level meter, with the measurements taken at the noisiest point within the receiving property.

A. A dBA is the sound pressure in decibels measured using the "A" weighting network on the sound level meter. The sound pressure level, in decibels of a sound is 20 times the logarithm to the base of 10 of the ratio of the pressure of the sound to a reference pressure of 20 micropascals.

B. A sound level meter is a device which measures sound pressure levels and conforms to Type 1 or Type 2 as specified in the American National Standards Institute Specification S1.4-1971.

C. The receiving property is real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property.

SECTION 4402 EXEMPTIONS

A. The following shall be exempt from the provisions of Section 4403, Table I, between the hours of 7:00 am and 10 pm only:

1. Sounds created by the discharge of firearms on authorized shooting ranges.
2. Sounds created by blasting.
3. Sounds created by the installation of utility services.
4. Sounds originating from temporary construction sites as a result of construction activity.
5. Sounds created by firearms in the course of hunting.

B. The following shall be exempt from the provisions of Section 4403, Tables I and II, at all times:

1. Sounds created by motor vehicles operated on public roads and highways.

SECTION 4402

EXEMPTIONS (continued)

B. (continued)

2. Sounds originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations.
3. Sounds created by surface carriers engaged in interstate commerce by railroad.
4. Sounds created by warning devices not operating continuously for more than five (5) minutes, or bells, chimes, and carillons.
5. Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible.
6. Sounds created by emergency equipment and work necessary in the interests of law enforcement or for health, safety, or welfare of the community.
7. Sounds created by the repair of essential utility services.
8. Sounds originating from officially sanctioned parades and other public events.
9. Sounds emitted from venting at industrial process facilities during startup only, provided that the startup operation is performed during daytime hours whenever possible.

SECTION 4403

MAXIMUM PERMISSIBLE NOISE LEVELS

A. No person shall cause or permit noise to intrude into the property of another person that exceeds the levels listed in:

1. Table I, between the hours of 7:00 am and 10:00 pm.
2. Table II, between the hours of 10:00 pm and 7:00 am.

B. Between the hours of 7:00 am and 10:00 pm, the noise in Table I may be exceeded by no more than:

1. 5 dBA for a total of 15 minutes in any 1 hour period.

SECTION 4403

MAXIMUM PERMISSIBLE NOISE LEVELS (continued)

B. (Continued)

- 2. 10 dBA for a total of 5 minutes in any 1 hour period, or
- 3. 15 dBA for a total of 30 seconds in any 1 hour period.

C. Between the hours of 10:00 pm and 7:00 am, the noise limits in Table II may be exceeded by no more than:

- 1. 5 dBA for a total of 10 minutes in any 1 hour period, or
- 2. 10 dBA for a total of 3 minutes in any 1 hour period.

D. Impulsive sound (such as sounds with a duration of less than 1 second, such as from gunfire or punch presses) shall not exceed the levels of Table I (daytime) or Table II (nighttime) by more than 5 dBA, as measured with the sound level meter on the slow response setting.

1. Table I - Daytime Noise Limits

<u>Noise Source</u>	<u>Receiving Property</u>		
	<u>Residential</u>	<u>Business</u>	<u>Industrial</u>
Business	60 dBA	60 dBA	65dBA
Industrial	60 dBA	65 dBA	70 dBA

2. Table II - Nighttime Noise Limits

<u>Noise Source</u>	<u>Receiving Property</u>		
	<u>Residential</u>	<u>Business</u>	<u>Industrial</u>
Business	50 dBA	60 dBA	65 dBA
Industrial	50 dBA	65 dBA	70 dBA

SECTION 4404

DEFINITIONS APPLICABLE TO TABLES I AND II

A. Residential. Shall include all residential zoning district comprising "RA"- Rural Agriculture, "RT" - Rural Transition, and "R"- Residential.

B. Business. Shall include all business zoning districts comprising "B" - Business.

C. Industrial. Shall include all industrial zoning districts comprising "I" - Industrial and "NR" - Natural Resources.

**ARTICLE 45 - PRIVATE AND COMMERCIAL GOLF COURSES, SWIMMING
POOLS, TENNIS COURTS, AND GUN CLUBS**

SECTION 4501 REQUIRED CONDITIONS

A. All commercial pools and accessory structures thereto, except for a pool for the occupants of a single-family dwelling, shall be a distance of at least fifty (50) feet from all residential property lines and shall be walled, fenced, and maintained at a height of at least six (6) feet. (Z-1-93)

B. Loud speakers, juke boxes, public address systems, and electric amplifiers shall be permitted if the use of same is for the occupants of the building only within which such equipment is installed and does not create a nuisance and disturb the peace of the other persons or properties in this or any other district.

C. Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon any property or upon any public street. All outdoor lighting structures shall be shown on the plot plan.

D. Gun Clubs

The firing line shall be a distance of at least five hundred (500) feet from all residential property lines.

Effective July 7, 2005
ARTICLE 46

HOME OCCUPATION
CATEGORY I--RURAL AGRICULTURE DISTRICT

SECTION 4601 - INTENT AND GENERAL PROVISIONS

To provide for the operation of limited business activities within the Rural Agriculture District. These standards are designed to ensure compatibility with other approved uses within this district.

1. A home occupation is limited to those occupations which are of domestic craft or personal service character, including, but not necessarily limited to the following types of activities:

A. Such domestic crafts as dressmaking, millinery, sewing, weaving, washing, ironing, custom home furnishings, woodworking and furniture repair.

B. Such professions as law, architecture, engineering, real estate, planning, manufacturer's agent, clergy, writing, photography, and tutoring, provided, however, the service is limited to advice and consultation and the premises are not used for general practice of the profession.

2. No wholesale, jobbing, or retail business shall be permitted unless it is conducted entirely by mail and/or telecommunications.

3. Permitted home occupations shall be subject to all the regulations of the applicable zone district.

4. A home occupation permit shall be required to be obtained from the Zoning Administrator for all proposed home occupations and shall be subject to renewal on an annual basis.

SECTION 4602 - STANDARDS

The following conditional use standards shall apply:

A. Home occupation shall be limited to not more than one per residence.

SECTION 4602 - STANDARDS (continued)

- B. The home occupation shall be operated by a full-time resident of the property on which the business activity is located. Any participant engaged in the home occupation shall be limited exclusively to family members who are permanent residents within the home.
- C. The home occupations shall be clearly secondary to the use of the lot, parcel or tract of land and shall not change the character thereof.
- D. The home occupation shall not require the construction of any structure that would not otherwise be permitted in the Agriculture District, nor shall a Home Occupation Permit be used for justification for a zoning change.
- E. The home occupation will be operated wholly within the dwelling or within an existing accessory building normally associated with uses permitted in the Agriculture District, not on any porch, deck, patio or other unenclosed or partially enclosed portion of the dwelling unit.
- F. Permitted home occupations shall not affect adversely the residential character of the zoning district or interfere with the reasonable enjoyment of adjoining property.
- G. The home occupation shall not generate noise, vibration, bright lights or glare, fumes, odors, electrical interference, or any other disturbance(s) beyond what normally occurs within the Agriculture District.
- H. Off-street parking spaces shall be provided for clients and/or patrons within a normally sized residential driveway expected in the Agriculture District. If additional off-street parking is required, such parking shall not be located in the front yard or the required side yard.
- I. There shall be no outside storage of any kind related to the home occupation. Further, there shall be no outside parking or open storage of trucks over one ton rated capacity, including, but not limited to box trucks, cut-away vans, walk-in vans, dump trucks and semi-tractor and trailers, buses or mobile homes.
- J. No sign for a home occupation shall have more than one (1) face, nor shall any sign face exceed three (3) square feet in area. See Article 41 - Sign and Billboard Regulations, Section 4105.01 D.

SECTION 4603 - EXCLUSIONS AND LIMITATIONS

A. EXCLUSIONS

In no event shall any home occupation include the following activities:

1. Body or mechanical repair, modification or painting of motor vehicles or other definitions of automobile uses. (See Article 2, Section 203.01).
2. Healthcare facilities.
3. Restaurants.
4. Adult Entertainment facilities, dance studios.
5. Insurance offices.
6. Clinics and doctor's offices.
7. Barber or beauty shops.
8. Bed and Breakfast facility.
9. Trailer rentals
10. Any other similar commercial activities prohibited by the zoning regulations and/or that require state and local inspection.

B. LIMITATIONS

1. The Zoning Administrator may grant a proposed Home Occupation request within the scope of Section 4601 and 4602 without referral to the Board of Zoning Appeals.
2. A proposed home occupation request beyond the scope of Section 4601 and 4602 shall require approval by the Board of Zoning Appeals.

Effective July 7, 2005

ARTICLE 46

HOME OCCUPATION
CATEGORY II-RESIDENTIAL AND RURAL TRANSITION DISTRICT

SECTION 4604 - INTENT AND GENERAL PROVISIONS

To provide for the operation of limited business activities within the Residential and Rural Transition District. These standards are designed to ensure compatibility with other approved uses within this district.

1. A home occupation is limited to those occupations which are of domestic craft or personal service character, including, but not necessarily limited to the following types of activities:

A. Such domestic crafts as dressmaking, millinery, sewing, weaving, washing, ironing, custom home furnishings, woodworking and furniture repair.

B. Such professions as law, architecture, engineering, planning, manufacturer's agent, real estate agent, insurance agent, clergy, writing, photography, and tutoring, provided, however, the service is limited to advice and consultation and the premises are not used for general practice of the profession.

2. No wholesale, jobbing, or retail business shall be permitted unless it is conducted entirely by mail and/or telecommunications.

3. Permitted home occupations shall be subject to all the regulations of the applicable zone district.

4. A home occupation permit shall be required to be obtained from the Zoning Administrator for all proposed home occupations and shall be subject to renewal on an annual basis.

SECTION 4605 - STANDARDS

The following conditional use standards shall apply:

A. Home occupation shall be limited to not more than one per residence and shall be operated by a full-time resident of the property in which the business activity is located. Any participant engaged in the home occupation shall be limited exclusively to family members who are permanent residents within the home.

SECTION 4605 - STANDARDS (continued)

B. The home occupation will be conducted completely within the dwelling unit and not on any porch, deck, patio or other unenclosed or partially enclosed portion of the dwelling unit or in a detached accessory building.

C. Said home occupations shall be clearly incidental and subordinate to the use of the property for residential purposes.

D. Said occupation shall not occupy more than two hundred fifty (250) square feet of floor area within the dwelling unit and does not require alteration of the structure.

E. Said occupation shall not involve the sale of any commodities on the premises.

F. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding three (3) square feet in area, non-illuminated, and mounted flat against the wall of the principal building. (See Article 41, Section 4105.01D, Sign and Billboard Regulations).

G. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and no expansion of existing off-street parking shall be permitted. Furthermore, no additional parking burden due to the home occupational use shall be created.

H. There shall be no outside storage of any kind related to the home occupational use. Further, there shall be no outside parking or open storage of trucks over one ton rated capacity, including, but not limited to box trucks, cut-away vans, walk-in vans, dump trucks and semi-tractor and trailers, buses or mobile homes.

I. No equipment or processing shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment which causes fluctuations in line voltage off the premises.

J. In no event shall any home occupation cause or result in persons arriving at or entering the premises before 9:00 A.M. or after 8:00 P.M.

K. Permitted home occupations shall not affect adversely the residential character of the zoning district or interfere with the reasonable enjoyment of adjoining property.

SECTION 4606 - EXCLUSIONS AND LIMITATIONS

A. EXCLUSIONS

In no event shall any home occupation include the following activities:

1. Body or mechanical repair, modification or painting of motor vehicles or other definitions of automobile uses. (See Article 2, Section 203.01).
2. Healthcare facilities.
3. Restaurants.
4. Adult Entertainment facilities, dance studios.
5. Clinics or doctor's offices.
6. Barber or beauty shops.
7. Bed and Breakfast facilities.
8. Trailer rentals.
9. Any other similar commercial activities prohibited by the zoning regulations and/or that require state and local inspection.

B. LIMITATIONS

1. The Zoning Administrator may grant a proposed Home Occupation request within the scope of Section 4604 and 4605 without referral to the Board of Zoning Appeals.
2. A proposed home occupation request beyond the scope of Section 4604 and 4605 shall require approval by the Board of Zoning Appeals.

ARTICLE 47 - TELECOMMUNICATION TOWERS

CONDITIONAL USES

Telecommunication Towers - as defined in Article 2, 203.20.

SECTION 4701 INFORMATION REQUIRED

A. Each applicant requesting a conditional use permit under this resolution shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the governing authority to be necessary to assess compliance with this resolution.

FACTORS CONSIDERED IN GRANTING CONDITIONAL USE PERMITS

The Township shall consider the following factors in determining whether to issue a conditional use permit, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the goals of this resolution are better served thereby.

1. Height of Tower
2. Proximity of the tower to Rural Agriculture/Rural Transition structures and Rural Agriculture/Rural Transition district boundaries
3. Nature of uses on adjacent and nearby properties
4. Surrounding topography
5. Surrounding tree coverage and foliage
6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness
7. Proposed ingress and egress
8. Contract to provide for Section 4705

SECTION 4701

AVAILABILITY OF SUITABLE EXISTING TOWERS OR OTHER STRUCTURES

C. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna; may consist of any of the following:

1. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
2. Existing towers or structures are not sufficient height to meet applicant's engineering requirements.
3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

SECTION 4702

DEVELOPMENT STANDARDS - FREE STANDING

A. Setbacks and Separation - The following setbacks and separation requirements shall apply to all towers and antennas for which a conditional use permit is required; provided, however, that the Township may reduce the standard setbacks and separation requirements if the goals of this Resolution would be better served thereby.

SECTION 4702

DEVELOPMENT STANDARDS - FREE STANDING (continued)

A. Setbacks and Separation (continued)

1. Towers shall be located at least two hundred (200) feet or a distance equal to the height of the tower, whichever is greater, from any residential structure or adjacent property in an Rural Agriculture/Rural Transition zoning district.

B. Lot Area Requirement - The minimum required lot area for towers shall be one (1) acre with 150 feet of road frontage.

C. Security Fencing - Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the governing authority may waive such requirements, as it deems appropriate.

D. Landscaping - The following requirements shall govern the landscaping surrounding towers for which a conditional use permit is required; provided, however, that the governing authority may waive such requirements if the goals of this resolution would be better served thereby.

1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent Rural Agriculture/Rural Transition property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide and six (6) feet high on the perimeter of the compound.

2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.

3) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.

E. Height

1) For a single user, up to ninety (90) feet in height;

2) For two users, up to one hundred-twenty (120) feet in height;
and

SECTION 4702

DEVELOPMENT STANDARDS - FREE STANDING (continued)

E. Height (continued)

- 3) For three (3) or more users, up to one hundred-fifty (150) feet in height.
- 4) Communication towers in excess of one hundred (100) feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport.

F. Aesthetics

- 1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- 2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
- 3) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the Board of Zoning Appeals may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. (Generally, a red beacon is preferred, as opposed to white strobe lights.)

G. Encouragement of Tower Use by Multiple Providers - The applicant shall agree to permit use of the Telephone Tower by other communication service providers, on reasonable terms, so long as such use does not conflict with the applicant's and/or any other pre-existing user's use of telephone tower and does not violate the structural integrity of the telephone tower.

SECTION 4703

DEVELOPMENT STANDARDS - EXISTING TOWERS AND STRUCTURES

A. Antennas and equipment may be located in the public right-of-way on existing utility poles with the permission of the utility provider and Montgomery County or township having jurisdiction of respective right-of-way.

SECTION 4703

DEVELOPMENT STANDARDS - EXISTING TOWERS AND STRUCTURES (continued)

B. Public structures, such as water towers, may also be used for mounting of utilities dependent upon approval of pertinent public jurisdiction.

C. Antennas and equipment boxes shall be designed to match the color of the pole or building on which they are mounted.

D. Antennas and equipment on existing structures shall not exceed the height of the existing pole upon which it is located, plus twenty (20) feet.

E. Antennas and equipment on existing structures, including and associated with the installation, must be integrated into the design of the structure upon which it is located and shall be aesthetically and architecturally compatible with the structure upon which it is located and the surrounding environment.

F. An existing pole may be replaced, if not structurally suitable to hold the antennas and equipment related to a Communication System, but in no case shall the new pole exceed the height of the existing pole plus twenty (20) feet.

SECTION 4704

GENERAL REQUIREMENTS—BUILDING CODE AND SAFETY STANDARDS

A. Proof shall be provided by the applicant in a form satisfactory to the Zoning Administrator that the proposal has been approved by all agencies and governmental entities with jurisdiction, including, but not limited to, the Ohio Department of Transportation, the Federal Aviation Administration, the Federal Communications Commission or the successors to their respective functions. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Resolution shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations.

B. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in the Montgomery County building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the township concludes that a tower fails to comply with such codes and standards and constitutes

SECTION 4704

GENERAL REQUIREMENTS—BUILDING CODE AND SAFETY STANDARDS (continued)

B. (continued)

a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within thirty (30) days, the governing authority may remove such tower at the owner's expense.

C. All equipment associated with a Telephone Communication System, except antennas, shall be located underground, attached to the structure or inside the building upon which they are mounted. Accessory structures shall not exceed six hundred (600) square feet of building area.

D. The use of guyed wires is strictly prohibited within Rural Agriculture/Rural Transition Districts.

E. All parking and drive areas must be paved as provided in the Resolution.

SECTION 4705

REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any antenna or tower that is located within Residential and Rural Agriculture/Rural Transition zoned area not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of a notice from the Township notifying the owner of such abandonment. If such antenna or tower is not removed within said ninety (90) days, the Township may remove such antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

CHAPTER X

SPECIAL PROVISIONS

:;
**ARTICLE 48 - COMMUNITY ORIENTED RESIDENTIAL SOCIAL SERVICE
FACILITIES**

SECTION 4801 SUBMISSION REQUIREMENTS

The operator or agency applying for a conditional use permit to operate a Community Oriented Residential Social Service Facility shall submit the following information to aid the Board of Zoning Appeals in their review of the requested facility:

A. Information sufficient to establish the need for the facility in the proposed location, in relationship to the specific clientele served.

B. Identification of similar facilities presently existing within the County and its municipalities.

C. Location of community facilities and/or services pertinent to the proposed site; i.e., nearest fire station, park, library, shopping complex, major thoroughfare, etc.

D. A license or evidence of ability to obtain license, if such is required, from the pertinent governmental unit prior to operation. Prior to the issuance of a final certificate of occupancy, the operator or agency shall provide evidence that a valid license has been issued or is obtainable for the proposed conditional use on the subject property. If licensing is not available, a verified affidavit so stating shall be presented.

E. A copy of the sponsoring agency's operational and occupancy standards.

F. A site plan for the proposed home indicating home structure outline and floor area, off-street parking provisions, driveway access, landscaping and screening provisions, recreational and open space facilities as well as other pertinent information which the Board may require. Such plan shall include evidence that the proposed use of the site will be compatible with the present character of the neighborhood, in consideration of such factors as congestion, noise, traffic or lights.

G. A detailed plan for services and programs.

SECTION 4802

FACILITY REQUIREMENTS

A. Every room occupied for sleeping purposes within the home shall contain a minimum of eighty (80) square feet of habitable room area for one occupant, and when occupied by more than one shall contain at least sixty (60) square feet of habitable room area for each occupant.

B. Suitable space shall be provided for indoor and/or outdoor recreational activities for the clientele served, based upon generally accepted recreational standards or those specified by the licensing authority.

C. No exterior alterations of the structure shall be made which depart from the residential character of the building. All new structures proposed shall be of compatible residential design with the surrounding neighborhood to the degree possible.

D. All exterior lighting shall be suitably directed and shaded to prevent any glare upon adjoining residential properties.

E. Off-street parking requirements: one space per every three (3) persons residing in a Community Oriented Residential Social Service Facility except for facilities prohibiting ownership or operation of automobiles by occupants of such facilities. In any case, suitably screened off-street parking shall be provided on a one-to-one ratio to the number of autos operated out of the facility. Within neighborhoods in which on-street parking is accepted practice, on-street space directly abutting the subject lot may substitute for a proportion of the required off-street spaces if approved by the Board of Zoning Appeals.

F. No facility shall be permitted within fifteen hundred (1500) feet of another Community Oriented Residential Social Service Facility. The Board of Zoning Appeals may consider a variance from this standard of not more than ten (10) percent. (Z-4-90)

G. The facility must be reviewed by the Fire Department or a certified Fire Safety Inspector. (Z-4-90)

SECTION 4803

FINDINGS BY THE BOARD OF ZONING APPEALS

In its review of each proposed facility, the Board of Zoning Appeals shall make specific findings of fact relative to the following criteria. The proposed facility:

SECTION 4803

FINDINGS BY THE BOARD OF ZONING APPEALS (continued)

A. Is in fact a Community Oriented Residential Social Service Facility licensed by the appropriate authority to provide such service within the State of Ohio (and the respective jurisdiction). If such licensing is not available, a verified affidavit so stating has been presented to document this statement.

B. Is in fact a needed facility in the location proposed, based upon evidence acceptable to the Board of Zoning Appeals.

C. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or officially planned uses of the general vicinity and that such use will not change the essential character of the same area. In this regard, it does not contribute to a concentration of such facilities in the respective area.

D. Will not be hazardous or disturbing to existing or officially planned future neighboring uses from the standpoint of noise, lights, congestion or traffic generation which would be incompatible with the neighborhood environment.

E. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

F. Will not involve uses, activities and conditions of operation that will be detrimental to any persons, property, or the general welfare.

G. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.

H. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

SECTION 4803

FINDINGS BY THE BOARD OF ZONING APPEALS (continued)

I. The Board of Zoning Appeals may issue a temporary conditional use permit for a period of one (1) year. At the completion of one (1) year time period, the residential home operation shall be reviewed by the Board of Zoning Appeals. The Board of Zoning Appeals may extend the temporary conditional or deny the conditional use. The Board of Zoning Appeals in considering the conditional use application shall take into consideration the extent to which the sponsoring agencies have dispersed these facilities within the County and its municipalities.

Effective June 5, 2008

ARTICLE 49 - ADULT ENTERTAINMENT ESTABLISHMENTS

SECTION 4901 - REQUIRED CONDITIONS FOR ADULT ENTERTAINMENT ESTABLISHMENTS

In addition to the provisions contained in Article 23 that are required of all I-1 uses, all Adult Entertainment Establishments must also meet the requirements of Article 49. The definitions in Section 4902 shall apply to the requirements in Section 4901.

1. No Adult Entertainment Establishment shall be established within a radius of two hundred fifty (250) feet of any area zoned as a Residential District.

2. No Adult Entertainment Establishment shall be established within a radius of five hundred (500) feet of any School or Library.

3. No Adult Entertainment Establishment shall be established within a radius of five hundred (500) feet of any Public Park or Recreation Area.

4. No Adult Entertainment Establishment shall be established within a radius of one thousand (1,000) feet of any other Adult Entertainment Establishment.

5. No Adult Entertainment Establishment shall be established within a radius of five hundred (500) feet of any Church or Church Grounds.

6. No building housing, or planned to house, an Adult Entertainment Establishment shall be located within five hundred (500) feet of the right-of-way of any divided, limited access highway, including not limited to applicable portions of Interstate 70 and State Route 49.

7. All distances shall be measured in a straight, horizontal line, without regard for intervening structures. Measurements from Adult Entertainment Establishments shall be made from the closest part of the building housing any part of the Adult Entertainment Establishment to the closest real estate parcel boundary of the parcel containing a School, Library, Public Park or Recreation Area, Church or Church Grounds, or a parcel within a Residential District. Measurements from one Adult Entertainment Establishment to another existing or proposed Adult Entertainment Establishment shall be made from the closest part of the building housing any part of an Adult Entertainment Establishment to the closest part of the building housing, or planned to house, any part of the other Adult Entertainment Establishment.

8. Advertisements, displays or other promotional materials posted or displayed at an Adult Entertainment Establishment shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from any other public area.

9. All building openings, entries, doorways, windows, and the like at any Adult Entertainment Establishment shall be located, covered, or screened in such a manner as to prevent any view into the interior of any such Adult Entertainment Establishment from the exterior of the structure or any public area. No outside sales areas shall be permitted.

10. No screens, loudspeakers, or sound equipment shall be used by an Adult Entertainment Establishment that can be seen or discerned by the public from any public area.

11. Sign requirements are listed in Article 23, Section 2308 and also in Article 41.

SECTION 4902 - DEFINITIONS FOR USE IN SECTION 4901 REGARDING ADULT ENTERTAINMENT ESTABLISHMENTS

DEFINITIONS

(1) "Adult Arcade" means any place to which the public is permitted or invited in which coin-operated, slug-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and in which the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas.

(2) "Adult Bookstore", "Adult Novelty Store" or "Adult Video Store" means a commercial establishment that, for any form of consideration, has a significant or substantial (i.e., 50% or more) portion of its stock-in-trade or derives a significant or substantial (i.e., 50% or more) portion of revenues or devotes a significant or substantial (i.e., 50% or more) portion of its interior business or advertising to the sale or rental for any form of consideration, of any one or more of the following:

A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, digital video discs, or other visual representations which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas";

B. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of self or others.

An Adult Bookstore, Adult Novelty Store or Adult Video Store may have other principal business purposes that do not involve the offering for sale, rental, or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as Adult Bookstore, Adult Novelty Store, or Adult Video Store. Such other business purposes will not serve to exempt such establishments from being categorized as an Adult Bookstore, Adult Novelty Store or Adult Video Store so long as the definition above is met.

(3) "Adult Cabaret" means a nightclub, bar, restaurant, private club, bottle club, juice bar or similar commercial business or operation, whether or not alcoholic beverages are served, which regularly features: (a) persons appear nude or semi-nude or in a state of nudity or semi-nudity; (b) live performances take place which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or (c) films, motion pictures, video cassettes, digital video discs, slides, or other photographic reproductions are shown or displayed which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas." "Private Club" shall mean an establishment where patrons may bring in their own bottle or other container of alcohol (including beer, wine or liquor) and purchase a mixture for the same or use of a glass from the club or business.

(4) "Adult Motel" means a motel, hotel or similar commercial business or operation which offers public accommodation, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, digital video discs, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including but not limited to, billboards, newspapers, magazines, pamphlets or leaflets, radio or television.

(5) "Adult Entertainment" means the sale, rental, or exhibition for any form of consideration of books, films, video cassettes, magazines, periodicals, or live performances that are characterized by an emphasis on the exposure or display of specified anatomical areas or specified sexual activity.

(6) "Adult Entertainment Establishment" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude or seminude model studio, sexual device shop, or sexual encounter establishment. An establishment in which a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated pursuant to section 4731.15 of the Revised Code, is not an "Adult Entertainment Establishment."

(7) "Adult Motion Picture Theater" means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions that are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five individuals for any form of consideration.

(8) "Adult Theater" means a theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or semi-nudity or live performances that are characterized by their emphasis upon the exposure of specified anatomical areas or specified sexual activities.

(9) "Escort Agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. "Escort" means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another persons, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person or to privately appear in the state of nudity or semi-nudity for another person.

(10) "Massage Parlor" means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of or in connection with "specified sexual activities" is offered, or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of Adult Entertainment Establishments shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or surgeon, chiropractor or osteopath, nor by trainers for any amateur, semi-professional or professional athlete or athletic team or school athletic program, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder, nor by any other individual licensed by the State of Ohio to perform massages.

(11) "Distinguished or characterized by their emphasis upon" means the dominant or principal character and theme of the object described by this phrase. For instance, when the phrase refers to films "that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or description of specified sexual activities or specified anatomical areas.

(12) "Employee" means any individual who performs any service on the premises of an Adult Entertainment Establishment on a full-time, part-time, or contract basis, regardless of whether the individual is denominated an employee, independent contractor, agent, or otherwise, but does not include an individual exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

(13) (a) "Nude or Seminude Model Studio" means any place where a person who regularly appears in a state of nudity or semi-nudity, is provided for money or any other form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

(b) A modeling class or studio is not a nude or seminude model studio and is not subject to this chapter if it is operated in any of the following ways:

(i) By a college or university supported entirely or partly by taxation;

(ii) By a private college or university that maintains and operates educational programs, the credits for which are transferable to a college or university supported entirely or partly by taxation;

(iii) In a structure that has no sign visible from the exterior of the structure and no other advertising indicating that a person appearing in a state of nudity or seminudity is available for viewing, if in order to participate in a class in the structure, a student must enroll at least three days in advance of the class and if not, more than one nude or seminude model is on the premises at any one time.

(14) "Nudity," "Nude," or "State of Nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering; or the showing of the female breasts with less than a fully opaque covering on any part of the nipple.

(15) "Operator" means any individual on the premises of an Adult Entertainment Establishment who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises.

(16) "Patron" means any individual on the premises of an Adult Entertainment Establishment except for any of the following:

(a) An operator or an employee of the Adult Entertainment Establishment;

(b) An individual who is on the premises exclusively for repair or maintenance of the premises or for the delivery of goods to the premises;

(c) A public employee or a volunteer firefighter emergency medical services worker acting within the scope of the public employee's or volunteer's duties as a public employee or volunteer.

(17) "Premises" means the real property on which the Adult Entertainment Establishment is located and all appurtenances to the real property, including, but not limited, to the Adult Entertainment Establishment, the grounds, private walkways, and parking lots or parking garages adjacent to the real property under the ownership, control, or supervision of the owner or operator of the Adult Entertainment Establishment.

(18) "Regularly" means consistently or repeatedly.

(19) "Seminude" or State of Semi-nudity" means a state of dress in which opaque clothing covers not more than the genitals, pubic region, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

(20) "Sexual Device" means any three-dimensional object designed and marketed for stimulation of the male or female human genitals or anus or female breasts or for sadomasochistic use or abuse of oneself or others, including, but not limited to, dildos, vibrators, penis pumps, and physical representations of the human genital organs, but not including devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

(21) "Sexual Device Shop" means a commercial establishment that regularly features sexual devices, but not including any pharmacy, drug store, medical clinic, or establishment primarily dedicated to providing medical or healthcare products or services, and not including any commercial establishment that does not restrict access to its premises by reason of age.

(22) "Sexual Encounter Establishment" means a business or commercial establishment, that as one of its principal business purposes offers for any form of consideration (a) a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas"; or (b) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity. The definition of Adult Entertainment Establishments shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Ohio engages in medically approved and recognized sexual therapy.

(23) "Specified Anatomical Areas" means the cleft of the buttocks, anus, male or female genitals, or the female breast.

(24) "Specified Sexual Activity" means any of the following:

(a) Sex acts, normal or perverted, or actual or simulated, including intercourse, oral copulation, masturbation, or sodomy;

(b) Excretory functions as a part of or in connection with any of the activities described in division (a) of this section.

(25) "Simulated" means to assume the mere appearance of something, without the reality; to imitate or pretend.

(26) "Public Park" means public land which has been designated for park or recreational activities, including but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas or similar public land within the Township which is under the control, operation, or management of any governmental entity.

(27) "Residential District" means any zoning district set forth in the Clay Township, Ohio, Zoning Code that contains the words "residential" in its title and "planned residential district" as set forth in the Clay Township, Ohio, Zoning Code.

(28) "Church" or "Church Grounds" means buildings used for public worship, and the ground attached to them necessary for the proper occupancy, use and enjoyment by a fellowship of believers, congregation, society, corporation, convention or association that is formed primarily or exclusively for religious purposes and that it is not formed for the private profit of any person.

(29) "Library" means an institution in which literary and artistic materials, including, but not limited to, books, periodicals, newspapers, pamphlets, and prints, whether in print or digital form, are kept for reference, reading, or lending.

(30) "Public Park" or "Recreation Area" means public land which has been designed for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the Township which is under the control, operation, or management of any governmental entity.

(31) "School" means any public or private educational facility licensed by the State of Ohio, including but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, or special education schools normally attended by persons under eighteen (18) years of age. "School" includes the school grounds, but does not include the facilities used primarily for any purpose and only incidentally as a school.

ARTICLE 50

TEMPORARY USES

SECTION 5001 PURPOSE

Temporary uses shall be permitted in applicable zone districts by the grant of an Occupancy Permit issued by the Zoning Administrator in accordance with the requirements of this section.

SECTION 5002 GENERAL PROVISIONS

- A. The duration of the temporary period is stated hereinafter, provided, however, renewal of such permit may be requested.
- B. Temporary uses shall be subject to all the regulations of the applicable zone district.

SECTION 5003 PERMITTED TEMPORARY USES

Permits shall be issued for the following temporary uses, provided that they meet these requirements and are not otherwise in conflict with the provisions of this resolution:

A. Uses

- 1. A carnival or circus, religious tent meeting, tent theater, horse show or exhibition, and events of public interest shall be subject to the following.
 - a.) Documentation from the Combined Health District of Montgomery County that adequate arrangements have been made for potable water and sanitary facilities.
 - b.) No permanent or temporary lighting shall be installed without an electrical permit and inspection.

- c.) All uses shall be confined to the date(s) specified in the permit.
- d.) Hours of operations shall conform or comply to those specified in the permit.
- e.) Clay Township expense reimbursement warranty. A certified check or surety bond not to exceed \$5,000 shall be submitted with the permit application to indemnify or make good any defect resulting from the event as follows:
 - ▶ The site shall be cleared of all trash and debris at the end; and
 - ▶ All temporary construction and/or structures shall be removed within 30 days after closing; and
 - ▶ Any surface and/or structural damage caused to a public right-of-way.

The Zoning Administrator or his/her designated representative will inspect the site for the above defects, at the closing of the event, and will release all claims to reimbursement when no defect is found.

- f.) Public parking for the exclusive use of the facility shall be provided, and a stabilized driveway to the parking area shall be maintained. It shall be the responsibility of the applicant to guide traffic to those areas and to prevent patrons from unlawful parking.
- g.) Traffic control arrangements required by the Clay Township Police Department in the vicinity of major intersections shall be arranged by the applicant.

2. Christmas tree sales are permitted in any district other than Residential Districts. Maximum length of permit for display and open lot sales shall be 45 days.
3. Religious tent meetings may be permitted in any district other than Residential Districts. Maximum length of permit shall be 7 days.

ARTICLE 51

SANITARY AND CONSTRUCTION MATERIAL LANDFILL

SECTION 5101 INTENT

- A. It is the intent of this section to establish reasonable and uniform limitations, safeguards and controls for the operation and use of sanitary landfill facilities. Such regulations are deemed necessary in the public interest to protect the use and value of adjoining properties, as well as the best interests of the community.
- B. For purposes of this section, a sanitary or construction landfill facility is deemed to include sanitary landfill, incineration, grinding or any other process oriented to disintegration or recycling of solid waste material.

SECTION 5102 GENERAL REQUIREMENTS

- A. Landfill facilities shall not be located in areas where leachate, chemicals, or other hazardous materials will contaminate ground water. Said facilities shall not be located in areas containing sand, gravel, or rock as a major portion of the soil composition when wells in the vicinity are used for a source of water supply.
- B. Landfill facilities shall not be located in areas subject to flooding.
- C. Location of landfill facilities in close proximity to rivers or streams shall be considered satisfactory only when it can be demonstrated that there would not be contamination of said water bodies by negligent handling of refuse, seepage or poor drainage.

- D. Location of landfill facilities in ravines or low areas shall only be considered satisfactory when drainage of said areas is positively controlled. Refuse shall not be deposited in standing water or areas where springs exist.
- E. Adequate area shall be provided for the use contemplated.
- F. The site shall be accessible from a thoroughfare designated as a minor arterial or higher, and interior facilities shall be accessible from an all-weather road.
- G. Minimum setback lines for any activities in connection with landfill operations shall be 1,000 feet from an adjoining property line, except for necessary grading to establish the elevation thereof in conformity to the operational site plan. A buffer planting screen shall be provided between such operations and said adjoining property lines.
- H. Off-street parking spaces shall be provided in accordance with Article 43.
- I. At least one identification sign shall be provided, indicating the name and address, the hours of operation and similar information, as further regulated in Article 41.

SECTION 5103 APPLICATION REQUIREMENTS

An application for a landfill shall be accompanied by the following:

- A. A vicinity map indicating residential areas (both existing and zoned), property lines, thoroughfares, etc., within a 500-foot perimeter around the site.
- B. Information consisting of topography, soil and drainage conditions, water tables, subsurface characteristics, and any additional information pertinent to review of the facility's potential effect upon the environment collected by an environmental professional licensed by the State of Ohio.

- C. An operational site plan indicating clearly the orderly development, operation and maintenance of the refuse disposal facility.

The operational site plan shall indicate the proposed fill area; any borrow area; access roads; on-site drives; grades for proper drainage on each lift required and a typical cross section of a lift; special drainage devices if necessary; location and type of fencing; structures existing or to be located on the site; existing wooded areas, trees, ponds or other natural features to be preserved; existing and proposed utilities; phasing of landfill operations on the site; a plan and schedule for site restoration and completion; a plan for the ultimate land use of the site; and all other pertinent information to indicate clearly the orderly development, operation and completion of the landfill.

- D. A proposed routing plan for truck traffic and supporting traffic analysis shall be presented to the Township for its review. Only a plan whose traffic impact upon the Township and its environs that is deemed within acceptable limits will be approved by the Township.
- E. Approval of a sanitary landfill facility shall not be granted without the prior recommendation, in writing of the Montgomery County Combined Health District and the Ohio Environmental Protection Agency.

SECTION 5104 OPERATIONAL REQUIREMENTS

- A. Landfill facilities as herein established shall be operated and enlarged or diminished only in accordance with the operational site plan approval of Clay Township. A permit and an operating license from the Ohio Department of Health must be secured before an occupancy permit is granted.
- B. Accessory uses shall be permitted that are maintained on the same lot and commonly associated with the operation of the Conditional Use, including storage, parking of trucks and equipment, and offices, subject to the terms of this Resolution.

- C. Salvaging (the controlled removal of reusable materials), if permitted, shall be organized so that it will not interfere with prompt sanitary disposal of refuse or create unsightliness or health hazards. Scavenging (the uncontrolled removal of materials) shall not be permitted.
- D. Open dumping shall not be permitted. For purposes of this Resolution, an open dump is defined as a site where refuse is dumped and due to lack of control, may create a breeding place for insects and rodents, may catch fire or produce air, ground or water pollution.
- E. No use in this classification shall be maintained or operated in a manner constituting a hazard to health, safety or the general public welfare.
- F. Such operations shall be designed and operated so that conditions of unlawful pollution will not be created, and injury to ground and surface waters will be avoided. Water-filled areas not directly connected to rivers or streams may be filled with specific inert material not detrimental to legitimate water uses and which will not create a nuisance or hazard to health. Special approval shall be required in writing from appropriate authority, such as the Miami Conservancy District, OEPA, etc.
- G. Hazardous materials, including liquids and sewage, shall not be disposed of in a sanitary landfill unless special provisions are made for such disposal through the health department or agency having jurisdiction. This provision in no way precludes the right of a landfill operation to exclude any materials as a part of these operational standards.
- H. The entire site, including the fill surface, shall be graded and provided with drainage facilities to minimize run-off onto and into the fill, to prevent erosion or washing of the fill, to drain off rain water falling on the fill, and to prevent the collection of standing water.
- I. Measures shall be provided to control dust and blowing material. The general area shall be kept clean and orderly.

- J. Refuse shall be spread so that it can be compacted in layers of suitable depth. Large and bulky items, when not excluded from the site, shall be disposed of in a manner approved by the Montgomery County Combined Health District or other pertinent agency.
- K. Cover material shall be provided on a regular basis of such type, depth and frequency as approved by the health agency having jurisdiction, and the final cover shall be maintained in accordance with OEPA regulations.
- L. Conditions unfavorable for the production of insects and rodents shall be maintained by carrying out routine sanitation measures promptly in a systematic manner. Supplemental insect and rodent control measures shall be instituted whenever necessary, and infestation by same shall constitute a violation of this Resolution.
- M. Landfill facilities shall be policed on a daily basis, when open, to maintain such operations in as clean a condition as possible.
- N. Adequate numbers, types and sizes of properly maintained equipment shall be used in operating the facilities in accordance with good engineering practice. Emergency equipment shall be available on the site or suitable arrangements made for such equipment from other sources during equipment breakdown or during peak loads.
- O. A qualified supervisor shall be on duty at all times during the hours of operation. When the landfill facility is not in operation, provisions shall be made for securing the area from unauthorized dumping.

SECTION 5105 RECLAMATION

Upon completion of a landfill operation, or any phase thereof as indicated on the approved operational site plan, the land shall be graded, backfilled and finished to a surface which will:

- A. Result in a level, sloping or gently rolling topography in substantial conformity or desirable relationship to the original site and land area immediately surrounding.
- B. Minimize erosion due to rainfall. Such graded or backfilled area shall be sodded or surfaced with soil of a quality at least equal to the topsoil of vegetation-producing land areas immediately surrounding, and to a depth of at least six inches.
- C. Said topsoil shall be planted with trees, shrubs, legumes or grasses, as indicated on the approved operational site plan.

SECTION 5106 PERFORMANCE ASSURANCES

Conditions established may include sureties satisfactory to Clay Township, Montgomery County Combined Health District, Ohio EPA or any other pertinent agency for the faithful performance of all of the conditions and requirements of this resolution concerning the operation and completion of a landfill. When applicable, an application for zoning compliance permit shall be accompanied by a corporate surety bond running to the Township, which specifies the amount, sufficient time period and renewal options. Said bond may be filed for the total operation or for one or more phases thereof.

ARTICLE 52 - WHEN EFFECTIVE; VALIDITY

SECTION 5201 WHEN EFFECTIVE

This Resolution shall be in full force after and effective from the earliest date allowed by law.

Following certification, this Resolution shall be in effect in all unincorporated portions of Clay Township.

SECTION 5202 VALIDITY

If any article, section, subsection, paragraph, sentence, or phrase of this Resolution is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution.

<u>CASE NUMBER</u>	<u>AMENDMENTS DATE APPROVED</u>	<u>TYPE OF CHANGE</u>	<u>EFFECTIVE DATE</u>
Z-1-86	9/3/86	Agr text change	10/3/86
Z-2-86		R-Res to B-Business	Withdrawn
Z-3-86	11/5/86	Text only	12/5/86
Z-4-86	12/17/86	Map R-Res to I-Industry	1/17/87
Z-1-87	12/16/87	Text changes	1/15/88
Z-2-87		A-Agr to B-Business	Disapproved
Z-1-88	6/15/88	A-Agr to PD	7/15/88
Z-1-89		A-Agr to I-Industry	Disapproved
Z-1-90	5/16/90	Text Additions	6/15/90
Z-2-90	5/16/90	A-Agr to PD	6/15/90
Z-3-90	6/21/90	Text Changes	7/20/90
Z-4-90	12/19/90	Text Changes	1/18/91
Z-1-91	2/20/91	A-Agr to B-Business	3/22/91
Z-2-91	1/15/92	Text Corrections	2/14/92
Z-1-92	6/17/92	A-Agr to PD	7/18/92
Z-2-92	7/15/92	A-Agr to PD	8/14/92
Z-1-93	7/20/93	Text Additions	8/19/93
Z-1-93	11/16/93	Text Changes	12/17/93
Z-2-93	11/16/93	A-Agr to Pre PD	12/17/93
Z-3-93	12/17/93	Text Additions & Corrections	1/26/94
Z-3-93	1/18/94	Text Additions	2/17/94
Z-4-94		B-Busi to I-Industry	Withdrawn
Z-1-94	8/2/94	A-Agr to PD	9/1/94
Z-2-94	10/6/94	B-Busi to A-Agr	11/5/94
Z-1-95	5/1/95	Text Additions & Corrections	6/1/95
Z-2-95		A-Agr to PD-B	Disapproved
Z-3-95	10/23/95	Modify to PD	10/23/95
Z-4-95		A-Agr to B-Business	Disapproved
Z-1-96	2/6/96	Text Additions & Corrections	3/8/96
Z-3-97		Text Only	Withdrawn
Z-4-97	12/16/97	Text Only	1/16/98
Z-1-98	5/4/98	A/R to PD-1	6/4/98
Z-1-99	6/1/99	A/R to PD-1	7/1/99
Z-2-99		Non-conforming B to LI	Disapproved
Z-1-00	5/2/00	Definitions	6/2/00
Z-2-00	9/2/00	A/R to PD-1	10/2/00
Z-3-00	11/6/00	New Ag Districts, etc.	12/6/00
Z-1-01	4/3/01	B-Busi to I-Industry	5/3/01
Z-2-01	6-19-01	Comp Plan & Land Use Map	7/19/01
Z-3-01	4-23-01	Bus to Light Industry	5/23/01
Z-1-02	3-19-02	Add 4 Bus Districts	4/19/02
Z-2-02		& minor word changes	
Z-3-02	8-20-02	Residential Dist's + General I	9/20/02
Z-1-03	10-1-02	Signs	11-01/02
Z-2-03	4-15-03	Planned Conservation Dist	5-15/03
Z-2-04	12-2-03	Articles 5, 35, 37 changes	1-03/04
Z-2-04	3-16-04	article 3, 21 and zoning Map B-2 districts	4-16-04

<u>CASE NUMBER</u>	<u>AMENDMENT - DATE APPROVED</u>	<u>TYPE OF CHANGE</u>	<u>EFFECTIVE DATE</u>
Z-02-02	AUGUST 20, 2002	3 RESIDENTIAL DISTRICTS	9-20-2002
Z-03-02	OCTOBER 1, 2002	SIGN ARTICLE & DEFINITIONS	11-01-2002
Z-01-03	MAY 15, 2003	PLANNED CONSERVATION RESIDENTIAL DISTRICT	6-15-2003
Z-01-04	JANUARY 2, 2004	ARTICLE 5, 35, 37	2-02-2004
Z-02-04	APRIL 01, 2004	ARTICLE 5 AMENDED	5-01-2004
Z-01-08	MAY 06, 2008	ARTICLE 49 ADULT ENTERTAINMENT	6-05-2008