

## **ARTICLE I**

### **INTENT AND INTERPRETATION**

#### **SECTION 101 TITLE**

This Resolution shall be known and may be cited and referred to as the "German Township, Montgomery County, Ohio Zoning Resolution."

#### **SECTION 102 PURPOSE**

This Resolution is enacted for the purpose of promoting public health, safety and morals, all in accordance with a comprehensive plan, and as permitted by the provisions of Section 519.01 to 519.99 inclusive, of the Ohio Revised Code.

#### **SECTION 103 INTERPRETATION AND CORRELATION OF STANDARDS**

In their interpretation and application, the provisions 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 law or by other rules or regulations or resolutions, the provisions of this Zoning Resolution shall control.

#### **SECTION 104 EXTENSION OF ESSENTIAL SERVICES**

It is recognized that essential services are not presently available to all parcels of land zoned for agricultural and/or residential use.

Maintenance of viable zoning plans may require amendments from time to time to reflect changes brought about by the extension of essential services into newly developing urban areas.

## Article 2 Definitions

### SECTION 200.01 DEFINITIONS: INTERPRETATIONS

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of the Zoning Resolution. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; and the word "shall" is mandatory and not directory.

### **SECTION 201 DEFINITIONS (beginning with letter "A").**

#### 201.01 ACCESSORY USE.

Any purpose for which a building, structure, or a tract of land may be designed, arranged, intended, maintained, or occupied which:

- A. Is incidental and subordinate in area, extent or purpose to the principal building, structure or use which it serves.
- B. Is located on the same zoning lot as the principal building, structure, or use, with the single exception of such accessory off street parking facilities as are permitted to locate elsewhere than on the same zoning lot with the building or use served under Subsection 4303.01 E of this Resolution.

#### 201.02 ADULT ENTERTAINMENT FACILITY

A facility having a significant portion of its function as adult entertainment which includes the following listed categories:

- A. **Adult Book Store**  
An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to: Specified Sexual Activities; or Specified Anatomical Areas; or herein defined or an establishment with a segment or section devoted to the sale or display of such material.
- B. **Adult Mini Motion Picture Theater**  
A facility with a capacity for less than fifty (50) persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to: Specified Sexual Activities; or Specified Anatomical Areas; or for observation by patrons therein.
- C. **Adult Motion Picture Theater**  
A facility with a capacity of fifty (50) or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to: Specified Sexual Activities; or Specified Anatomical Areas; or for observation by patrons therein.
- D. **Adult Entertainment Business**  
Any establishment involved in the sale of services or products characterized by the exposure or presentation of: Specified Anatomical Areas; or physical contact of live males or females, and which is characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons. Services or products included within the

scope of adult entertainment business are photography, dancing, reading, massage, and similar functions which utilize activities as specified above.

E. **Massage Establishments**

Any establishment having a fixed place of business where massages are administered for pay. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Ohio, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck, or the shoulder.

F. **Massage**

A method of treating or stimulating the external parts of the human body by rubbing, stroking, kneading, tapping, touching or vibrating with the hand or any instruments for pay.

G. **Specified Sexual Activities**

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, or fellatio;
3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.

H. **Specified Anatomical Areas**

1. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breasts below a point immediately above the top of the areola;
2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

201.03 **AGRICULTURE 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 to be 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.

201.04 **AGRICULTURE.**

The use of a tract of land for the planting, harvesting, and marketing of crops and produce; the breeding, feeding, and marketing of livestock; horticulture; floriculture; structures necessary for performing these operations; and the residence of the owner or operator. Such agricultural use shall not include the following uses:

- A. The maintenance and operation of commercial greenhouses or hydroponic farms, except in zoning districts in which such uses are expressly permitted.
- B. Wholesale or retail sales as accessory use, unless the same are specifically permitted by this Resolution.
- C. The feeding or sheltering of animals or poultry in penned enclosures within one hundred (100) feet of any Residential Zoning District. Agriculture does not include the feeding of garbage to animals, or the operation or maintenance of a commercial stockyard or feed yard.

201.05 **ALLEY.**

A dedicated public right-of-way, other than a street that affords a secondary means of access to abutting property.

201.06 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.

201.07 AUTOMOBILE SERVICE STATION.

A structure and surrounding land used for the storage and sale of petroleum fuel, primarily to passenger vehicles, and for accessory uses such as the sale and installation of lubricants, accessories, or supplies; the incidental washing of motor vehicles and the performing of tune-ups, tire and brake changing and repair.

201.08 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.

**SECTION 202 DEFINITIONS (beginning with letter "B").**

202.01 BASEMENT.

The part of the building that is wholly or partly below ground level with at least one entrance from the interior of the structure.

202.02 BED AND BREAKFAST

A single-family dwelling in which the principal use is permanent residential quarters, and in which, as a conditional use, includes sleeping rooms for tourists and transient guests for compensation.

202.03 BOARD.

The Board of Zoning Appeals of German Township.

202.04 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 land.

202.05 BUILDING HEIGHT.

The vertical distance from the average grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof; or the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

202.06 BUILDING LINE.

A line parallel to the street right-of-way line at any story level of a building and representing the distance which all or any part of the building is to be set back from said right-of-way, except as specified in Article 39.

**SECTION 203 DEFINITIONS (beginning with letter "C").**

203.01 CAMPING AND RECREATIONAL EQUIPMENT.

For the purpose of this Resolution, camping and recreational equipment shall include the following:

A. Boat and Boat Trailer

Boat and boat trailer shall include boats, floats, and rafts plus the normal equipment to transport the same on the highway.

- B. Folding Tent Trailer.  
A canvas folding structure, mounted on wheels and designed for travel and vacation uses.
- C. Motorized Home.  
A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- D. Pickup Camper.  
A structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use for travel, recreational, or vacation uses.
- E. Travel Trailer.  
A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel trailer" by the manufacturer.

203.02 CELLAR.  
The part of the building that is wholly or partly below ground level with an entrance from the exterior of the structure, potentially with an entrance from the interior.

203.03 COMMISSION.  
The German Township Zoning Commission.

203.04 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 have some condition which requires assisted living, such as mentally ill, mentally retarded, handicapped, aged or disabled 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, Nursing Homes, Rest Homes and Convalescent Homes.

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

203.06 CONDITIONAL USE  
A use that is permitted only by application and approval by the German Township Board of Zoning Appeals.

**204 DEFINITIONS (beginning with letter "D").**

204.01 DEVELOPMENT STANDARDS.  
Standards controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Development standards include regulations controlling maximum height, minimum lot area, minimum lot frontage, minimum size of yards and setbacks, maximum lot coverage and floor area ratio.

204.02 DISTRICTS.

A portion of the unincorporated territory of German Township within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Zoning Resolution.

204.03 DWELLING.

Any building or portion thereof occupied or intended to be occupied exclusively for residential purposes, but not including a tent, cabin, trailer or trailer coach or other temporary or transient structure or facility. A Dwelling shall include a Modular Home but shall not include a Mobile Home or Manufactured Home as those are defined herein.

A. Single Family

A building occupied or constructed to be occupied exclusively for residential purposes by one family or housekeeping unit.

B. Two Family.

A building occupied or constructed to be occupied exclusively by not more than two (2) families or housekeeping units.

C. Multiple.

A building or portion thereof occupied or constructed to be occupied by more than two (2) families or housekeeping units.

204.04 DWELLING GROUP.

A group of two (2) or more detached dwellings located on a parcel of land in one ownership and having any yard or court in common.

204.05 DWELLING UNITS.

One room, or a suite of two (2) or more rooms, designed for or used by one family or housekeeping unit for living and sleeping purposes and which includes permanently installed cooking and lawfully required sanitary facilities.

**205 DEFINITIONS (beginning with letter "E").**

205.01 EATING PLACE NO. 1.

An establishment, other than a dining room operated by a hotel, motel or private club, offering food and beverages, which may include liquor, beer, and wine, if licensed by the State of Ohio, for consumption only inside the building.

205.02 EATING PLACE NO. 2.

An establishment having the attributes of an Eating Place No. 1, and which also provides live entertainment.

205.03 EATING PLACE - CARRY OUT.

An establishment offering food and beverages, which may include liquor, beer and wine, if licensed by the State of Ohio, where the food and beverages are dispensed at the counter for consumption within the building or off the premises.

205.04 EATING PLACE - DRIVE-IN.

An establishment offering food and beverages, which may include liquor, beer and wine, if licensed by the State of Ohio, where the food and beverages are served directly to persons while in motor vehicles, or where the food and beverages are dispensed at the counter for consumption on or off the premises.

205.05 EQUAL DEGREE OF ENCROACHMENT

A standard applied in determining the location of encroachment limits so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.

205.06 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, structures, 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 or County or other governmental agencies or for the public health, safety and morals. This definition specifically excludes Telecommunications Towers as defined in subsection 220.01 of this Resolution.

205.07 EXCESSIVE BRUSH

Dead vegetation exceeding more than one pile per property or one pile exceeding 125 cubic feet.

**SECTION 206 DEFINITIONS (beginning with letter "F")**

206.01 FAMILY.

Two (2) or more persons living in the same household who are related to each other by blood, marriage, or adoption, but not including a group occupying a boarding house, lodging house or motel, fraternity or sorority house.

206.02 FARMLAND PRIME.

Land with soil characteristics that meet the definition of Prime Agricultural Soils, as defined by this Resolution. (201.03 Agriculture Soils, Prime)

206.03 FLOOD

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

206.04 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 analysis of floods in a particular stream and other streams in the same general region.

206.05 FLOOD, FREQUENCY

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

206.06 FLOOD PROTECTION ELEVATION

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

206.07 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.

206.08 FLOODWAY

The channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the regional flood.

206.09 FLOODWAY FRINGE

That portion of the regional floodplain located outside of the floodway.

206.10 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 (2) 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 (7) feet, six (6) inches.
- B. Uncovered steps.
- 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.

206.11 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 by the area of the lot on which the 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 shall determine the maximum floor area allowable for buildings or other structures, in direct ratio to the gross area of the lot.

206.12 FRONTAGE.

See Lot Frontage Subsection 212.11.

SECTION 207 DEFINITIONS (beginning with letter "G").

207.01 GARAGE, PRIVATE.

A garage intended for, and used by, the private motor vehicles of the families resident upon the premises, provided that not more than one-half (1/2) of the space may be rented for the private vehicles of persons not resident on the premises.

207.02 GARBAGE.

Garbage shall be interpreted to mean all putrescible wastes including vegetable, animal offal, and carcasses of small dead animals; but does not include human excreta, sewage, and other water carried wastes.

207.03 GARDEN CENTER - COMMERCIAL GREENHOUSE AND NURSERY

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.



207.04 GRADE.

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

207.05 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.

207.06 GREENHOUSE - HOTHOUSE - NURSERY.

A sun or artificially heated structure in which to grow, or the growing of out of season plants, flowers, or vegetables or a form of agriculture whose chief function is the field growing of plants, shrubs, and trees.

**SECTION 208 DEFINITIONS (beginning with letter "H").**

208.01 HALFWAY HOUSES

Residential homes for adolescents or adults who have been institutionalized and released or who have had alcohol or drug problems which make operation in society difficult and who require the protection of a group setting.

208.02 HOME OCCUPATION.

A home occupation shall be an occupation carried on within a dwelling unit and provided:

- A. Said occupation does not require a state or local license and/or inspection.
- B. It does not occupy more than two hundred (200) square feet of floor area within the dwelling unit and does not require alteration of the structure.
- C. There are no signs or other announcements of such occupation.
- D. The only mechanical equipment installed or used is that which is normally used for domestic or household purposes.
- E. Only one (1) person other than family members residing therein may be employed in any home occupation.

208.03 HOUSEKEEPING UNIT.

One or more persons living in a dwelling who are not a family

**SECTION 209 DEFINITIONS (beginning with letter "I").**

209.01 IMPROVED DRIVE

Any drive with a stabilized surface (i.e. Aggregate, Bituminous Asphalt or Concrete) including bridges and culverts capable of supporting 60,000 pounds of gross vehicle weight (GVW) in all weather conditions.

209.02 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. Congregate 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.

209.03 INOPERABLE MOTOR VEHICLE.

An inoperative vehicle is one that is: (1) Three model years or older; (2) Apparently inoperable; (3) Extensively damaged, including, but not limited to, any of the following: missing wheels, tires, engine, or transmission; (4) not currently licensed for use on roads.

**SECTION 210 DEFINITIONS (beginning with letter "J").**

210.01 JUNK.

Old or scrap copper, brass, rope, rags, batteries, paper, rubber; junked, dismantled, or wrecked automobiles, 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.

210.02 JUNK YARD.

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 an automobile graveyard, except an establishment or place where automobiles, wrecked or otherwise, are held or impounded for a period not to exceed ninety (90) days exclusively for storage, repair, or resale without alteration.

**SECTION 211 DEFINITIONS (beginning with letter "K").**

211.01 KENNEL OR ANIMAL SHELTER.

Any structure or runway in which dogs or other small animals are kept for compensation or sale.

211.02 KITCHEN FACILITY

A room or area inside a structure used for cooking and food preparation, containing any built-in appliance.

**SECTION 212 DEFINITIONS (beginning with letter "L").**

212.01 LAND USE PLAN.

The long-range plan for the desirable use of land within the unincorporated territory of Montgomery County as officially adopted and as amended from time to time by the Planning Commission.

212.02 LANDSCAPING.

The improvement of open areas by the planting and maintenance of trees, bushes, flower gardens, grass, and other vegetation.

212.03 LICENSED RESIDENTIAL FACILITY

A licensed residential facility that provides room and board, personal care, habilitation services, and supervision to persons with mental retardation or a developmental disability in a family setting, as defined by ORC 5123.19(O) and ORC 5123.19(P).

212.04 LIVABILITY SPACE.

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

212.05 LIVE ENTERTAINMENT.

Any entertainment, provided by persons on site as opposed to that provided electronically, such as televisions, radios, stereos, juke boxes, etc.

212.06 LIVESTOCK

Any animal customarily used for food or in the production of food, including, but not limited to, cattle, sheep, goats, rabbits, poultry, swine, etc.

212.07 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; and which abuts upon a street, alley, or other appropriate means of access.

212.08 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 building and uses, including all open spaces required by this Zoning Resolution, and having frontage on a public street as defined in Section 219.13 of this Resolution.

A. Corner

A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street, and in either case forming an interior angle of one hundred thirty-five (135) degrees or less.

B. Double Frontage

A lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot.

C. Interior

A lot other than a corner lot.

212.09 LOT AREA.

The computed area contained within the lot lines.

212.10 LOT COVERAGE.

The percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves.

212.11 LOT FRONTAGE.

The distance between the side lot lines, measured by a line drawn parallel with the front lot line at a point of required minimum front yard depth on a street as defined in subsection 219.13 of this Resolution.

212.12 LOT LINES.

A. Front.

A street right-of-way line (as defined in Section 219.13 of this Zoning Resolution) forming the boundary of a lot. On a corner lot, the street right-of-way line 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 fifteen (15) feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least fifteen (15) feet long, lying wholly within the lot, parallel to the front lot line.

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.

212.13 LOT OF RECORD.

A lot which is part of a subdivision, the plot 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 the zoning plan.

**SECTION 213 DEFINITIONS (beginning with letter "M").**

213.01 MANUFACTURED HUD UNIT

A mobile structure which complies with the standards and specifications for the design and construction of manufactured housing, as set forth by the United States Government in regulations promulgated pursuant to 42 U.S.C. 5401 et seq., as amended, and to which is affixed a permit, sticker, plate, or other recognized official identification indicating such compliance.

213.02 MANUFACTURED/MOBILE HOME PARK

An area of land for the parking of three (3) or more manufactured/mobile homes.

213.03 MANUFACTURING

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

213.04 MOBILE HOME

Any non-self-propelled vehicle so designed, constructed, reconstructed or added to, by means of accessories, in such manner as will permit the use and occupancy thereof for human habitation, when connected to utilities, whether resting on wheels, jacks, blocks, or other foundation, and used or so constructed as to permit its being used as conveyance upon the public streets and highways. Most significantly, the term mobile home designates units not in compliance with the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et. seq.)

213.05 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, to be used for residential, office, business or industrial purposes, and which meets the standards and specifications for Industrial Units of Closed Construction, as provided for by the Ohio Basic Building Code as may be hereafter amended and as authorized by the Board of Building Standards pursuant to Ohio Revised Code Section 3781.01 et seq., as amended, and to which is affixed a permit, sticker, plate, or other recognized official identification, indicating such compliance. A Modular Home shall not include a Mobile Home as defined herein.

213.06 MOTEL (OR MOTOR HOTEL)

A building, or group of buildings, comprising individual sleeping or living units attached in groups of six (6) or more per building for the accommodation of transient guest.

213.07 MOTOR VEHICLE SALVAGE DEALER

Any person who engages in business primarily for the purpose of selling salvage motor vehicle parts or for the purpose of selling at retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal.

**SECTION 214 DEFINITIONS (beginning with letter "N").**

214.01 NONCONFORMING USE OF BUILDINGS AND LAND

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 a zoning resolution or amendment thereto, may be continued, although such use does not conform with the provisions of such resolution or amendment, but if any such nonconforming use is voluntarily discontinued for two (2) years or more, any future use of such land shall be in conformity with Sections 519.01 to 519.25 inclusive, of the Revised Code of the State of Ohio.

214.02 NURSERY OR CHILD CARE CENTER.

A building used for the commercial care of three (3) or more children, not members or wards of the family.

214.03 NURSING HOME, REST HOME, OR CONVALESCENT HOME.

A place, residence or home used for the boarding and care, for a consideration, of not less than three (3) persons, not members of the immediate family operating such facilities, who by reason of age or infirmity are dependent upon the services of others.

**SECTION 215 DEFINITIONS (beginning with letter "O").**

215.01 OPEN SPACE.

A parcel of land or an area of water, or combination of both land and water, within a site designated as a planned development and designed and intended for the use and enjoyment of the residents of the planned development. Open space includes streets, easements, parks, recreation 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 as a part of the general development plan and are appropriate for the residents or occupants of the planned development.

215.02 OPEN STORAGE.

Storing or keeping of chattels not enclosed in a building.

**SECTION 216 DEFINITIONS (beginning with letter "P").**

216.01 PLANNED DEVELOPMENT.

Planned 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 design principles for all buildings as intended to be located, 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.

216.02 PLANNING COMMISSION.

The Planning Commission of Montgomery County, Ohio.

216.03 PREMISES

Any lot or combination of contiguous lots held in single ownership, together with the development thereon; a condominium complex constitutes one premises.

**SECTION 217 DEFINITIONS (beginning with letter "Q").**

**SECTION 218 DEFINITIONS (beginning with letter "R").**

218.01 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.

218.02 RECREATION SPACE

All area, open or enclosed, available for the general use of the residents of a planned residential district for active or passive recreation. Recreation space shall be provided in locations easily accessible to the living units, but where they will not impair the view and privacy of living units. Such space may be a part of the required livability space.

218.03 REFUSE.

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

218.04 ROADSIDE STAND.

A temporary structure designed or used for the display or sale of agricultural products produced on the premises upon which such a stand is located.

218.05 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.

218.06 ROOMING HOUSE.

A building or part thereof, other than a hotel, motel, or restaurant where meals and/or lodging are provided for compensation, for three (3) or more unrelated persons where no cooking or dining facilities are provided in individual rooms.

**SECTION 219 DEFINITIONS (beginning with letter "S").**

219.01 SALVAGE MOTOR VEHICLE

Any motor vehicle which is in a wrecked, dismantled, or worn-out condition, or is unfit for operation as a motor vehicle.

219.02 SCRAP METAL PROCESSING FACILITY

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.

219.03 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 at their annual meeting. Food, meals, and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all applicable federal, state, county, and local laws.

219.04 SETBACK.

See Building Line Subsection 202.06.

219.05 SHORT-TERM RENTAL

A dwelling which, as a conditional use, is rented, wholly or in part, to a person or persons for a fee for less than thirty (30) consecutive days. A Short-Term Rental owner/operator may or may not be present when a Short-Term Rental guest is on the premises. Short-Term Rentals do not include Bed and Breakfast facilities, Hotels, or Motels.

219.06 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 the building and which directs attention to an object, product, place, activity, person, institution, organization, or business.

The following are types of signs:

A. Advertising

A sign which directs attention to a use, commodity or service not related to the premises on which the sign is located.

B. Awning, Canopy, or Marquee.

A sign that is mounted on or painted on or attached to an awning, canopy, or marquee.

C. 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 of the announcement of services or activities to be held therein.

D. Construction.

A sign indicating the names of architects, engineers, contractors, and similar persons involved in the design and construction of a structure or project.

E. Directional.

A sign directing vehicular or pedestrian movement onto a premise or within a premise.

F. Flashing.

Any illuminated sign on which the artificial light or any part thereof has conspicuous or intermittent variation in intensity or color.

- G. Free Standing.  
A sign suspended or supported by one or more uprights or braces in or upon the ground surface.
- H. Identification.  
A sign which displays only the same address and/or use of the premises upon which the sign is located or to which it is affixed or the product or service offered therein.
- I. Illuminated.  
A sign that is lighted by an artificial light source.
- J. Moving.  
Any sign which in part or total, rotates, revolves or otherwise is in motion.
- K. 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 premise
- L. Poster Panel. An advertising structure measuring not more than twelve (12) feet by twenty- five (25) feet overall on which posters are displayed.
- M. Painted Bulletin.  
An advertising structure on which advertising design is painted or painted and posted, and which may incorporate the use of cutouts and/or other embellishments.
- N. Projecting.  
A sign suspended from or supported by a building, structure, or column and extending therefrom, more than fifteen (15) inches.
- O. Real Estate.  
A sign pertaining to the sale or lease of the lot or tract of land on which the sign is located or to the sale or lease of one or more structures or a portion thereof located on such lot or tract of land.
- P. Roof.  
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.
- Q. 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, canvas, plastic sheet, cardboard or other like materials and which is intended to be displayed for a limited period of time.
- R. Wall.  
A sign which is affixed, painted on or attached to the wall of the building or other structure and which extends not more than fifteen (15) inches from the face of the wall.
- S. Warning.  
Any sign indicating danger or a situation which is potentially dangerous.

219.07 SIGN 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; excluding the necessary supports or uprights on which such sign is placed. The area of a sign having more than one display surface shall be computed as the total of the exposed exterior display surface area.

**219.08 SIGN FACE.**

The surface of the sign upon, against, or through which the message of the sign is exhibited.

**219.09 SIGN 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.

**219.10 SIGN STRUCTURE.**

The supports, uprights, bracing or framework for signs.

**219.11 STABLE.**

A structure for the keeping of horses and ponies.

**219.12 STORY.**

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

**219.13 STREET.**

An improved public right-of-way fifty (50) feet or more in width which provides a public means of access to abutting property or any such right-of-way more than thirty (30) feet and less than fifty (50) feet in width provided it existed prior to the enactment of this Resolution and provided such street has been accepted by Montgomery County and does provide a public means of access to abutting property. The term "street" shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare or any other similar term.

**219.14 STRUCTURAL ALTERATION.**

Any change in the structural members of a building, such as load bearing walls, columns, beams, or girders.

**219.15 STRUCTURE.**

Anything constructed, except pavement, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

**219.16 STRUCTURE, PRINCIPAL**

The primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling.

**219.17 SWIMMING POOL.**

Any body of water or receptacle for water having a depth greater than two (2) feet, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above the ground outside a building.

## **SECTION 220 DEFINITIONS (beginning with letter "T").**

### **220.01 TELECOMMUNICATIONS TOWER**

Telecommunications tower means any free-standing structure, or any structure attached to a building or another structure, that meets all of following criteria as contained in the Ohio Revised Code, Section 519.211(B)(1): The free-standing or attached structure is proposed to be constructed on or after 10-31-96; B. The free-standing or attached structure is proposed to be owned or principally used by a public utility engaged in the provision of telecommunications services; C. The free-standing or attached structure is proposed to be located in an unincorporated area of a township, in an area zoned for residential use; D. (1) The free-standing structure is proposed to top at a height that is greater than either 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 set forth in any applicable zoning regulations in effect immediately prior to 10-31-96 or as those regulations subsequently are amended; (2) 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 10-31-96 or as those regulations subsequently are amended; E. The free-standing or attached structure is proposed to have attached to it radio frequency transmission or reception equipment.

### **220.02 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 the County, on file in the Office of the Recorder, together with all amendments thereto subsequently filed.

### **220.03 TRAILER.**

#### **A. Travel Trailers**

See Camping and Recreational Equipment

#### **B. Office Trailer**

A House Trailer or Mobile Home so designed, constructed, reconstructed, or added to by means of accessories in such manner as will permit the use and occupancy thereof as an Office or other like and similar use subject to the following:

1. Its use as living quarters is not permitted;
2. All Local and State Permits and Requirements are met;
3. An Office Trailer may only be used in conjunction with the Principal Permitted Use of the existing structures.

### **220.04 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 (2) or more trucks.

**SECTION 221 DEFINITIONS (beginning with letter "U").**

**SECTION 222 DEFINITIONS (beginning with letter "V").**

**SECTION 223 DEFINITIONS (beginning with letter "W").**

**SECTION 224 DEFINITIONS (beginning with letter "X").**

**SECTION 225 DEFINITIONS (beginning with letter "Y").**

**225.01 YARD, FRONT.**

- A. 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.
- B. Front Yard (least depth). The shortest distance, measured horizontally, between any part of the building, and the front lot line.
- C. Front Yard (least depth, how measured).  
Such depth shall be measured from the right-of-way line of the existing street on which the lot fronts; provided, however, that if the proposed location of the right-of-way line of such street as established on the Thoroughfare Plan differs from that of the existing street, then the required front yard least depth shall be measured from the right-of-way line of such street as designated on said Thoroughfare Plan.

**225.02 YARD, REAR.**

- A. Rear Yard  
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.
- B. Rear Yard (least depth).  
The average distance measured horizontally between any part of a building, other than such parts hereinafter accepted in Article 39, and the nearest rear lot line.

**225.03 YARD, SIDE.**

- A. Side Yard  
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.
- B. Side Yard (least width).  
The shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter accepted, and the nearest side lot line.
- C. Side Yard (least width, how measured).  
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.

**SECTION 226 DEFINITIONS (beginning with letter "Z").**

226.01 ZONING CERTIFICATE.

A document issued by the Zoning Inspector or his/her authorized agent, authorizing buildings, structures, or uses consistent with terms of this Resolution and for the purpose of carrying out and enforcing its provisions.

226.02 ZONING INSPECTOR.

The Zoning Inspector (Administrative Officer) or his/her authorized representative, appointed by the Board of Trustees of German Township.

226.03 ZONING MAP.

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

## **ARTICLE 3**

### **ENFORCEMENT: PENALTIES AND FEES**

#### **SECTION 301 ENFORCEMENT BY THE ZONING INSPECTOR**

There is hereby established the office of the Township Zoning Inspector. It shall be the duty of the Zoning Inspector, as provided under Section 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 German Township 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 CERTIFICATE**

Until a zoning certificate has been obtained from the Zoning Inspector:

- A. The construction, building, moving, reconstruction or any remodeling that requires a Building Permit from Montgomery County building regulations 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 plan in duplicate drawn to scale, one copy of which shall be returned to the owner upon approval. The plan shall show the following:

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

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 six (6) months after the date on which it is issued unless within such six (6) 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, erected, 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 Zoning Inspector or County Building Inspector, 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 remove 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 regulations in or any provisions of this Resolution or any amendment or supplement thereto adopted by the Board of Township Trustees under Section 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 this Resolution, or any amendment or supplement thereto, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred (500) dollars. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance of use continues, shall be deemed a separate offense.

SECTION 305 FEES

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. There shall be no fee, however, in the case of applications filed by the Board of Township Trustees or the Zoning Commission.

The fees shall be in addition to the regular building permit fees and any other fees which may be

imposed under applicable Resolution of German Township. The fees imposed by this Resolution are only intended to defer in part, 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 German Township Board of Zoning Appeals consisting of five (5) members appointed by the Board of Township Trustees as provided by Section 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 provision 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 a public record. A copy of the decision for each case shall be furnished to the 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 having the required area; a 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 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 in this Zoning Resolution.

C. Conditional Use

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

D. Nonconforming Uses

Nonconforming uses as provided in Article 36 of this Resolution.

SECTION 404 PROCEDURE FOR ADMINISTRATIVE APPEAL

404.01 AUTHORIZATION

An appeal from a decision of the Zoning Inspector 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 Inspector.

404.02 NOTICE OF APPEAL

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

The notice of appeal shall specify the grounds for such appeal. Upon receipt of a notice of appeal, the Zoning Inspector 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 three hundred (300) 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 (10) 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 APPEALS

The Board shall have all the powers of the Zoning Inspector 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 Inspector 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 of the decision and findings of fact shall be sent to the Board of Township Trustees, the Zoning Commission, and by certified mail to the applicant.

#### SECTION 405 PROCEDURE FOR OBTAINING A VARIANCE

##### A. Nature of 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 Inspector, 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 action 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 three (3) copies of a plot plan drawn to an appropriate scale showing the following:

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 access ways, 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 THE ZONING COMMISSION

The Zoning Inspector shall file one copy of the appeal and plot plan with the Zoning Commission within three (3) 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 Subsection 404.03 of this Resolution.

405.05 STANDARDS FOR VARIANCES

The Board shall not grant a variance 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:

- 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.
- B. The unique situation results from the enforcement of this Resolution and not by an action or actions of the property owner or the applicant.
- C. The strict application of the provision of this Resolution from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
- D. The variance desired will not compromise the use or enjoyment of adjacent properties.
- E. The variance desired will not adversely affect the public health, safety, and morals.
- F. The variance desired will not compromise the general spirit and intent of this Resolution.

#### 405.06 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 Subsection 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 Inspector 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 Inspector 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 of the decision and findings of fact shall be sent to the Board of Township Trustees, the 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 one (1) year from the date on which the Board grants the variance, unless within such one year period, a zoning certificate is obtained.

A one-time only, one (1) year extension of this time can be obtained through the zoning administrator for a nominal fee as set by the German Township Board of Trustees. This extension must be applied for before the termination date of the original variance certificate.

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 often desirable, will more intensely affect the surrounding area in which they are located than the Permitted Uses of such Zoning District.

The intent of the procedure for authorizing a Conditional Use is to set forth the development standards and criteria 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 Inspector 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 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, or surrounding area 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 three (3) copies of the plot plan, drawn to an appropriate scale, clearly showing the following:

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 access ways, walks, off street parking, loading spaces, and landscaping.
4. The relationship of the proposed development to the development standards in the existing Zoning District.
5. The use of land and location of structures on adjacent property.

#### 406.03 INFORMATION FOR THE ZONING COMMISSION

The Zoning Inspector shall file one copy of the application and plot plan with the Zoning Commission within three (3) days after the filing of such application by the applicant, 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 Subsection 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 upon 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.
- D. All necessary permits and license for the use and operation of the Conditional Use have been obtained, or evidence has been submitted that such permits are obtainable for the proposed Conditional Use on the subject property.
- E. The Conditional Use will be in harmony with the appropriate and orderly development of the district in which it is located with respect to its location and size and the nature and intensity of the operation involved or connected with it.
- F. The location, nature, and height of any structures, walls, and fences and the nature and extent

of landscaping and screening on the site will not unreasonably hinder or discourage the appropriate development, use and enjoyment of adjacent land, buildings, and structures.

G. 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.

H. The Conditional Use desired 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 Subsection 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 year from the date on which the Board grants the Conditional Use, unless within the one year period the subject use is commenced and/or any necessary building permits are obtained and the erection or alteration of a structure is started.

In the case of a lot split, a Conditional Use Certificate granted by the Board shall terminate at the end of one year from the date on which The Board grants the Conditional Use, unless within the one year period the newly created lots are recorded with the county.

A one-time only, one (1) year extension of this time can be obtained through the zoning administrator for a nominal fee as set by the German Township Board of Trustees. This extension must be applied for before the termination date of the original Conditional Use Certificate.

## ARTICLE 5

### ZONING DISTRICTS AND BOUNDARIES

#### SECTION 501 DISTRICTS

The unincorporated territory of German Township, zoned under Section 519.02 et seq., of the Revised Code of the State of Ohio, shall be and is hereby divided into the following districts.

- "A" Agricultural District
- "R-1" Single Family Residential District
- "R-2" Single Family Residential District
- "R-3" Single Family Residential District
- "R-4" Single Family Residential District
- "R-5" Two Family Residential District
- "R-6" Multiple Family Residential District
- "R-7" Mobile Home Residential District
- "OR-1" Office Residential District
- "O-2" Office District
- "B-1" Neighborhood Business District
- "B-2" Business District
- "B-3" Business District
- "B-4" Business District
- "I-1" Light Industrial District
- "I-2" General Industrial District
- "I-3" Heavy Industrial District
- "F" Flood Plain District



"PD-1"Planned Residential District

"PD-2"Planned Office District

"PD-3"Planned Business District

"PD-4"Planned Industrial District

“RFP” Regional Floodplain District

“WFP” Well Field Protection Overlay District

## SECTION 502 BOUNDARIES

### 502.01 INCORPORATION

The boundaries of these districts are hereby established as shown on the Zoning Map of the unincorporated areas of a zoned township in Montgomery County, Ohio, which map is hereby made a part of this Resolution. The said "Zoning Map" and all notations and references and other matters shown thereon, shall be and are hereby made part of this Resolution. Said "Zoning Map" properly attested, shall be and remain on file in the Office of the Zoning Inspector, the Board of Township Trustees, and the Zoning Commission for German Township.

### 502.02 AREAS SHOWN ON MAP

It is the intent of this Zoning Resolution that the entire area under the jurisdiction of German Township Zoning, including all land, water areas, rivers, streets, alleys, railroad and other rights-of-way be included in the districts established by this Zoning Resolution. Any area not shown on the official Zoning Map of the Township as being included in any district shall be deemed to be in the "R-1", Single Family Residential 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 Map, the following rules shall apply:

- A. Where the designation of a boundary line on the Zoning Map 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 streets, alley or lot lines, the district boundaries shall be determined by the use of the scale shown on the Zoning Map.
- D. All streets, alleys, public ways, waterways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to 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 center.

## ARTICLE 6

### DISTRICT CHANGES AND RESOLUTION AMENDMENTS

#### SECTION 601 GENERAL

Amendments or supplements to the Zoning Resolution shall be effected as provided by Section 519.02 et seq., of the Revised Code of the State of Ohio.

#### SECTION 602 PROCEDURE FOR CHANGE

Applications for amendments to the Zoning Plan shall be filed in accordance with the filing procedures adopted by the German Township Zoning Commission.

##### 602.01 WRITTEN APPLICATION

Three (3) copies of a provided application form shall be filed with the 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 proposed change of the district 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 adjacent property and land use.
6. A list of owners of property within three hundred (300) feet from such area to be rezoned. Such list 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 Zoning

Commission or Township Trustee.

B. Plot Plan

The application shall be accompanied by two (2) 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 rezoned 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.

**ARTICLE 7**

**VALIDITY AND REPEAL**

SECTION 701 VALIDITY.

If any article, section, subsection, paragraph, sentence or phrase of the 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.

SECTION 702 REPEAL.

The Resolution may be made inapplicable as to German Township in accordance with Section 519.12 of the Revised Code of the State of Ohio.

## ARTICLE 8

### "A" AGRICULTURAL DISTRICT

#### PREAMBLE

This district has been established to provide for agricultural activity and related uses and is intended to protect and preserve areas of prime agricultural soils for continued agricultural and agriculturally related uses.

#### SECTION 801 PRINCIPAL PERMITTED USES

- A. Agriculture, including the principal dwelling unit, and the usual agricultural structures, provided that any structure in which livestock and/or hooved animals or kennels where multiple dogs are housed shall be a distance of at least three hundred (300) feet from any dwelling, other than the subject property farm dwelling, or from any lot in a Residential, Office, or Business District. No new dwelling unit can be constructed within three hundred (300) feet of an agricultural structure housing livestock and/or hooved animals on an adjacent lot.
- B. Single family dwellings located on a lot not less than twenty (20) acres in area.
- C. The following uses shall be located on a lot not less than two (2) acres in area, same as minimum lot size.
  - 1. Publicly owned and operated buildings and facilities.
  - 2. Public parks, playgrounds, and community centers.
- D. Adult Family Homes as defined in Section 201.03

#### SECTION 802 ACCESSORY USES

- A. Farm markets provided that:
  - 1. Fifty (50) percent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year.
  - 2. The maximum area of the structure shall be one thousand (1,000) square feet.
  - 3. There shall not be more than one such stand per lot.
  - 4. The structure shall be located a minimum of fifty (50) feet from an adjacent property line.
  - 5. The minimum set back for such structure shall be seventy (70) feet from the right-

of-way as shown on the Official Thoroughfare Plan for Montgomery County, Ohio.

6. A minimum of one thousand (1,000) square feet shall be provided for off-street parking.
- B. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling.
- C. A private garage, parking space or stable.
- D. The keeping of animals and/or fowl as pets or for domestic use.
- E. Home Occupation as defined in Article 2, Subsection 208.02.
- F. Other accessory uses permitted for this District by Article 38.

#### SECTION 803 CONDITIONAL USE

The following Conditional Uses subject to approval in accordance with Article 4, Section 406.6

- A. Single family residential lots less than twenty (20) acres which comply with the following standards:
  1. The minimum lot area shall be two (2) acres with a minimum road frontage of two hundred and fifty (250) feet, and a maximum lot depth, from the centerline of the road, not to exceed three (3) times the lot width. At no point shall the lot width be less than 1/2 of the required frontage.
  2. The land is not considered prime farmland as defined in Section 201.05. Each lot shall have a minimum area of two (2) acres and a minimum frontage of two hundred and fifty (250) feet, however, the Board may permit less frontage if the applicant can show that, due to special conditions of the land such as topography or the proximity of land to the road, the property can be better developed using lesser frontage where front, side and rear yard requirements can be met.

In cases where the non- prime farmland does not front on an existing public road, the Board may permit development using a private drive with a minimum right-of-way width of fifty (50) feet and a minimum improved width of twelve (12) feet.

Dead-end private drives shall not exceed one thousand (1,000) feet in length and shall include a turnaround with a recommended minimum radius of 45 feet, or a "T" arrangement with 40 feet on each side of the "T".

- B. Airports and Landing Strips.
- C. Cemeteries, including mausoleums and crematoria, provided that any mausoleum or crematorium shall be a distance of at least two hundred (200) feet and burial sites at least one

hundred (100) feet from adjacent property, street and highway lines, and provided further that any new cemetery shall contain an area of twenty (20) acres or more.

- D. Kennels, animal hospitals and veterinary clinics for the raising, breeding, treatment, and boarding of dogs, or other small animals, provided that all outside runs be at least two hundred (200) feet from any Residential District.
- E. Riding academies, provided that such building or stable shall be distant two hundred (200) feet from any lot in any Residential District.
- F. Golf courses, swimming pools, tennis courts, gun clubs and similar recreational uses and accessory uses, but not including driving ranges, miniature golf courses and pitch and putt courses, subject to the requirements of Article 46.
- G. Agriculturally based meeting halls.
- H. Radio, television or other transmission towers or masts, and the usual accessory building, only after their height and location have been approved by the governmental agency charged with the responsibility for maintaining air safety and provided there is a yard area with a radius equal to the height of the tower or mast.
- I. Extraction of sand, gravel and other minerals, but not including concrete mixing plants, subject to the provisions of Chapter IX, Article 45.
- J. Campgrounds, provided sanitary facilities have been approved by the State and/or local Board of Health. Accessory uses, including an office; a public facilities building wherein the basic food needs of the transient guests can be purchased.
- K. Rodeos and accessory uses including retail and service uses, provided such retail and service uses are accessory to the principal use.
- L. Agricultural services (commercial activity that primarily serves the farming community) including but not limited to, tractor and farm implement sales, welding shops, grain elevators, doctor and dentist offices, saw sharpening, farming machinery and repair including automobiles and trucks, and grocery stores (where the Board of Zoning Appeals determined that such uses are needed and appropriate).
- M. Halfway Houses as defined in Section 208.01 and pursuant to the standards listed in Article 49 Halfway Houses.
- N. Dumping and/or spreading of sludge.
- O. Churches, chapels, temples, synagogues or other buildings for religious worship not including a rescue mission or temporary revival activity, provided that:
  - 1. Shall be located on a lot not less than ten (10) acres in area, with a minimum lot frontage of 500 feet. The Board may approve lesser lot area and/or frontage if the use complies with all setback and parking requirements.



2. Such use shall have direct vehicular access to and from a collector street or arterial street and shall not be located so as to interfere with any proposed public right-of-way extension or realignment.
  3. All buses, structures, parking and active outdoor recreation uses shall be set back a minimum of 100 feet from all adjacent property lines.
  4. Parking spaces for church buses shall be located as far distant from any adjacent property line as possible.
  5. All exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any adjoining residence or property in a Residential District or on any street.
- P. Schools, primary, intermediate and secondary, both public and private.
1. For the purposes of this section, schools are deemed to include both public and private schools. Accessory uses and buildings necessary for carrying out the school program are permitted.
  2. Minimum lot size shall be ten (10) acres with a minimum frontage of 500 feet. The Board may approve lesser lot area and/or frontage if the use complies with all setback requirements, however, no school shall be located on a lot less than two (2) acres in area.
  3. Locations: An elementary school shall be located on a street designated as a collector street or higher. Junior High and High Schools shall be located on a street designated as a major collector or minor arterial street.
  4. Minimum setback lines of at least 100 feet shall be provided along all street right-of-way lines and adjoining property lines.
- Q. Telecommunications towers as defined in Article 2, Subsection 220.01 and subject to the conditions in Article 52.

## SECTION 804 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 building are required in the "A" Agricultural Residential District.

### 804.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

SECTION 804.02 LOT AREA, FRONTAGE, WIDTH AND YARD REQUIREMENTS.

A. The following minimum requirements shall be observed.

1. Lot Area-Twenty (20) acres except as otherwise regulated herein.
2. Lot Frontage Minimum-Frontage requirements shall vary with the lot size as follows:
  - a. Eight (8) acres or more - 450 feet
  - b. More than four (4) acres but less than eight (8) acres - 300 feet
  - c. Less than four (4) acres - 250 feet unless lesser frontage as permitted by the Board.

3. Lot Width

The width of the lot at any point shall not be less than one half of the required lot frontage or 125 feet, whichever is greater.

4. Yards (minimum)

Front Yard Depth\* - 70 Feet

Side Yard Depth - 30 Feet

Rear Yard Depth - 50 Feet

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

## 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 lot area minimum of thirty thousand (30,000) square feet per dwelling unit.

#### SECTION 901 PRINCIPAL PERMITTED USES

- A. Single family dwellings.
- B. Publicly owned and operated buildings and facilities.
- C. Public parks, playgrounds, and community centers.
- D. Agricultural activity as permitted in Section 801 A when located on ten (10) or more acres.
- E. Adult Family Homes as defined in Section 201.03.
- F. Licensed Residential Facility with at least six but not more than eight persons.

#### SECTION 902 ACCESSORY USES

- A. Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted use, including private garages and stables, 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. Stables shall be a distance of two hundred (200) feet from any lot in a Residential District.
- B. Home Occupation as defined in Article 2, Subsection 208.02.
- C. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- D. Other accessory uses permitted for this District by Article 38.

#### SECTION 903 CONDITIONAL USE

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

- A. Private noncommercial golf courses (not including driving ranges, miniature golf courses, and pitch and putt courses), swimming pools and tennis courts, and accessory uses, subject to the requirements of Article 46.

- B. Barber and Beauty Shops.
- C. Churches, chapels, temples, synagogues or other buildings for religious worship, not including a rescue mission or temporary revival activity, subject to the provisions of Article 8, Section 803 (O).
- D. Telecommunication towers as defined in Article 2, Subsection 220.01, and subject to the conditions in Article 52.
- E. Schools, primary, intermediate and secondary, both public and private subject to the provisions of Article 8, Section 803 (P).

SECTION 904 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 building are required in the "R-1" Single Family Residential District.

904.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

904.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

A. The following minimum requirements shall be observed.

- 1. Lot Area – 30,000 sq ft
- 2. Lot Frontage – 150 ft
- 3. Yards (minimum)

Front Yard Depth\* - 50 ft

Side Yard Depth - 20 ft

Rear Yard Depth - 50 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.

## ARTICLE 10

### "R-2" SINGLE FAMILY RESIDENTIAL DISTRICT

#### PREAMBLE

This district has been established to provide for single family dwellings with a lot area minimum of twenty thousand (20,000) square feet per dwelling unit.

#### SECTION 1001 PRINCIPAL PERMITTED USES

- A. Single family dwellings.
- B. Publicly owned and operated buildings and facilities.
- C. Public parks, playgrounds, and community centers.
- D. Agricultural activity as permitted in Section 801 A when located on ten (10) or more acres.
- E. Adult Family Home as defined in Section 201.03.
- F. Licensed Residential Facility with at least six but not more than eight persons.

#### 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. Home Occupation as defined in Article 2, Subsection 208.02.
- C. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- D. Other accessory uses permitted for this District by Article 38.

#### SECTION 1003 CONDITIONAL USE

The following Conditional Uses subject to approval in accordance with Article 4, Section 406:

- A. Private noncommercial golf courses (not including driving ranges, miniature golf courses, and pitch and putt courses), swimming pools and tennis courts, and accessory uses, subject to the requirements of Article 46.
- B. Telecommunication towers as defined in Article 2, Subsection 220.01, and subject to the

conditions in Article 52.

- C. Churches, chapels, temples, synagogues or other buildings for religious worship, not including a rescue mission or temporary revival activity, subject to the provisions of Article 8, Section 803 (O).
- D. Schools, primary, intermediate and secondary, both public and private subject to the provisions of Article 8, Section 803 (P).

## SECTION 1004 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 building are required in the "R-2" Single Family Residential District.

### 1004.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

### 1004.02 LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

A. The following minimum requirements shall be observed.

- 1. Lot Area – 20,000 sq ft
- 2. Lot Frontage – 100 ft
- 3. Yards (minimum)

Front Yard Depth\* - 35 ft

Side Yard Depth - 15 ft

Rear Yard Depth - 50 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.

## ARTICLE 11

### "R-3" SINGLE FAMILY RESIDENTIAL DISTRICT

#### PREAMBLE

This district has been established to provide for single family dwellings with a lot area minimum of fifteen thousand (15,000) square feet per dwelling unit.

#### SECTION 1101 PRINCIPAL PERMITTED USES

- A. Single family dwellings.
- B. Publicly owned and operated buildings and facilities.
- C. Public parks, playgrounds, and community centers.
- D. Adult Family Home as defined in Section 201.03
- E. Licensed Residential Facility with at least six but not more than eight persons.

#### 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. Home Occupation as defined in Article 2, Subsection 208.02.
- C. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- D. Other accessory uses permitted for this District by Article 38.

#### SECTION 1103 CONDITIONAL USE

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

Private noncommercial golf courses (not including driving ranges, miniature golf courses, and pitch and putt courses), swimming pools and tennis courts, and accessory uses, subject to the requirements of Article 46.

Telecommunication towers as defined in Article 2, Subsection 220.01, and subject to the conditions in Article 52.

Churches, chapels, temples, synagogues or other buildings for religious worship, not

including a rescue mission or temporary revival activity, subject to the provisions of Article 8, Section 803 (O).

Schools, primary, intermediate and secondary, both public and private subject to the provisions of Article 8, Section 803 (P).

## SECTION 1104 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 building are required in the "R-3" Single Family Residential District.

### 1104.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

### 1104.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

A. The following minimum requirements shall be observed:

1. Lot Area – 15,000 sq. ft
2. Lot Frontage – 80 ft
3. Yards (minimum)

Front Yard Depth\* - 35 ft

Side Yard Least Width - 10 ft

Yards Total Width - 20 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.



## ARTICLE 12

### "R-4" SINGLE FAMILY RESIDENTIAL DISTRICT

#### PREAMBLE

This district has been established to provide for single family dwellings with a lot area minimum of ten thousand (10,000) square feet per dwelling unit.

#### SECTION 1201 PRINCIPAL PERMITTED USES

- A. Single family dwellings.
- B. Publicly owned and operated buildings and facilities.
- C. Public parks, playgrounds, and community centers.
- D. Adult Family Homes as defined in Section 201.03.
- E. Licensed Residential Facility with at least six but not more than eight persons.

#### SECTION 1202 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. Home Occupation as defined in Article 2, Subsection 208.02.
- C. Temporary buildings for the uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- D. Other accessory uses permitted for this District by Article 38.

#### SECTION 1203 CONDITIONAL USE

The following Conditional Uses subject to approval in accordance with Article 4, Section 406:

- A. Private noncommercial golf courses (not including driving ranges, miniature golf courses, and pitch and putt courses), swimming pools and tennis courts, and accessory uses, subject to the requirements of Article 46.
- B. Telecommunications towers as defined in Article 2, Subsection 220.01, and subject to the conditions in Article 52.
- C. Churches, chapels, temples, synagogues or other buildings for religious worship, not

including a rescue mission or temporary revival activity, subject to the provisions of Article 8, Section 803 (O).

- D. Schools, primary, intermediate and secondary, both public and private subject to the provisions of Article 8, Section 803 (P).

## SECTION 1204 DEVELOPMENT STANDARDS

In addition to provisions of Chapters VIII and IX, General Regulations and Special Regulations, the following standards for arrangement and development of land and building are required in the "R-4" Single Family Residential District.

### 1204.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

### 1204.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

- A. The following minimum requirements shall be observed.

1. Lot Area – 10,000 sq ft
2. Lot Frontage – 80 ft
3. Yards

Front Yard Depth\* - 25 ft

Side Yard Least Width – 8 ft

Yards Total Width – 20 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.

## ARTICLE 14

### "R-6" MULTIPLE FAMILY RESIDENTIAL DISTRICT

#### PREAMBLE

This district has been established to provide for multiple family dwelling units with a lot area minimum of three thousand (3,000) square feet per dwelling unit.

#### SECTION 1401 PRINCIPAL PERMITTED USES

- A. Single family dwellings as governed by Section 1204.
- B. Two family dwellings as governed by Section 1304.
- 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.
- G. Adult Family Home as defined in Section 201.03.
- H. Licensed Residential Facility as defined in 212.03.
- I. Adult Group Home as defined in Section 201.04.

#### SECTION 1402 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. Home Occupation as defined in Article 2, Subsection 208.02.
- C. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

#### SECTION 1403 CONDITIONAL USE

The following Conditional Uses subject to approval in accordance with Article 4, Section 406:

- A. Private noncommercial golf courses (not including driving ranges, miniature golf courses, and pitch and putt courses), swimming pools and tennis courts, and accessory uses, subject to the requirements of Article 46.
- B. Telecommunication towers as defined in Article 2, Subsection 220.01, and subject to the conditions in Article 52.
- C. Churches, chapels, temples, synagogues or other buildings for religious worship, not including a rescue mission or temporary revival activity, subject to the provisions of Article 8, Section 803 (O).
- D. Schools, primary, intermediate and secondary, both public and private subject to the provisions of Article 8, Section 803 (P).

SECTION 1404 DEVELOPMENT STANDARDS

In addition to the provisions 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 "R-6" Multiple Family Residential District.

1404.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

1404.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall be observed:

<u>USE</u>	<u>MULTIPLE FAMILY DWELLING</u>	<u>OTHER PERMITTED USES</u>
Lot Area	12,000 sq ft	10,000 sq ft
Lot Frontage	90 ft	80 ft
Area Per Family	3,000 sq ft	
Front Yard Depth*	30 ft	25 ft
Side Yard Least Width	10 ft	8 ft
Yards Total Width	20 ft	20 ft
Rear Yard Depth	40 ft	40 ft

1404.03      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.

## ARTICLE 13

### "R-5" TWO FAMILY RESIDENTIAL DISTRICT

#### PREAMBLE

This district has been established to provide for two family dwelling units with a lot area minimum of four thousand (4,000) square feet per dwelling unit for two family dwellings.

#### SECTION 1301 PRINCIPAL PERMITTED USES

- A. Single family dwellings as governed by Section 1204.
- B. Two family dwellings.
- C. Conversions of single family dwelling into two family dwelling, provided these conform with the development standards prescribed for such two family dwellings in this Article and with all other applicable requirements under this Zoning Regulation.
- D. Publicly owned and operated buildings and facilities.
- E. Public parks, playgrounds, and community centers.
- F. Adult Family Homes as defined in Section 201.03.
- G. Licensed Residential Facility with at least six but not more than eight persons.
- H. Adult Group Home as defined in Section 201.04.

#### SECTION 1302 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. Home Occupation as defined in Article 2, Subsection 208.02.
- C. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

#### SECTION 1303 CONDITIONAL USE

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

- A. Private noncommercial golf courses (not including driving ranges, miniature golf course, and

pitch and putt courses), swimming pools and tennis courts, and accessory uses, subject to the requirements of Article 46.

- B. Telecommunications towers as defined in Article 2, Subsection 220.01, and subject to the conditions in Article 52.
- C. Churches, chapels, temples, synagogues or other buildings for religious worship, not including a rescue mission or temporary revival activity, subject to the provisions of Article 8, Section 803 (O).
- D. Schools, primary, intermediate and secondary, both public and private subject to the provisions of Article 8, Section 803 (P).

SECTION 1304 DEVELOPMENT STANDARDS

In addition to the provisions of Chapters VIII and IX, General Regulations and Special Regulations, the following standard for arrangement and development of land and building are required in the "R-5" Two Family Residential District.

1304.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

1304.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall be observed.

<u>USES</u>	<u>TWO FAMILY DWELLING</u>	<u>OTHER PERMITTED</u>
Lot Area	8,000 sq ft	10,000 sq ft
Lot Frontage	70 ft	80 ft
Area Per Family	4,000 sq ft	
Front Yard Depth*	30 ft	25 ft
Side Yard Least Width	8 ft	8 ft
Yards Total Width	20 ft	20 ft
Rear Yard Depth	40 ft	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.

## ARTICLE 15

### "R-7" MOBILE HOME RESIDENTIAL DISTRICT

#### PREAMBLE

This district has been established to provide for Mobile Homes in Mobile Home Parks, ten (10) acres or more in land area.

#### SECTION 1501 PRINCIPAL PERMITTED USES

- A. Mobile Home Parks
  - 1. Mobile Homes (House Trailers)

#### SECTION 1502 ACCESSORY USES

- A. Coin-operated laundry, laundry and dry cleaning pick-up stations for use of tenants only. No external signs of any nature whatsoever shall be permitted.
- B. Other accessory uses, buildings or structures customarily incidental to the aforesaid use.

#### SECTION 1503 CONDITIONAL USES

- A. Telecommunication towers as defined in Article 2, Subsection 220.01 and subject to the conditions in Article 52.
- B. Churches, chapels, temples, synagogues or other buildings for religious worship, not including a rescue mission or temporary revival activity, subject to the provisions of Article 8, Section 803 (O).
- C. Schools, primary, intermediate and secondary, both public and private subject to the provisions of Article 8, Section 803 (P).

#### SECTION 1504 DEVELOPMENT STANDARDS

In addition to the provisions of Chapters VIII and IX, General Regulations and Special Regulations, the following standards for arrangements are required in the "R-7" Mobile Home Residential District.

##### 1504.01 REQUIRED CONDITIONS

- A. Each lot in a Mobile Home Park shall be served with sanitary sewer and water.
- B. A Mobile Home Park shall be a minimum of ten (10) acres in area.
- C. A greenbelt shall be located and effectively maintained at all times along all park boundary lines except at established entrances and exits serving the park. Such greenbelt shall be ten (10) feet from the lot lines and thirty (30) feet from the street right-of-way lines.



- D. Each park shall provide a recreational area, or areas, equal in size to at least eight (8) percent 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.
- E. All exterior park lights shall be so located and shielded as to prevent direct illumination of any new areas outside the park.
- F. Mobile home sites shall be a minimum of three thousand six hundred (3,600) square feet in area.
- G. Each mobile home site shall have a minimum width of forty (40) feet.
- H. The minimum distance between a mobile home and another mobile home or structure shall be sixteen (16) feet.
- I. Each mobile home shall be located at least ten (10) feet from the greenbelt.
- J. Each mobile home site shall be provided with a stand consisting of a solid concrete slab or two (2) concrete ribbons of a thickness and size adequate to support the maximum anticipated loads during all seasons. When concrete ribbons are used, the area between the ribbons shall be filled with a layer of crushed rock.
- K. Accessory uses shall be located at least one hundred (100) feet from the greenbelt.

1504.02        **REQUIRED CONDITIONS FOR EXISTING MOBILE HOME PARKS**

No enlargements or extensions to any mobile home park shall be permitted unless the enlargement or extension is made to conform with all the requirements for new parks.

1504.03        **HEIGHT REGULATIONS**

No structure shall exceed forty (40) feet in height.

## ARTICLE 17

### "OR-1" OFFICE RESIDENTIAL DISTRICT

#### PREAMBLE

This district has been established to provide for a mixture of residential small office and professional service establishments which will maintain the residential appearance of the neighborhood and which shall not create or generate a great amount of traffic and noise.

#### SECTION 1701 PRINCIPAL PERMITTED USES

- A. Any use permitted in Section 1201. The requirements of that article shall be applicable.
- B. Barber and beauty shops provided:
  - 1. It is a one chair operation.
  - 2. The sole operator is the resident on the premises.
- C. Nursery or child care centers provided:
  - 1. There shall be an outdoor play area of one hundred and fifty (150) square feet or more per child.
  - 2. Such play area shall be arranged in accordance with provisions for accessory uses in Chapter VIII, Article 38, Section 3804.
  - 3. Such play area shall be 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 six (6) feet.
- D. Professional services, including but not limited to offices of physicians, surgeons, dentists, lawyers, architects, engineers, insurance and real estate agents and members of similar professions.
- E. Rooming house as defined in Section 218.05.
- F. Adult Group Home as defined in Section 201.04.

#### SECTION 1702 ACCESSORY USES

- A. Accessory uses, buildings, or other structures customarily incidental to any aforesaid use, including private garages.
- B. Home Occupation as defined in Article 2, Subsection 208.02.

- C. The temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

SECTION 1703 CONDITIONAL USES

- A. Telecommunication towers as defined in Article 2, Subsection 220.01, and subject to the conditions in Article 52.
- B. Churches, chapels, temples, synagogues or other buildings or religious worship, not including a rescue mission or temporary revival activity, subject to the provisions of Article 8, Section 803 (O).
- C. Schools, primary, intermediate and secondary, both public private subject to the provisions of Article 8, Section 803 (P).

SECTION 1704 REQUIRED CONDITIONS

No zoning certificate shall be issued for a "OR-1" use, until the applicant shall have certified to the Zoning Inspector that:

- A. Such buildings shall front onto a collector or arterial with a right-of-way of sixty (60) feet or more as established on the Official Thoroughfare Plan for Montgomery County.
- B. The office establishment shall be conducted principally in daylight hours and shall not create a nuisance from noise, smoke, or odor.
- C. No alteration of the principal residential structure shall be made which changes the essential appearance thereof as a dwelling.

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 1705 DEVELOPMENT STANDARDS

In addition to the provisions of Chapters VIII and IX, General Regulations and Special Regulations, the following standard for arrangement and development of land and building are required in the "OR-1" Office Residential District.

1705.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

1705.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

A. The following minimum requirements shall be observed.

1. Lot Area – 7,500 sq ft
2. Lot Frontage – 60 ft
3. Yards (minimum)

Front Yard Depth\* - 25 ft

Side Yard Least Width – 8 ft

Yards Total Width – 20 ft

Rear Yard Depth – 40 ft

Rooming house: Eight hundred (800) square feet per rooming unit.

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

## ARTICLE 18

### "O-2" OFFICE DISTRICT

#### PREAMBLE

This district has been established to provide for the location of office and institutional uses.

#### SECTION 1801 PRINCIPAL PERMITTED USES

- A. Art galleries, libraries and museums.
- B. Artist, sculptor and composer studios.
- C. Banks and financial institutions.
- D. Hospitals.
- E. Libraries and reading rooms.
- F. Medical and dental clinics.
- G. Medical research facilities.
- H. Nursing homes, rest homes, and convalescent homes.
- I. Office buildings of any kind provided that no retail trade with the general public is carried on, and that no stock of goods is maintained for sale to customers.
- J. Radio and television broadcasting studios.
- K. Research and development laboratories.
- L. School and educational services.
- M. Veterinarians offices provided that:
  - 1. Offices shall be housed in a completely enclosed and soundproof building.
  - 2. Services will be on a strictly "outpatient basis" with no raising, breeding, and boarding of dogs or other small animals, except for the confinement of small animals under emergency treatment in facilities within the office.
- N. Rooming houses.
- O. Places of worship.
- P. Publicly owned and operated buildings and facilities.

SECTION 1802 ACCESSORY USES

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

SECTION 1803 CONDITIONAL USES

The following Conditional Uses subject to approval in accordance with Article 4, Section 406:

- A. Retail and service uses such as restaurants, drug stores, barber and beauty shops, tobacconists, gift shops, but only:
  - 1. When located entirely within a building or structure containing primarily a principal use or uses permitted in this district.
  - 2. With access for the public provided only through the lobby.
- B. Hotels and motels, which may have eating places No. 1 and No. 2, swimming pools, plus other customary incidental facilities.
- C. Testing laboratories which are compatible with the other permitted uses.
- D. Adult Group Homes as defined in Section 201.04.

SECTION 1804 DEVELOPMENT STANDARDS

In addition to the provisions of Chapters VIII and IX, General Regulations and Special Regulations, the following standard for arrangement and development of land and building are required in the "O-2" Office District.

1804.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

1804.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

- A. The following minimum requirements shall be observed:
  - 1. Lot Area – 10,000 sq ft
  - 2. Lot Frontage – 80 ft

3. Yard (minimum)

Front Yard Depth\* - 25 ft

Side Yard Least Width – 10 ft

Rear Yard Depth – 30 ft

B. Rooming house: Six hundred (600) square feet per rooming unit.

Nursing homes, rest homes and convalescent homes: Four hundred (400) square feet per bed.

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

1804.03 MAXIMUM LOT COVERAGE

Fifty (50) percent of lot area.

1804.04 MAXIMUM FLOOR AREA RATIO

0.5 – Calculated as total covered area on all floors of all buildings / area of the plot

## ARTICLE 19

### "B-1" NEIGHBORHOOD BUSINESS DISTRICT

#### PREAMBLE:

This district has been established to provide for relatively small business and service establishments which may be placed in a residential or rural area to serve primarily nearby residents.

#### SECTION 1901 PRINCIPAL PERMITTED USES

- A. Any use permitted in Section 1701. The requirements of that article shall be applicable.
- B. Bake goods shop, retail only.
- C. Barber and beauty shops.
- D. Candy and ice cream stores.
- E. Drug stores.
- F. Pick-up stations for dry cleaning and laundry.
- G. Dry cleaning and laundromats of the self-service type.
- H. Grocery and delicatessen stores.

#### SECTION 1902 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.

#### SECTION 1903 CONDITIONAL USES

- A. Telecommunication towers as defined in Article 2, Subsection 220.01, and subject to the conditions in Article 52.

#### SECTION 1904 REQUIRED CONDITIONS

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

- A. The business activity is open to the public only between the hours of 6:00 a.m. and 10:00 p.m.



- B. The business activity shall be conducted wholly within a completely enclosed building.
- C. The business establishment shall not offer goods, service, food, beverages, or make sales directly to customers in automobiles, except for drive-through windows for pick-up 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, asphalt, wood, tile, terrazzo, or similar material, and except for parking areas, the grounds shall be planted and landscaped.
- G. Where the property lines separate a Business District from a Residential District, 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. Such hedge shall not be less than three (3) feet in height.
  - 2. A solid fence of a non-deteriorating material.
  - 3. Masonry wall.
- H. No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provisions of Article 44.
- 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 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.
- 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 line.

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.

1904.01 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

A. The following minimum requirements shall be observed.

1. Lot Area – 7,500 sq ft
2. Lot Frontage – 60 ft
3. Yard (minimum)

Front Yard Depth\* - 25 ft

Side Yard Least Width – 8 ft\*\*

Yards Total Width – 20 ft\*\*

Rear Yard Depth – 40 ft\*\*

1904.02 MAXIMUM LOT COVERAGE

Thirty (30) percent of lot area.

1904.03 MAXIMUM FLOOR AREA RATIO

0.35- Calculated as total covered area on all floors of all buildings / area of the plot.

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

\*\*Unless adjoining a Business District.

SECTION 1905 DEVELOPMENT STANDARDS

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

1905.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

## ARTICLE 20

### "B-2" BUSINESS DISTRICT

#### PREAMBLE:

This district has been established to provide for business and service establishments serving the needs of consumers beyond the immediate neighborhood.

#### SECTION 2001 PRINCIPAL PERMITTED USES

- A. Any use permitted in Section 1801. The Required Conditions of Section 2004 shall be applicable.
- B. Any commercial activity, such as those enumerated below as examples, which fulfills all the requirements of the other sections of this Article and is not listed initially as a permitted use in Articles 21 and 22 or any Industrial District.
  - 1. Antiques.
  - 2. Appliance sales and services.
  - 3. Art and school supplies.
  - 4. Automobile accessories.
  - 5. Bakeries, retail.
  - 6. Barber and beauty schools.
  - 7. Barber and beauty shops.
  - 8. Bicycle sales, rental, repair.
  - 9. Billiard rooms.
  - 10. Book stores and card shops.
  - 11. Bowling alleys.
  - 12. Bridal consultants.
  - 13. Business machines, sales and service.
  - 14. Cameras - photo supplies.
  - 15. Candy and confectionery.

16. Carpet and floor covering.
17. Catering services.
18. China, glassware.
19. Cigarettes, cigars, tobacco.
20. Clothing stores and shoes.
21. Community centers.
22. Costume rental.
23. Dairy products - retail.
24. Dancing schools.
25. Delicatessen.
26. Department stores.
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.
33. Dry goods.
34. Eating places No. 1.
35. Eating places (carry-out).
36. Equipment rental services (but not including automobile, trucks and trailers).
37. Exterminating services.
38. Florists.
39. Food stores.

40. Frozen food locker.
41. Furniture and home furnishings.
42. Furniture and upholstery repair.
43. Gifts and novelties.
44. Hardware.
45. Health studios.
46. Heating, air conditioning, electrical and plumbing sales and service.
47. Hobby shops.
48. Interior decorating shops.
49. Lawn mower sales and service.
50. Leather goods, luggage.
51. Locksmiths.
52. Mail order catalogue stores.
53. Music, musical instruments.
54. Newspaper substations.
55. Newstand.
56. Office furniture and supplies.
57. Optical goods.
58. Paint, glass and wallpaper.
59. Party supply.
60. Pet sales and supplies.
61. Photo studios.
62. Radio and television sales and service.
63. Service clubs.

64. Shoe repair.
65. Sporting goods.
66. Tailor shops.
67. Taxidermists.
68. Tennis courts.
69. Tent and awning sales and service.
70. Travel bureaus and ticket offices.
71. Variety stores.
72. Watch, clock and jewelry sales and service.
73. Wig shops.
74. Window cleaning services.

#### SECTION 2002 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.

#### SECTION 2003 CONDITIONAL USE

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

- A. Automobile service stations in accordance with Section 2004 F.

#### SECTION 2004 REQUIRED CONDITIONS

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

- A. The business activity will be conducted wholly within a completely enclosed building, except for automobile service stations in accordance with Section 2004.
- B. The business establishment shall not offer goods, service, food, beverages, or make sales directly to customers in automobiles, except for drive-through windows for pick-up or delivery and which will be provided with adequate driveway space on the premise for waiting vehicles.

- C. All business shall be of retail or service character.
- D. 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.
- E. Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon any property located in a Residential District or upon any public street.
- F. Automobile service stations shall be limited to the selling and dispensing of petroleum fuel primarily to passenger vehicles and to such accessory uses as the sale and installation of lubricants, tires, batteries, accessories and supplies, incidental washing and polishing, tune-ups and brake repair. No outdoor dismantling, wrecking or storage of automotive vehicles, parts or accessories shall be permitted. No outdoor storage or rental of trucks, trailers or passenger vehicles shall be permitted.
- G. All premises shall be furnished with all-weather hard surface walks of a material such a bituminous or portland cement concrete, asphalt, wood, tile, terrazzo or similar material, and, except for parking areas, the ground shall be planted and landscaped.
- H. Where the property lines separate a Business District from a Residential District, 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. Such hedge shall not be less than three (3) feet in height.
  - 2. A solid fence of a non-deteriorating material.
  - 3. Masonry wall.
- I. No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provisions of Article 44.
- J. 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.
- 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. Package dry cleaning plants shall be designed to provide service to customers in the immediate neighborhood. The number of employees working within the plant at any one time shall not exceed a total of four (4).

Cleaning or pressing equipment permitted within the plant may include any or all of the following items but the quantity or rated capacity listed herein shall be maximum. (One boiler, 15 h. p.; one cleaning machine, perchlor-ethylene-nonflammable, with air filter and dryer; two presses, one air compressor and one spotting table.)

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 2005 DEVELOPMENT STANDARDS

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

### 2005.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

### 2005.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

A. The following minimum requirements shall be observed:

1. Lot area - 10,000 sq ft\*
2. Lot Frontage - 80 sq ft\*
3. Front Yard Depth\*\* - 25 sq ft
4. Side Yard - None, except when adjacent to a 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.
5. Rear Yard - A rear yard shall be required adjacent to a Residential Zoning District or a Planned Residential District. Such rear yards shall be not less than one-fourth (1/4) the sum of the height and width of the structure, but in no case shall be less than twenty (20) feet.

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

\*Or such lesser lot area and frontage as will permit compliance with the Side Yard and Off-Street Parking Requirements.



\*\*The Front Yard Depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan for Montgomery County.

2005.03        MAXIMUM LOT COVERAGE

Forty (40) percent of lot area.

2005.04        MAXIMUM FLOOR AREA RATIO

0.4 - Calculated as total covered area on all floors of all buildings / area of the plot

## ARTICLE 21

### "B-3" BUSINESS DISTRICT

#### PREAMBLE

This district has been established to provide for commercial and recreational activities which primarily are conducted within an enclosed building.

#### SECTION 2101 PRINCIPAL PERMITTED USES

- A. Any use permitted in Section 2001. The Required Conditions of Section 2103 shall be applicable.
- B. Any commercial activity, such as those enumerated below as examples, which fulfills all the requirements of the other sections of this Article, and is not listed initially as a permitted use in Article 22 or any Industrial District.
  - 1. Auction house.
  - 2. Automobile rental and lease.
  - 3. Automobile repair garages.
  - 4. Automobile service stations and car washes.
  - 5. Blueprinting, photocopying and photo finishing service.
  - 6. Data processing centers.
  - 7. Eating places No. 2.
  - 8. Heating, air conditioning, electrical and plumbing service and repair.
  - 9. Hotels and motels.
  - 10. Indoor recreation (wholly enclosed places of recreation or amusement not heretofore appearing as a permitted use).
  - 11. Lawn mower service and repair.
  - 12. Laundries

#### SECTION 2102 ACCESSORY USES

- A. Accessory uses, buildings or other structure 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.

## SECTION 2103 REQUIRED CONDITIONS

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

- A. The business activity will be conducted wholly within a completely enclosed building, except for automobile service stations. (No outdoor dismantling, wrecking or storage of automotive vehicles, parts or accessories shall be permitted.)
- B. The business establishment shall not offer goods, service, food, beverages or make sales directly to customers in automobiles, except for drive-through windows for pick-up or delivery, and shall provide adequate driveway space on the premises for waiting vehicles.
- C. All business shall be of retail or service character.
- D. 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.
- E. Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon any property located in a Residential District or upon any public street.
- 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 areas, the grounds shall be planted and landscaped.
- G. Where the property lines separate a Business District from a Residential District, 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. Such hedge shall not be less than three (3) feet in height.
  - 2. A solid fence of a non-deteriorating material.
  - 3. Masonry wall.
- H. No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provisions of Article 44.
- 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 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.
- 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.

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 2104 DEVELOPMENT STANDARDS

In addition to the provisions of Chapter VIII and IX, General Regulations and Special Regulations, the following standard for arrangement and development of land and building are required in the "B-3" Business District.

### 2104.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

### 2104.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

- A. The following minimum requirements shall be observed.
  - 1. Lot Area – None
  - 2. Lot Frontage - 80 ft\*
  - 3. Front Yard Depth\*\* - 25 ft
  - 4. Side Yard - None, except when adjacent to a 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.
  - 5. Rear Yard - A rear yard shall be required adjacent to a Residential Zoning District or a Planned Residential District. Such rear yards shall be not less than one-fourth (1/4) the sum of the height and width of the structure, but in no case shall be less than twenty (20) feet.

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

\*Or such lesser lot area and frontage as will permit compliance with the Side Yard and Off-Street Parking Requirements.

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

2104.03        MAXIMUM LOT COVERAGE

Forty (40) percent of lot area.

2104.04        MAXIMUM FLOOR AREA RATIO

0.45 - Calculated as total covered area on all floors of all buildings / area of the plot

## ARTICLE 22

### "B-4" BUSINESS DISTRICT

#### PREAMBLE

This district has been established to provide for commercial and recreational activities which are conducted both inside and outside of a building.

#### SECTION 2201 PRINCIPAL PERMITTED USES

- A. Any use permitted in Section 2101. The Required Conditions of Section 2203 shall be applicable.
- B. Any commercial activity, such as those enumerated below as examples, which fulfills all the requirements of the other sections of this Article and is not listed initially as a permitted use in Article 22 or any Industrial District.
  - 1. Agricultural implement sales and services.
  - 2. Animal hospitals, kennels or pounds, provided the kennel structure and runs are fifty (50) feet from any "R" District.
  - 3. Automobile and truck sales, new and used.
  - 4. Boat and marine equipment sales, rental and service.
  - 5. Eating places (drive-in).
  - 6. Garden stores, garden centers, greenhouses and nurseries.
  - 7. Hay, grain and feed stores.
  - 8. Mobile home sales, rental and service.
  - 9. Motorcycle sales and service.
  - 10. Outdoor recreation (unenclosed places of recreation or amusement not heretofore appearing as a permitted use).
  - 11. Utility trailer sales and rentals.

SECTION 2202 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.

SECTION 2203 REQUIRED CONDITIONS

No Zoning Certificate shall be issued for a "B-4" use, until the applicant shall have certified to the Zoning Inspector that:

- A. Drive-through windows for pick-up or delivery shall be located on and accessible only from the premises and shall be provided with adequate driveway space for waiting vehicles.
- B. All business shall be of retail, service or recreational character.
- 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 wherever necessary to avoid casting direct light upon any property located in a Residential District 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 a Residential District, 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. Such hedge shall not be less than three (3) feet in height.
  - 2. A solid fence of a non-deteriorating material.
  - 3. Masonry wall.
- G. No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provisions of Article 44.
- H. 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.

- I. 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.
- J. 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.
- K. There will be no vibrations which can be detected without the use of instruments at or beyond the lot lines.

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 2204 DEVELOPMENT STANDARDS

In addition to the provisions of Chapters VIII and IX, General Regulations and Special Regulations, the following standard for arrangement and development of land and building are required in the "B-4" Business District.

### 2204.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

### 2204.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

A. The following minimum requirements shall be observed:

- 1. Lot Area None
- 2. Lot Frontage 80 ft\*
- 3. Yards (minimum)

Front Yard Depth\*\* 25 ft

Side Yard None, except when adjacent to a 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.

Rear Yard A rear yard shall be required adjacent to a Residential Zoning



District or a Planned Residential District. Such rear yards shall be not less than one-fourth (1/4) the sum of the height and width of the structure, but in no case shall be less than twenty (20) feet.

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

\*Or such lesser lot area and frontage as will permit compliance with the Side Yard and Off-Street Parking Requirements.

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

2204.03        MAXIMUM LOT COVERAGE

Fifty (50) percent of lot area.

2204.04        MAXIMUM FLOOR AREA RATIO

0.5 - Calculated as total covered area on all floors of all buildings / area of the plot

## ARTICLE 23

### "I-1" LIGHT INDUSTRIAL DISTRICT

#### PREAMBLE

This district has been established to accommodate industrial uses which will have a minimum impact upon their environment.

#### SECTION 2301 PRINCIPAL PERMITTED USES

- A. The manufacturing, compounding, assembling or treatment (or any combination of such processes) of articles or products from the following substances: bone, canvas, cellophane, clay, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semi-precious stone or metal, sheet metal, shell, textiles, tobacco, wax, wire, and wood, but not including as a principal operation, the manufacturing of such substances.
- B. Any industrial activity, such as those enumerated below as examples, which fulfills all the requirements of the other sections of this Article, and is not listed initially as a permitted use in Article 24 and 25.
1. The manufacturing or assembling of the following:
    - a. Medical, dental, optical and similar precision instruments.
    - b. Musical instruments.
    - c. Novelties, toys, rubber products.
    - d. Orthopedic or medical appliances.
    - e. Watches, clocks, including clock operated devices.
  2. Machine shops and tool and die shops.
  3. Manufacturing, assembling or repairing of electrical and electronic products, components and equipment.
  4. Compounding, processing and packaging of meat, dairy and food products, exclusive of slaughtering.
  5. Compounding, processing and packaging of chemical products, but not including any materials which decompose by detonation.
  6. Automobile service stations and garages as regulated in Section 2004 F.

7. Awning company.
8. Bakeries, wholesale.
9. Beverage distributors manufacturing, bottling plants.
10. Carpenter and cabinet shops.
11. Carpet and rug cleaning plants.
12. Commercial radio and television transmitting stations, antenna towers and other electronic equipment requiring outdoor towers.
13. Credit Unions
14. Eating places No. 1 and No. 2, drive-in and carry-out.
15. Electric supply company.
16. Equipment rental, sales and service, including automobiles, trucks and trailers.
17. Fence company.
18. Glass distributors.
19. Labor union meeting halls.
20. Laundries, dry cleaning plants and linen supply.
21. Mail order houses.
22. Monument sales and finishing.
23. Offices.
24. Printing, publishing, binding and typesetting plants.
25. Research and engineering laboratories.
26. Service Clubs
27. Sign painting and manufacturing.
28. Wholesale houses and storage facilities.
29. Warehouses which may have a maximum lot coverage of 75% and a maximum floor area ratio of 0.75.

SECTION 2302 ACCESSORY USES

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

SECTION 2303 CONDITIONAL USES

The following Conditional Uses subject to approval in accordance with Article 4, Section 406:

- A. Truck and motor freight terminals and hauling services.

SECTION 2304 REQUIRED CONDITIONS

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

- A. The industrial activity will be conducted wholly within a completely enclosed building, except for automobile service stations; drive-in restaurants; equipment rental, sales and service, including automobiles, trucks and trailers; truck and motor freight terminals and hauling services.
- B. No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provisions of Article 44.
- 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 an 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 regulation 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. Where the property lines separate an Industrial District from a Residential District, 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 chin link fence. Such hedge shall not be less than three (3) feet in height.
  2. A solid fence of a non-deteriorating material.
  3. Masonry wall.
- H. Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon property located in any Residential District or upon any public street.
- I. No building or structure shall be used for residential purposes except that a watchman or custodian may reside on the premises.
- J. No raw materials shall be processed into any of the following basic products; metals of any kind, glass, plastic, textiles, leather or paper.
- K. All premises shall be furnished with all weather hard surface walks of a material such as bituminous or portland cement concrete, asphalt, wood, tile, terrazzo or similar material, and except for parking areas, the grounds shall be planted and landscaped.
- L. The storage, utilization and manufacture of solid, liquid and gaseous chemicals and other materials shall be permitted subject to the following conditions:
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 completed 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.
  3. The storage, utilization or manufacture or 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 liquids or materials that produce flammable or explosive vapors or gases shall be permitted on any lot in strict conformance with the applicable regulations set forth in the "Ohio Rules and Regulations of the Division of the State Fire Marshall for the Manufacture, Storage, Handling, Sale and Transportation of Flammable and Combustible Liquids."

- M. The handling of radioactive materials, the discharge of such materials into air and water, and the disposal of radioactive wastes shall be in strict conformance with:
  - 1. The applicable regulations of the governing Federal agency.
  - 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, the following standards for arrangement and development of land and buildings are required in the "I-1" Light Industrial District.

**2305.01 HEIGHT REGULATIONS**

No structure shall exceed forty (40) feet in height.

**2305.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS**

A. The following minimum requirements shall be observed:

- 1. Lot Area                      None
- 2. Lot Frontage                100 ft\*
- 3. Yards (minimum)
  - Front Yard Depth\*\*            25 ft

Side Yard A side yard shall be required adjacent to a Residential or a Planned Residential District. Such side yard shall be equal to twice the height of the structure with a minimum requirement of twenty (20) feet and a maximum requirement of forty (40) feet.

Rear Yard A rear yard shall be required adjacent to a Residential or a Planned Residential District. Such rear yard shall be equal to twice the height of the structure with a minimum requirement of twenty (20) feet and a maximum requirement of fifty (50) feet.

If a use is to be serviced from the rear, the yard shall be at least fifty (50) feet deep.

2305.03        MAXIMUM LOT COVERAGE

Fifty (50) percent of lot area.

2305.04        MAXIMUM FLOOR AREA RATIO

0.5 - Calculated as total covered area on all floors of all buildings / area of the plot

\*Or such lesser frontage as will permit compliance with the Side Yard and Off-Street Parking Requirements.

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

## ARTICLE 24

### "I-2" GENERAL INDUSTRIAL DISTRICT

#### PREAMBLE

This district has been established to accommodate a broad range of industrial activities, diverse in products, operational techniques and size, which have a greater impact upon their environment than those permitted in an "I-1" district.

#### SECTION 2401 PRINCIPAL PERMITTED USES

- A. Any use permitted in Section 2301. The Required Conditions of Section 2404 shall be applicable.
- B. The manufacturing, compounding, assembling or treatment (or any combination of such processes) of articles or products from the following previously prepared materials:
  - 1. Light metal products, excluding structural steel and foundry products.
  - 2. Pharmaceutical products, including cosmetics, toiletries and the compounding of perfumes, but excluding the manufacture of soap from raw materials.
- C. Any industrial activity, such as those enumerated below as examples, which fulfills all the requirements of the other sections of this Article, and is not listed initially as a permitted use in Article 25.
  - 1. Bus garages, repair and storage.
  - 2. Cement block and formed products manufacturing.
  - 3. Building material sales and storage facilities.
  - 4. Cold storage plants.
  - 5. Concrete mixing plants.
  - 6. Contractor sales, storage and equipment yards, but excluding salvage material or debris.
  - 7. Motor vehicle repair and storage facilities.
  - 8. Sawing and planing mills.
  - 9. Trucking and motor freight terminals.



SECTION 2402 ACCESSORY USES

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

SECTION 2403 CONDITIONAL USES

The following Conditional Uses subject to approval in accordance with Article 4, Section 406:

- A. Bulk storage of corrosive acids and acid derivatives and bulk storage stations for liquid fuels, petroleum products, petroleum and volatile oils, in accordance with Section 2405 hereof.
- B. Extraction of sand and gravel and other raw materials subject to the provisions of Chapter IX, Article 45.

SECTION 2404 REQUIRED CONDITIONS

No zoning certificate shall be issued for an "I-2" use, until the applicant shall have certified to the Zoning Inspector that:

- A. Where the property lines separate an Industrial District from a Residential District, 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. Such hedge shall not be less than three (3) feet in height.
  - 2. A solid fence of a non-deteriorating material.
  - 3. Masonry wall.
- B. No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provisions of Article 44.
- C. No emission of toxic or noxious matter, which is injurious to human health, comfort or enjoyment of life and property or to animals 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. The emission of odors or odor-causing substances shall not violate the standards and regulations of the Montgomery County Combined General Health District.
- F. There will be no vibrations which can be detected without the use of instruments at or beyond the lot lines.
- G. Any operation that produces intense glare or heat shall be performed within a completed enclosed building or structure and exposed sources of light shall be screened so as not to be detectable at the lot line.
- H. Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon property located in any Residential District or upon any public street.
- I. No building or structure shall be used for residential purposes except that a watchman or custodian may reside on the premises.
- J. All premises shall be furnished with all weather hard surface walks of a material such as bituminous or portland cement concrete, asphalt, wood, tile, terrazzo, or similar material and, except for parking areas, the grounds shall be planted and landscaped.
- K. The storage, utilization and manufacture of solid, liquid and gaseous chemicals and other materials shall be permitted subject to the following conditions:
  - 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.
  - 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 liquids or materials that produce flammable or explosive vapors or gases shall be permitted on any lot in strict conformance with the applicable regulations set forth in the "Ohio Rules and Regulations of the

Division of the State Fire Marshall for the Manufacture, Storage, Handling, Sale and Transportation of Flammable and Combustible Liquids."

- L. The handling of radioactive materials, the discharge of such materials into air and water and the disposal of radioactive wastes shall be in strict conformance with:
  - 1. The applicable regulations of the governing Federal agency.
  - 2. The applicable regulations of any instrumentality of the State of Ohio.
- M. Material or merchandise stored or stockpiled in unsheltered storage bins or outside storage piles or pits shall not exceed a height limit of twenty (20) feet above normal ground level at that point and said storage area shall not be located closer than fifty (50) feet from any property zoned 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 2405 DEVELOPMENT STANDARDS

The addition to 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 "I-2" General Industrial District.

2405.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

2405.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

A. The following minimum requirements shall be observed:

- 1. Lot Area None
- 2. Lot Frontage Minimum 100 ft\*
- 3. Yards (minimum)

Front Yard Depth\*\* 50 ft

Side Yard A side yard shall be required adjacent to a Residential or a Planned Residential District. Such side yard shall be equal to twice the height of the structure with a minimum requirement of twenty (20) feet and a maximum requirement of forty (40) feet.

Rear Yard A rear yard shall be required adjacent to a Residential or a Planned Residential District. Such rear yard shall be equal to twice the height of the structure with a minimum requirement of twenty (20) feet and a maximum requirement of fifty (50) feet.

If a use is to be serviced from the rear, the yard shall be at least fifty (50) feet deep.

2405.03        MAXIMUM LOT COVERAGE

Fifty (50) percent of lot area.

2405.04        MAXIMUM FLOOR AREA RATIO

0.5 - Calculated as total covered area on all floors of all buildings / area of the plot

\*Or such lesser frontage as will permit compliance with the Side Yard and Off-Street Parking Requirements.

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

## ARTICLE 25

### "I-3" HEAVY INDUSTRIAL DISTRICT

#### PREAMBLE

This district is established to accommodate industrial uses not provided for in other Industrial Zoning Districts.

#### SECTION 2501 PRINCIPAL PERMITTED USES

- A. Any use permitted in Section 2401. The Required Conditions of Section 2505 shall be applicable.
- B. Any industrial activity, such as those enumerated below as examples, which fulfills all the requirements of the other sections of this Article.
  - 1. Asphalt or asphalt products.
  - 2. Ammonia or chlorine manufacturing and storage.
  - 3. Boiler shops.
  - 4. Celluloid or cellulose products and manufacturing.
  - 5. Cement, lime or lime products manufacturing.
  - 6. Coal tar and creosote manufacturing.
  - 7. Coke ovens.
  - 8. Drop-forge plants.
  - 9. Fat rendering.
  - 10. Fertilizer manufacturing.
  - 11. Foundries and foundry products.
  - 12. Garbage or offal reduction or transfer.
  - 13. Glue manufacturing.
  - 14. Incinerators.
  - 15. Petroleum refining plants.

16. Rubber manufacturing from crude or scrap material or the manufacturing of articles therefrom.
17. Sewage treatment plants.
18. Soap and detergent manufacturing from raw materials.
19. Stockyards and slaughterhouses.
20. Stone products processing and manufacturing.
21. Turpentine, varnish or paint manufacturing.

SECTION 2502 ACCESSORY USES

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

SECTION 2503 CONDITIONAL USES

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

- A. The following uses subject to the conditions for Conditional Uses Section 2504 A.
  1. Manufacturing and bulk storage of corrosive acids and derivatives and bulk storage stations for liquid fuels, petroleum products, petroleum and volatile oils.
  2. Manufacturing of flammable liquids or materials which produce flammable or explosive vapors or gases.
  3. Storage, utilization or manufacturing of pyrophoric and explosive powders and dusts and of materials and products which decompose by detonation.
- B. The following use subject to the conditions for Conditional Uses Section 2504 B.
  1. Junk yards.
- C. Extraction of sand and gravel and other raw materials subject to the provisions of Chapter IX, Article 45.

SECTION 2504 CONDITIONS FOR CONDITIONAL USES

- A. Uses of the type exemplified by Section 2503 A, shall be confined to tracts located at least

one thousand (1,000) feet from any property where residents are permitted by this Zoning Resolution.

- B. Junk yards subject to the requirements of Section 2503 B shall be confined to tracts located at least six hundred (600) feet from any property zoned for residential purposes, shall observe a fifty (50) foot front yard setback, and shall comply with Chapter 4737, of the Revised Code of State of Ohio.

#### SECTION 2505 REQUIRED CONDITIONS

No zoning certificate shall be issued for an "I-3" use until the applicant shall have certified to the Zoning Inspector that:

- A. Where the property lines separate an Industrial District from a Residential District, 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. Such hedge shall not be less than three (3) feet in height.
  - 2. A solid fence of a non-deteriorating material.
  - 3. Masonry wall.
- B. No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provisions of Article 44.
- C. No emission of toxic or noxious matter, which is injurious to human health, comfort or enjoyment of life and property or to animals or plant life shall be permitted. Where such emission 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. The emission of odors or odor-causing substances shall not violate the standards and regulations of the Montgomery County Combined General Health District.
- F. There will be no vibrations which can be detected without the use of instruments at or beyond the lot lines.
- G. Any operation that produces intense glare or heat shall be performed within a completely enclosed building or structure; and exposed sources of light shall be screened so as not to be detectable at the lot line.

- H. Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon property located in any Residential District or upon any public street.
- I. No building or structure shall be used for residential purposes except that a watchman or custodian may reside on the premises.
- J. The storage, utilization and manufacture of solid, liquid, and gaseous chemicals and other materials shall be permitted subject to the following conditions:
  - 1. The storage, utilization or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted only if said materials or products are stored, utilized or manufactured within completely enclosed building 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 protect devices against hazards of fire and explosion, as well as with adequate fire fighting and suppression equipment and devices standard to the industry involved.
  - 3. The storage and utilization of flammable liquids or materials that produce flammable or explosive vapors or gases shall be permitted on any lot in strict conformance with the applicable regulations set forth in the "Ohio Rules and Regulations of the Division of the State Fire Marshall for the Manufacture, Storage, Handling, Sale and Transportation of Flammable and Combustible Liquids."
- K. The handling of radioactive materials, the discharge of such materials into air and water and the disposal of radioactive wastes shall be in strict conformance with:
  - 1. The applicable regulations of the governing Federal agency.
  - 2. The applicable regulations of any instrumentality of the State of Ohio.
- L. Material or merchandise stored or stockpiled in unsheltered storage bins or outside storage piles or pits shall not exceed a height limit of twenty (20) feet above normal ground level at that point and said storage area shall not be located closer than fifty (50) feet from any property zoned 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 2506 DEVELOPMENT STANDARDS

In addition to 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 "I-3" Heavy Industrial District.



2506.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

2506.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

A. The following minimum requirements shall be observed:

- 1. Lot Area None
- 2. Lot Frontage Minimum 100 ft\*
- 3. Yards (minimum)

Front Yard Depth\*\* 50 ft

Side Yard A side yard shall be required adjacent to a Residential or a Planned Residential District. Such side yard shall be equal to twice the height of the structure with a minimum requirement of twenty (20) feet and a maximum requirement of forty (40) feet.

Rear Yard A rear yard shall be required adjacent to a Residential or a Planned Residential District. Such rear yard shall be equal to twice the height of the structure with a minimum requirement of twenty (20) feet and a maximum requirement of fifty (50) feet. If a use is to be serviced from the rear, the yard shall be at least fifty (50) feet deep.

2506.03 MAXIMUM LOT COVERAGE

Fifty (50) percent of lot area.

2506.04 MAXIMUM FLOOR AREA RATIO

0.75 - Calculated as total covered area on all floors of all buildings / area of the plot

\*Or such lesser frontage as will permit compliance with the Side Yard and Off-Street Parking Requirements.

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

## ARTICLE 26

### “WFP” WELL FIELD PROTECTION OVERLAY DISTRICT

#### SECTION 2601 STATEMENT OF INTENT

It is the intent of the Well Field Protection Overlay District (sometimes referred to as the WP District or Overlay District or WFP Overlay District) to safeguard the health, safety and welfare of the customers of protected public water supplies and to protect the community’s potable water supply against contamination by regulating land use and the storage, handling, use and/or production of regulated substances as defined below. The land within the overlay district is that land within German Township that lies within a five (5) year travel time contour adjacent to existing and proposed public wells of a protected public water supply.

#### SECTION 2602 DEFINITIONS (As used in this Chapter):

- A. “Aquifer” means a geologic formation, group of geologic formations, or part of a geologic formation that contains enough saturated permeable material to yield significant quantities of water.
- B. “Direct Recharge Area” means that portion of a drainage basin in which water infiltrating vertically from the surface will intercept the water table.
- C. “Non-Routine Maintenance” means activities necessary not more frequently than every twenty-four months to keep structures and equipment in good repair.
- D. “Five Year Capture Area” means the area around protected public water supply well fields delineated by the five-year travel time contour.
- E. “Overlay District” means a district described on the zoning map within which, through superimposition of a special designation, certain regulations and requirements apply, in addition to those of the underlying zoning district.
- F. “Potable Water” means water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.
- G. “Protected Public Water Supply” means a public water system which services at least fifteen (15) service connections used by year-round residents, or regularly serves at least twenty-five (25) year-round residents, and having a one-year capture area defined through appropriate hydrologic studies.
- H. “Regulated Substances” means chemicals and mixtures of chemicals that are health hazards. Materials packaged for personal or household use as food or drink for man or other animals are not Regulated Substances. Regulated Substances include:
  - 1. Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins,

neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes or mucous membranes.

2. Mixtures of chemicals that have been tested as a whole and have been determined to be a health hazard.
  3. Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and which comprises one (1.0) percent or greater of the composition on a weight per unit weight basis, and mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one tenth of one percent (0.1) or greater of the composition on a weight per unit weight basis.
  4. Ingredients of mixtures prepared within the Well Field Protection Overlay District in cases where such ingredients are health hazards but comprise less than one-tenth of one percent (0.1) of the mixture on a weight per unit weight basis if carcinogenic, or less than one percent (1.0) of the mixture on a weight per unit weight basis if non-carcinogenic.
  5. Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids).
- I. “Travel Time Contour” means a locus of points from which water takes an equal amount of time to reach a given destination such as a well or well field.
- J. “Underground Storage Tank” means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of Regulated Substances and the volume of which (including the volume of underground pipes connected thereto) is ten (10) percent or more beneath the surface of the ground. Flow-through process tanks and septic tanks approved by the County Health Department or State Environmental Protection Agency, as applicable, are excluded from the definition of underground storage tanks.
- K. “Well Field” means a tract of land that contains a number of wells for supplying water.

### **2603 DETERMINATION OF APPLICABILITY**

- A. The provisions of this chapter shall apply to:
1. New construction.
  2. Alteration in use, storage, handling or processing of regulated substances.
  3. Conversion or use changes resulting in a new use involving the storage, handling or processing of regulated substances.
  4. Building expansion and/or additions.
- B. It is the responsibility of any person owning real property and/or operating a business within German Township to make a determination as to the applicability of this section. Failure to make such determination will not excuse any violations.

## 2604 PERMITTED PRINCIPAL USES

The permitted principal and accessory uses within the Well Field Protection Overlay District shall be limited to those of the underlying district, except as those uses may be restricted by this section.

## 2605 CONDITIONAL USES

The requirements of this paragraph shall be in addition to any applicable regulations found elsewhere within the Zoning Resolution.

- A. Conditional uses within the Well Field Protection Overlay District shall be those of the underlying zoning district, except as those uses may be restricted by this section.
- B. When listed as a permitted or conditional use within the underlying zoning district, the excavation, extraction, mining, or processing of sand, gravel, clay, shale, dolomite and limestone from the earth for resale shall be a conditional use in the Well Field Protection Overlay District subject to Board of Zoning Appeals approval of an excavation and facilities plan that includes, but is not limited to:
  - 1. An existing site plan with topographic detail at two (2) foot contour intervals, all planimetric information, depth to groundwater, and flood plain characteristics where applicable.
  - 2. The proposed extent and depth of excavations.
  - 3. Slope angle of excavation walls (any final slopes shall be at the angle of repose for the remaining material).
  - 4. Use and disposition of the spoil and/or overburden materials from the excavations, including a landscaping and vegetation plan to stabilize any disturbed materials.
  - 5. Surface drainage plan:
    - a. Drainage into on-site excavations from proximate off-site transportation facilities such as roadways and roadbeds and off-site watercourses is prohibited unless the applicant provides a plan which otherwise protects the excavations from off-site waterborne regulated substances.
    - b. The final on-site grading shall minimize all surface drainage into the excavations.
  - 6. A post-excavation and operation land use plan.
  - 7. A security plan (unauthorized access shall be strictly prohibited as long as any excavations remain on-site).

## 2606 PROHIBITED USES

- A. The provisions of this Section 2606 shall be applicable to all lands shown as being located within the boundaries of the “WP” Well Field Protection Overlay District on the German Township Zoning Map and shall be supplemental to the regulations of the underlying zoning district. Where the requirements of this section are in conflict with the regulations of the underlying district, the more restrictive regulations shall apply.
- B. The principal, conditional, and accessory permitted uses within the “WP” Well Field Protection Overlay District shall be those of the underlying zoning district with the exception of the following uses which shall be prohibited:
1. Disposal of solid waste;
  2. Disposal of hazardous waste;
  3. Storage of road salt or other deicing chemicals and the dumping of snow containing deicing chemicals;
  4. The outside storage of herbicides, pesticides, fertilizers or fungicides;
  5. Dry cleaning and commercial laundry establishments;
  6. Industrial uses which discharge processes waters onsite;
  7. Chemical bacteriological laboratories;
  8. Metal polishing, finishing, and plating establishments, which includes auto body repair establishments;
  9. Commercial wood finishing, preserving, painting and furniture stripping establishments;
  10. Commercial printing, photo copying and photographic processing establishments;
  11. Motor vehicle service and repair shops, junkyards, motor vehicle junkyards, motor vehicle salvage operations, car washes as well as any similar use, which might potentially affect ground water quality. Motor vehicle service and repair establishments include auto body repair and painting, quick lube stations, any establishment which performs mechanical repairs such as transmission, drive train, engine, brakes, or mufflers. These restrictions also apply to commercial/industrial equipment, earth moving equipment, tractors, motorcycles, and airplanes;
  12. Trucking and bus terminals;
  13. Machine shops or foundries;
  14. Leather tanning and finishing;
  15. Electrical component manufacturing or assembly;
  16. New installation of underground storage tanks of liquid petroleum and/or chemical products of any kind;
  17. Storage of liquid petroleum products of any kind in excess of 15 gallons except for storage in a free standing container within a building, or fuel for heating of that building (fuel tanks of parked vehicles are not included in this section);
  18. Storage of petroleum and/or any other regulated substances in underground storage tanks; and

Any other use which involves, as principle activity, the manufacture, storage, use, transportation, or disposal of toxic or hazardous material.

## 2607 DESIGN STANDARDS

The following design standards shall apply to all new and converted uses in the Well Field Protection Overlay District:

- A. Underground storage tank (UST) system installation, use, operation, closure and record keeping shall be in accordance with requirements for USTs located in sensitive areas as set forth in Bureau of Underground Storage Tank Regulations, 1301:7-9-10.
- B. Dry wells or floor drains to dry wells are not permitted in the WFP Overlay District.
- C. Secondary containment for above ground areas where regulated substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released material.
- D. General purpose floor drains located in building areas where regulated substances may be used, stored or generated shall only be allowed if they are approved by German Township for connection to a public sewer system or an on-site closed holding tank.
- E. Building floor drains are prohibited in any areas of a structure where regulated substances or wastes are present including but not limited to storage, process, assembly or service areas.
- F. Local, state and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous and/or regulated substances shall be met. No discharges to groundwater, including direct or indirect discharges, shall be allowed without required permits and approvals.
- G. Connection to public sanitary sewers, if reasonably available, is required. A connection shall be considered reasonably available if sanitary sewer lies within an easement that abuts the property.

## 2608 PLAN REVIEW

No new or converted use shall be permitted within the WFP Overlay District without a site plan being submitted to and approved by German Township. The application for any new or converted use, other than residential or agricultural shall include the following:

- A. A general description of the proposed use identifying the products produced, the materials used in the production process and the types of wastes generated along with the waste handling and disposal methods for solid and hazardous wastes and sewage and non-sewage waste water discharges.
- B. A site and building plan showing all hazardous material loading, storage, handling and

process areas that identifies floor drains, process vents, sewage disposal and waste storage or disposal areas.

- C. A complete list of the types and volumes of all regulated substances and/or hazardous materials and fuels used, stored, processed, handled or disposed of as required to be supplied to the Montgomery/Greene County Local Emergency Response Committee.
- D. A storm water management plan for the site to assure that water infiltrating into the aquifer is not contaminated.

#### 2609 HAZARDOUS SUBSTANCE MANAGEMENT PLAN

The operator of any new or expanded commercial or industrial facility involving the use, handling, storage or processing of hazardous materials or waste shall prepare a Hazardous Substances Management Plan for review by German Township. The plan must demonstrate that Best Management Practices shall be used by the applicant to minimize any potential threat to groundwater quality. The plan will also be submitted to the Montgomery/Greene County Local Emergency Response Committee for review and comment and shall contain the following information:

- A. A facility layout and description.
- B. Procedures for safe handling.
- C. A description of disposal methods for process wastes.
- D. Procedures to be employed to prevent leaks and spills of hazardous or regulated substances.
- E. An Emergency Spill Plan that covers the following:
  - 1. Emergency procedures.
  - 2. Notification of officials.
  - 3. Spill containment procedures.
  - 4. Clean up.
  - 5. Disposal.
  - 6. Reporting.

This plan must be reviewed by German Township every five (5) years from date of approval and whenever there is a change in procedures, technology or materials used, stored, processed or waste generated.

## 2610 Spills, Leaks, or Discharges

- A. Any person with direct knowledge of a spill, leak or discharge of a regulated substance within the “WP” Well Field Protection Overlay District shall, if such spill, leak or discharge escapes containment or contacts a non-impervious ground surface and is not immediately and completely remedied, give notice to the Zoning Compliance Officer, and Emergency services (911), the location of the incident, name and telephone number, date and time thereof, type of substance(s), concentration and volume, and control or corrective action taken. Such notification shall in no way alleviate other local, state, and federal reporting obligations as required by law.
  
- B. The application of agricultural chemicals, fertilizers, mineral acids, organic sulfur compounds, etc., used in routine agricultural operations, including plant nutrients and crop protection materials, applied under Best Management Practices as indicated by soil tests, agricultural experts, or label directions approved by the United States EPA or the Ohio Department of Agriculture, shall not be considered a spill, leak, or discharge subject to the reporting provisions of this paragraph.
  
- C. Any entity or person who spills, leaks or discharges said substance(s) shall be liable for any reasonable expense, loss or damages incurred by German Township in response to such an incident, in addition to the amount of any fines imposed on account thereof under state and federal law.

## 2611 Penalties for Violations

A violation of the provision of this section shall constitute a violation of this Resolution subject to penalties and/or fines set forth by the Ohio Revised Code.



## ARTICLE 27

### “RFP” REGIONAL FLOODPLAIN DISTRICT

#### PREAMBLE

Certain areas within the unincorporated territory of Montgomery County, Ohio, are subject to periodic flooding and are not readily usable or suitable for residential, commercial or industrial uses.

#### SECTION 2701 PRINCIPAL PERMITTED USES

The following uses having a low flood damage potential and not obstructing flood flows shall be permitted within the Regional Floodplain District provided they do not require structures, fill, or storage of materials or equipment. No use shall adversely affect the capacity of the channels or floodways of any tributary to the mainstream drainage ditch, or any other drainage facility or system.

- A. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- B. Private and public recreational uses such as golf courses, tennis courts, driving ranges, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
- C. Uses such as lawns, gardens, parking areas and play areas when accessory to adjacent residential uses.

#### SECTION 2702 CONDITIONAL USES

It is recognized that there are areas within the Regional Floodplain District that are suitable for certain specific uses. These areas are generally located outside the floodway in areas known as the Flood Fringe.

The following Conditional Uses subject to approval in accordance with Article 4, Section 406 and subject to the provisions of Section 2703:

- A. Uses or structures accessory to open space or Conditional Uses.
- B. Circuses, carnivals, and similar transient amusement enterprises.
- C. Drive-in theaters, new and used car lots, roadside stands, signs, and billboards.
- D. Extraction of sand, gravel and other raw materials subject to the provisions of Article 45.
- E. Marinas, boat rentals, docks, piers, wharves.
- F. Railroads, streets, bridges, utility transmission lines and pipelines.

- G. Kennels and stables.
- H. Other uses similar in nature to uses described in this Section and in Section 2701.
- I. Accessory uses for industrial or commercial uses such as loading areas, and parking areas, where adjacent to Permitted Uses not in the floodplain.
- J. Airport landing strips.
- K. Uses that are compatible with contiguous uses in the same block frontage and are consistent with other development in the immediate area and adjacent zoning districts outside the RFP, Regional Floodplain District. All structures shall be constructed on fill so that the first floor and basement floor are above the regional flood protection elevation. The fill shall be at a point no lower than 1.5 feet above the regional flood protection elevation for the particular area and shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. However, no use shall be constructed which will adversely affect the capacity of the main stream or the channels or floodways of any tributary to the mainstream, drainage ditch or any other drainage facility or system, as determined by the Montgomery County Planning Commission in conjunction with a recognized water management and flood control authority.

#### SECTION 2703 REQUIRED CONDITIONS

No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other use shall be allowed as a Conditional Use which, acting alone or in combination with existing or future uses, unduly affects the capacity of the floodway or unduly increases flood heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. In addition, all Conditional Uses shall be subject to the Flood Damage Prevention Regulations for Montgomery County, Ohio, the standards contained in Section 2705, and the following standards.

- A. Fill
  - 1. Any fill proposed to be deposited in the floodplain must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
  - 2. Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover or bulkheading.
- B. Structures (Temporary or Permanent) in the Floodway.
  - 1. Structures designed for human habitation shall not be permitted in the floodway.

2. Structures shall have a low flood damage potential.
3. The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstructions to the flow of floodwater.
  - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of floodflow, and
  - b. So far as practicable, structures shall be placed approximately on the same floodflow lines as those of adjoining structures.
4. Structures shall be firmly anchored to prevent flotation which may result in damage to other flotation which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river.
5. Service facilities such as electrical and heating equipment shall be constructed at or above the regional flood protection elevation for the particular area or flood-protected.

C. Storage of Materials and Equipment

1. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive or could be injurious to human, animal, or plant life is prohibited.
2. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or readily removable from the area within the time available after a flood warning.

SECTION 2704 APPLICATION FOR A CONDITIONAL USE

In addition to the requirements of Article 4, Subsection 406.2 the applicant shall furnish such of the following information as is deemed necessary by the Board for determining the suitability of the particular site for the proposed use.

- A. Plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the channel.
- B. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-section areas to be occupied by the proposed development, and high water information.
- C. Plan (surface view) showing elevations or contours of the ground; pertinent structures, fill, or storage elevations; size, location and spatial arrangement of all proposed and existing structures, water supply, sanitary facilities; photographs showing existing land uses and

vegetation upstream and downstream, soil types and other pertinent information.

- D. Profile showing the slope of the bottom of the channel or flow line of the stream.
- E. Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

The Board may transmit one copy of this information described in this Section to a designated Registered Engineer or other recognized water management and flood control authority for technical assistance in determining whether the proposed use is located in the Floodway or Floodway Fringe; in determining the regional flood protection elevation; and in evaluating the proposed project in relation to flood damage to the use, the adequacy of the plans for protection and other technical matters.

#### SECTION 2705 FACTORS UPON WHICH THE DECISION OF THE BOARD SHALL BE BASED

In acting upon such applications, the Board shall consider all relevant factors specified in other sections of this Article; and

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- B. The danger that materials may be swept onto other lands or downstream to the injuring of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program for the area.
- J. The safety of access to the property in times of flood for ordinary and emergency vehicles.

- K. The expected heights, velocity, duration, rate of use and sediment transport of the flood waters expected at the site.
- L. Such other factors which are relevant to the purposes of this Article.

SECTION 2706 CONDITIONS ATTACHED TO CONDITIONAL USE PERMITS

Upon consideration of the factors listed above and the purposes of this Article, the Board may attach such conditions to the granting of a Conditional Use as it deems necessary to further the purposes of this Article. Among such conditions without limitation because of specific enumeration may be included:

- A. Modification of waste disposal and water supply facilities.
- B. Limitations on periods of use and operation.
- C. Imposition of operational controls, sureties and deed restrictions.
- D. Requirements for construction of channel modification, dikes, levees and other protective measures.
- E. Flood-proofing measures. Flood-proofing measures such as the following shall be designed consistent with the regional flood protection elevation for the particular hydrostatic and hydrodynamic forces, and other factors associated with the regional flood. The Board shall require that the applicant submit a plan or document certified by a Registered Professional Engineer that the flood-proofing measures are consistent with the regional flood protection elevation and associated flood factors for the particular area. The following flood-proofing measures may be required without limitation because of specific enumeration:
  - 1. Anchorage to resist flotation and lateral movement.
  - 2. Installation of watertight doors, bulkheads, and shutters, or similar methods of construction.
  - 3. Reinforcement of walls to resist water pressures.
  - 4. Use of paints, membranes, or mortar to reduce seepage of water through walls.
  - 5. Addition of mass or weight to structure to resist flotation.
  - 6. Installation of pumps to lower water levels in structures.
  - 7. Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters.
  - 8. Pumping facilities or comparable practices for subsurface drainage systems for

buildings to relieve external foundation wall and basement flood pressures.

9. Construction to resist rupture or collapse caused by water pressure or floating debris.
10. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm water into the buildings or structures. Gravity drainage of basements may be eliminated by mechanical devices.
11. Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquid or other toxic materials which could be hazardous to public health, safety, and welfare in a manner which will assure that the height associated with the regional flood protection elevation is maintained.

## 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 Revised Code of the State of Ohio. Such districts are for the purpose of conserving land through more efficient allocation of private lots, multi-family dwelling units, common grounds, nonresidential 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.

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.
2. Uses permitted in paragraph A of this Section.

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.
2. Uses permitted in paragraphs A and B of this Section.

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 paragraphs 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:

3103.01 AREA REQUIREMENTS

No minimum land area shall be required.

3103.02 PLANNING REQUIREMENTS

- A. The physical character of the site shall be suitable for development in the manner proposed, without hazard 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.
- C. Utilities and public facilities shall be developed at no cost to the public.
- D. The Development shall provide for efficient, safe, compatible and harmonious grouping of structures uses, and facilities.
- E. There shall be an appropriate relationship of space inside and outside buildings to intended uses and structural features.
- F. Provision shall be made at points of ingress, egress and within the district to ensure a free and safe flow of vehicular and pedestrian traffic.
- G. Common open space may be required.
- H. Off street parking areas, service areas for loading and unloading vehicles, and areas for storage and collection of trash and garbage shall be properly screened.

SECTION 3103.03 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 (2) percent 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.

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

Two (2) copies of the Development Plan and one 8 inch x 11 inch copy of the Development Plan shall be submitted with the application and shall include in text and map form:

- A. The site plan showing the location and arrangement of all proposed structures, the traffic circulation pattern within the Development, the areas to be developed for parking, screening, the points of ingress and egress, recreational facilities and areas to be left in their natural state.
- B. The Land Use Intensity (LUI), when applicable, the total gross floor area, and the percentage of the development which is to be occupied by structures.
- C. When the Planned Development is to be constructed in stages or units, a schedule for the development of such stages or units shall be submitted.
- D. In the case of an Office, Business, or Industrial Planned Development, a statement showing

the exact uses and their location within the Planned Development.

- E. The provisions for common open space or recreational facilities describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. Copies of the proposed articles of incorporation or by-laws shall be submitted if applicable.
- F. Copies of any restrictive covenants that are to be recorded with respect to property included in the Planned Development if applicable.
- G. One copy of the preliminary plat if applicable.

#### 3104.02 ACTION BY THE ZONING COMMISSION

The Zoning Commission shall hold a public hearing on the Development Plan as provided by Article 6 of this Resolution. Such public hearing shall consider all aspects of the Development Plan including all proposed stages and/or units of development. The Commission may recommend disapproval, approval, or approval with amendments, conditions, or restrictions. The Commission shall prepare and transmit to the Board of Township Trustees, and to the applicant, its recommendation and specific findings of fact with respect to the extent to which the Development plan complies with the standards set out in Section 3105 of this Article and the District for which the change has been requested. Copies of the findings and recommendations of the Commission shall be made available to any other interested person.

#### 3104.03 ACTION BY THE BOARD OF TOWNSHIP TRUSTEES

The Board of Township Trustees shall hold a public hearing on the Development Plan as provided by Article 6 of this Resolution. If the application is granted, the area of land involved shall be redesignated as a "PD-1," "PD-2", "PD-3" or "PD-4" district by resolution. The resolution shall include conditions and/or restrictions to the plan that may be imposed by the Board of 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 3106 when applicable.

#### SECTION 3105 STANDARDS FOR PLANNED DEVELOPMENTS

- A. The Planned Development can be substantially completed within the period of time specified in the schedule of development submitted by the developer.
- B. The Planned Development will not jeopardize public health, safety, and morals.
- C. The streets and driveways on the site will be adequate to serve the residents or occupants of

the proposed Development. Traffic control signals and signs will be provided without expense to Montgomery County when the County Engineer 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 relative 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 Planned Development not used for structures, parking and loading areas, or access-ways, shall be landscaped or otherwise improved.

#### SECTION 3106 SUBDIVISION PLAT REQUIRED

No building permit shall be issued for any structure in any portion of a Planned Development unless and until the final subdivision 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 Planning Authority when it is deemed that subdivision plat is not required.

#### SECTION 3107 MODIFICATION

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 recommendation of the Zoning Commission and be approved by the Board of Township Trustees without additional public hearings. Owners of property within three hundred (300) feet of the area in question will be mailed notice of the time at which the Board will review the request for modification. Such notice will be mailed at least seven (7) days prior to such review by the Board.

Modification to the Final Development Plan shall not deter from the general intent and purposes as originally approved by the Board of Township Trustees. No modification shall be approved that will increase density or intensity, increase the LUI index number, decrease parking and loading areas, reduce useable open space or 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.

## ARTICLE 36

### EXISTING AND NONCONFORMING USES

#### SECTION 3601 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.

#### SECTION 3602 NONCONFORMING VACANT LOTS

##### 3602.01 NONCONFORMING VACANT LOTS IN RESIDENTIAL DISTRICT

In any district where dwellings are permitted, a one family detached dwelling may be erected on any lot of official record as of the effective date of the Zoning Resolution of German 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:

- A. The sum of the side yard widths on any such lot of record shall be at least twenty-five (25) percent of the width of the lot.
- 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 side yard adjoining the side street lot line shall be not 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 the Zoning Resolution but the depth is such that the total area is less than seven thousand five hundred (7,500) square feet, 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.

##### 3602.02 NONCONFORMING VACANT LOTS IN OTHER DISTRICTS

In any district, other than Residential District, 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 German 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" = the required side yard width:

$$\frac{X}{\text{actual lot width}} = \frac{\text{minimum side yard required by district regulations}}{\text{minimum lot width required by district regulations}}$$

SECTION 3603 NONCONFORMING STRUCTURES

3603.01 CONTINUATION

Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is non-conforming with Article 37, Section 3701, for minimum floor area or 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 3603.02 through 3603.04.

3603.02 ENLARGEMENT, REPAIR, ALTERATIONS

Any such structure described in Subsection 3603.01 may be enlarged, maintained, repaired or structurally altered; provided, however, that no such enlargement, maintenance, repair or structural alteration shall either create any additional nonconformity or increase the degree of existing nonconformity 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 3602.01 or 3602.02, whichever is applicable.

3603.03 DAMAGE OR DESTRUCTION

In the event that any such structure described in Subsection 3603.01 is damaged or destroyed, by any means, to the extent of more than seventy-five (75) 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 Subsection 3602.01 or 3602.02, whichever, is applicable. When a structure is damaged to the extent of seventy-five (75) 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.

This section does not apply to residential structures that are non-conforming with Article 37, Section 3701, for minimum floor area. These structures may be rebuilt regardless of the extent of damage or destruction, provided the minimum floor area of the rebuilt structure is not less than the floor area of the original structure.

3603.04 MOVING

No structure described in Subsection 3603.01 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 3604 NONCONFORMING USES

3604.01 CONTINUATION

Any lawful existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure, may be continued, so long as otherwise lawful, subject to the restrictions of Subsection 3604.02 through 3604.09.

3604.02 REPAIR AND MAINTENANCE

- A. Work may be done on ordinary maintenance and repairs, or on repair or replacement of walls, fixtures, wiring, or plumbing; provided however, that this paragraph "A" shall not be deemed to authorize any violation of Subsection 3604.03 through 3604.09.
- B. Nothing in this Resolution shall be deemed to prevent the 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 3604.05) 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. Nonconforming residential buildings in a Business or Industrial District may be maintained, repaired, improved, modernized or enlarged; provided, however, that no increase in the number of dwelling units shall be permitted.

3604.03 STRUCTURAL ALTERATION

No structural alteration shall be made unless the entire building or other structure and the use thereof shall thereafter conform to the regulations of the district in which such structure is located except as provided in Subsection 3604.04, 3604.05 and 3604.07.

3604.04 EXTENSION AND ENLARGEMENT

The Board of Zoning Appeals may permit a nonconforming building or structure to be extended, expanded, enlarged, or increased in intensity subject to the following conditions:

- A. A nonconforming 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 nonconforming building or structure, or a substitution of a nonconforming use in such a building or structure, but not both.
- C. A nonconforming 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 nonconforming building may be enlarged or extended to an extent not exceeding twenty-five (25) percent of the gross floor area of such nonconforming structure or building lawfully existing at the time of the adoption of this Resolution.
- D. The extension or enlargement of a nonconforming building or structure may not occupy ground space suitable and otherwise available for meeting the off street parking requirement of this Resolution.
- E. A nonconforming use of land may not be extended, enlarged, or increased in intensity.
- F. Nothing contained in this section shall in any way prohibit a nonconforming use from acquiring additional street parking space.
- G. Application for an extension or enlargement in accordance with paragraph A through F shall be noticed and heard in the manner prescribed for appeals in Section 404 hereof.

#### 3604.05 DAMAGE OR DESTRUCTION

In the event that any building or other structure that is devoted in whole or in part to a nonconforming 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 seventy-five (75) 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 seventy-five (75) 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.

#### 3604.06 MOVING

No structure devoted in whole or in part to a nonconforming 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 nonconforming 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.

#### 3604.07 CHANGE

The Board of Zoning Appeals may permit a substitution for a nonconforming use in a building or structure lawfully existing at the time of the adoption of the Zoning Resolution subject to the following conditions:

- A. The Board may permit either an expansion of a nonconforming building or structure or a substitution of a nonconforming use, but not both.
- B. A nonconforming use of land may not be changed.
- C. Application for a substitution in accordance with paragraph A shall be noted and heard in the manner prescribed for appeals in Section 404 hereof.

#### 3604.08 DISCONTINUANCE

- A. Discontinuance of nonconforming use of land: In the event that operation of a nonconforming use of land is voluntarily discontinued for a period of two (2) years, such nonconforming use shall not thereafter be reestablished 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 nonconforming use of buildings or structure: In the event that operation of a nonconforming use of all or part of a building or other structure is voluntarily discontinued for a period of two years, such nonconforming use shall not thereafter be reestablished, 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.

#### 3604.09 NONCONFORMING ACCESSORY USES

No nonconforming accessory use shall continue after the principal use to which it is accessory has been discontinued.



## **ARTICLE 37**

### **PROVISIONS AFFECTING AREA, YARDS AND COURTS**

#### **SECTION 3701 MINIMUM FLOOR AREA FOR DWELLINGS**

The minimum total above-ground, finished floor area for single family detached dwellings shall be 1200 square feet for a one (1) or one and a half (1.5) story dwelling and 1500 square feet for a two (2) story or more dwelling.

#### **SECTION 3702 STREET FRONTAGE REQUIRED**

Except as permitted by other provisions of the Zoning Resolution, no lot or parcel shall contain any building used in whole or in part for residential purpose unless the front lot line of such lot abuts fully on a dedicated street as defined in subsection 219.12 of this Zoning Resolution. There shall be not more than one principal building for each lot. Each lot shall meet the frontage requirements of the zoning district in which it is located. For purposes of the minimum frontage requirements, said frontage shall be contiguous and uninterrupted.

#### **SECTION 3703 TRAFFIC VISIBILITY ACROSS CORNER LOTS**

In any district on any corner lot, no fence or planting shall be erected or maintained within twenty (20) feet of the right-of-way line if it interferes with traffic visibility across the corner.

#### **SECTION 3704 REDUCTION OF AREA OR SPACE**

No lot, yard, court, parking area or other space shall be reduced in area or dimension, thereby making said area or dimension less than the 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 3705 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.

## ARTICLE 38

### ACCESSORY USES

#### SECTION 3801 PERMITTED ACCESSORY USES – AGRICULTURAL, RESIDENTIAL AND OFFICE

The following accessory uses are permitted in each Agricultural, Residential District and the Residential Office District:

- A. Private garages or carports.
- B. A structure for storage incidental to a permitted use.
- C. A guest house (without kitchen facilities) or rooms for guests in an accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building, and not as rental units or for permanent occupancy.
- D. A swimming pool, bath house and other recreational facilities designed for the use of the occupants of a single-family dwelling and their guests, shall comply with the following requirements:
  - 1. The pool is intended and to be solely for the enjoyment of the occupants of the principal use of the property on which it is located.
  - 2. The pool may not be located closer than twenty (20) feet from the water's edge to any property line on which it is located.
  - 3. In-ground swimming pools shall have a barrier installed to prevent uncontrolled access by children from the street or from adjacent properties.
    - a. Fence and/or wall:
      - i. Fence/wall shall be not less than four (4) feet in height.
      - ii. Fence/wall height shall be measured on the side of the fence/wall that faces away from the pool.
      - iii. The maximum vertical clearance between the bottom of the fence/wall and the ground shall be four (4) inches.
      - iv. Fence/wall shall be maintained in good condition.
      - v. Fences that are composed of horizontal and vertical components shall have a maximum spacing between all vertical components four (4) inches.
      - vi. Fences that are composed of wire mesh and vertical components shall have maximum spacing between all vertical and horizontal components of the wire of two and one quarter (2¼) inches.
    - b. Pedestrian access gates:
      - i. Shall conform to the design standards identified in (D)(a)(v) or (D)(a)(vi) of this

Section.

- ii. Shall be self-closing.
  - iii. Shall be self-latching.
  - iv. Shall have the opening mechanism mounted at a height of at least forty-five (45) inches.
  - v. Shall open outward away from the pool.
- c. Utility access gates:
- i. Shall conform to the design standards identified in (D) (a) (v) or (D) (a) (vi) of this Section.
  - ii. Are not required to have a self-closing device.
  - iii. Are not required to have a self-latching device.
  - iv. Shall have a means to secure the gate when not in use.
- d. Temporary construction fencing shall be installed after the in-ground pool area is excavated.
- e. Final fencing and gate assemblies must be installed within sixty (60) days of the pool holding any water.
- f. All fences and gates shall be located so as to prohibit permanent structures, equipment or other objects from being used to climb the fence or gate.
4. A power safety pool cover barrier that meets the performance standards of the most recently amended American Society for Testing and Materials (ASTM) F1346-91:
- a. May be used independent of (D)(3) (a) of this Section.
  - b. The cover must be locked when the pool is not in actual use and/or when the pool is unattended.
5. Any pool for the use of occupants of multiple family buildings containing over three (3) apartments shall meet the structural and sanitary requirements of the Ohio Department of Health.
6. Above-ground swimming pools in compliance with all the following regulations are not required to have a separate barrier. Above-ground pools not in compliance with the following shall comply with all the requirements of (D)(3) of this Section.
- a. The side walls shall be not less than four (4) feet in height at every point around the exterior perimeter of the pool after installation is completed. The height is measured from grade to the top of the pool wall.
  - b. The pool shall be equipped with a removable ladder or a ladder that swivels and latches in a position so that all parts of the ladder are above four (4) feet in height and capable of being locked. The ladder must be locked if it is located inside the pool or removed if located outside of the pool, when the pool is not in actual use and/or when the pool is unattended.
  - c. Permanent structures, equipment, other objects or grade greater than six (6) inches as measured in relation to the height at the pool wall shall be located at least four (4) feet from the pool wall to prevent their usage to climb into the pool.
  - d. If the floor of a deck is less than four (4) feet from grade and is used to access an above ground pool, then all components of the deck (railings, gates and

stairs) shall conform to (D)(3) of this Section.

- e. If the floor of a deck is greater than or equal to four (4) feet from grade and is used to access an above ground pool, then the applicable components of the deck that are coincident with a foothold (railings, gates and stairs) shall conform to the following regulations:
  - i. Height measurements to determine conformance with the regulations will occur at the location where a horizontal plane (grade, top of stairs, top of floor of a deck) allows a user to establish a foothold.
  - ii. The location of the highest foothold will dictate the starting height of the measurement.
  - iii. If a gate is placed at the grade height (bottom) of the stairs, the gate and sides of the stairs must conform to (D)(3) of this Section.
  - iv. If a gate is placed at the deck height (top) of the stairs:
    - (a) The gate must conform to (D)(3) of this Section.
    - (b) The railings for a minimum of four (4) feet in width from each side of the gate must conform to (D)(3) of this Section.

#### Hot Tubs, Spas:

- A. The hot tub is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located.
- B. Construction of a fence/wall barrier is not required for hot tubs/spas when not actively in use. However, it must be covered when not in use.
- E. A child's playhouse, tree house, birdhouse.
- F. Statuary, arbors, trellises, barbecue equipment, flag poles, fences, play equipment, nonmechanical laundry drying equipment, walls and hedges.
- G. Fallout shelters.
- H. Driveways shall comply with the following conditions and restrictions:
  1. Driveways shall be limited to one per parcel.
  2. Driveways shall not exceed one thousand (1,000) feet in length.
  3. Deadend private driveways that exceed five hundred (500) feet in length shall include a turnaround with a recommended minimum radius of forty-five (45) feet or a "T" arrangement with forty (40) feet on each side of the "T."
- I. Recreational equipment subject to the following conditions:
  1. Outdoor storage shall be limited to operable recreational equipment that is owned, licensed and/or registered to an owner or occupant of the principal structure or use of the

lot on which it is parked or stored.

2. Parked or stored camping and recreational equipment as defined by Article 2 shall not be connected to electricity, water, gas or sanitary sewer facilities; and at no time shall this equipment be used for living or housekeeping purposes.
3. If the camping and recreational equipment is parked or stored outside a garage, it shall be parked or stored to the rear of the house.
4. Notwithstanding the provisions of subparagraph 3, camping and recreational equipment may be parked anywhere on the premises for loading or unloading purposes, for a period of not more than forty-eight (48) hours.

J. Garage sales (including patio, basement, yard, block, barn or any such similar sale) subject to the following regulations:

1. May be held between 8 am and sundown.
2. No sale may extend for more than 4 consecutive days.
3. No more than 4 sales per dwelling unit may be held on any zoning lot in any calendar year.
4. The following regulations shall be applicable to signs during a garage sale:
  - a. One (1) on-premises sign, no more than 32 sq. ft. is permitted.
  - b. Two (2) off-premises directional signs, no more than 4 sq. ft. each are permitted.
  - c. No signs are permitted to be placed in any right-of-way or on any street signs or utility poles.
  - d. All signs are to be removed within 24 hours of the garage sale.
  - e. No streamers, special lighting, noise-making devices or any other device which may be a distraction to passing motorists are permitted.
5. No garage sale shall include the selling or offering of any food or beverage for consumption by members of the public attending. Food or beverage may be provided for consumption at no cost to the consumer, but only if a permit is obtained in advance from the Board of Health.
6. No fee or other charge shall be imposed upon members of the public attending any such sale.

K. Estate auctions and/or moving sales shall be permitted not more than one (1) week per calendar year, provided that it is made necessary for settling the estate of the resident of the lot on which it is held, or provided that such moving sale is made necessary when a resident is moving away from that lot to another dwelling.

L. Any other structure or use customarily found in conjunction with and required for full

utilization and enjoyment of the principal use; and which meets the definition of accessory use in Subsection 201.01.

SECTION 3802 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 with the applicable standards of the district in which it is located is permitted.

SECTION 3803 ACCESSORY USES NOT PERMITTED - RESIDENTIAL, AGRICULTURAL, BUSINESS AND OFFICE DISTRICTS

None of the following shall be permitted as an accessory use in a Residential, Agricultural, Business or Office District:

- A. Overnight parking or outdoor storage of non-farm trucks over one (1) ton rated capacity, buses, or mobile homes, semi-trailers, construction trailers, carnival trailers, rides, exhibit trailers, box beds, railroad cars, trolley cars, portable or temporary storage units and any other such similar units.
  - 1. Overnight parking will be allowed for one truck rated over one (1) ton owned by the property owner. The truck may not be parked on the property for more than 72 consecutive hours. The truck may not be parked closer than 50 feet to a neighboring property line.
  - 2. The prohibition for portable storage units or containers shall not apply to the following:
    - a. Temporary construction sites.
    - b. When necessary to facilitate clean-up and/or restoration activities resulting from natural disasters, fire, or flood for a period of not more than one hundred eighty (180) days provided that a permit is obtained from the zoning department.
    - c. Temporary portable storage for a period not to exceed fourteen (14) consecutive days and not more than twice per year, provided that a permit is obtained from the zoning department, and that the container is not placed in the public street, alley, or public right-of-way.

SECTION 3804 STANDARDS

- A. An accessory use shall be located on the same lot as the principal structure.
- B. No more than one accessory building 100 sq. ft. or under will be permitted per lot.
- C. No accessory use shall be established prior to the establishment of the principal permitted use.
- D. No existing accessory use may be extended or expanded unless it is in compliance with all applicable provisions of the Zoning Resolution.
- E. 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.
- F. An accessory building may be erected, detached from the principal building. Except as provided in Article 39, Section 3905 B, 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 (35) percent of the area of the required rear yard.
- G. For computing the percentage of occupancy of a 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.
- H. A detached accessory building shall not exceed twenty-five (25) feet in height.
- I. A detached accessory building shall be at least six (6) feet from the side or rear lot lines, except as provided for by Subsection 3602.01.
- J. 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 within twenty-five (25) feet of the common lot line 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; and in no case shall any part of such accessory building be closer to the side street lot line than the least width of the side yard required for the principal building to which it is accessory.
- K. Except as provided in Article 39, Section 3905B, 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 placed as to meet all yard and court requirements for a principal building of the same height and other dimensions as said accessory building.
- L. Under no conditions will a temporary or portable-type construction be permitted in any district. All outer buildings must meet Montgomery County Building standards. All necessary zoning and building permits shall be obtained.

## ARTICLE 39

### EXCEPTIONS, MODIFICATION AND INTERPRETATIONS

#### SECTION 3901 APPLICATION

The requirements and regulation specified hereinbefore in this Zoning Resolution shall be subject to the following exceptions, modifications, and interpretations.

#### SECTION 3902 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, provided that these are located on the first floor of such buildings and may provide that for each three (3) feet by which the height of such building exceeds the maximum height otherwise permitted in the district, its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the district.
- C. To bulkheads, elevator penthouses, water tanks, monitors, scenery lofts, towers and monuments. Fire towers, hose towers, cooling towers, grain elevators, gas holders, or other structures, where the manufacturing process requires a greater height; provided, however, that, all such structures above the heights otherwise permitted in the district shall not occupy more than twenty-five (25) percent of the area of the lot and shall be distant not less than twenty-five (25) feet in all parts from every lot line.

#### SECTION 3903 AREA REQUIREMENTS WITHOUT UTILITIES

In any district where plumbing facilities will not be connected to public sewer and water, each lot shall contain a minimum area of forty thousand (40,000) square feet and shall have at least two hundred (200) feet of lot frontage along a public street or road.

#### SECTION 3904 CORNER LOTS

- A. The area of a corner lot shall be twenty (20) percent greater than the minimum area required for an interior lot.
- B. When the principal building is located with its greatest depth on the long side of a corner lot, the required rear yard may be reduced to a minimum of twenty (20) percent of the average lot



depth; but in no case shall the shortest distance, measured horizontally between any part of a building, and the rear lot line, be less than twenty (20) feet.

- C. On all corner lots the principal building shall be set back a minimum of twenty-five (25) feet on each street from the established right-of-way line as shown on the Official Thoroughfare Plan for Montgomery County, Ohio.

#### SECTION 3905 FRONT YARD EXCEPTIONS, AND MODIFICATIONS

- A. In any Zoning District, where the average depth of at least two (2) existing front yards on lots within one hundred (100) feet of the lot in question and within the same block front is less or greater than the least front yard depth prescribed elsewhere in this Zoning Resolution, the required depth of the front yard on such lot shall be modified. In such case, this shall not be less than the average depth of said existing front yards, or the average depth of existing front yards or the two (2) lots immediately adjoining, or, in the case of a corner lot the depth of the front yard on the lot immediately adjoining; provided, however, that the depth of a front yard on any lot shall be at least ten (10) feet including all projections and not required to be more than fifty (50) feet.
- B. In any Zoning District where the natural grade of a lot within the required front yard has an average slope, normal to the front lot line at every point along said line, of such a degree of percent of slope that it is not practicable to provide a driveway with a grade of twelve (12) percent or less to a private garage conforming to the requirements of this Zoning Resolution, such garage may be located within such front yard, but not in any case closer than ten (10) feet to the street lines.
- C. All lots in any Zoning Districts fronting on major thoroughfares shall have a front yard depth of not less than thirty-five (35) feet measured from the street right-of-way line.

#### SECTION 3906 DOUBLE FRONTAGE LOTS

Buildings on lots having frontage on two (2) nonintersecting streets need not have a rear yard if an equivalent open space is provided on the lot in lieu of such required rear yard; applicable front yards must be provided, however, on both streets.

#### SECTION 3907 SIDE YARD EXCEPTIONS OR MODIFICATIONS

- A. Side yard widths may be varied where the side wall of a building is not parallel with the sidelot line or is broken or otherwise irregular. In such case the average width of the side yard shall not be less than the otherwise required least width; provided, however, that such side yard shall not be narrower at any point than one-half (1/2) the otherwise required least width, or narrower than six (6) feet in any case.

#### SECTION 3908 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.
  5. Bay windows, balconies, or chimneys may project into a yard a distance not to exceed five (5) feet; provided, however, that the aggregate width of such projection shall not exceed one-third (1/3) of the length of the wall upon which they are located.
- 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 one fifth (1/5) of the required least width of such side yard, but not exceeding three (3) feet in any case.
- C. Subject to the limitation 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 3909 FENCES, WALLS AND HEDGES

A fence, wall, hedge, or shrubbery may be erected placed, maintained or grown along a lot line in an Agricultural or 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 shrubbery which is located in a required front or corner side yard shall exceed a height of three and one-half (3 1/2) feet and shall be subject to the traffic visibility requirement of Article 3703 for a corner lot. This section does not apply to farm fences.

#### SECTION 3910 FILLING STATIONS, PUBLIC GARAGES AND PARKING LOTS

- A. No gasoline filling station or public garage shall be permitted where any dispensing pumps, any oil drainage pit or visible appliance for any such purpose other than filling caps, is located within twelve (12) feet of the established right-of-way line as shown on the Official Thoroughfare Plan for Montgomery County or within twenty-five (25) feet of any "R" District, except where such appliance or pit is within a building.
- B. On all corner lots, all vehicular entrances to, or exits from, and curb openings, shall be set back a minimum of twenty-five (25) feet from the corner property lines extended or from the established right-of-way lines as shown on the Official Thoroughfare Plan. All curb

openings whether on a corner lot or not, shall not exceed forty (40) feet in width at the curb line, and thirty (30) feet at the property line. There shall be a minimum of twenty (20) feet measured along the property line, between any series of driveways.

SECTION 3911 Exotic Animals

- A. No person shall own, harbor, keep, breed, sell or import any exotic animals or reptiles in any zoning district. The term “exotic animal or reptile” shall mean wild animals/reptiles not indigenous to Ohio. Examples: lions, tigers, elephants, bears, apes, alligators, crocodiles, etc.
- B. Exemptions and special provisions:
  - 1. Exotic animals purchased or adopted and housed on the subject property prior to the adoption of this amendment providing:
    - a. That a bill of sale or notarized statement which verifies this date is provided.
    - b. That such exotic animal be confined in a house, building, or other enclosure in such a way that human contact, other than the owner(s) cannot occur.
  - 2. Wild animals held for exhibit or use by research institutions and other governmental agencies having legal authority to possess wild animals, publicly supported zoos, circuses, or extensions thereof.
  - 3. Any animal which is commonly sold by a bona fide commercial pet shop.

## **ARTICLE 40**

### **EXEMPTIONS FROM ZONING PROVISIONS**

#### **SECTION 4001 ESSENTIAL SERVICES**

Essential services shall be permitted as authorized and regulated by law and other Resolutions of the Township, it being the intention hereof to exempt such essential services from the application of this Zoning Resolution.

#### **SECTION 4002 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 4003 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 Revised Zoning Resolution, the construction of which conforming with such plans, shall have been started prior to the effective date of this Revised Zoning Resolution, and continued to completion without interruption, except for causes beyond the builder's control.

## ARTICLE 41

### SIGN AND BILLBOARD REGULATIONS

#### SECTION 4101 GENERAL PROVISIONS

The following general provisions are applicable to all signs unless modified by the general requirements or standards of a specific zoning district.

##### 4101.01 DISTRICT BORDERS AND SETBACKS

- A. No advertising sign shall be located in a "B" or "I" District within three hundred (300) feet of any "R" or "PD-1" District in such a manner as to be primarily viewed from "R" or "PD-1" zoned property or from any street or alley within an "R" or "PD-1" District.
- B. All signs shall be set back twenty-five (25) feet from the right-of-way as shown on the Official Thoroughfare Plan for Montgomery County and shall meet the side and rear yard requirements for the district in which they are located unless otherwise specified in this Article.

##### 4101.02 EXEMPTED SIGNS

The following signs are not subject to the provision of this Resolution:

- A. Governmental 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 agency, subdivision, and temporary displays of patriotic, religious, charitable, or civic character.
- C. Commemorative plaques placed by recognized historical agencies.
- D. Signs with a stadium, open-air theater, shopping center, arena, or other use, which can be viewed only by persons within such stadium, open-air theater, shopping center, arena, or other use.
- E. Directional signs.

##### 4101.03 MAINTENANCE AND REMOVAL OF SIGNS

- A. All signs and sign structures shall be kept in repair and in a proper state of preservation.
- B. Signs which are no longer functional, or are abandoned, shall be removed or relocated in compliance with the provisions of this Resolution, within thirty (30) days following such malfunction.

- C. The building owner shall be held responsible for the removal and disposal of all abandoned signs including the complete blocking out of painted wall signs.
- D. The owner of the sign shall be held responsible for the maintenance, repair, and upkeep of his signs.
- E. If any sign reaches a state of disrepair and is deemed unsightly or unsafe by the Montgomery County Building Inspector, and is not properly renovated, it shall be condemned and an order issued for removal immediately at the expense of the sign owner or building owner.

#### 4101.04 NONCONFORMING SIGNS

- A. Any sign 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, but if the sign is damaged to more than one-half (1/2) of its replacement value then it shall be removed and shall not be repaired or replaced.
- B. Any nonconforming sign which is altered, relocated, or replaced shall comply with all provisions of this Resolution.
- C. Maintenance of non-conforming signs shall comply with the provisions stated in Section 4101.03.

#### 4101.05 PERMITS

Permits shall be obtained for erection, construction, or modifying of any sign, as regulated by the Building Inspection Department of Montgomery County.

#### 4101.06 PROHIBITED SIGNS

- A. No signs shall be attached or otherwise applied to trees, bus shelters, utility poles, benches, trash receptacles, newspaper vending machines or boxes, or any other unapproved supporting structure, or otherwise placed in the public right-of-way.
- B. Off-premise advertising signs – defined as containing a message or item of information not specifically related to a commodity or service offered, or use conducted upon the premises or lot where such sign is located – shall be prohibited in Residential districts.
- C. Pennants, banners, streamers, and similar type devices shall be prohibited.
- D. No sign shall have spinning devices or strings of spinning devices or similar type devices.
- E. Signs which are not securely affixed to the ground or otherwise affixed in a permanent manner to an approved supporting structure shall be prohibited.
- F. No projecting sign shall extend above the wall or parapet of a building to which it is affixed.

- G. All blinking, flashing, intermittent lighting, or lighting designed to simulate movement shall be prohibited.
- H. No sign shall be lighted either internally or externally to give the appearance of red illumination.

#### 4101.07 TRAFFIC HAZARDS

- A. No sign shall be erected at or near any intersection of any streets, 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.
- B. Light sources for illuminated signs shall not be of such brightness as to constitute a hazard to pedestrian or vehicular traffic.
- C. No rotation beam, beacon, or flashing illumination resembling an emergency light shall be used in connection with any sign display; nor shall any illuminated device designed to attract attention of users of the street be permitted unless it is an integral part of the sign as herein defined.

#### SECTION 4102 PROVISIONS FOR SPECIFIC SIGN TYPES

The following provisions are applicable to the specific type of sign to which they refer and such signs are subject to the general requirements or standards of the specific zoning district in which they are located.

##### 4102.01 AWNINGS OR CANOPIES

Signs located on an awning or canopy shall:

- A. Be affixed flat to the surface thereof.
- B. Not extend vertically or horizontally beyond the limits of the awning or canopy.
- C. Be non-illuminated and indicate only the name and address of the occupant.

##### 4102.02 MARQUEE SIGNS

Signs or sign structures located on a marquee shall:

- A. Be affixed to the face or top thereof.
- B. Not be greater than four (4) feet in vertical measurement above the marquee.

- C. Not extend vertically below the marquee.
- D. Not extend horizontally more than eighteen (18) inches beyond the marquee limit.

4102.03 PAINTED WALL SIGNS

- A. Shall identify only the name of the building and/or occupant of the building on which located, or the principal use of the premises.
- B. Shall not be used as an advertising sign.

4102.04 POLITICAL SIGNS

- A. May be erected up to sixty (60) days prior to an election, and must be removed within fourteen (14) days after the election for which their use is intended.

4102.05 PORTABLE SIGNS

- A. Shall not be located on the property more than thirty (30) days in any one hundred eighty (180) day period.
- B. Shall not exceed thirty-two (32) square feet per face.
- C. Shall not be permanently wired.

4102.06 PROJECTING SIGNS

- A. Shall be erected so that the bottom of the sign is not less than ten (10) feet above grade.
- B. Shall be erected in such a manner that it forms an angle of ninety (90) degrees with the wall to which it is attached.

4102.07 ROOF SIGNS

- A. Shall be for identification of the premises only.
- B. Shall not exceed the height limitations of the zoning district in which they are located.
- C. Shall not extend beyond or overhang any exterior wall of the building upon which they are secured.
- D. Are permitted to be erected upon one story building roofs, provided not more than one roof sign structure shall be permitted upon a building.
- E. Shall not reach a height greater than twenty-five (25) feet above ground level and shall provide a clearance of at least six (6) feet between the base of such sign and the roof level.



4102.08 TEMPORARY SIGNS

- A. Shall be located on the premises to which they refer.
- B. Shall be removed within fourteen (14) days from the beginning of the intended use, sale, rental or lease of the premises, or within fourteen (14) days after the conclusion of the event to which they refer.
- C. Shall not be illuminated.

4102.09 WALL SIGNS

- A. Shall not extend more than fifteen (15) inches from the wall of the structure upon which it is mounted.
- B. May be inclined from the vertical only to the extent necessary for conformity to the general contour of the wall around projections or ornamental features, provided that no part of such sign, except the thickness thereof, shall extend beyond the lines of said projection in any direction.
- C. Shall not extend above the top of the wall, nor extend beyond the ends of the wall to which they are attached.

SECTION 4103 SIGNS IN RESIDENTIAL DISTRICTS "R-1" THROUGH "R-7," OR "OR-1" AND "PD-1"

4103.01 GENERAL REQUIREMENTS

- A. The following functional types of signs are permitted in Residential Districts:
  - 1. Bulletin boards.
  - 2. Construction.
  - 3. Directional.
  - 4. Identification.
  - 5. Real estate.
  - 6. Temporary signs.
  - 7. Warning signs.
- B. The following structural types of signs are permitted in Residential Districts:

1. Freestanding signs.
  2. Projecting signs.
  3. Wall signs.
- C. On interior lots one identification, real estate, bulletin board, temporary, and/or construction sign is permitted.
- D. On corner and through lots, one identification, real estate, bulletin board, temporary, and/or construction sign is permitted to face each street upon which the property abuts.
- E. No sign shall project beyond the limits of the setback line.
- F. Directional signs are permitted as needed, provided that they do not exceed one square foot in sign area per face.
- G. Construction signs:
1. Shall be considered as temporary signs.
  2. Shall be limited in sign area to four (4) square feet per contractor.
  3. Shall not exceed twelve (12) square feet in total area.
  4. Shall not be illuminated.
- H. Real estate signs:
1. Shall be considered temporary signs.
  2. Shall be limited in total sign area to twelve (12) square feet.
  3. Shall not be illuminated.
  4. Shall only be located on the premises to which the sign pertains.
  5. Shall be set back at least twelve (12) feet from all property lines when not attached flat against a building.
- I. All signs may be illuminated except where illumination is specifically prohibited.
- J. Warning signs:
1. Shall not exceed twelve (12) square feet in sign areas.

2. Shall be permitted as needed.

K. Sign height:

1. Freestanding signs shall not exceed ten (10) feet in height.
2. Signs mounted on or attached to the wall of a building shall not exceed the height of the building.

4103.02 STANDARDS BY SIGN TYPE

A. Identification signs for the following uses shall not exceed one square foot in sign area per face with total sign area limited to two (2) square feet per sign:

1. Single family and two family dwellings.
2. Accessory uses, home occupations and temporary buildings.

B. Identification signs and bulletin boards for the following uses shall not exceed thirty-two (32) square feet per face with total sign area limited to sixty-four (64) square feet per sign:

1. Cemeteries.
2. Places of worship.
3. Public parks, playgrounds and community centers.
4. Publicly owned and operated buildings and facilities.
5. Schools and colleges for academic instruction.
6. Private noncommercial golf courses (not including driving ranges, miniature golf courses, and pitch-and-putt courses), swimming pools, tennis courts, and accessory uses.
7. Mobile home parks.

C. Identification signs for the following uses shall not exceed two (2) square feet of sign area per face with the total sign area limited to four (4) square feet per sign:

1. Barber and beauty shops.
2. Nursery or child care centers.
3. Offices.

4. All other permitted and conditional uses if not listed above.
- D. Identification sign area for single or multiple family dwelling units:
1. Shall be computed on the basis of one square foot per face for each dwelling unit.
  2. Shall not exceed thirty-two (32) square feet per face.
  3. Shall not exceed a total sign area of sixty-four (64) square feet.
- E. Real estate signs for single family subdivisions and for multiple family developments or groupings under one ownership containing twelve (12) or more dwelling units:
1. Shall be located on the premises to which the sign pertains.
  2. Shall not exceed fifty (50) square feet per face.
  3. Shall not exceed a total sign area of one hundred (100) square feet.
  4. Shall not be illuminated.
  5. Shall be considered temporary signs.

## SECTION 4104 SIGNS IN "O-2" AND "PD-2" DISTRICTS

### 4104.01 GENERAL REQUIREMENTS

- A. The following functional types of signs are permitted in the "O-2" Office District and "PD-2" Planned Office District:
1. Bulletin boards.
  2. Construction.
  3. Directional.
  4. Identification.
  5. Real estate.
  6. Temporary signs.
  7. Warning signs.
- B. The following structural types of signs are permitted in the Office District:

1. Wall signs.
  2. Projecting signs.
  3. Freestanding signs.
- C. On interior lots one identification, real estate, bulletin board, construction, and/or temporary sign is permitted.
- D. On corner and through lots one identification, real estate, bulletin boards, construction, and/or temporary sign is permitted to face each street upon which the property abuts.
- E. No sign shall project beyond the limits of the setback line.
- F. Directional signs are permitted as needed, provided they do not exceed one square foot in sign area per face.
- G. Construction signs shall not exceed twelve (12) square feet in total area.
- H. Real estate signs:
1. Shall be considered temporary signs.
  2. Shall be limited in total sign area to twelve (12) square feet.
  3. Shall not be illuminated.
  4. Shall only be located on the premises to which the sign pertains.
  5. Shall be set back at least twelve (12) feet from all the property lines when not attached flat against a building.
- I. All signs may be illuminated except where illumination is specifically prohibited.
- J. Warning signs:
1. Shall not exceed twelve (12) square feet in area per sign.
  2. Shall be permitted as needed.
- K. Sign height:
1. Freestanding signs shall not exceed ten (10) feet in height.
  2. Signs mounted on or attached to the wall of a building shall not exceed ten (10) feet

in height.

4104.02 STANDARDS BY SIGN TYPE

- A. Identification signs for the following uses shall not exceed fifty (50) square feet in sign area per face:
  - 1. Nursing, rest, or convalescent home.
  - 2. Nursery and childcare centers.
  - 3. Accessory uses and conditional uses.
- B. Identification signs for the following uses shall not exceed fifty (50) square feet of sign area per face:
  - 1. Banks and financial institutions.
  - 2. Hospitals.
  - 3. Offices.
  - 4. Medical and dental clinics, medical and research facilities.

SECTION 4105 SIGNS IN AGRICULTURAL, BUSINESS, AND INDUSTRIAL DISTRICTS

4105.01 GENERAL REQUIREMENTS

- A. The following functional types of signs are permitted in the Agricultural, Business, and Industrial Districts:
  - 1. Advertising signs.
  - 2. Construction signs.
  - 3. Directional signs.
  - 4. Identification signs.
  - 5. Real estate signs.
  - 6. Temporary signs.
  - 7. Warning signs.

- B. Identification signs may be any of the following structural types of signs:
1. Awning signs.
  2. Canopy signs.
  3. Freestanding signs.
  4. Marquee signs.
  5. Painted wall signs.
  6. Projecting signs.
  7. Roof signs.
  8. Wall signs.
- C. Real estate, directional, construction, temporary, and/or warning signs may be any of the following structural types of signs:
1. Freestanding signs.
  2. Projecting signs.
  3. Wall signs.
- D. Advertising signs must be freestanding signs.
- E. All signs may be moving signs.
- F. All signs may be illuminated.
- G. Sign height:
1. Freestanding signs shall not exceed forty (40) feet in height.
  2. Signs mounted on or attached to the wall of a building shall not exceed the height of the building.
- H. Identification signs and bulletin boards shall not exceed thirty-two (32) square feet per face with total sign area limited to sixty-four (64) square feet per sign.

#### 4105.02 STANDARDS BY SIGN TYPE

- A. Wall signs or painted wall signs:

1. Two (2) identification wall or painted walls signs per frontage, not to exceed sixty-four (64) square feet of total sign area.
- B. Projecting, freestanding, roof, marquee, awning, or canopy identification sign per frontage.
1. One sign per frontage.
  2. Total sign area shall not exceed sixty-four (64) square feet.
- C. Temporary signs:
1. One sign per frontage.
  2. Size not to exceed thirty-two (32) square feet in area.
- D. Construction signs:
1. Shall be considered temporary signs.
  2. Shall be limited to four (4) square feet in area per contractor.
  3. Shall not be illuminated.
- E. Directional signs:
1. Shall be permitted as required.
  2. Shall be limited to two (2) square feet in sign area per face.
- F. Real estate signs:
1. Shall not exceed one sign per frontage.
  2. Shall not exceed thirty-two (32) square feet per face, total maximum sixty-four (64) square feet in total sign area.
- G. Warning signs:
1. Shall be permitted as required.
  2. Size not to exceed thirty-two (32) square feet per sign.
- H. Advertising signs shall be subject to the following:
1. One structure per premises in individual ownership.



2. Such structure may contain:
  - a. Two (2) paint bulletins back to back forming an angle of less than ninety (90) degrees.
  - b. One paint bulletin backed with two (2) poster panels forming an angle less than ninety (90) degrees.
  - c. Two (2) poster panels back to back forming an angle less than ninety (90) degrees, side by side or stacked one on top of the other.
  - d. One paint bulletin or one poster panel.
  - e. Two (2) poster panels backed by two (2) poster panels.
3. The face of any paint bulletin shall not be greater than twelve (12) feet in vertical dimension, not greater than twenty-five (25) feet in horizontal dimension, and containing not more than one advertising sign.
4. Must be 1000 feet apart.

## 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 REQUIREMENTS

Off-street loading requirement shall be as follows:

BUILDING AREA	# OF SPACES REQUIREMENT
Less than 1,000 sq ft	None required
More than 1,000 sq ft but less than 10,000 sq ft	One space
More than 10,000 sq ft but less than 40,000 sq ft	Two spaces
40,000 sq ft or more	Three spaces, plus one space for each 30,000 sq ft over 40,000 sq ft of building area

#### SECTION 4203 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, asphalt, 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 space 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 uses 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:

USE	# OF SPACES REQUIRED
<u>Group No. 1</u> <u>Dwelling &amp; Lodging:</u>	
One and Two Family Dwellings	One space for each dwelling unit
Three Family Dwellings & 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, and 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
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
Adult Family Homes Adult Group Homes	Two spaces for each resident

Group No. 2

Business and Commercial:

All business and commercial establishments, except those specified hereafter

One space for each 300 sq ft of floor space

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 spaces for Eating Places-Drive-In and ten spaces for Eating Places-Carry-Out

Automobile service

Six spaces, plus one station 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 salesrooms, 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 & 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

Group No. 3

Office:

Administrative or business office

One space for each 300 sq ft of floor area

Group No. 4

Medical and Health:

Dental clinics & offices

Two spaces for each examination or treatment room, plus one space for each dentist and other employees

Medical clinics & offices	Three spaces for each examination or treatment room, plus one space for each doctor and other employees
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 shifts
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

Group No. 5  
Education:

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 or private	One space for each 6 students based on the design capacity of the building, plus one space for each teacher or other employee
Nursery or child care centers	Two spaces, plus one space for each staff member
Colleges & universities	One space for each 5 classroom seats, plus one space for each 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

Group No. 6.  
Recreation & Religion:

Churches, chapels, temples, synagogues, auditoriums, gymnasiums, stadiums, and other places of public assembly	One space for each three seat or bench seating spaces
Theaters	One space for each two seats

Assembly 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 patrons the establishment is designed to serve

Enclosed place of amusement or recreation or similar place of assembly

One space for 100 sq ft of floor area devoted to assembly

Bowling establishments

Five spaces for each bowling lane, plus such additional space as may be required for affiliated uses

Group No. 7  
Industry:

Manufacturing, warehousing, wholesaling similar establishments

One space for each two 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

SECTION 4303 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 condition, 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.

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. 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 "A," "R," or "OR-1" District, off-street parking shall not be located in any required front yard.
2. In any "A," "R," "OR-1" or "B-1" 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 districts.
3. If a lot is devoted to a nonresidential 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 "A," "R," "OR-1" or "B-1" District on the same lot as the building or use served.
2. In a Business District (except a "B-1" District) on the same lot as the building or use served, or a contiguous parcel, or within four hundred (400) feet of the principal structure.
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; provided, 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 of private 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 p.m. and 7 a.m., except as may be otherwise permitted by the Board of Zoning Appeals.
2. Application for a Conditional Use Certificate shall be treated, processed, noticed and heard in the manner prescribed for in Section 406 hereof.
  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 hard surface of bituminous or portland cement concrete or asphalt except residential tracts exceeding forty thousand (40,000) square feet in land area.

##### 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 be not 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.

F. Drainage

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 plantings 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 nonresidential 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.

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 results in requirement of a fractional space, any fraction up to one-half (1/2) shall be disregarded and fraction of over and including one-half (1/2) shall require one parking space.

4303.04 ADDITIONS AND EXTENSIONS

Whenever any additions 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 PROVISIONS

Nothing in this Article shall be construed to prevent 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 be not 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 distances 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 purpose of measuring the intensity and frequency of sound, the sound level meter, the octave band analyzer, and the impact noise analyzer shall be employed. The flat network and the fast meter response of the sound level meter shall be used. Sounds of short duration as from forge hammers, punch presses, and metal shears which cannot be measured accurately with the sound level meter shall be measured with the impact noise analyzer.

Octave band analyzers calibrated in the Preferred Frequencies (American Standards Association S1, 6-1960, Preferred Frequencies for Acoustical Measurements) shall be used with Table I (A through D). Octave band analyzers calibrated with pre-1960 octave band (American Standards Association Z24-10-1953, Octave Band Filter Set) shall use Table II (A through D) in Sections 4404 through 4406, inclusive. For impact sounds measured with the impact noise analyzer, the sound pressure levels set forth in Tables I and II (A through D) may be increased by six (6) decibels in each octave band.

#### SECTION 4402 EXEMPTIONS

The following uses and activities shall be exempt from the noise level regulations:

- A. Noises not directly under the control of the property owners or users.
- B. Noises emanating from construction and maintenance activities between 7 a.m. and 9 p.m.
- C. The noises of safety signals, warning devices, and emergency pressure relief valves.
- D. Transient noises of moving sources such as automobiles, trucks, airplanes, and railroads.

#### SECTION 4403 REQUIRED PERFORMANCE LEVEL

No operation or activity shall cause or create noise in excess of the sound levels prescribed herewith.

#### SECTION 4404 STANDARDS IN THE "B-1" THROUGH "B-4" BUSINESS DISTRICTS AND "I-1" LIGHT INDUSTRIAL DISTRICT

- A. In the "B-1" through "B-4" and the "I-1" Districts at no point on or beyond the boundary of the Zoning District, shall the sound pressure level resulting from any use, operation or activity exceed the maximum permitted sound levels as set forth in Table IA and IIA.

Table IA, Preferred Frequencies

Center Frequency, Cycles Per Second	Maximum Permitted Sound Pressure Level, Decibels
31.5	67
63.0	66
125.0	59
250.0	52
500.0	46
1,000.0	37
2,000.0	26
4,000.0	17
8,000.0	

Table IIA, Pre-1960 Octave Bands

Octave Band, Cycles Per Second	Maximum Permitted Sound Pressure Level, Decibels
20 - 75	67
76 - 150	66
151 - 300	61
301 - 600	54
601 - 1200	47
1201 - 2400	39
2401 - 4800	29
4801 - 10 KC	20

- B. At Lot Lines in the "B-1" through "B-4" and the "I-1" Districts at no point on or beyond the boundary of any lot, shall the sound pressure level resulting from any use, operation or activity exceed the maximum permitted decibel levels for the designated octave bands as set forth in Tables IB and IIB.

Table IB, Preferred Frequencies

Center Frequency, Cycles Per Second	Maximum Permitted Sound Pressure Level, Decibels
31.5	76
63.0	74
125.0	68
250.0	63
500.0	57
1,000.0	52
2,000.0	45
4,000.0	38
8,000.0	32

Table IIB, Pre-1960 Octave Bands

Octave Band, Cycles Per Second	Maximum Permitted Sound Pressure Level, Decibels
20 - 75	75
76 - 150	70
151 - 300	64
301 - 600	59
601 - 1200	53
1201 - 2400	47
2401 - 4800	40
4801 - 10 KC	34

**SECTION 4405 STANDARDS IN THE "I-2" GENERAL INDUSTRIAL DISTRICT AND "PD-4" PLANNED INDUSTRIAL PARK DISTRICT**

In the "I-2" and the "PD-4" Districts at no point on or beyond the boundary of the Zoning District, shall the sound pressure level resulting from any use, operation, or activity exceed the maximum permitted sound levels as set forth in Tables IC and IIC.

Table IC, Preferred Frequencies

Center Frequency, Cycles Per Second	Maximum Permitted Sound Pressure Level, Decibels
31.5	76
63.0	74
125.0	68
250.0	63
500.0	57
1,000.0	52
2,000.0	45
4,000.0	38
8,000.0	32

Table IIC, Pre-1960 Octave Bands

Octave Band Cycles Per Second	Maximum Permitted Sound Pressure Level, Decibels
20 - 75	75
76 - 150	70
151 - 300	64
301 - 600	59
601 - 1200	53
1201 - 2400	47
2401 - 4800	40
4801 - 10 KC	34

SECTION 4406 STANDARDS IN THE "I-3" HEAVY INDUSTRIAL DISTRICT

In the "I-3" District at no point on or beyond the boundary of the Zoning District, shall the sound pressure level resulting from any use, operation, or activity exceed the maximum permitted sound levels as set forth in Tables ID and IID.

Table ID, Preferred Frequencies

Center Frequency Cycles Per Second	Maximum Permitted Sound Pressure Level, Decibels
31.5	90
63.0	81
125.0	71
250.0	66
500.0	61
2,000.0	52
4,000.0	50
8,000.0	47

Table IID, Pre-1960 Octave Bands

Octave Band, Cycles Per Second	Maximum Permitted Sound Pressure Level, Decibels
20 - 75	83
76 - 150	74
151 - 300	67
301 - 600	62
601 - 1200	57
1201 - 2400	53
2401 - 4800	51
4801 -10 KC	48

Between the hours of 9 p.m. and 7 a.m., the sound levels shall not exceed the maximum permitted sound pressure levels prescribed for the "I-2" and "PD-4" Districts in Section 4405.

## ARTICLE 45

### EXTRACTION OF MINERALS

#### PREAMBLE

The extraction of minerals is recognized as a necessary land use, which has many negative side effects for those living nearby. These regulations shall apply to Conditional Use applications for mineral extraction to regulate this land use in a reasonable manner allowing input from concerned parties and ample information to make informed decisions. These regulations will override those in Article 4 of this resolution in the event of a conflict.

To the extent that any requirements of this Article do not match the requirements of Ohio Revised Code 1514.02, the more restrictive requirements will prevail.

#### SECTION 4501          CONDITIONAL USE APPLICATION

No person shall be issued a zoning certificate pursuant to Section 302 of this Zoning Resolution to commence any use or alter any structure for the purpose of mineral extraction without the prior approval of a Conditional Use Application from the Board of Zoning Appeals. No use shall be carried on, no structure shall be constructed or altered, and no other improvement or construction shall be undertaken, except as shown upon an approved Conditional Use Application.

#### SECTION 4502          SUBMISSION OF CONDITIONAL USE APPLICATION

- A. Every Conditional Use application shall be filed with the Township in eight (8) identical copies on one or more sheets of paper measuring no larger than 11 x 17". Each site plan shall be drawn to a scale not smaller than forty (40) feet to the inch. A larger or smaller scale for all or part of the area may be required by the Zoning Administrator. Narrative attachments shall be no larger than 8 1/2 x 11".
- B. Those elements of a Conditional Use application which require special expertise in such fields as surveying, engineering or architecture shall be prepared and certified by an appropriate professional licensed to practice in the State of Ohio.
- C. Every Conditional Use application shall be signed by the owner of the land to which the Conditional Use application applies or, if a corporation, limited liability company, partnership or other entity, by a duly authorized officer of the corporation, limited liability company, partnership or other entity.
- D. Each Conditional Use application shall be submitted at least thirty (30) full days in advance of the regular Board of Zoning Appeals meeting at which it is requested to be considered.

#### SECTION 4503          CONDITIONAL USE APPLICATION CONTENTS

In addition to the requirements, specifications and materials required to be submitted as part of a



surface mining permit application pursuant to Ohio Revised Code 1514.02 (A) and the requirements of Article 4, Section 406 of this Zoning Resolution, the Conditional Use application shall contain the following information:

A. A survey map showing:

1. The location and size of the subject property, pinpointing the exact location(s), including all boundary lines, of the proposed gravel mining and/or excavation site(s).
2. The location and description 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 so as to minimize the problems of dust, dirt and noise insofar as reasonably possible.
3. Natural features such as woodlots, significant isolated trees (five inches or more in diameter), streams, lakes or ponds, and man-made features such as existing roads and structures, with indications as to which are to be retained and which are to be removed or altered, including identification of adjacent properties and their uses.
4. The shape, size, location, height and floor area of all existing and proposed structures and the estimated finished ground and basement floor grades with indications as to which are to be retained and which are to be removed or altered.
5. The existing and/or proposed specific usage of the land and all structures thereon.
6. Existing and proposed streets, driveways, parking spaces, loading spaces, vehicle stacking areas and sidewalks, with indications of direction of travel for one-way streets and drives and the total number of parking spaces.
7. The location and size of all existing and proposed public and private utilities, sanitary services and waste disposal facilities with indications as to which are to be retained and which are to be removed or altered.
8. All proposed landscaping, mounding, fences and walls.
9. The locations, dimensions and lighting of all signs. See Article 41 of the Zoning Resolution-Sign and Billboard Regulations.
10. The location, intensity and orientation of all exterior lighting.
11. Detailed plans of all drainage provisions, detention facilities, vegetative practices, erosion and sediment control measures, steep excavations and other protective devices to be constructed in connection, or as a part of, the proposed work, together with a plan showing the drainage area of land contributing to the site and the estimated cubic feet per second of run-off of the area served by any drain, computed in accordance with current Township storm drainage criteria.

12. The schedule for the project with anticipated start and completion dates of the proposed mining operation and any related construction activities. If the development is to be staged, the schedule shall show a general indication as to how the staging is to proceed; what the anticipated starting and completion dates of each development sequence may be, specifically addressing stripping and/or clearing, rough grading and construction, final grading and vegetative establishment and maintenance, and the time of exposure of each disturbed area prior to the completion of effective erosion and sediment control measures.
  13. The type of resources or materials to be removed, the proposed method of removal, with a description of the equipment to be used, and whether or not blasting or other use of explosives will be required. This information shall be shown on the map by location.
  14. Any other information necessary to satisfactorily demonstrate compliance with this Article or any other statute or ordinance.
- B. The legal description of the land included in the Conditional Use application with boundary dimensions based upon a field survey, and the names, addresses and contact information of the owner, the developer and the engineer.
- C. A vicinity sketch showing the location of the site in relation to the surrounding street system. This vicinity sketch (or an additional sketch) shall also identify all adjacent properties by location and use and the sites of the adjacent properties' private wells and sanitary systems.
- D. Aerial photographs showing the site location and immediate environs. The aerial photograph should not have been taken more than one (1) year prior to the submission of the Conditional Use application.
- E. A cover letter shall be provided with the Conditional Use application and should address the following issues:
1. The letter should clearly indicate that a request for a Conditional Use approval is being made.
  2. The letter shall clearly identify the applicant name of the entity conducting the operation.
  3. The letter shall list all sites within German Township where the applicant or operating entity has extraction rights, either directly or indirectly, and where the applicant holds or has options on processing sites.
    - a. These sites are also to be illustrated on a map provided as an attachment to the letter.
- F. A reclamation plan to reclaim the area to be mined, which reclamation plan shall comply

with the requirements of the Ohio Department of Natural Resources.

1. This plan shall indicate the 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 topography of the area after completion.
  2. The plan shall include the surrounding area within 500 feet of the subject property boundary line, drawn to an appropriate scale with contour lines at intervals of five (5) feet or less.
- G. A hydrologic study determining and describing both ground and surface water in the vicinity of the land requested to be mined. The description of surface water shall include the location of the water body, the area and depth of ponds, the volume and direction of stream flow, and other characteristics as may be determined by the Zoning Administrator. The description of ground water shall include depth to water table, direction of ground water movement (flow), the location and ownership of water wells used for both domestic and agricultural purposes, and other characteristics as may be determined by the Zoning Administrator. The applicant shall perform and submit to the Zoning Administrator the results of ground water testing to establish pre-development water quality and quantity as required by, and to the specifications of, the Montgomery County Combined Health District.
- H. A statement indicating whether or not dewatering is to be used in the mining operation.

#### SECTION 4504 SUPPLEMENTING OR ELIMINATING REQUIREMENTS

- A. The Zoning Administrator may supplement the requirements set forth in Subsections 4502 and 4503 upon a finding that additional information is needed for an informed review of the Conditional Use application or may waive any requirements that are irrelevant under the circumstances.
- B. Any requirement of Subsections 4502 or 4503 so modified or eliminated shall be noted in the staff report prepared by the Zoning Administrator pursuant to Subsection 4505 and the applicant shall be notified of any changed requirements.

#### SECTION 4505 STAFF REVIEW

The Zoning Administrator may consult with or seek recommendations from any professional regarding any area of concern within the Conditional Use application.

#### SECTION 4506 PUBLIC HEARING BEFORE THE BOARD OF ZONING APPEALS

Once a Conditional Use application has been submitted for review, a public hearing on the application shall be held by the Board of Zoning Appeals and notice thereof given, as specified under Subsection 404.03 of this Zoning Resolution.

#### SECTION 4507 CONDITIONAL USE REVIEW CRITERIA

Uses permitted shall be subject to and in conformance with the Ohio Revised Code 1514.02. A copy of the surface mining permit application required by the Ohio Revised Code 1514.02 (A) and any amendments thereto proposed by the State of Ohio or the applicant, and the additional requirements of this Article shall be provided. In addition to the requirements stipulated in Ohio Revised Code 1514.902 (A), the following regulations shall apply to all operations covered under this Chapter.

The Board of Zoning Appeals shall review the Conditional Use application and the report of the Zoning Administrator at the next regularly scheduled Board of Zoning Appeals meeting where an accurate and complete application has been submitted to the Zoning Administrator at least thirty (30) full days prior to the date of that meeting.

The Board of Zoning Appeals shall either grant or deny the application, table a decision in the matter or shall recommend modifications thereof to the applicant or landowner within thirty days after the Board of Zoning Appeals' decision on the application. Conditional Use Application modifications shall be recommended by the Board of Zoning Appeals when any of the following requirements are not met:

- A. The application shall be fully and accurately completed.
- B. The substance of the application shall conform to the provisions of this Article and any other German Township Resolution or state or federal law, or provide an explanation of why any nonconformity should be allowed.
- C. The application shall provide adequate parking, loading and vehicle stacking facilities, open space, and lighting systems.
- D. The application shall provide for adequate pedestrian and vehicular circulation within the development and adjacent public right-of-way.
- E. The proposed use shall access the public roadway via curb cuts shared with adjacent uses to the maximum extent feasible, consistent with sound traffic engineering standards.
- F. The application shall provide adequate utility, waste disposal or sanitary services.
- G. The application shall create a satisfactory and harmonious relationship between the development of the site and the existing and prospective development of contiguous land.
- H. The application shall include all dedications of easements and rights-of-way, and all public improvements to conform to and implement German Township plans for utilities, streets and open space preservation and development.
- I. The application shall include landscaping and screening in conformance with German Township requirements, administrative standards or other reasonable criteria.

- J. The application shall eliminate any existing conditions hazardous to health or safety, shall not create such conditions, and shall not create a nuisance.
- K. The application shall include all design elements and expressly state all operational limitations recommended by the Board of Zoning Appeals which are reasonably related to the public health, safety and general welfare and which are desirable to serve the premises or minimize the adverse effects of the plan on the neighborhood or community.
- L. The application shall limit noise as follows:
- When the active mining or processing area is within one thousand (1,000) feet of any existing residential structure, the maximum hours of operation shall be sunrise to sunset.
- M. The application shall limit pollution as follows:
1. Control measures shall be implemented on a continuing basis, during times of operation, to control dust and debris, such as mud, sand or rocks on entrance roadways, in equipment operation, and throughout the mining site.
  2. The Board of Zoning Appeals, as part of the Conditional Use application approval process, may require the paving of travel surfaces, the upgrading of dust and debris control devices for processing and on-site manufacturing equipment, and other treatments to control dust and debris as may be needed.
- N. The application shall address the surface mine's visual impact as follows:
- Ten (10) foot high earthen barriers shall be established to attempt to minimize the visual impact of the active mining or processing area from adjacent public road right-of-way except in those instances where prohibited by other governmental rules and/or regulations or where deemed to be impractical or hazardous by the Board of Zoning Appeals.
- O. The application shall address access to and circulation at the surface mine as follows:
1. Points of ingress and egress associated with extraction and/or processing sites shall be located as approved by the German Township Board of Zoning Appeals, Montgomery County Engineer or the Ohio Department of Transportation as appropriate.
  2. The application shall include a map of the proposed major access roads to be utilized for ingress and egress for the extraction operation. If an alternate route is available, the use of Township roads is prohibited.
- P. The application shall address surface water and drainage as follows:
1. The hydrographs and quality of water leaving the site of an extraction activity shall not be degraded due to the activities.

2. During mining and reclamation, drainage shall be controlled so as to prevent the causing of flooding, landslides, and flood hazards to adjoining lands resulting from the mining operations. Upon completion of mining, ponds shall be left in such condition as to avoid their constituting a hazard to adjoining lands, or allowing creation of stagnant water.

Q. The application shall address groundwater quality as follows:

1. During mining and reclamation, the site is prohibited from being used as a landfill in any way. Contamination of underground water supplies shall be prevented. Materials contaminating to groundwater shall not be used for filling or grading at any time. Upon completion of reclamation, any lake or pond located within the site boundaries shall be free of substances resulting from mining in amounts or concentrations that are harmful to persons, fish, waterfowl, or other beneficial species of aquatic life.
2. The storage of fuels and chemicals and equipment service facilities shall be located where they are least likely to contaminate groundwater as determined by the Township Zoning Inspector and/or the Board of Zoning Appeals.

R. The application shall address vibration and blasting at the surface mine as follows:

1. The operation of stationary and mobile equipment shall not cause vibrations in excess of that permitted by applicable federal and/or state law.
2. Blasting shall be done in accordance with the applicable laws of the State of Ohio, and shall be carried out by persons certified to be knowledgeable and competent in the sizing and placing of the explosive to be used for blasting.
3. When the blasting area is within one thousand (1,000) feet of an existing residential structure the maximum hours of blasting operation shall be sunrise to sunset.

S. The application shall address slope stability as follows:

1. The sides of excavation sites shall be set back a minimum of fifty (50) feet from the property line with a sufficient slope of excavation to ensure the lateral support of surrounding property with the following provisions:
  - a. The reclaimed sides of excavation sites shall be set back a minimum of one hundred fifty (150) feet from the right-of-way of all public streets or roads.
  - b. If the adjoining property is zoned industrial, no setback from the common property line is required if both property owners, by signed agreement, are mining their properties as if one (1) operation with an approved Conditional Use application, which takes into account the joint operation.
2. Final slopes shall be graded, contoured or terraced, wherever needed, sufficient to achieve soil stability and control landslides, erosion and sedimentation. High walls will be permitted if they are compatible with the future uses specified in the

Conditional Use Application and measures are taken to ensure public safety. Where ponds, impoundments, or other resulting bodies of water are intended for recreational use, banks and slopes shall be established that will assure safe access to such bodies of water. Where such bodies of water are not intended for recreation, measures to ensure public safety shall be included.

T. The application shall address soil erosion sedimentation control as follows:

1. The area of land affected by the proposed mining operation shall be resoiled, wherever needed, with topsoil or suitable subsoil, fertilizer, lime or soil amendments, as appropriate, in sufficient quantity and depth to raise and maintain a diverse growth of vegetation adequate to bind the soil and control erosion and sedimentation.
2. A diverse vegetative cover of grass and legumes or trees, grasses and legumes capable of self-regeneration and plant succession, wherever required by the Conditional Use Application, shall be established.

U. Other requirements:

1. Government boundary, section, corner, and other government survey monuments that were removed by the operator as a result of the mining shall be replaced where practical.
2. Mining and reclamation shall be carried out in the sequence and manner set forth in the Conditional Use Application and reclamation measures shall be performed in a timely manner. All reclamation of an area of land affected shall be completed no later than three (3) years following the active mining of such area, unless the Board of Zoning Appeals is satisfied that the future use of such area requires a longer period for completing reclamation.
3. During mining, the owner or operator shall store topsoil or fill in quantities sufficient to complete the backfilling, grading, contouring, terracing, and resoiling that is specified in the plan. The owner or operator shall also stabilize the slopes of, and plant each, spoil bank to control soil erosion and sedimentation wherever substantial damage to adjoining property might occur.
4. On sites located along the Twin Creeks, the excavation area shall be set back a minimum of two hundred fifty (250) feet from the ordinary high water mark of the river/creek.
5. No mining of sand and gravel shall be carried on, or any stockpile placed 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.

6. In the event that the site of the mining operation is adjacent to the right-of-way of any public street or road, no part of such operation shall take place closer than fifty (50) feet to nearest line of such right-of-way.
7. Any excavated area adjacent to a right-of-way of any public street or road shall be back-filled for a distance of one hundred fifty (150) feet from the right-of-way line.
8. An earthen barrier, a minimum of ten (10) feet high, shall be erected and maintained around the entire site or portions thereof for the public safety and/or community aesthetics.
9. 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.

#### SECTION 4508 DEVELOPMENT STANDARDS

- A. No mining of sand and gravel shall be carried on, or any stockpile placed 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, no part of such operation shall take place closer than fifty (50) feet to the nearest line of such right-of-way, except as may otherwise be provided by Section 4153.11 of the Revised Code of the State of Ohio.
- C. Any excavated area adjacent to a right-of-way of any public street or road shall be back-filled for a distance of one hundred fifty (150) feet from the right-of-way line.
- D. Fencing or other suitable barrier shall be erected and maintained around the entire site or portions thereof where, in the opinion of the Board, such fencing or barrier is necessary for the protection of the public safety and shall be of a type specified by the Board.
- E. 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 Board.
- F. The Board is authorized to impose such requirements with respect to providing adequate barriers as it may feel necessary to protect the public safety.



SECTION 4509 REHABILITATION REQUIREMENTS

- A. All excavation shall be made either to a water producing depth, such depth to be not less than five (5) feet below the watermark, or shall be graded or back-filled with non-noxious, noncombustible and nonflammable solids, to ensure:
  - 1. That the excavated area shall not collect and permit to remain therein, stagnant water; or
  - 2. That the surface of such area which is not permanently submerged is graded or back-filled as necessary so as to produce a gently rolling surface that will minimize erosion due to a 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 foot vertical and said banks shall be restored with vegetation.
- 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 mining.
- F. Due to the inherent difficulties in reclaiming and rehabilitating areas from which stone has been quarried, the Board of Zoning Appeals is empowered to impose such reasonable standards for reclamation as may be necessary to protect the public interest, without unduly restricting the operations of the mine owner.

SECTION 4510 APPROVAL OR DISAPPROVAL

- A. Conditional Approval: Upon satisfaction of any conditions set by the Board of Zoning Appeals, as determined by the Zoning Administrator, approval shall be complete. Such approval shall be endorsed on all copies of the site plan or modified site plan and one copy shall be returned to the applicant.
- B. Notice: The Zoning Administrator shall notify, in writing, both the applicant and the landowner of all actions of the Board of Zoning Appeals and of the Zoning Administrator related to the Conditional Use application or modified Conditional Use Application.

- C. Filing of Record Copies: Upon approval by the Board of Zoning Appeals, the applicant shall be furnished with a copy of the finalized Conditional Use application and narrative attachments. The Zoning Administrator shall endorse such copy indicating final approval.

SECTION 4511            MODIFICATION OF APPLICATION UNDER REVIEW

- A. Maintenance of pending status: In cases where Conditional Use application modifications have been recommended by the Board of Zoning Appeals to maintain the pending status of the application before the Board, the applicant shall within (90) ninety days after receipt of the recommendations or such longer period as may be granted by the Board, file a modified Conditional Use application incorporating the recommended modifications or suggested new alternatives. Failure to respond to the Board's initial and subsequent recommendations in a timely manner as set forth above may result in denial of the application without further notice.
- B. Staff Review: Upon the filing of a modified Conditional Use application by an applicant, the Zoning Administrator shall evaluate the changes made in the modified application and shall prepare a report on such application to be submitted with such application to the Board no later than (30) thirty days from the time of submittal.
- C. Board of Zoning Appeals Review: The Board shall review such Conditional Use application and the aforesaid report and shall take action on such application at the next regularly scheduled Board meeting, provided the time limits prescribed in Section 4502 are met.

SECTION 4512            CONTROL OF ISSUANCE OF ZONING PERMITS;  
RESTRICTION OF USES

- A. The Conditional Use application required by this Article shall be approved by the Board of Zoning Appeals before the start of operation of any use proposed by the Conditional Use application.
- B. An approved Conditional Use application shall control the issuance of all zoning certificates. An approved Conditional Use application shall conclusively restrict the nature, location and design of all uses within the area described in the approved Conditional Use application, unaffected by any subsequent change in ownership or tenancy of the premises.

SECTION 4513            CONDITIONAL USE APPLICATION AS CONDITION OF ZONING  
CERTIFICATE AND CONTINUATION OF USE

- A. The continual compliance with the terms, contents and conditions of any Conditional Use application approved by the Board of Zoning Appeals is a requirement for issuance of a Zoning Certificate. A violation of any of those terms, contents and conditions is grounds for revoking such certificate at any time.

- B. All subsequent owners of land and/or use covered by such Conditional Use application shall maintain compliance with the approved Conditional Use application. Failure to maintain compliance may result in termination of the use by revocation of the zoning certificate.

SECTION 4514 BURDEN OF PROOF; STANDARD OF PROOF

- A. The duty to come forward with evidence demonstrating compliance of a Conditional Use application with all laws and reasonable rules and regulations of the Township rests solely with the applicant. Such evidence shall be sufficient in quality and quantity to be clear and convincing, unless a different standard of proof is specifically stated within the regulation at issue.

## ARTICLE 46

### PRIVATE NONCOMMERCIAL GOLF COURSES, SWIMMING POOLS AND TENNIS COURTS

#### SECTION 4601 REQUIRED CONDITIONS

- A. Swimming pools, except for a pool for the occupants of a single family dwelling shall comply with the following conditions and requirements:
  - 1. The pool and accessory structures thereto, including the areas used by the bathers, shall not be closer than fifty (50) feet to any property line.
  - 2. The swimming pool and all of the area used by the bathers shall be walled or fenced to prevent uncontrolled access by children from the street or adjacent properties. Said fence or wall shall not be less than six (6) feet in height and maintained in good condition with a self-closing gate with latch and lock.
- B. Loud speakers, juke boxes, public address systems, and electric amplifiers shall be permitted, if the use of the 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.
- D. Gun Clubs: The firing line shall be a distance of at least five hundred (500) feet from all residential property lines.

## **ARTICLE 48**

### **EFFECTIVE DATE; CONFLICTING RESOLUTION**

#### **SECTION 4801 WHEN EFFECTIVE**

Each Article shall be effective 30 days after adoption by the German Township Board of Trustees. Each Article shall state the adopted or effective date on the Article.

#### **SECTION 4802 REPEAL OF CONFLICTING RESOLUTION**

The Zoning Resolution now in effect in German Township and in conflict with the Zoning Regulations as they are established hereafter, is hereby repealed. However, all suits at law or in equity and/or all prosecutions resulting from violation of any Zoning Resolution heretofore in effect, which are now pending in any of the Courts of the State of Ohio or of the United States shall not be abated or abandoned by reason of the adoption of this Zoning Resolution; but shall be prosecuted to their finality the same as if this Zoning Resolution had not been adopted; and any and all violations of existing Zoning Resolutions, prosecution for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this Zoning Resolution shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending, and/or which may have heretofore been instituted or prosecuted.

## ARTICLE 49

### HALFWAY HOUSES

#### SECTION 4901 SUBMISSION REQUIREMENTS

The operator or agency applying for a Conditional Use permit to operate a Halfway House 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 a 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 4902 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 Halfway House 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 automobiles 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 three thousand (3,000) feet of another Halfway House. The Board of Zoning Appeals may consider a variance from this standard of not more than ten (10) percent.

#### SECTION 4903 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:

- A. Is in fact a Halfway House 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 approved by the local agency responsible for providing support services and/or programs to the facility.
- C. Is in fact a needed facility in the location proposed, based upon evidence acceptable to the Board of Zoning Appeals.
- D. 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.
- E. 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.

- F. 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.
- G. Will not involve uses, activities and conditions of operation that will be detrimental to any persons, property, or the general welfare.
- H. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
- I. Will not result in the destruction, loss or damage of a natural, scenic, or historic feature of major importance.
- J. The Board of Zoning Appeals may issue a temporary Conditional Use permit for a period of one (1) year. At the completion of the 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 use, grant a permanent conditional use 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.



ARTICLE 50

INDEPENDENT HOUSING ALTERNATIVES FOR THE ELDERLY

SECTION	5001	REQUIRED CONDITIONS
		<ul style="list-style-type: none"><li data-bbox="570 384 1435 420">A. Licensing or approval of facility by the central licensing body.</li><li data-bbox="570 464 1435 573">B. The facility shall not be used to house more residents than can be housed therein consistent with the health, safety and welfare of residents as determined by the central licensing body.</li><li data-bbox="570 617 1435 684">C. The facility shall comply with applicable building, zoning and health codes.</li><li data-bbox="570 728 1435 840">D. The facility shall not generate traffic unreasonably greater in volume than would otherwise normally occur in the neighborhood in which it is located.</li><li data-bbox="570 884 1435 919">E. The facility shall not require special off-street parking.</li><li data-bbox="570 963 1435 1031">F. The facility shall not erect identification signs other than house numbers.</li><li data-bbox="570 1075 1435 1142">G. The facility shall not require extensive modification that is not in character with the adjacent neighborhood.</li><li data-bbox="570 1186 1435 1304">H. Zoning approval shall be limited to the operator to whom it was originally issued and is not transferrable to a subsequent operator.</li></ul>

## ARTICLE 51

### ADULT ENTERTAINMENT FACILITIES

#### SECTION 5101 REQUIRED CONDITIONS

- A. No adult entertainment facility shall be established within five hundred (500) feet of any area zoned for residential use.
- B. No adult entertainment facility shall be established within a radius of one thousand (1,000) feet of any school, library, or teaching facility, whether public or private, governmental or commercial, which school, library, or teaching facility is attended by persons under eighteen (18) years of age.
- C. No adult entertainment facility shall be established within a radius of one thousand (1,000) feet of any park or recreational facility attended by persons under eighteen (18) years of age.
- D. No adult entertainment facility shall be established within a radius of one thousand (1,000) feet of any other adult entertainment facility or within a radius of two thousand (2,000) feet of any two (2) of the following establishments:
  - 1. Cabarets, clubs, or other establishments which feature topless or bottomless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.
  - 2. Establishments for the sale of beer or intoxicating liquor for consumption on the premises.
  - 3. Pawn shops.
  - 4. Pool or billiard halls.
  - 5. Pinball palaces, halls, or arcades.
  - 6. Dance halls or discotheques.
- E. No adult entertainment facility shall be established within a radius of one thousand (1,000) feet of any church, synagogue, or permanently established place of religious services which is attended by persons under eighteen (18) years of age.
- F. Divisions (A) through (E) above, may be waived by the Board of Zoning Appeals provided that the applicant provides affidavits of fifty-one (51) percent of the property owners and resident freeholders within the above described radius, giving their consent to the establishment of an adult entertainment facility, and if the Board determines:

1. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this Section will be observed.
  2. That the proposed use will not enlarge or encourage the development of a skid row or similar depressed area.
  3. That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal, residential or commercial reinvestment, or renovation of a historical area.
  4. That all applicable regulations of this Section will be observed.
- G. The business activity will be conducted wholly within a completely enclosed building.

## ARTICLE 52

### TELECOMMUNICATION TOWERS

#### SECTION 5201 INFORMATION REQUIRED

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.

#### SECTION 5202 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.

- A. Height of tower.
- B. Proximity of the tower to residential structures and residential district boundaries.
- C. Nature of uses on adjacent and nearby properties.
- D. Surrounding topography.
- E. Surrounding tree coverage and foliage.
- F. Design of tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- G. Proposed ingress and egress.
- H. Availability of suitable existing towers and/or other structures.

#### SECTION 5203 AVAILABILITY OF SUITABLE EXISTING TOWERS OR OTHER STRUCTURES

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 proposed

antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the proposed antenna may consist of any of the following:

- A. No existing towers or structures are located within the geographic area required to meet engineering requirements of proposed antenna.
- B. Existing towers or structures are not of sufficient height to meet engineering requirements.
- C. Existing towers or structures do not have sufficient structural strength to support proposed antenna and related equipment.
- D. The 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 proposed antenna.
- E. 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.
- F. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

## SECTION 5204 DEVELOPMENT STANDARDS-- FREE STANDING

### 5204.01 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 the Resolution would be better served thereby.

- (1) Towers shall be located at least 200 feet or a distance equal to the height of the tower, whichever is greater, from any residential structure or adjacent property in a residential zoning district.
- (2) Towers shall be set back at least a distance equal to the height of the tower from adjacent thoroughfare(s) rights-of-way as specified by the Montgomery County Thoroughfare Plan.
- (3) Minimum spacing between tower locations shall be one mile in order to prevent a concentration of towers in one area.

### 5204.02 LOT AREA REQUIREMENT

The minimum required lot area for towers shall be equal to the fall radius of the tower with an access road a minimum of 20 feet wide.

#### 5204.03 SECURITY FENCING

Towers shall be enclosed by security fencing not less than six 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.

#### 5204.04 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.

- A. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four feet wide and six feet high on the perimeter of the compound.
- B. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.
- C. 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.

#### 5204.05 HEIGHT

- A. For a single user, up to 90 feet in height.
- B. For two users, up to 120 feet in height.
- C. For three or more users, up to 150 in height.
- D. Communication towers in excess of 100 feet in height above grade level shall be prohibited within a two-mile radius of a public airport.

#### 5204.06 AESTHETICS

- A. 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.
- B. 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.

- C. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the BZA 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.)

#### 5204.07 ENCOURAGEMENT OF TOWN USE BY MULTIPLE PROVIDERS

The applicant shall agree to permit use of the Tower by other communication service providers, on reasonable terms, so long as such use does not conflict with the applicants and/or any other pre-existing users use of the telephone tower and does not violate the structural integrity of the telephone tower.

#### 5205 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.
- B. Public structure 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 poles and structures shall not exceed the height of the existing pole or structure upon which it is located by more than 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 20 feet.

#### SECTION 5206 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 months of the effective date of such standards.

- B. To ensure the structural integrity of towers, the owner 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 a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower in compliance within said 30 days, the governing authority may remove such tower at the expense of the owner.
- C. All equipment associated with a Telecommunication 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 600 square feet of building area.
- D. The use of guy wires is strictly prohibited within Residential Districts.
- E. All parking and drive areas must be paved as provided in the Resolution.

#### SECTION 5207        REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any antenna or tower that is 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 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.