



PERRY TOWNSHIP

*ZONING
ADMINISTRATOR'S*

ZONING TEXT

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ZC 77-073 – Zoning District Changes – Avden Dr. From “A” to “R-1” Residential.
APPROVED

ZC 77-098 – Zoning District Changes – Westbrook Rd. From “R-1” “B-2” - APPROVED

ZC 79-166 – Zoning District Changes – Wolf Creek Pike (next to sewer plant)
. From “R-1” “PD-4” DENIED (Annexed 1-18-80)

ZC 79-171 – Zoning District Changes – 290 Sulphur Springs.
From “A” to “R-1” . APPROVED

ZC 81-252 – Zoning District Changes – Air Hill Rd. West of Keener Rd.
From “RFP” to “A” APPROVED

ZC 82-262 – Zoning District Changes – 14978 Providence Rd. West of Keener Rd.
From “A” to “B-1” APPROVED

ZC 86-384 – Zoning Text Changes – Comprehensive changes concerning changing all “AR”
Agriculture Residential Districts to “Agricultural” and other changes in the present Agricultural
District with regards to Lot Sizes.

ZC 96-828 – Zoning Text Changes – ADOPTED OCTOBER 1996

ARTICLE 7 - Modify - PREAMBLE

Add - AGRICULTURAL NUISANCE DISCLAIMER

Modify - Section 703 – Conditional Use provisions

Add - Provisions to Section 703 – P. Q. & R.

Add - Notation re: minimum lot area requirements within the R-1, R-2 and R-3 Districts.

ARTICLE 27- Add - COMMUNITY ORIENTED RESIDENTIAL SOCIAL SERVICE FACILITIES

Add - 2701 – Submission Requirements

Add - 2702 – Facility Requirements

Add - 2703 – Findings by the Board of Zoning Appeals

ARTICLE 48- Add - STORM WATER MANAGEMENT, DRAINAGE AND PONDS

Add - 4801 – Storm Water Management

Add - 4802 – Construction & Building

Add - 4803 – Maintenance

Add - 4804 - Ponds

ZC 96-845 – Zoning Text Changes – ADOPTED MARCH 1997

ARTICLE 2 – Modify – Definitions

ARTICLE 7 – Add – Section 703 – CONDITIONAL USES –

Subsection - S. Drainage Facilities - Items 1. through 4.

ARTICLE 7 - Modify – Section 704 – DEVELOPMENT STANDARDS Subsection 704.02

Add – Section 704 – Subsections 704.03, 704.04, 704.05, 704.06, and 704.07

ARTICLE 39 – Add – Section 3914, - DRAINAGE PROVISION –

Subsection A., B. Items 1 through 3.

ZC 98-953 – NEW ZONING TEXT – REFERENDUM VOTED DOWN

ZC 99-997 – ZONING DISTRICT CHANGE – Kenneth & Linda Hall – DENIED

ZC 99-0144 – ADOPTED JULY 2000

**ARTICLE 2 – Add Definition – Section 203.05 - ESSENTIAL SERVICE
Add Definition – Section 203.20 - TELECOMMUNICATIONS TOWER**

**ARTICLE 4 – Modify - Section 405.02 - PROCEDURE AND REQUIREMENTS FOR
VARIANCE AND APPEALS - Subsection A. Items 1. through 5. AND
Subsection B., Items 3. through 6.**

**Modify – Section 406.02 - PROCEDURE AND REQUIREMENTS FOR
ADMINISTRATION OF CONDITIONAL USES-
Subsection A. Items 1. through 9.
Subsection B. Item 1.**

**ARTICLE 7 – Modify – Section 703 – CONDITIONAL USES – Continuous Road Frontage
Subsection A. Items 1. through 3.
Add – Section 703 – CONDITIONAL USES –Billboard Signs
Subsection E. Items 1. through 4.**

**ARTICLE 38 – Modify – Section 3801 – PERMITTED ACCESSORY USE – Residential and
Office Residential District
Subsection D. Swimming Pools – Items 1. through 5.
Modify – Section 3803 – ACCESSORY USE NOT PERMITTED IN ALL
ZONING DISTRICTS - Subsection C. Land Application of Sewage Sludge –
Items 1. through 3.**

ARTICLE 40 – Modify – Section 4001 – ESSENTIAL SERVICE

**ARTICLE 41 – Add – Section 4103 – SIGNS IN AGRICULTURAL, BUSINESS &
INDUSTRIAL DISTRICTS.
Section 4103.01- General Requirements,
Subsection A.- Item 1., a. through d. AND Item 5., a.**

ARTICLE 48 – Modify – Section 4804 - PONDS – Distance from property lines.

**ARTICLE 52 – Add – TELECOMMUNICATION TOWERS
Section 5201, 5202, 5203, 5204, 5205, 5206, and 5207.**

ZC 2000-0184 – ADOPTED OCTOBER 2000

ARTICLE 2 -Add Definition – Section 203.02 – **BOARD OF TRUSTEES**
Add Definition – Section 203.02 – **BOARD OF ZONING APPEAL**
Add Definition – Section 203.02 – **BOARD OF ZONING COMMISSION**
Add Definition – Section 203.16 – **PERMANENT**
Modify Definition – Section 203.16 – **SIGN**, Subsection II. Temporary
Add Definition – Section 203.20 – **TEMPORARY**

ARTICLE 38 – Modify – Section 3801 – **PERMITTED ACCESSORY USE** – Residential and Office Residential District (add the word “**AGRICULTURAL**”)

Add – Section 3801 – Subsection A.

Modify – Section 3801 – Subsection J. Items 5. & 6.
Subsection L.

Subsection M. Items 1. through 8 AND

Subsection N. Items 1 through 3.

Modify – Section 3803 – **ACCESSORY USE NOT PERMITTED** – Agricultural, Residential, Office Residential and Business District - Subsection B.

Modify - Section 3804 – **STANDARDS**- Subsection E.

Add – Section 3804 – **STANDARDS** – Subsection H. & I.

Delete – Section 3914 – **DRAINAGE PROVISIONS** – Subsection B. Item 3.

Add – Section 3915 – **TRASH COLLECTION FACILITIES** – Subsections A. through D.

ARTICLE 41 – Modify – Section – 4101 – Subsection 4101.14 – Temporary Signs - Subsections A. through J.

ARTICLE 44 – Solar Systems Regulations.

ZC 2001-0283 – ADOPTED JUNE 2002

ARTICLE 1 -Add – Section 102 – **PURPOSE**

ARTICLE 6 – Change – Section 602 – (Second paragraph)

ARTICLE 7 – Change – Section 703 – Subsection A. Item 3. (Paragraphs 1 & 2)
Change – Section 703 – Subsection R. Ponds (75 feet instead of 65 feet).

ARTICLE 49 – Delete – **LAND USE INTENSITY** – **ALL OF THIS ARTICLE WAS DELETED.**

ZC – 2002-0304 – ADOPTED FEBRUARY 2003

ARTICLE 7 – Change – Section 703

ZC – 2002-0307 – ADOPTED FEBRUARY 2003

ARTICLE 2 – Change – Section 203.08 - HOME OCCUPATION

ARTICLE 49 – Add – HOME OCCUPATION (Complete Section)

ZC 2002-0360 – ADOPTED MARCH 2003

ARTICLE 2 – Add – Section 203.16 – PORTABLE STORAGE CONTAINER

**ARTICLE 38 – Moved – Section 3803 – Subsection D. to E.
Add – Section 3803 – Subsection D.**

ZC 2003-0437 – ADOPTED JULY 7, 2004

GRAMMAR AND TYPO-ERRORS CHANGED IN THE FOLLOWING ARTICLES:

ARTICLE 4, 6, 7, 19, 20, 21, 22, 23, 31, 32, 39 and 49.

ARTICLE 7 – Changed - Section 7 – Conditional Uses - Subsection C. - 1st Paragraph.

ZC 2003-0438 – ADOPTED JULY 7, 2004

ARTICLE 7 – Changed - Section 703 – Conditional Uses - Subsection P. Agricultural Services

ZC 2003-0441 – ADOPTED JULY 7, 2004

ARTICLE 7 – Changed - Section 703 – Conditional Uses - Subsection A. & B.

ZC 2004-0455 – ADOPTED NOVEMBER, 2004

ARTICLE 36 – Replaced – Complete Article.

ZC 2005-0492 – ADOPTED DECEMBER 21, 2005

ARTICLE 7 – Removed - Section 702, Item B. – Accessory Uses – “Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling”.

ARTICLE 23 – Removed – Section 2304, Item H. – Required Conditions – “No building or structure shall be used for residential purposes, except that a watchman or custodian may reside on the premises”.

**ZC 2005-0500 - ADOPTED DECEMBER 21, 2005
ADDED COMPLETE ARTICLES:**

ARTICLE 24 – “I-2” HEAVY INDUSTRIAL DISTRICT.

ARTICLE 51 – SANITARY AND CONSTRUCTION MATERIAL LANDFILL.

ZC 2007-0573 – ADOPTED AUGUST 10, 2007

ARTICLE 2 – “Definition” 203.01 E. wording modified in “Adult Entertainment Facility.”

ARTICLE 22 – Remove “Adult Entertainment Facility” as under Section 2203 - Condition Use.

ARTICLE 24 – Add “Adult Entertainment Facility” under Section 2401 – Principal Permitted Uses. Item D.

ZC 2007-0575 – ADOPTED AUGUST 10, 2007

ARTICLE 7 – Section 703 – Conditional Uses, Item A., 1. – Remove “Minimum road frontage 20 acres or greater 600 feet,” and “but less than 20 acres 450 feet.”

ZC 2013-0741 – ADOPTED APRIL 28, 2015

ARTICLE 6 – Section 602.01 PROCEDURE FOR DISTRICT CHANGES, paragraph 8, change wording from “unanimous” vote to “majority” vote. Per ORC

ADOPTED MARCH 8, 2017

Entered into the Zoning Text to reflect the Board of Trustees Resolution 17-26 “Prohibition of the Establishment and Operations of Medical Marijuana Cultivation, Processing and Retail Dispensaries.”

ARTICLE 2 - Add “Definition” 203.13 “Medical Marijuana”

***ADOPTED NOVEMBER 12, 2024, RESOLUTION 24:44
Article 38, Section 3801, Subsection O***

***ADOPTED MARCH 11, 2025, RESOLUTION 25:21
ARTICLE 44, SOLAR SYSTEMS REGULATION***

CHAPTER I

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SPECIAL PROVISIONS

ARTICLE 1

INTENT AND INTERPRETATION

SECTION 101 TITLE

This Resolution shall be known and may be cited and referred to as the “Perry Township, Montgomery County, Ohio, Zoning Resolution.”

SECTION 102 PURPOSE

This Resolution is enacted for the purpose of promotion public health, safety and morals, all in accordance with the Perry Township Comprehensive Plan as permitted by the provisions of Section 519.02 et seq. of the Ohio Revised Code. (06/06/02)

SECTION 103 INTERPRETATION AND CORRELATION OF STANDARDS

In their interpretation and application, the provisions of this Zoning Resolution shall be held to the 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.

For the purpose of coordinating the activities and policies of the Montgomery County Planning Commission, the Perry Township Zoning Commission, and the Perry Township Board of Zoning Appeals; and to increase the understanding of each body of the guidelines being followed by the others, the members of the Boards of each body may hold joint meetings.

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 201 PURPOSE AND APPLICABILITY.

This Resolution shall be known and may be cited and referred to as the “Perry Township, Montgomery County, Ohio, Zoning Resolution.”

SECTION 202 GENERAL RULES FOR CONSTRUCTION OF LANGUAGE.

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

SECTION 203

DEFINITIONS (beginning with letter “A”)

203.1

ACCESSORY USE

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

ACQUIFER

A geological unit in which porous and permeable conditions exist and thus are capable of yielding usable amounts of water.

ACQUIFER RECHARGE AREA

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

ADULT ENTERTAINMENT FACILITY

A. Adult Book Store

An establishment having 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: as herein defined as or an establishment with a segment or section devoted to the sale of display of such material.

B. Adult Cabaret

A nightclub, bar, restaurant, or similar establishment that regularly features live performances, dancers, and/or

hostesses who entertain customers in a manner which appeals to prurient interest and which focuses by word or deed upon “specific anatomical area” and/or “specified sexual activities.” Go-Go bars and show bars represent the most prevalent examples of such facilities within the local area.

C. Adult Motion 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,” 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 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 constructed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or individuals duly licensed by the State of Ohio to perform massage therapy or physical therapy, 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 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.

AGRICULTURE

The use of a track of land for the planting, harvesting, and marketing of crops and produce; 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. Small gardens and fruit bearing trees or shrubbery that are associated with residential users where the harvests are consumed or used exclusively by persons residing on the premises shall not be considered as part of the definition of agriculture.
- B. The maintenance and operation of commercial greenhouses or hydroponic farms except in zoning districts in which such uses are expressly permitted.
- C. Wholesale or retail sales as accessory use, unless the same are specifically permitted by this Resolution.
- D. 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 of maintenance of commercial stockyard or feed yard.

AGRICULTURAL MARKET

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

AGRICULTURAL SOILS, PRIME

Those soils, which are best suited for the production of food, fiber and other crops. These soils have been determined by Montgomery County 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.

AIRPORT

A place where aircraft can land or take off, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers.

ALTERATION

The term “alteration” shall mean any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, columns, beams or girders, the consummated act of which may be referred to herein as “altered” or “reconstruct.”

AMUSEMENT ARCADE

A building or part of a building in which five or more pinball machines, video games, or other similar player-operated amusement devices are maintained.

ANIMAL HOSPITAL

See Veterinary Animal Hospital

ANIMAL KENNEL

See Kennel

APARTMENT

See Dwelling, Apartment

APARTMENT, ACCESSORY

A single-family unit provided through conversion of an existing single-family residence.

APARTMENT BUILDING

See Dwelling, Apartment Building

APARTMENT, GARDEN

See Dwelling, Garden Apartment

AGRICULTURAL ELEVATION

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

ARTERIAL STREET

See Thoroughfare, Major Arterial

AUTOMATIC CAR WASH

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

AUTOMOBILE BODY SHOP

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

AUTOMOBILE CUSTOMIZING SHOP

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

AUTOMOBILE FULL SERVICE STATION

A building, lot, or portion of a lot used or intended to be used for the retail dispensing of vehicular fuels, and including as an accessory use no more than three (3) bays for minor mechanical repair and the dispensing of lubricants, tires, batteries, and other similar accessories. The storage of junk or inoperable vehicles shall not be included in this definition.

AUTOMOBILE OR TRAILER SALES AREA

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

AUTOMOBILE QUICK SERVICE FACILITY

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

AUTOMOBILE REPAIR GARAGE

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

AUTOMOBILE SALES, RENTAL OR LEASE

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

AUTOMOBILE SELF SERVICE GAS STATION / MINI MARKET

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

AUTOMOBILE TRANSMISSION SHOP

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

AUTOMOBILE WASH FACILITIES

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

AUTOMOBILE WRECKING

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

SECTION 203.02 DEFINITIONS (beginning with letter “B”)

BASEMENT

That portion of a building located partly underground but having more than one-half ($\frac{1}{2}$) of its clear floor-to-ceiling height below the average grade of the adjoining ground.

BED AND BREAKFAST – HOME STAY ESTABLISHMENT

A single-family dwelling in which the principal use is permanent residential quarters, and in which, as a conditional use, no more than two bedrooms are made available for transient occupancy, generally for not more than three days, not by more than four guest at one time for compensation.

BILLBOARDS

An advertising structure on which advertising design is painted or painted and posted, and which may incorporate the use of cut-outs and/or other embellishments.

BOARD OF TRUSTEES

Trustee is an elected position, responsible for the budget and all other legal actions within the township. *(Adopted Oct. 2000)*

BOARD OF ZONING APPEALS

The Perry Township Board of Zoning Appeals is a 5-member Board appointed by the Board of Trustees with powers and duties as provided for in Article 4 of this Zoning Resolution. *(Adopted Oct. 2000)*

BOARD OF ZONING COMMISSION

The Perry Township Zoning Commission is a 5-member Commission appointed by the Perry Township Trustees with power and duties that include responsibility for writing and reviewing the Zoning Resolution and holding public hearings and making recommendations to the Township Trustees in all zoning change requests. *(Adopted Oct. 2000)*

BOARDING HOUSE OR ROOMING HOUSE

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

BOND

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

BUFFER STRIP

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

BUILDABLE AREA

The portion of a lot remaining after required yards have been provided.

BUILDING

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

BUILDING, ACCESSORY

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

BUILDING, ATTACHED

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

BUILDING, COVERAGE

The horizontal area measured within the outside of the exterior walls of the ground floor of all principle and accessory buildings on a lot.

BUILDING, FRONTAGE

For the purpose of computation of number and area of signs permitted on buildings, in cases where lineal feet of building frontage is a determinant, the frontage of a building shall be

computed as the horizontal distance across the front as nearly at ground level as computation of horizontal distance permits. In cases where the test is indeterminate or cannot be applied, as for instance where there is a diagonal corner entrance or where two or more sides of a building have entrance or where two or more sides of a building have entrances of equal amounts of pedestrian traffic, the administrative official shall select building frontage on the basis of the interior layout of the building, traffic on adjacent streets or other indicators available.

BUILDING, HEIGHT

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on average slope of more than 15%, the ground level of the grade at the building wall from which the height may be measured shall be defined by the Enforcing Officer.

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 Section 3804. Said building line shall be measured from the adjacent street-right-of-way line upon which the lot fronts as established within the most current Official Thoroughfare Plan of Montgomery County. (*See Yard, Front*).

BUILDING PERMIT

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

BUILDING PRINCIPLE

A building in which is conducted the main or principle use of the lot on which said building is situated, and including areas such as

garages, carports, storage sheds, etc., which are attached to and architecturally integrated with the principle building.

BUILDING SETBACK

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

BUSINESS, GENERAL

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

BUSINESS, HIGHWAY

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

BUSINESS, OFFICE TYPE

Quasi-commercial uses which may often be transitional between retail business and/or manufacturing and residential uses. Office business generally accommodates such occupations as administrative, executive, professional, accounting, writing, clerical, stenographic and drafting. Institutional offices of charitable, philanthropic, or religious or educational nature are also included in this classification.

BUSINESS OR TRADE SCHOOLS

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

BUSINESS, WHOLESALE

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

SECTION 203.03 DEFINITIONS (beginning with letter “C”)

CAMPING EQUIPMENT

See Section 203.18- Recreational Vehicles & Camping Equipment

CARPORT

A roofed shelter, open at least two (2) sides, designed as a shelter for automobiles or other vehicles. A carport may be freestanding or may be formed by extension of a roof from the side of a building. A carport shall not be considered a private garage.

CARRY-OUT

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

CELLAR

A portion of a building located partly or wholly underground and having one-half (½) or more than one-half (½) of its clear floor-to-ceiling height below the average grade of the adjoining ground.

CERTIFICATE OF OCCUPANCY

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

CLINIC

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

CLUB, PRIVATE

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

CHURCH

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

CLUSTER DEVELOPMENT

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

CLUSTER SUBDIVISION

A form of development for single-family residential subdivisions that permits a reduction of lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision and the resultant land area is devoted to open space.

COMMERCIAL ENTERTAINMENT FACILITIES

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

COMMERCIAL RECREATION

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

COMMISSION

The Perry Township Zoning Commission.

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 being 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.

COMPREHENSIVE PLAN

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

CONDITIONAL USE

A use permitted within a district other than a principally permitted use, requiring a conditional use permit and approval of the Board of Zoning Appeals.

CONDITIONAL USE PERMIT

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

CONDOMINIUM

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

CONGREGATE HOUSING

(See Independent Housing Alternatives for the Elderly)

CONSTRUCTION, BEGINNING OF

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

CONVALESCENT HOME

(See Home, Convalescent)

CONVENIENCE STORE

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

COVENANT

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

CUL-DE-SAC

(See Thoroughfare, Cul-de-sac)

CURB CUT

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

SECTION 203.04 DEFINITIONS (beginning with letter “D”)

DAY-CARE, CHILD

Administering to the needs of infant toddlers, pre-school children, and school children outside of school hours by persons other than

their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four hour day in a place or residence other than the child's own home. The following are child day-care facilities.

DAY-CARE CENTER, CHILD

Any place in which child day-care is provided, with or without compensation, for 13 or more children at any one time, or any place that is not the permanent residence of the licensee or administrator in which child day-care is provided, with or without compensation, for 7 to 12 children at any one time. In counting children for the purpose of this definition, any children under 6 years of age who are related to a licensee, administrator, or employee and who are on the premises shall be counted.

DAY-CARE HOME, TYPE A FAMILY

A permanent residence of the administrator in which child day-care is provided for 4 to 12 children at any one time, if 4 or more children are under 2 years of age. In counting children for the purposes of this definition, any children under 6 years of age who are related to a licensee, administrator, or employee and who are on the premises of the Type A home shall be counted. The term "Type A family day-care home," does not include a residence in which the needs of children are administered to, if all such children are siblings of the same immediate family and the residence is their home.

DEAD-END STREET

(See Thoroughfare, Dead-End Street)

DECIBEL

A unit of sound pressure level.

DECIDUOUS

Plants that drop their leaves before becoming dormant in winter.

DEED RESTRICTIONS

(See Covenant)

DENSITY

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

- A. **GROSS DENSITY** – the number of dwelling units per acre of the total land to be developed.
- B. **NET DENSITY** – the number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

DETENTION BASIN (POND)

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

DEVELOPMENTALLY DISABLED

Having a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or dyslexia resulting from these, or any other condition closely related to mental retardation in terms of intellectual and adaptive problems.

DISH ANTENNA

(See Satellite Dish Antenna)

DISTRICT

(See Zoning District)

DOUBLE WIDE UNIT

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

DRAINAGE

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

DRAINAGE AREA

That area in which all of the surface run-off resulting from precipitation is concentrated into a particular stream.

DRAINAGE DISTRICT

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

DRAINAGEWAY

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

DRIVE-IN RESTAURANT

(See Restaurant, Drive-In)

DRIVE-IN USE

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

DUPLEX

(See Dwelling, Two-Family)

DWELLING

Any building or portion thereof occupied or intended to be occupied exclusively for residential purposes but not including a tent, cabin, recreational vehicle or other temporary or transient structure or facility. A Dwelling shall include a Modular Industrial Unit but shall not include either a Manufactured HUD Unit, a Mobile Structure or Recreational Vehicle and Camping Equipment.

DWELLING, APARTMENT

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

DWELLING, APARTMENT BUILDING

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

DWELLING, ATTACHED

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

DWELLING, DETACHED

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

DWELLING, GARDEN APARTMENTS

A garden apartment is a multi-family dwelling. The commonly accepted configuration of a garden apartment in terms of density (usually 10 to 15 dwelling units per acre in a suburban community, somewhat higher in an urban area and lower in a rural area), height (usually not more than a maximum of 2 ½ stories or 35 feet with two levels of dwelling units). Access is usually from a common hall, although individual entrances can be provided. Dwelling units can be located on top of each other, and communities may opt to permit or prohibit the back-to-back type of units.

DWELLING GROUP

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

DWELLING, MODULAR, INDUSTRIALIZED UNIT

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

DWELLING, MULTIPLE-FAMILY

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

DWELLING, PATIO HOUSE

A one-family dwelling on a separate lot with open space setbacks on three sides and with a court.

DWELLING, QUADRUPLEX

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

DWELLING, SEMI-DETACHED

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

DWELLING, SINGLE-FAMILY DETACHED

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

DWELLING, TOWNHOUSE

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

DWELLING, TRIPLEX

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

DWELLING, TWO-FAMILY

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

DWELLING UNIT

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

DWELLING UNIT, EFFICIENCY

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

SECTION 203.05 DEFINITIONS (beginning with letter “E”)

EARTH TONES

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

EASEMENT

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

EDUCATIONAL/INSTITUTION

Schools and/or seminaries administrated by churches or religious organizations; schools, colleges or universities operated under

charter or license from the State and any non-profit institution, residence or home operated for the education of five (5) or more students.

EGRESS

An Exit.

ELDERLY AND/OR HANDICAPPED PERSONS

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

ELDERLY HOUSING

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

ELECTRONIC, MECHANICAL OR VIDEO GAMES

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

EMINENT DOMAIN

The legal right of government to acquire or “take” private property for public use or public purpose upon paying just compensation to the owner. While originally used only when land was to be kept in public ownership, i.e., for highways, public buildings or parks, property has been condemned under eminent domain powers for private use in the public interest such as urban renewal. *(See also Inverse Condemnation, Police Power, Taking).*

ENCLOSED

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

ENFORCING OFFICER

Is the person who is in charge of enforcing the provisions of this code.

ENVIRONMENTAL IMPACT STATEMENT (EIS)

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

ESSENTIAL SERVICE

The location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement by public utilities for county or other governmental agencies of underground or overhead gas, electric, steam or water generation, transmission or distribution system; including buildings, structures, towers, poles, wires, mains, drains, sewer 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 therein, for the furnishing of adequate service of such public utilities or county or other governmental agencies or for the public health, safety and morals. This definition specifically excludes Telecommunication Towers as defined in Subsection 203.20 of this Resolution.

EXCLUSIONARY ZONING

Zoning which has the effect of keeping out racial minorities, poor people, or in some cases, additional population of any kind. Techniques such as large lot zoning or high floor area or minimum residential floor-area requirements, which increase housing costs, have been challenged for their potential exclusionary effects. Similarly, discretionary techniques have been subject to challenge; that may permit a community to deny certain applications and conceal the real reasons.

EXISTING USE

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

EXTENDED CARE FACILITY

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

SECTION 203.06 DEFINITIONS (beginning with letter “F”)

FABRICATION

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

FAÇADE

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

FAMILY

A group of persons related by blood, marriage or adoption, and/or no more than three (3) unrelated persons who are living together in a single dwelling unit and maintain a common household. Family as defined within the provisions for Community Residential Social Services Facilities as well as those defined under Shared and Congregate Housing are exempt from the definition.

FARMLAND, PRIME

Land with soil characteristics that meet the definition of Prime Agricultural Soils, as defined by Resolution.

FAST FOOD RESTAURANT

(See Restaurant. Fast Food)

FEEDLOT

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

FINANCE, INSURANCE AND REAL ESTATE

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

FISCAL ZONING

Designing zoning regulations for the purpose of attracting uses which will bring in more local tax revenue than they will cost in public services. Since the greatest single cost of local government is education, sophisticated fiscal zoning would tend to limit single family housing in favor of small apartments generating few school children and high tax tables of business and industry. Because of such policies, competition to tax tables may be heightened. In many instances, unsophisticated fiscal zoning has been based on the tax revenue side of the ledger, without regard to service costs. Here apartments would be discouraged and single-family housing promoted on grounds of the tax return per unit. This kind of one-sided fiscal zoning is often used as an argument for exclusive zoning.

FLEA MARKET

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

FLOOD

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

FLOOD FREQUENCY

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

FLOOD HAZARD AREA

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

FLOOD DESIGN ELEVATION

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

FLOOD INSURANCE RATE MAP

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

FLOOD PROTECTION ELEVATION

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

FLOOD, REGIONAL

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

FLOODPLAIN

That land, including the flood fringe and the floodway, subject to inundation by the regional flood.

FLOODPLAIN, REGIONAL

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

FLOODPROOFING

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

FLOODWAY

The channel of a natural stream or river and portions of the floodplain adjoining the channel, which are reasonable required to carry and discharge the floodwater or flood flow of any natural stream or river.

FLOODWAY FRINGE

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

FLOOR AREA

The sum of the 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 headroom of less than seven feet, 6 inches. Attic space of seven feet, six inches or greater, and finished, may be calculated as part of the gross floor area.

- 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.

FLOOR AREA, RATIO

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

FOSTER CARE HOMES

An owner-occupied residence providing care and supervision for not more than three (3) adults, children or adolescents who are mentally ill, mentally retarded, developmentally disabled, physically handicapped or aged who are in need of assistance and supervision provided by a foster family in a home setting and for children or adolescents who for various reasons cannot reside with natural family.

FRATERNAL ORGANIZATION

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

FRONT FOOT

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

FRONT LOT LINE

(See Lot Line, Front)

FRONT YARD

(See Yard, Front)

FRONTAGE

The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage. Frontage shall be measured at a point of required minimum front yard depth as defined.

SECTION 203.07 DEFINITIONS (beginning with letter “G”)

GARAGES, PRIVATE

A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, travel trailers and/or boats of the occupants of the premises and wherein:

- A. Not more than one space is rented for parking to person not resident on the premises;
- B. No more than one commercial vehicle per dwelling unit is parked or stored:
- C. The commercial vehicle permitted does not exceed two tons capacity.

GARBAGE

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

GARDEN CENTER

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

GRADE, FINISHED

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

GREEN AREA

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

GREENBELT

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

GREENHOUSE

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

GROCERY

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

GROSS HABITABLE FLOOR AREA

(See Floor Area)

GROUND COVER

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

SECTION 203.08 DEFINITIONS (beginning with letter “H”).

HALFWAY HOUSES

A facility owned and/or operated by an agency or an individual authorized to providing house, food, treatment or supportive services for individuals on supervised release from the criminal justice system and who have been assigned by a court to a residential home in lieu of placement in a correctional institute; or for individuals who have had alcohol or drug problems

HEALTH CARE FACILITY

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

HOME OCCUPATION

Category I - AGRICULTURAL DISTRICT

A business, profession, occupation or trade operated by a resident of the property and located entirely within a residential building or an accessory building, which is incidental and secondary to the use of the building for dwelling purposes and does not change its residential character. Home Occupations are subject to the provisions of Article 49 - HOME OCCUPATIONS.

Category II – RESIDENTIAL DISTRICT

A business, profession, occupation or trade operated by a resident of the property and located entirely within a residential building, which is incidental and secondary to the use of the building for dwelling purposes and does not change its residential character. Home occupations are subject to the provisions of Article 49 - HOME OCCUPATIONS.

HOME ASSOCIATION

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

SECTION 203.09 DEFINITIONS (beginning with letter “I”)

INDEPENDENT HOUSING ALTERNATIVES FOR THE ELDERLY

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

A. Shared Housing

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

B. Conglomerate Housing

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

INDUSTRIAL PARK

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

INDUSTRY, HEAVY

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

INDUSTRY, LIGHT

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

INGRESS

Access or entry.

INSTITUTIONAL USE

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

SECTION 203.10 DEFINITION (beginning with letter “J”)

JUNK

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

JUNK YARD

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

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

SECTION 203.11 DEFINITION (beginning with letter “K”)

KENNEL

Any lot or premises on which four or more domesticated animals more than four months of age are housed, groomed, bred, boarded, trained, or sold, and which offers provisions for minor medical treatment.

SECTION 203.12 DEFINITIONS (beginning with letter “L”)

LANDFILL

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

LANDSCAPING

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

Landscaping requirements are included in resolutions for a number of reasons. They preserve natural features of a site for ecological and environmental reasons. They make land more attractive for residential and other uses. They can screen from view unattractive uses such as junkyards, parking lots, or gravel pits. And they can act as *buffers*, visually separating different types of uses.

LAND USE

A description of how land is occupied or utilized.

LAND USE PLAN

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

LIFE CARE RETIREMENT CENTER

Nursing homes, rest homes, and convalescent homes which include individual dwelling units for the elderly as an integral part of the facility where the total floor area devoted to individual dwelling

units does not exceed 70 percent of the total floor area of the entire facility.

LIVABILITY SPACE

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

LIVE ENTERTAINMENT

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

LOADING SPACE

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

LOT

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

A. Corner

A lot abutting upon two or more streets at their intersection or upon two parts of the same street, and in either case forming an interior angle of 135 degrees or less.

B. Double Frontage/Through

A lot having a frontage of two nonintersecting streets, as distinguished from a corner lot.

C. Flag

A lot with access provided to the bulk of the lot by means of a narrow corridor.

D. Zoning

A parcel of land not separated by street or alley that is designed by its owner or developer at the time of applying for a zoning certificate, as a tract all of which is to be used developed, or built upon as a unit under single ownership. As long as it satisfies the above requirements, such lot may consist of:

1. a single lot or record; or
2. a portion of a lot of record; or
3. a combination of complete lots and portions of lots of record, or portions of lots of record.

LOT COVERAGE

(See Building Coverage)

LOT FRONTAGE

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

LOT LINES

A. Front

A street right-of-way line forming the boundary of a lot. On a corner lot, the street right-of-way lines with the least amount of street frontage shall be the front lot line.

B. Rear

The lot line that is most distant from, and is, or is most nearly parallel to, the front lot line. If a rear lot line is less than 15 feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least 15 feet long, lying wholly within the lot, parallel to the front lot line.

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.

LOT, MINIMUM AREA OF

The area of a lot is computed exclusive of any portion of the right-of-way of any public or private street.

LOT MEASUREMENTS

A lot shall be measured as follows:

A. Depth

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

B. Width

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

LOT OF RECORD

A lot which is part of a subdivision, the plat of which has been recorded in the office of the Recorder of Montgomery County; or a

parcel of land, the deed to which was of record as of the effective date of this Zoning Resolution.

SECTION 203.13 DEFINITIONS (beginning with letter “M”)

MANUFACTURING

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

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.

MANUFACTURED/MOBILE HOME PARK

A parcel of land under single ownership on which two or more manufactured and/or mobile homes are located.

MANUFACTURED/MOBILE HOME SUBDIVISION

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

MEDICAL MARIJUANA

"Medical marijuana" means marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose. (O.R.C. 3796.01 (2)).

MARQUEE

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

METES AND BOUNDS

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

MOBILE HOME

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 construed as to permit its being used as conveyance upon the public streets and highways. Most significantly the term mobile home designates those units not in compliance with Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.).

MOBILE STRUCTURE

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

MODULAR INDUSTRIALIZED UNIT

A modular structure which complies with the standards and specifications for Industrial Units of Closed Construction, as provided for by the Ohio Basic Building Code as 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.

MORATORIUM

A temporary halting or severe restriction on specified development activities. Moratoriums on the issuance of building permits or on sewer hookups, for example, may be imposed to allow the community to build the necessary utilities to accommodate the new development. Interim zoning can be considered a form of moratorium which gives time for the zoning resolution to be changed (or a new one prepared) to allow for changing conditions and needs. Moratoriums are increasingly common and are generally considered to be legal when not abused.

MOTEL

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

SECTION 203.14 DEFINITIONS (beginning with letter “N”)

NATIONAL FLOOD INSURANCE PROGRAM

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

NONCONFORMING LOT

A lot for which the area, dimensions or location was lawful prior to the adoption, revision, or amendment of the zoning resolution, but which fails by reasons of such adoption, revision or amendment to conform to the present requirements of the zoning district.

NONCONFORMING SIGN

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

NONCONFORMING STRUCTURE OR BUILDING

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

NONCONFORMING USE

A use or activity which was lawful prior to the adoption, revision or amendment of a zoning resolution, but which fails, by reason or such adoption, revision or amendment, to conform to the present requirements of the zoning district.

NUISANCE

Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses. There are many types of nuisances, and the law can be invoked to determine when, in fact, a nuisance exists and should be abated. Nuisance law forms part of the basis for zoning. The separation of uses through zoning, e.g. industrial from residential, helps to foster the enjoyment of residential areas free from pollution, noise, congestion, and the other characteristics of industrial areas. Performance standards, which are better able to measure degree of nuisance, have been developed as a way of dealing with activities by the way they perform, rather than as classes.

NURSING HOME, REST HOME OR CONVALESCENT HOME

A place, residence or home used for a consideration, for the boarding and nursing care 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.

NURSERY, RETAIL

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

NURSERY, WHOLESALE

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

SECTION 203.15 DEFINITIONS (beginning with letter “O”)

OBSTRUCTION (RFP Regional Floodplain District)

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

OCCUPANCY PERMIT

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

OFFICE, GENERAL

An office for the use of (1) professional persons such as doctors, lawyers, accountants, etc.; or (2) general business office such as insurance companies, trade associations, manufacturing companies, investment concerns, banks and trust companies, real estate companies, etc., but not including any kind of retail or wholesale store or warehouse, except as otherwise provided herein.

OPAQUE

The term opaque shall mean completely screened from view through the use of a man-made screen and/or natural landscaping

which serves to visually shield or obscure an abutting or nearby area from another.

OPEN SPACE

Any parcel or area of land or water essentially unimproved and set aside, dedicated, designed or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

OPEN STORAGE

Storing or keeping of chattels not enclosed in a building.

SECTION 203.16 DEFINITIONS (beginning with letter “P”)

PARCEL

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

PARKING SPACE, OFF-STREET

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

PARKING SPACE, PUBLIC

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

PERFORMANCE BOND OR SURETY BOND

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

PERFORMANCE STANDARDS

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

It is a more precise way of defining compatibility and at the same time is intended to expand developers options. The performance standards have been in the area of industrial emissions. (Local requirements in many fields, especially pollution control, have now been superseded by federal or state regulations.) Because such measures require technical skill and often some expensive equipment, small communities have tended to prefer the more traditional specification, standard approach. In such places, clear statements of purpose or intent often are substituted for precise measurable standards.

PERIMETER

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

PERMANENT

Continuing to endure without marked changes, remaining stable and long lasting. (*Adopted Oct. 2000*)

PERMITTED USE

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

PERSONAL SERVICES

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

PLANNING

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

PLANNED UNIT DEVELOPMENT

Planned Unit Development is:

- A. Land under unified control, planned and developed as a whole, and
- B. In a single development operation or a definitely programmed series of development operations including all lands and buildings, and
- C. According to comprehensive and detailed plans which include not only streets, utilities, lots, or building sites and the like, but also site plans and designs constructed, used, and related to each other; and detailed plans for other uses and improvements on the land as related to buildings, and
- C. 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.

While PUD has most commonly been used for housing development, it also is frequently applied to other forms of development such as shopping centers, industrial and office parks, and to mixed-use developments. Planned unit development allows the unified, and hence potentially more desirable and attractive development of an area, based on a comprehensive site plan. PUD can have a number of advantages over conventional lot-by-lot development including: mixing building types and uses to create more heterogeneous and "alive" communities; combining often unusable yard space on individual lots into larger common open spaces; offering greater opportunities for incentives to building lower-cost housing; lower street and utility costs resulting from reduced frontage; and the possibility of increasing the density of a development while keeping desired amenities.

POLICE POWER

The authority of government to exercise controls to protect the public's health, safety, morals, and general welfare. As distinct from eminent domain powers, in which government takes property, no compensation need be paid for the imposition of police power controls. The degree to which such exercise becomes, in effect, a taking of property, is a question of long standing and has risen again lately in connection with the restrictive growth management controls being imposed by some communities.

PORTABLE STORAGE CONTAINER

"Portable Storage Container" shall mean any enclosed unit of whatever type construction or material, designed for temporary storage, which can be transported by a vehicle and left on-site.

PRIME, AGRICULTURAL LAND

(See Agricultural Soils, Prime)

PRINCIPAL USE

The primary or predominant use of any lot.

PRIVATE EDUCATIONAL FACILITY

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

PUBLIC HEARING

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

PUBLIC NOTICE

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

PUBLIC SEWER AND WATER SYSTEM

Any system other than an individual septic tank, tile field, or individual well, that is operated by a municipality, governmental agency, or a public utility for the collection, treatment and disposal of wastes and the furnishing of portable water.

PUD

(See Planned Unit Development)

SECTION 203.17 DEFINITIONS (beginning with letter “Q”)

QUASI-PUBLIC USE

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

SECTION 203.18 DEFINITIONS (beginning with letter “R”)

REACH

A hydraulic engineering term to describe longitudinal segments of a stream or river. A reach will generally include the segment of the flood hazard area where flood heights are influenced by a man-

made or natural obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would typically constitute a reach.

REAR YARD

(See Yard, Rear)

REASONABLE USE DOCTRINE

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

RECREATION FACILITY, COMMERCIAL

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

RECREATION FACILITY, PRIVATE

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

RECREATION, PUBLIC

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

RECREATIONAL VEHICLES AND CAMPING EQUIPMENT

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

- A. “Camper Trailer (Pop Up)” is a structure designed to provide temporary living quarters for recreational, camping or travel uses, constructed with integral wheels to make it

mobile and/or towable by a motor vehicle, not to exceed 24 feet in length and five feet and six inches in height in a collapsed position.

- B. “Motor Home” is a portable dwelling designed and constructed as an integral part of a self-propelled vehicle not to exceed 40 feet in length and 12 feet in height.
- C. “Pickup Camper” is a structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational or vacation use.
- D. “Travel Trailer” is a structure designed to provide temporary living quarters for recreational, camping or travel uses, constructed with integral wheels to make it mobile and/or towable by a motor vehicle, not to exceed eight feet in width and a body length not exceeding 35 feet.
- E. “Water Craft” is any unit that is used for water travel or pleasure, 35 feet or less in length but not to exceed 12 feet in height, either mounted on a boat trailer or unmounted; also boat trailer without boat mounted.

RECYCLING CENTER

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

RECYCLING COLLECTION POINT

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

RECYCLING PLANT

A facility which is not a junk yard and in which recoverable resources such as newspapers, magazines, books and other paper products, glass, metal cans, and other products are recycled,

reprocessed and treated to return such products to a condition in which they may again be used for production.

REFUSE

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

RESIDENTIAL DENSITY

The number of dwelling units per area of residential land.

RESTAURANT

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

RESTAURANT, DRIVE-IN

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

RESTAURANT, FAST FOOD

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

RESTAURANT, STANDARD

An establishment whose principal business is sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics: (1) customers, normally provided with an individual

menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; (2) a cafeteria-type operation where food and beverages generally consumed within the restaurant building.

RESTRICTIVE COVENANT

(See Covenant).

RETAIL SERVICES

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

RETENTION POND

A pond, pool, or basin used for the permanent storage of stormwater runoff.

REZONING

An amendment to, or a change in the zoning resolution. Rezoning can take three forms: (1) a comprehensive revision or modification of the zoning text and map; (2) a text change in zone requirements; and (3) a change in the map, i.e., the zoning designation of a particular parcel or parcels. The last, so-called small-parcel zoning, has often been used to add flexibility to the zoning process, usually unintentionally. (One form of text change, the importance of which may be unrecognized, is a change in a definition. For example, changing the definition of townhouses to include them under multi-family or single-family dwellings may significantly affect where and how they are permitted). Rezonings, like enactment of the original resolution, are legislative acts that, except under rare and specifically defined circumstances, cannot be delegated to administrative officials.

RIGHT-OF-WAY

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

RIGHT-OF-WAY LINES

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

ROADSIDE STAND

(See Agricultural Market)

ROOM, HABITABLE

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

ROOMING HOUSE

(See Boarding House)

RUN WITH THE LAND

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

SECTION 203.19 DEFINITION (beginning with letter “S”)

SATELLITE DISH ANTENNA

A device incorporating a reflective surface that is solid, open mesh, or bar configured, and is in the shape of a shallow dish, cone, horn,

or cornucopia. Such device shall be used to transport and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

SCHOOL, VOCATIONAL

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

SCREENING

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

SELF-SERVICE STORAGE FACILITY

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

SERVICE CLUBS

An association organized and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee, or similar body chosen by the members 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.

SERVICE STATION

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

SETBACK LINE

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

SEWERS, CENTRAL OR GROUP

An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community, or region.

SEWERS, ON-SITE

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

SHARED HOUSING

(See Independent Housing Alternatives for the Elderly)

SHOPPING CENTER

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

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

SIDE YARD

(See Yard, Side)

SIGHT TRIANGLE

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

SIGNS

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

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

- A. Advertising**
A sign which directs attention to a business, product, activity or service which is not conducted, sold or offered upon the premises where such sign is located.
- B. Animated**
Any sign, which, by method or manner of illumination, flashes on and off, winks, or blinks varying light intensity, shows motion, or creates the illusion of motion or revolves in a manner to create the illusion of moving.
- C. Area**
The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, or any figure of similar character together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. The necessary supports or uprights, on which such sign is placed, not being advertising matter, shall not be included in computation of surface area.
- D. Awning, Canopy or Marquee**
A sign that is mounted on or painted on or attached to an awning, canopy or marquee.
- E. Business**
A sign, which directs attention to a business, profession, service, product or activity sold or offered upon the premises where such sign is located.
- F. Bulletin Board**
A structure containing a surface upon which is displayed the name of a religious institution, school or library, auditorium, stadium, athletic field or area of similar use for the announcement of services or activities to be held therein.
- G. Construction**
A sign advertising the development or improvement of a property by a builder, contractor or other person furnishing services, material, or labor to said premises, which sign is intended for a limited period of display and erected on the same lot as the work being done.

- H. Directional**
A sign directing vehicular or pedestrian movement onto or within a premise with no identification or advertising on the sign.
- I. Domestic Advertising**
A sign advertising the sale of household goods previously used by an individual or his family, when such sign is located at the place of residence of the individual or family.
- J. Electronic Message Board**
Any sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. (Such signs shall not fall under the category of Animated signs).
- K. Flashing**
Any illuminated sign on which the artificial light or any part thereof has conspicuous or intermittent variation in intensity or color.
- L. Free-Standing**
A sign, which is supported by one or more uprights, poles, or braces, in or upon the ground.
- M. Governmental**
A sign erected and maintained pursuant to and in discharge of any governmental functions, or required by law, resolution or other governmental regulation.
- N. Ground**
A free-standing sign supported by one or more uprights or pylons located in or upon the ground, or something requiring location on the ground, including "billboards" or "poster panels".
- O. 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.
- P. Holiday Decoration**
Temporary signs, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local or religious holiday.

- Q. Identification**
A sign, which is limited to the name, address and number of a building, institution or persons and to the activity, carried on in the building or institution, or the occupancy of the person.
- R. Illumination**
Any sign illuminated by electricity, gas, or other artificial light including reflecting or phosphorescent light.
- A. Indirect Illumination - A light source not seen directly.
- B. Internal Illumination - A light source concealed or contained within the sign, and which becomes visible in darkness through a translucent surface.
- S. Interior, Exterior**
Interior signs are located within a structure, and are not intended to be seen from the exterior. Signs affixed to a window or the walls enclosing the display area behind a window, which are obviously intended for viewing from the exterior shall be considered exterior signs.
- T. Memorial**
A sign, tablet or plaque memorializing a person, event, structure or site.
- U. Name Plate**
A sign designating only the name and address or the name and professional occupation and address of a person or persons residing in or occupying space in such building or premises.
- V. On-Premises**
Any sign related to a business or profession conducted, or a commodity or service sold or offered, upon the premises where such sign is located.
- W. On-Site Informational**
A sign commonly associated with, and not limited to, information and directions necessary or convenient for visitors coming on the property including signs marking entrances and exits, parking areas, circulation direction, restrooms, and pick-up and delivery areas.

X. 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.

Y. Pole

A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign is six feet or more above grade.

Z. Political

A sign which promotes, identifies, announces, opposes or otherwise offers for the public consideration any political candidate or issue, partisan or nonpartisan.

AA. Portable

A sign that is attached to wheels, skids, or other forms of mounting which is not permanently affixed in or to the ground.

a. Folding Portable Sign - Any sign supported by an "A-frame" or "T-frame" base which is designed to be easily movable and is intended for advertising price and/or incidental goods or services.

b. Trailer Sign - Any sign which is attached to, supported by or part of a structure, which is designed, to be moved on trailer wheels, skids or other similar device or transported, pushed or pulled by a motor vehicle.

BB. Poster Panel

An advertising structure measuring not more than 12 feet by 25 feet overall on which posters are displayed.

CC. Projecting

A sign affixed to any building or part thereof, or structure, extending beyond the building wall or parts thereof, or structure, by more than 12 inches. A projecting sign shall not include a ground sign as herein defined.

DD. Promotion

A temporary sign, the function of which is to announce a special event.

EE. Real Estate

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

FF. Roof-Mounted

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

GG. Structure

The supports, uprights, bracing or framework for signs.

HH. Subdivision

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

II. Temporary

A banner, pennant, poster display or illustration which is affixed to or painted upon or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product place, person, institution, organization or business and is constructed of cloth, plastic sheet, cardboard or other like materials and which is intended to be displayed for a *limited period of time as determined by the Zoning Commission. (Adopted Oct. 2000)*

JJ. Wall

Any sign painted on, attached to, or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall and extending not more than 15 inches from the face of the wall.

KK. Warning

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

LL. Window, Permanent

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

MM. Window, Temporary

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

SITE

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

SITE PLAN

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

SKETCH (Concept, Outline) PLAN OR PLAT

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

SLUDGE

A liquid, solid or near solid by-product of sewage treatment.

SOIL EROSION AND SEDIMENTATION

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

SPOT ZONING

Zoning a relatively small area differently from the zoning of the surrounding area, usually for an incompatible use and to favor the owner of a particular piece or pieces of property. Spot zoning is invalidated by the courts when it violates “in accordance with a Comprehensive Plan.” It is because of the arbitrary and inappropriate nature of the change rather than, as is commonly believed, in the size of the area that courts overturn spot zoning.

Spot zoning often is a reason why many flexible techniques such as floating zones or conditional rezoning have been prohibited; the argument being that conferring narrow development permission is a form of spot zoning. Special small-area zoning districts, however, have been upheld where the Comprehensive Plan demonstrates a special need, such as for an historic area or to preserve a sensitive natural area.

Spot zoning, in sum, can be legal or illegal but laymen generally think that it always is illegal and use the term loosely □ and pejoratively □ at public hearings when they oppose the change.

STABLE, COMMERCIAL

A building or land where a horse, a pony, a mule, a donkey, or other riding animal is kept for remuneration, hire, sale, boarding, riding, or show.

STABLE, PRIVATE

Any building, incidental to an existing residential principal use, that shelters a horse, a pony, a mule, a donkey, or other riding animal used for the exclusive use of the occupants of the premises.

STACKING

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

STATEMENT OF PURPOSE (STATEMENT OF INTENT)

A statement of policy or objectives, often incorporated in a zoning resolution, which outlines the broad purpose of the ordinance and its relationship to the Comprehensive Plan; frequently, a statement preceding regulations for individual districts, which helps to characterize the districts, and their legislative purpose. When the application of particular district requirements is challenged in court, the courts rely on the intent statement in deciding whether the application is reasonable and related to a defensible public purpose. As zoning resolutions become more complex, with numerous special districts and flexible applications, statements of intent, which guide users, administrative officials, and the courts, are making frequent appearances.

STEEP SLOPES

Land area where the inclination of the land's from the horizontal is twelve percent (12%) or greater. Slope is determined from on-site topographic surveys prepared with a two-foot contour interval.

STORM SEWER

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

STORY

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

STREET, MAJOR

A street with a right-of-way of fifty (50) feet or greater as shown on the Official Thoroughfare Plan for Montgomery County, Ohio.

STRIP ZONING

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

Strip zoning is a recognition that since such development will not go away, its most irksome characteristics should be controlled. These include access, use limitations, parking signs, development standards, clustering requirements and aesthetic controls.

STRUCTURAL ALTERATION

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

STRUCTURE

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

STUDIO APARTMENT

(See Dwelling Unit, Efficiency)

STUDIO, COMMERCIAL

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

STUDIO, INSTRUCTIONAL

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

SUBDIVISION

- A. The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax role, into two or more parcels, sites, or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership; provided, however, that the division or partition of land into parcels of more than five acres not involving any new streets or easements of access and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted; or
- B. The improvement of one or more parcels of land for residential, commercial or industrial structures of groups or

structures involving the division or allocation of land for the opening, widening, or extension or any street or streets except private streets serving industrial structures; the division or allocation of land as open space for common use by owners, occupants, or lease holders, or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities. (*See Subdivision, Minor*).

SUBDIVISION, MINOR

A division of a parcel of land that has the following characteristics: (1) Land is located along an existing public road; (2) No opening, widening, or extension of any road is involved; (3) No more than five (5) lots (after the original tract is completely subdivided) are involved; (4) The request for division is not contrary to platting, subdividing, or zoning regulations.

SUPERMARKET

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

SUPPLY YARDS

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

SWALE

A depression in the ground that channels runoff.

SWIMMING POOL

Any body of water or receptacle for water having a depth greater than two feet, used or intended to be used for swimming or

bathing, and constructed, installed or maintained in or above the ground outside a building.

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

SECTION 203.20 DEFINITIONS (Beginning with letter “T”)

TAKING

To take, expropriate, acquire, or seize property without compensation. (*See Eminent Domain*).

TANK FARM

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

TAVERN

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

TELECOMMUNICATIONS TOWER

Telecommunication towers means any free-standing structure, or any structure attached to a building or another structure, that meets all of the following criteria as contained in the ORC Section 512.21 (B) (1).

- A. The free-standing or attached structure is proposed to be constructed on or after the effective date of July 12, 2000.

- 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 Perry Township;
- D.
 1. The free-standing or attached structure is proposed to top at a height that is greater than the maximum allowable height of residential structures within the zoned area as set forth in the applicable zoning regulations, or the maximum allowable height of such a free-standing structure as set forth in any applicable zoning regulations in effect immediately prior to the affective date of July 12, 2000, 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 the effective date of July 12, 2000, or as those regulations subsequently are amended;
- E. The free-standing or attached structure is proposed to have attached to it a radio or microwave frequency transmission or reception equipment.

TEMPORARY

Accepted for a limited time, not lasting, or permanent. Implies an arrangement with no thought of continuance and/or with the idea of being changed soon. (Adopted Oct. 2000)

TEMPORARY BUSINESS

- A. **Temporary Sales**
 A business activity not intended to be of permanent duration, which sells or offers to sell any good, product, ware or other item from an enclosure not permanently affixed to a zoning lot. Temporary Business shall be regulated by Article 702.

B. Temporary Sales, Seasonal

A business activity not intended to be of permanent duration, which sells only seasonal, non-manufactured items from an enclosure not permanently affixed to a zoning lot. Seasonal Temporary Sales shall be regulated by Article 702.

THOROUGHFARE PLAN

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

THOROUGHFARE

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

A. Alley

Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

B. Arterial, Principal

The principal arterial system involves major thoroughfares serving the major activity centers of the metro area. Principal arterials carry a high proportion of the total urban area travel on a minimum of mileage.

C. Arterial, Minor

The minor arterial system involves major thoroughfares of a lesser scale than principal arterials. Such facilities may carry local bus routes and provide intra-community continuity but usually do not penetrate identifiable neighborhoods.

D. Collector Street

A major collector typically contains 70 feet of right-of-way while a minor collector generally contains 60 feet of right-of-way. Both primarily carry traffic from local streets to

arterial streets, including the principal entrance and circulation routes within residential subdivisions.

E. Cul-De-Sac

A local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.

F. Dead-End

A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.

G. Local Street

The local street system comprises all facilities not on one of the higher systems. It serves primarily to provide direct access to abutting land and access to the high order systems. Service to through traffic movement is deliberately discouraged.

H. Loop Street

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

I. Marginal Access Street

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

TOPOGRAPHY

The configuration of a surface area showing relative elevations.

TRAILER

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

TRAILER STRUCTURE

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

TRAVEL TRAILER PARK

An area of land for parking of three or more Travel Trailers, Foldout Trailers, Motor Homes, or Truck Campers.

TRAILER, UTILITY

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

TRUCK STOP

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

TRUCK TERMINAL

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

TWO-FAMILY DWELLING OR DUPLEX

(See Dwelling, Two-Family)

SECTION 203.21 DEFINITIONS (beginning with letter “U”)

USABLE FLOOR AREA

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

USABLE OPEN SPACE

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

USE

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

USE, NONCONFORMANCE

A use which lawfully occupied a building or land at the time this Resolution or an amendment hereto became effective and which does not now conform with the use regulations applicable in the zone district in which it is located.

USE, PERMITTED

A use listed by the regulations of any particular district as a permitted use within that district, and permitted therein as a matter of right when conducted in accord with the regulations established by this Resolution.

USE, PRINCIPAL

A use which fulfills a primary function of a household, establishment, institution, or other entity.

USE, TEMPORARY

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

SECTION 203.22 DEFINITIONS (Beginning with letter “V”)

VAN

- A. A closed vehicle with a capacity of approximately eight to twelve passengers or a similar-sized vehicle modified for commercial purposes,
- B. A self-propelled recreational vehicle containing sleeping facilities but not bathroom or cooking facilities;
- C. A large truck for carrying furniture or freight.

VARIANCE

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

VESTED RIGHT

A right is vested when it has become absolute and fixed and cannot be defeated or denied by subsequent conditions or change in regulations, unless it is taken and paid for. There is no vested right to an existing zoning classification or to have zoning remain the same forever. However, once development has been started or has been completed, there is a right to maintain that particular use regardless of the classification given the property. In order for a nonconforming use to earn the right to continue when the zoning is changed, the right must have been vested before the change. If the right to complete the development has not been vested, it may not be built, no nonconforming use will be established, and the new regulations will have to be complied with.

Vested rights are often established by showing that some development permit has been obtained and substantial construction on the project started.

VETERINARY ANIMAL HOSPITAL OR CLINIC

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

VICINITY MAP

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

SECTION 203.23 DEFINITIONS (Beginning with letter “W”)

WAREHOUSE

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

WAREHOUSING AND DISTRIBUTION

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

WATER COURSE

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

WETLAND

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

WHOLESALE TRADE

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

WRECKING YARD

(See Junk Yard)

SECTION 203.24 DEFINITIONS (Beginning with letter “Y”)

YARD, FRONT

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

- A. Least Depth - The shortest distance, measured horizontally, between any part of the building, and the front lot line.
- B. Method of Measurement - Depth shall be measured from the right-of-way line of the existing street upon which the lot fronts. Said right-of-way line is the proposed right-of-way line as established within the most current Official Thoroughfare Plan for Montgomery County.

YARD, REAR

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

- A. Lease Depth - The average distance measured horizontally between any part of a building and the nearest rear lot line.

YARD, SIDE

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

- A. Lease Width - The shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted, and the nearest side lot line.
- B. Method of Measurement - Such width shall be measured from the nearest side lot line. On a corner lot when the side lot line is a side street lot line, the required side yard shall be the same as the required front yard of the lot adjacent thereto.

SECTION 203.25 DEFINITIONS (Beginning with letter “Z”)

ZERO LOT LINE

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

ZONING CERTIFICATE

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

ZONING INSPECTOR

The Zoning Inspector (Administrative Officer) or his authorized representative, appointed by the Board of Township Trustees of Perry Township, Montgomery County, Ohio, who is responsible for the enforcement of the Perry Township Zoning Resolution.

ZONING MAP

The Zoning Maps of the unincorporated areas of Perry 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 519.01 et seq. of the Ohio Revised Code, to enforce this Resolution in accordance with the administrative positions of this Resolution. All department, officials, and public employees of Montgomery County which are vested with the duty or authority to issue certificate or license shall conform to the provisions of this resolution and shall issue no certificate or licenses for any use, building or purpose, if the same is in conflict with the provisions of this Resolution. Any certificate or license, shall be null and void.

SECTION 302 ZONING CERTIFICATES

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

- A. The construction, building, moving, remodeling or reconstruction of any building or structure shall not be commenced.
- B. The improvement of land preliminary to any 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, building or structures shall not be issued by any official, officer, employee, department, board or bureau of Montgomery County.

SECTION 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 building.
- 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.

SECTION 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.

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 the Resolution or any amendments or supplements thereto; the Board of Township Trustees, the Township Zoning 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 locations, erection, construction, enlargement, change, maintenance or use.

SECTION 304

VIOLATIONS AND PENALTIES

It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use, any building or land in violation of any regulation in or any provisions of this Resolution or any amendment or supplement thereto adopted by the Board of Trustees of Perry Township under Section 519.02 et seq. of the Ohio Revised Code. Any person, firm or corporation, violating any regulation in, or any amendments or supplement thereto, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars (\$100). Each and everyday during which said illegal location, erection, construction, reconstruction, enlargement, change, maintenance of use continues, may be deemed a separate offense.

SECTION 305

FEES

Any application under this Resolution for a zoning certificate, variance, conditional use permit, sign permit, 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 Trustees or the Township 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 Montgomery County. 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.

ZONING FEES
JANUARY 1, 2025

ADMINISTRATIVE APPEAL	500.00
ACCESSORY BUILDINGS (over 100 sq. ft)	100.00
Barn, Shed larger than a 10x10, Porch, Steel storage containers, Gazebo over 100 sq. ft., Deck over 24 inches above grade. Any overhead structures including pergolas and carports. Lean-to (free standing structures with three walls and a single pitched roof)	
APARTMENTS (per unit)	150.00
CERTIFICATE EXTENTION.....	100.00
COMMERCIAL ADDITION.....	300.00
COMMERCIAL NEW.....	600.00
COMMERCIAL REMODEL.....	300.00
COMPREHENSIVE PLAN BOOK.....	30.00
CONDITIONAL USE (BZA).....	500.00
Additional same case(each).....	50.00
COPIES (min. fee \$1.00)	20c
DECKS.....	100.00
DISH ANTENNA (over 24")	20.00
DETACHED	
HOME ADDITION.....	200.00
HOME OCCUPATION (each).....	20.00
HOME SINGLE FAMILY.....	300.00
HOME TWO FAMILY.....	500.00
GARAGE DETACHED.....	100.00
GARAGE ATTACHED.....	200.00
GAZEBO.....	100.00
P.D. (plan development) Additional 15.00 per acre.....	500.00
POD (Portable Storage Unit) each.....	25.00
PONDS.....	75.00
PORCH.....	100.00
RETURNED CHECK FEE.....	50.00
SEWAGE SLUDGE (per Farm Yearly).....	100.00
SIGNS BILLBOARDS.....	500.00
SIGNS PERMANENT (each).....	100.00
SWIMMING POOL.....	100.00
TEXT CHANGE.....	475.00
TOWER (ie:CB/Ham over 50').....	10.00
TOWER CELLULAR (+BLDG).....	800.00
VARIANCE EACH (Additional same case (each)).....	500.00
VIDEO TAPE COPY.....	5.00
VIOLETION WITHOUT PERMIT 2X FEE.....	
ZONING MAP.....	3.00
ZONING RE-CLASSIFICATION.....	600.00
ZONING TEXT MAILED.....	100.00
ZONING TEXT.....	75.00

ARTICLE 4

BOARD OF ZONING APPEALS

SECTION 401 APPOINTMENT

There shall be a Perry Township Board of Zoning Appeals consisting of five (5) members appointed by the Perry Township Trustees as provided by Section 519.13 of the Ohio Revised Code.

SECTION 402 ORGANIZATION

The Board of Zoning Appeals shall organize and adopt rules in accordance with the provisions of this Zoning Resolution. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman, and at such other times as the Board may determine. The Chairman, or in his absence, the Acting Chairman, may administer oaths and the Board may compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing vote, indicating such facts, 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 of each case shall be furnished to the Township Zoning Commission and by certified mail to the applicant.

SECTION 403 JURISDICTION

The Board of Zoning Appeals shall have the following jurisdiction:

A. Administrative Appeal

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

B. Variances

1. Variances on Lots.

To authorize, upon appeal, in specific cases, such variance from the terms of this Zoning Resolution as will not be contrary to the public interest, where, owing to special conditions of the land, i.e., (an irregular shaped lot 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 Building 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 the 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 Use

Nonconforming uses as provided in Article 36 of the Resolution.

SECTION 404

PROCEDURE FOR ADMINISTRATIVE APPEAL

404.01 AUTHORIZATION

An appeal from the 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.

404.03 HEARING ON APPEALS

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

In addition, public notice of such hearings as to the time, place, date and subject of the hearing shall be published in a newspaper of general circulation at least ten (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 of 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 and Township Zoning Commission and by certified mail to the applicant.

SECTION 405

PROCEDURES 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 providing 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 states in Section 403 B, when the Board has made findings of fact, based upon the standards set out in Subsection 405.05 of this Resolution.

405.02

APPEAL FOR VARIANCE

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

A. Description of Property and Nature of Variance.

1. Obtain application through the Zoning Administrator.
2. The nature of the variance.
3. The legal description of the property; including parcel number.
4. A narrative statement, which explains the variance requested.
5. A fee required for variance as provided by this zoning resolution.

B. Plot Plan.

The appeal shall be accompanied by one (1) copy 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; accessways, walks, off-street parking and loading spaces, landscaping, leach fields, septic tanks, and wells; both active and inactive.
4. The relationship of the requested variance to the standards set by the Zoning Resolution.
5. The use of the land and location of structures on adjacent property, if necessary.
6. Any other pertinent information requested by the Zoning Administrator or the Board of Zoning Appeals.

405.03 INFORMATION FOR TOWNSHIP ZONING COMMISSION

The Zoning Inspector shall file one copy of the appeal and plot plan with the Perry Township 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 Section 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 and that the situation results from the enforcement of this Resolution, and not by an action or actions of the property owner, the applicant, or any person or party who has had control of the property.
- B. The strict application of the provisions of this Resolution from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
- C. The variance desired will not adversely affect the public health, safety and morals.
- D. The variance desired will not compromise the general spirit and intent of this Resolution.
- E. The variance desired will not compromise the preservation of prime Agricultural and Open Space lands.

405.06 CONDITIONS AND RESTRICTIONS

In granting a variance, the Board may impose such conditions, safeguards, and restrictions upon the premises benefited 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 affects of such variances 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 the 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 Township Zoning Commission, and by certified mail to the applicant.

405.08 PERIOD OF VALIDITY

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

SECTION 406 PROCEDURE FOR OBTAINING A CONDITIONAL USE CERTIFICATE.

406.01 AUTHORIZATION

Specifically listed Conditional Uses are provided within the Zoning District regulations in recognition that such uses, although 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

PROCEDURES FOR MAKING APPLICATIONS

CONTENT OF APPLICATION FOR CONDITIONAL USE PERMIT

An application shall be submitted to the Zoning Administrator for approval prior to being forwarded the Board of Zoning Appeals, and it shall contain the following data:

- A. Description of Property and Intended Use:
 - 1. Name, address and phone number of applicant.
 - 2. Legal description of property, including the parcel number.
 - 3. Description of existing use.
 - 4. Zoning district.
 - 5. Description of proposed conditional use.
 - 6. A narrative statement evaluating the effects of the proposed conditional uses on adjoining property; considering the potential effect of such elements as noise, lighting, odor, fumes, vibration, emissions, etc., and discussion of the general compatibility with the area in general.
 - 7. A statement of the necessity or desirability of the proposed use to the neighborhood or community.
 - 8. The fee required for Conditional Use as provided by this zoning Resolution.
 - 9. 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 two (2) copies of the plot plan, drawn to an appropriate scale clearly showing the following, and must be drawn by a licensed surveyor or a certified engineer.

- 1. The boundaries and dimensions of the lot.

- a. Proposed land uses and proposed height, bulk and location of principal structures sufficient to permit an understanding of the style of the development. In this regard, typical elevation views of the front and side of each type of building should be provided. Proposals containing residential units shall specify the number of housing units by size, type and respective location upon this site.
- b. The location and dimension of all proposed drives, service access roads, sidewalks, curb openings, signs, exterior lighting, parking lot areas (show dimensions of a typical parking space), unloading areas, walls, screening, landscaping, septic tanks, leach fields, and wells; both active and inactive.
- c. The relationship of the proposed development to the development standards in the existing zoning district.
- d. The use of land and location of structures on adjacent property, if necessary.
- e. Any other pertinent information requested by the Zoning Administrator or the Board of Zoning Appeals.

406.03 INFORMATION FOR TOWNSHIP COMMISSION

The Zoning Inspector shall file one copy of the application and plot plan with the Perry Township 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, except in “A” Districts.
- 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. All exterior lights for artificial open-air illumination are so shaded as to avoid casting direct light upon any property located in a Residential District.
- F. The location and size of the Conditional Use, the nature and intensity of the operation involved or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
- G. The location, nature, and height of buildings, structures, walls, and fences on the site and the nature and extent of landscaping and screening on the site shall be such that the use will not unreasonably hinder or discourage the appropriate development, use and enjoyment of adjacent land, buildings and structures.
- H. The Conditional Use desired will not adversely affect the public health, safety and morals.
- I. The proposed Conditional Use desired will not compromise the preservation of prime Agricultural and Open Space

lands, and will not adversely affect the adjacent farmlands including existing field drainage systems.

406.06 CONDITIONS AND RESTRICTIONS

In granting a Conditional Use Certificate, the Board may impose such conditions, safeguards and restrictions upon the premises benefited by the Conditional Uses may be necessary to comply with the standards set out in Subsection 406.05 to reduce or minimize potentially injurious affects 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 a building permit is obtained and the erection or alternation of a structure is started.

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

ARTICLE 5

ZONING DISTRICTS AND BOUNDARIES

SECTION 501 DISTRICTS ESTABLISHED

The unincorporated territory of Perry Township, Montgomery County, Ohio, zones under Section 519.02 et. seq., of the Ohio Revised Code, 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
- “OR-1” Office Residential District
- “B-1” Neighborhood Business District
- “B-2” Business District
- “B-3” Business District
- “B-4” Business District
- “I-1” Light Industrial District
- “RFP” Regional Flood Plain District
- “PD-1”Planned Residential District
- “PD-2”Planned Office District
- “PD-3”Planned Business District
- “PD-4”Planned Industrial District

SECTION 502

BOUNDARIES

502.1

INCORPORATION

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

502.2

AREAS SHOWN ON MAP

It is the intent of this Zoning Resolution that the entire area under the jurisdiction of Perry Township Zoning, including all land, water areas, rivers, streets, alleys, railroad and other right-of-way be included in the districts established by the Resolution. Any area not shown on the Official Zoning Maps of the Township as being included in any district shall be deemed to be in the “A” Agricultural District.

502.3

RULES OF INTERPRETATION

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

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

shall be determined by the use of the scale shown on the Zoning Maps.

- D. All streets, alleys, public ways, waterways, and railroad right-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon streets, alleys, public ways, waterways and railroad right-of-way.
- E. Where the centerline of a street, alley, public way, waterway or railroad right-of-way, serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to the centerline.

ARTICLE 6

TOWNSHIP ZONING COMMISSION DISTRICT CHANGES AND RESOLUTION AMENDMENTS

SECTION 601 TOWNSHIP ZONING COMMISSION

601.01 ORGANIZATION

The Board of Township Trustees of Perry Township proceeding under Section 519.01 to 519.99 inclusive, of the Ohio Revised Code, shall create and establish a Township Zoning Commission. The Commission shall be composed of five (5) members who reside in the unincorporated area of the Township, included within this Zoning Plan, to be appointed by the Board of Township Trustees and the terms of the members shall be of such length and so arranged that the terms of the members shall be of such length and so arranged that the term of one member will expire each year.

601.02 REMOVAL

Each member shall serve until his successor is appointed and qualified. Members of the Zoning Commission shall be removable for nonperformance of duty, misconduct in office, or other cause by the Board, upon written charges being filed with the Board of Township Trustees, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least ten days prior to the hearing, either personally, by registered mail or by leaving such copy at his/her usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by the Board of Trustees and shall be for the unexpired term. Members of the Zoning Commission shall be removable in accordance with Section 519.04 Ohio Revised Code.

SECTION 602 DISTRICT CHANGES AND RESOLUTION AMENDMENTS

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

The Township Zoning Commission shall assure that any proposed district changes or text amendments to the Zoning Resolution are

in conformance with the Perry Township Comprehensive Plan, and shall not compromise the preservation of prime agricultural and open space lands. (06/06/02)

602.01 PROCEDURE FOR DISTRICT CHANGES

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

An amendment, supplement, reclassification, or change may be initiated by the Township Zoning Commission or Board of Township Trustees on its own motion or by a varified application of one (1) or more of the owners or lessees of property within the area proposed to be changed or affected by this Resolution.

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

If the proposed amendment or supplement requests re-zoning or redistricting of ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearings shall be mailed to property owners within three hundred (300) feet of the proposed area. The failure of delivery of such notice shall not invalidate any such amendment or supplement.

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

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

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

Within twenty (20) days after such public hearing the Board of Township Trustees shall either adopt or deny some modification thereof. The Board of Township Trustees may deny or modify the Zoning Commission recommendation, but it shall require the majority vote of the Board OF TOWNSHIP TRUSTEES.

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

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

602.1 **WRITTEN APPLICATION**

Two (2) copies of a provided application form shall be filed with the Township Zoning Commission at their public office.

A. **Description of Change.**

The application shall include the following statements:

1. A description or statement of the present and proposed provisions of this Zoning Resolution or the boundaries of the Zoning District Map.

2. A description sufficient to identify the property including a reference or 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. A statement showing evidence that the proposed district changes and/or amendments, supplements, and reclassifications shall not compromise the preservation of prime Agricultural and Open Space Land.
8. Such information regarding the property, proposed use, or surrounding area as may be pertinent to the application or required for appropriate action by the Township Zoning Commission or Township Trustees.

B. Plot Plan

The application shall be accompanied by two (2) copies of the plot plan, prepared by a Registered Engineer 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.

SECTION 603 AMENDMENT LIMITATION

ARTICLE 7

“A” AGRICULTURAL DISTRICT

PREAMBLE: This District is established for either of the following purposes: (1) to protect land best suited for agricultural use from the encroachment of incompatible land uses, and to preserve valuable agricultural land for agricultural uses; and (2) to protect the open area from the encroachment of scattered urban type uses permanently, or until such time as the area is ready for more intensive development and can be provided with urban services.

AGRICULTURAL NUISANCE DISCLAIMER

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

SECTION 701 PRINCIPAL PERMITTED USES.

A. Agriculture, including the principal dwelling unit.

SECTION 702 ACCESSORY USES.

- A. Roadside stands provided that:
1. At least fifty (50%) percent of the gross annual 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 two-hundred (200) square feet.

3. There shall not be more than one such stand per lot.
 4. The structure shall be located on minimum of fifty (50) feet from an adjacent property line.
 5. The minimum setback for such structure shall be fifty (50) feet from the right-of-way as shown on the official thoroughfare plan for Montgomery County, Ohio.
- B. A private garage, parking space or stable.
- C. The keeping of animals and/or fowl as pets or for domestic use.
- D. Home occupation as defined in Article 49.
- E. Radio, television, wind generator, or other similar dish, antennae, or structure provided such items are not located closer to the road than the rear of the house.
- F. Ponds.

Before any ponds are installed, it will be necessary to consult with the Montgomery Soil & Water Conservation District personnel for the feasibility/planning of a pond. Pond must be constructed within the standards of the Montgomery Soil & Water Conservation District. When ponds are constructed on a building site located next to farmland, the pond must be located a minimum of seventy-five (75) feet from side or rear lot lines. (See Article 48, Section 4804 for additional detail concerning application and review procedure). (06/06/02)

SECTION 703 CONDITIONAL USES

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

A. Non-farm single-family residential lots.

Land may be subdivided into small non-farm single-family, residential lots provided they meet the following standards:

1. The land to be subdivided into lots shall not exceed 25 percent (25%) of the total land area recorded as a separate parcel prior to February 6, 2003, and any remaining parcel shall meet the minimum standards:

<u>Area of Remaining Parcel</u>	<u>Minimum Frontage</u>
10 acres or greater	450 feet
3 acres or greater but less than 10 acres	300 feet
3 acres or less	225 feet

2. The minimum lot area shall be sixty-three thousand (63,000) square feet with a minimum of two-hundred twenty-five (225) feet of continuous roadway frontage on an existing public roadway and have a minimum depth of two-hundred eighty (280) feet, and may not exceed four-hundred (400) feet in depth from the Right-of-Way as shown on the Official Thoroughfare Plan of Montgomery County, Ohio.

- B.** In cases where the minimum proposed lot frontage does not front on an existing roadway, the Board of Zoning Appeal may permit one new building home site using a private drive with a continuous minimum property width of fifty (50) feet to the road, with a minimum gravel or pavement width of twelve (12) feet. However, no drive shall exceed two-thousand (2,000) feet in length. The building lot, excluding driveway, must meet or exceed the minimum lot standards for the zoning district wherein located. (06/06/02)

In cases where the land proposed does not front on an existing roadway and it will have more than one building lot shall be considered a Planned Unit Development.

Therefore, it must be approved by the Zoning Commission Board. The common drive shall have a fifty (50) feet road frontage with a minimum hard paved width of eighteen (18) feet. Dead end drives shall not exceed two-thousand (2,000) feet in length, and shall include a turnaround with a minimum radius of 38.5 feet, and shall meet Montgomery County Engineer's standards. Each lot shall meet or exceed the minimum zoning standards for the zoning district wherein located. (06/06/02)

- C. Grass landing strip for small aircraft, for private use only.
- D. Commercially or township owned and operated cemeteries, provided burial sites shall be a distance of 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 ten (10) acres or more.
- E. 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 lot in any Residential District.
- F. Advertising Signs (billboards).
 - 1. Outdoor advertising billboards shall not exceed one hundred (100) sq. ft. in area on each side. No billboard may have more than one sign per side regardless of the square feet. No billboard sign will be permitted to be lighted in Residential or Agricultural zoned districts.
 - 2. All billboards shall have a set back from the adjoining property line of one hundred (100') feet, unless the Board of Zoning Appeals approves a lesser amount.
 - 3. If the Board of Zoning Appeals approves a lesser amount than 100 feet they shall require a written notarized form from the adjoining property owner stating their approval.
 - 4. All billboards shall have a set back of forty (40) feet from the nearest road right-of-way as shown on the Official Thoroughfare Plan Map for Montgomery County.

- G. Riding academies provided that such buildings or stable shall be a distance of three-hundred (300) feet from any lot in a Residential District.
- H. Golf courses, swimming pools, tennis courts, gun clubs, play fields, 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.
- I. Camp/picnic ground, 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 guest can be purchased.
- J. Rodeos and accessory uses including retail and service uses, provided such retail and service uses are accessory to the principal use.
- K. Agriculturally based meeting halls, veteran halls and private schools, provided the user occupies a minimum of two (2) acres.
- L. Radio, television, or other transmission towers or masts, and the usual accessory buildings, 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 minimum radius equal to the height of the tower or mast, measured from the center of the tower or mast.
- M. Places of worship provided the user occupies a minimum of five (5) acres.
- N. Publicly owned and operated buildings and facilities provided the user occupies a minimum of three (3) acres.
- O. Agricultural Services shall be located on five (5) acres or more with a minimum of three-hundred (300) feet of road frontage.
 - 1. Agricultural services shall include commercial activity that primarily serves the farming community, such as; welding shops, grain elevators,

farm machinery sales and service, and must be approved by the Board of Zoning Appeals.

2. Structures used for agricultural services and/or related storage shall be a minimum distance of:
 - a. Two-hundred (200) feet from any neighboring dwelling.
 - b. Two-hundred (200) feet from any Residential District.
 - c. Business structure set back shall be a minimum of one-hundred (100) feet or the front of the accessory building shall not be closer to the front line than the rear of the main home structure on a lot.
 3. For any signs refer to Article 41, Section 4103.
 4. Adequate parking shall be provided so as not to interfere with vehicular traffic on adjacent thoroughfares.
 5. The applicant shall demonstrate that the proposed operations will not be detrimental to the vicinity or surrounding properties.
 6. No outdoor disassembly or repair of farm machinery shall be permitted, unless adequately screened from the adjacent road(s) and adjacent property.
 7. All equipment used in the operations shall be constructed, maintained, and operated in such a manner as to eliminate so far as practical, noise, vibration, dust or electrical interference, which would injure or annoy persons living in the vicinity.
 8. All exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any adjoining residence, property or roadway.
- P. 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 provided:

1. The sole operator is the resident on the premises.
2. The services shall be conducted principally in daylight hours and shall not create a nuisance from noise, smoke, odor, or great amount of traffic.
3. No alteration of the principal residential structure shall be made which changes the essential appearance thereof as a dwelling.

Q. Schools, primary, intermediate and secondary, both public and private.

R. Bed and Breakfast – Home Stay Establishment. A single-family dwelling in which the principal use is permanent residential quarters; and in which, as a Conditional Use, not more than three bedrooms are made available for transient occupancy, generally for not more than seven days, by not more than five guests for compensation at any one time.

SECTION 704

DEVELOPMENT STANDARDS

In addition to the provisions of Chapter VIII and IX, General Regulations and Special Regulations, the following standards for arrangement and development of land and buildings are required in the “A” Agricultural District.

704.1

Height Regulations

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

704.2 **Lot Area – Frontage and Yard Requirements**

The following minimum requirements shall be observed:

LOT FRONTAGE

Frontage requirements shall vary with the lot size as follows:

10 acres or greater	450 feet
3 acres or greater but less than 10 acres	300 feet
3 acres or less	225 feet

YARD REQUIREMENTS (Minimum)

* Front Yard	50 feet
Side Yard	30 feet each side
Rear Yard	50 feet

Minimum Floor Area per living unit:

A-1	1,600 sq. ft.	R-1	1,600 sq. ft.
R-2	1,100 sq. ft.	R-3	950 sq. ft.

* The front yard depth shall be measured from the established right-of-way as shown on the official thoroughfare plan for Montgomery County.

704.3 **Wells**

Before any construction starts on a dwelling, a test well must be drilled that will produce five (5) gallons of potable water a minute. The location of said well if building site is next to agricultural land that is being farmed must be located a minimum of sixty-five (65) feet from side or rear lot lines.

704.4 **Certification.**

All residential lots must be satisfactorily certified by the Dayton/Montgomery County Combined Health District in regard to the availability of sufficient potable water in both quality and quantity, and the suitability of the lot for an on-site sewage disposal system without detriment to the water supply for adjacent properties. Such certification shall be based upon well logs (existing or required) as well as soil characteristics and the results to be provided by the applicant to the Health District in sufficient

detail to enable the Health District to achieve a documented finding.

704.5 **Drainage.**

The principal dwelling unit shall have a primary floor level thirty (30) inches higher than the existing subsurface drainage of said building site. (See Article 48, Section 4801-4803 for additional provisions pertaining to storm water management, construction specification and maintenance.

Drainage Facilities:

1. Plans for proposed drainage facilities shall be submitted to, and approved by the Montgomery Soil & Water Conservation Service as a condition of approval with evidence of same submitted in the application for Conditional Uses.
2. Curtain drains must be connected to a properly functioning tile of sufficient capacity to accommodate the projected drainage volume from the subject development.
3. Under no circumstances should curtain drains be discharged on the surface of the affected property or into a side ditch.
4. Approved drainage facilities shall be installed prior to the sale of the subject property.

704.6 **Location.**

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

704.7 **Lot layout.**

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 minimum of twenty thousand (20,000) square feet lot per dwelling unit.

SECTION 901 PRINCIPAL PERMITTED USES.

- A. Single-family dwellings.
- B. Schools and colleges for academic instruction, providing they occupy a minimum of ten (10) acres).
- C. Publicly owned and operated buildings and facilities.
- D. Places of worship, providing they occupy a minimum of two (2) acres.
- E. Public parks, playgrounds, and community centers.
- F. Agricultural activity as permitted in Section 701 A., when located on ten (10) or more acres.

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 three hundred (300) feet from any lot in a Residential District.
- B. Home Occupation as defined in Article 49.
- C. Temporary building for uses incidental to construction work, which buildings shall be removed upon 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.

SECTION 904 DEVELOPMENT STANDARDS

In addition to the provisions of Chapter VIII and IX, General Provisions and Special Regulations, the following standards for arrangement and development of land and buildings are required in the “R-1” Single Family Residential District.

904.01 Height Regulations

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

904.2 Lot Area – Frontage and Yard Requirements

The following minimum requirements shall be observed:

LOT AREA

Twenty thousand (20,000) square feet. **

LOT FRONTAGE

One hundred (100) feet. **

YARD REQUIREMENTS (Minimum)

Front Yard depth	40 feet *
Side Yard least width	18 feet each side
Rear Yard depth	50 feet
Maximum lot coverage	25%

904.03 Building Requirements

BUILDING AREA

Minimum floor area per living unit 1600 sq. ft.

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

ARTICLE 10

“R-2” SINGLE FAMILY RESIDENTIAL DISTRICT

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

SECTION 1001 PRINCIPAL PERMITTED USES.

- A. Single-family dwellings.
- B. Schools and colleges for academic instruction, providing they occupy a minimum of ten (10) acres).
- C. Publicly owned and operated buildings and facilities.
- D. Places of worship, providing they occupy a minimum of two (2) acres.
- E. Public parks, playgrounds, and community centers.

SECTION 1002 ACCESSORY USES.

- A. Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted use, including private garages; provided that such accessory uses shall not involve the conduct of any business, trade or industry, or any private way or walk giving access to such activity.
- B. Home Occupation as defined in Article 49.
- C. Temporary building for uses incidental to construction work, which buildings shall be removed upon 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.

SECTION 1004 DEVELOPMENT STANDARDS.

In addition to the provisions of Chapter VIII and IX, General Regulations and Special Regulations, the following standards for arrangement and development of land and buildings are required in the “R-2” Single Family Residential District.

1004.01 Height Regulations

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

1004.02 Lot Area – Frontage and Yard Requirements

The following minimum requirements shall be observed:

LOT AREA

Fifteen thousand (15,000) square feet. **

LOT FRONTAGE

Ninety (90) feet. **

YARD REQUIREMENTS (Minimum)

Front Yard depth	35 feet *
Side Yard least width	13 feet each side
Rear Yard depth	40 feet
Maximum lot coverage	25%

1004.03 Building Requirements

BUILDING AREA

Minimum floor area per living unit One thousand one hundred (1,100) square 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.
- ** Such lot minimums shall only be permitted within areas served by central sewer and water.

ARTICLE 11

“R-3” SINGLE FAMILY RESIDENTIAL DISTRICT

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

SECTION 1101 PRINCIPAL PERMITTED USES.

- A. Single-family dwellings.
- B. Schools and colleges for academic instruction, providing they occupy a minimum of ten (10) acres.
- C. Publicly owned and operated buildings and facilities.
- D. Places of worship, providing they occupy a minimum of two (2) acres.
- E. Public parks, playgrounds, and community centers.

SECTION 1102 ACCESSORY USES.

- A. Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted use, including private garages; provided that such accessory uses shall not involve the conduct of any business, trade or industry, or any private way or walk giving access to such activity.
- B. Home Occupation as defined in Article 49.
- C. Temporary building for uses incidental to construction work, which buildings shall be removed upon 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.

- 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.

SECTION 1104 DEVELOPMENT STANDARDS

In addition to the provisions of Chapter 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 thirty (30) feet in height.

1104.02 Lot Area – Frontage and Yard Requirements

The following minimum requirements shall be observed:

LOT AREA

Ten thousand (10,000) square feet. **

LOT FRONTAGE

Eighty (80) feet. **

YARD REQUIREMENTS (Minimum)

Front Yard depth	25 feet. *
Side Yard least width	8 feet each side
Side Yard total width	20 feet each side
Rear Yard depth	40 feet
Maximum lot coverage	25%

1104.03 Building Requirements

BUILDING AREA

Minimum floor area per living unit 950 sq. ft.

- * The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan for Montgomery County.
- ** Such lot minimums shall only be permitted within areas served by central sewer and water.

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 1101. The requirements of that article shall be applicable.
- B. Barber and beauty shops provided:
 - 1. It is 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 with 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.

SECTION 1702 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 203.08.
- C. Temporary building for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of the construction work.

SECTION 1703 REQUIRED CONDITIONS.

No zoning certificates 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 1704 DEVELOPMENT STANDARDS.

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

1704.01 Height Regulations

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

1704.02 Lot Area – Frontage and Yard Requirements

The following minimum requirements shall be observed:

LOT AREA

Ten thousand (10,000) square feet. **

LOT FRONTAGE

Eighty (80) feet

YARD REQUIREMENTS (Minimum)

Front Yard depth	25 feet *
Side Yard least width	8 feet each side
Side Yard total width	20 feet each side
Rear Yard depth	40 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.

** Such lot minimums shall only be permitted within areas served by central sewer and water.

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. The minimum area requirement for a “B-1” District shall be one (1) acre.

SECTION 1901 PRINCIPAL PERMITTED USES.

- A. Any use permitted in Section 1701. The requirements of that article shall be applicable.
- B. Baked goods shop, retail only.
- C. Barber and beauty shops, maximum of two (2) chairs.
- 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.
- I. Eating places No.1

SECTION 1902 ACCESSORY USES.

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

SECTION 1903 CONDITIONAL USE.

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

- A. Draperies.
- B. Dressmaking, seamstress.
- C. Interior decorating shops.
- D. Lawn mower and garden tractor sales and service.
- E. Home appliance sales and service.

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-in 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 retail or service character.
- E. No manufacturing, processing, packaging, repair or treatment of goods shall be carried on, except when incidental or accessory to the performance of services or the sale of goods to the public on the premises.
- F. All premises shall be furnished with all-weather hard surface walks of a material such as bituminous or portland cement concrete, wood, tile, terrazzo or similar material, and except for parking spaces, the grounds shall be planted and landscaped, subject to approval of the Board.

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 not less than three (3) feet in height.
2. A fence of a non-deteriorating material.

All visual and mechanical barriers shall be subject to approval of the Board.

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 operations 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 1905 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-1” Neighborhood Business District.

1905.01 Height Regulations

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

1905.02 Lot Area – Frontage and Yard Requirements

The following minimum requirements shall be observed:

LOT AREA

Ten thousand (10,000) square feet. ***

LOT FRONTAGE

Eighty (80) feet ***

YARD REQUIREMENTS (Minimum)

Front Yard depth	25 feet *
Side Yard least width	8 feet each side
Side Yard total width	20 feet each side**
Rear Yard depth	40 feet **

1905.03 Maximum Lot Coverage

Thirty (30%) percent of lot area.

1905.04 Maximum Floor Area Ratio

0.35

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

** Unless adjoining a Business District.

*** Such lot minimum shall only be permitted within areas served by central sewer and water.

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. The minimum area requirement for a new “B-2” District shall be five (5) acres.

SECTION 2001 PRINCIPAL PERMITTED USES.

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

1. Antiques.
2. Bicycle sales, rental, repair.
3. Home appliance sales and service.
4. Draperies.
5. Dressmaking, seamstress.
6. Eating places No.1.
7. Eating places (carry-out).
8. Eating places (drive-in).
9. Small equipment rental services (but not including automobiles, trucks and trailers).
10. Hobby shops.
11. Interior decorating shops.
12. Lawnmower and garden tractor sales and service.
13. Saw sharpening and sales
14. Automobile repair garages.
15. Nursing homes.

SECTION 2002 ACCESSORY USES.

- A. Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted use.
- B. The temporary buildings for uses incidental to construction work, which buildings shall be removed upon 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.

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 shall be conducted wholly within a completely enclosed building.
- B. The business establishment shall not offer goods, service, food, beverages or make sales directly to customers in automobiles, except for drive-in windows for pick-up or delivery and which will be provided with adequate driveway space on the premises for waiting vehicles.
- C. All business shall be 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 not less than three (3) feet in height.
2. A fence of a non-deteriorating material.

All visual and mechanical barriers shall be subject to approval of the Board.

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 operations 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 2005 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-2” Neighborhood Business District.

2005.01 Height Regulations

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

2005.02 Lot Area – Frontage and Yard Requirements

The following minimum requirements shall be observed:

LOT AREA

Ten thousand (10,000) square feet. *

LOT FRONTAGE

Eighty (80) feet. *

YARD REQUIREMENTS (Minimum)

Front Yard depth 25 feet. **

Side Yard - None except when adjacent to a Residential District. In such cases the side yard shall be not less than one-fourth ($\frac{1}{4}$) 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. Such rear yards shall be not less than one-fourth ($\frac{1}{4}$) 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**

ARTICLE 21

“B-3” BUSINESS DISTRICT

PREAMBLE: This District has been established to provide for commercial and recreational activities, which primarily are conducted outdoors. The minimum area requirement for a new “B-3” District shall be five (5) acres.

SECTION 2101 PRINCIPAL PERMITTED USES.

- A. 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 any Industrial District.
1. Agricultural implement sales and service.
 2. Animal hospitals, kennels or pounds, provided the kennel structure and runs are one hundred fifty (150) 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, nurseries and florists.
 7. Hay, grain and feed stores.
 8. Outdoor recreation (non-enclosed places of recreation or amusement not heretofore appearing as a permitted use).
 9. Utility trailer sales and rentals.
 10. Camping and recreational equipment sales and service.

SECTION 2102 ACCESSORY USES.

- A. Accessory uses, buildings or other structures customarily incidental to any of the foregoing permitted use.
- B. The temporary buildings for uses incidental to construction work, which buildings shall be removed upon 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. Drive-in windows for pick-up or delivery shall be provided with adequate driveway space for waiting vehicles.
- B. All business shall be 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 not less than three (3) feet in height.
 - 2. A fence of a non-deteriorating material.

All visual and mechanical barriers shall be subject to approval of the Board.

- G. 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 operations in the business involved shall be taken.
- H. 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.
- I. 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.
- J. There will be no vibrations, which can be detected without the use of instruments at or beyond the lot lines.
- K. Outside incinerators shall be a minimum distance of fifty (50) feet from all residential lot lines. The incinerator and all trash to be burned therein, shall be enclosed within a six (6) feet in height solid enclosure.

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 2105 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.

2005.01 Height Regulations

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

2005.02 Lot Area – Frontage and Yard Requirements

The following minimum requirements shall be observed:

LOT AREA

Twenty thousand (20,000) square feet.

LOT FRONTAGE

Eighty (80) feet. *

YARD REQUIREMENTS (Minimum)

Front Yard depth 25 feet. **

Side Yard - None except when adjacent to a Residential District or Planned Residential District. In such cases the side yard shall be not less than one-fourth ($\frac{1}{4}$) 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 Planned Residential District. Such rear yards shall be not less than one-fourth ($\frac{1}{4}$) 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**
Fifty (50%) percent of lot area.

2104.04 **Maximum Floor Area Ratio**
0.5

ARTICLE 22

“B-4” BUSINESS DISTRICT

PREAMBLE: This District has been established to provide for commercial and recreational activities, which primarily are conducted. The minimum area requirement for a new “B-4” District shall be two (2) acres.

SECTION 2201 PRINCIPAL PERMITTED USES.

- A. Any commercial activity, such as those enumerated below as examples, which fulfills all the requirements of the other sections of this Article.
1. Pool halls.
 2. Bowling alleys.
 3. Tennis courts.
 4. Racquetball courts.
 5. Game rooms.
 6. Swimming pools.
 7. Health spas.
 8. Theaters, excluding adult motion picture and adult mini motion picture theater. (Section 2203).

SECTION 2202 ACCESSORY USES.

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

SECTION 2203 CONDITIONAL USES.

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

SECTION 2204 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. The business activity will be conducted wholly within a completely enclosed building.
- 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 not less than three (3) feet in height.
 - 2. A solid fence of a non-deteriorating material.
 - 3. Masonry wall. All visual and mechanical barriers shall be subject to approval of the Board.

- G. 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 operations in the business involved shall be taken.
- H. 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.
- I. 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.
- J. 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 2205 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.

2205.01 Height Regulations

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

2205.02 Lot Area – Frontage and Yard Requirements

The following minimum requirements shall be observed:

LOT AREA

Twenty thousand (20,000) square feet.

LOT FRONTAGE

One hundred (100) feet. *

YARD REQUIREMENTS (Minimum)

Front Yard depth 25 feet. **

Side Yard - None except when adjacent to a Residential District or Planned Residential District. In such cases the side yard shall be not less than one-fourth ($\frac{1}{4}$) 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 Planned Residential District. Such rear yards shall be not less than one-fourth ($\frac{1}{4}$) 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 less 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 Perry Township.

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. The minimum area requirement for a new “I-1” District shall be twenty (20) acres.

SECTION 2301 PRINCIPAL PERMITTED USES.

- A. The manufacturing, compounding, assembling or treatment (or any combination of such processes) of article 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.
 - 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 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. Grain elevator, mill or other facilities for the storage, sorting or other preliminary processing of agricultural products including other than those produced on the premises.

Storage facilities shall not be less than one hundred (100) feet from a side or rear lot line.

Processing facilities shall not be less than two hundred (200) feet from a side or rear lot line.

7. Awning company.
8. Bakeries, wholesale.
9. Carpenter and cabinet shops.
10. Carpet and rug cleaning plants.
11. Commercial radio and television transmitting stations, antenna towers and other electronic equipment requiring outdoor towers.
12. Eating places, No. 1, drive-in and carry-out.
13. Electric supply company.
14. Equipment rentals, sales and service; including automobiles, trucks and trailers.
15. Fence company.
16. Glass distributors.
17. Laundry, dry cleaning plants and linen supply.
18. Mail order houses.
19. Monument sales and finishing.

20. Offices.
21. Printing, publishing, binding and typesetting plants.
22. Research and engineering laboratories.
23. Sign painting and manufacturing.
24. Wholesale houses and storage facilities.
25. Warehouses, which may have a maximum lot coverage of 75% of 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 is 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 a “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 drive-in restaurants; equipment rental, sales and service, including automobiles, trucks and trailers; truck and motor freight terminals and hauling services.

- B. No emission of toxic or noxious matter, which is injurious to human health, comfort or enjoyment of life and property or to animal or plant life shall be permitted. Where such emissions could be produced as a result of accident or equipment malfunction, adequate safeguards considered suitable for safe operation in the industry involved shall be taken.
- C. 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.
- D. There will be no emission of odors or odor-causing substance, which can be detected without the use of instruments at or beyond the lot lines.
- E. There will be no vibrations, which can be detected without the use of instruments at or beyond the lot lines.
- F. 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, not less than three (3) feet in height.
 - 2. A fence of non-deteriorating material.
 - 3. Masonry wall. All visual and mechanical barriers shall be subject to approval of the Board.
- G. Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon property located in any Residential District or upon any public street.

- H. No building or structure shall be used for residential purposes.
- I. No raw materials shall be processed into any of the following basic products: metal of any kind, glass, plastic, textiles, leather or paper.
- J. 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 ground shall be planted and landscaped.
- K. The storage, utilization and distribution 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 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, 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 Marshal for the Manufacture, Storage, Handling, Sale and Transportation of Flammable and Combustible Liquids.”

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 chapter 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” Industrial District.

2305.01 Height Regulations.

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

2305.02 Lot Area – Frontage and Yard Requirements.

The following minimum requirements shall be observed:

LOT AREA

None.

LOT FRONTAGE

One hundred (100) feet. *

FRONT YARD DEPTH

Twenty-five (25) feet. **

SIDE YARD

A side Yard shall be required adjacent to a 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 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.

2305.02 Maximum Lot Coverage.
Fifty (50) percent of lot area.

2305.03 Maximum Floor Area Ratio.
0.5

* 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” HEAVY INDUSTRIAL DISTRICT

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

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.
 - 1. Motor Vehicle Body Shop.
 - 2. Motor Vehicle Repair Garage.
 - 3. Truck and Bus Repair Garage.
 - 4. Building material sales and storage facilities.
 - 5. Cement block and formed products manufacturing.
 - 6. Contractor sales, storage and equipment yards, but **(excluding salvage material or debris)**.
 - 7. Portland cement concrete mixing plants.

8. Trucking and motor freight terminals and hauling services.

D. Adult Entertainment Facility, as defined in Article 2 and in accordance with the Required Conditions in Section 2405 and Article 47.

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, including but not limited to:

A. Extraction of sand and gravel and other raw materials subject to the provisions of Chapter IX, Article 45.

B. Asphalt or asphalt products.

C. Cement, lime or lime product manufacturing.

D. Fertilizer manufacturing.

E. Glue manufacturing.

F. Incinerators.

G. Stockyards and slaughterhouses.

H. Junkyards

I. Sanitary Landfills and/or landfills used for disposing of building debris, refuse or junk, subject to the provisions of Chapter X, Article 51.

1. Shall be located on a tract of land no more than 60 acres with a minimum contiguous road frontage of 600 feet, and shall meet development standards as set forth in Section 2406.

SECTION 2404 PROHIBITED USES.

- A. Manufacturing and bulk storage of corrosive acids and derivative and bulk storage stations for liquid fuels, petroleum products, petroleum and volatile oils.
- B. Manufacturing of flammable liquids or materials, which produce flammable or explosive vapors or gases.
- C. Storage, utilization or manufacturing of pyrophoric and explosive powders and dusts and of materials and products, which decompose by detonation.
- D. Ammonia or Chlorine manufacturing and storage.

SECTION 2405 REQUIRED CONDITIONS.

No zoning certificate shall be issued for a “I-2” use, until the applicant shall have certified to the Zoning Administrator that:

- A. Where the property lines separate an Industrial District from any area where residents are permitted by this Zoning Resolution, 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 emission of toxic or nontoxic 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.

- C. 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.
- D. The emission of odors or odor-causing substances shall not violate the standards and regulations of the Montgomery County Combined General Health District. Dust and other types of air pollution borne by the wind shall be kept to a minimum by appropriate landscaping, paving, oiling, or other acceptable means.
- E. There will be no vibrations, which can be detected without the use of instruments at or beyond the lot lines.
- F. 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.
- G. Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon property located in any Residential District or upon any public street.
- H. 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.
- I. 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 material 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 disposal of flammable liquids or materials which produce flammable or explosive vapors or gases shall be provided with adequate safety and protective devices against hazards of fire and explosion, as well as with adequate fire fighting and suppression equipment and devices standard to the industry involved. All above ground storage shall be in enclosed fireproof vaults.
3. The storage, utilization or manufacture of pyrophoric and explosive powders and dusts, and of materials and products, which decompose by detonation is prohibited.
4. The manufacture of flammable liquids or materials, which produce flammable or explosive vapors or gases, is prohibited.
5. The storage and utilization of flammable liquids, or of 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."

Furthermore the following table shall establish minimum quantities of flammable materials in gallons:

CLOSED CUP FLASH POINT IN DEGREES F	ABOVE GROUND	BELOW GROUND
Class I below 100° F	I-Not Permitted	60,000
Class II above 100°F and below 140° F	II- 3,000	120,000
Class III above 140° F	III- 15,000	240,000

NOTE: If this table conflicts with above State Fire Marshall Regulations, the more restrictive will apply.

- J. 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 Energy Research & Development Administration.
 - 2. The applicable regulations of any instrumentality of the State of Ohio.
- K. Material or merchandise stored or stockpiled in unsheltered storage bins or outside storage piles or pits shall not exceed a height limit of twenty feet (20') above normal ground level at that point and said storage area shall not be located closer than one-hundred feet (100') from any property zoned for residential purposes.
- L. All areas used for outdoor display shall be furnished with an all weather hard surface of a material such as bituminous or portland cement concrete.

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 2406 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-2, Heavy Industrial District.

2406.01 HEIGHT REGULATIONS

Shall be negotiated.

2406.02 LOT AREA, FRONTAGE AND YARD REQUIREMENTS.

The following minimum requirements shall be observed.

Lot Area	5-acres or more
Lot Frontage	Minimum 300 ft.
Front Yard Depth*	100 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 thirty-five feet (35') and a maximum requirement eighty feet (80').

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 fifty feet (50').

If a use is to be serviced from the rear, the yard shall be at least one-hundred feet (100') deep.

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

2406.03 MAXIMUM STRUCTURAL LAND COVERAGE

Fifty-percent (50%) of lot area.

ARTICLE 26

“RFP” REGIONAL FLOOD PLAIN DISTRICT

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

SECTION 2601 PRINCIPAL PERMITTED USES.

The following uses having a low flood damage potential and not obstructive flood flows shall be permitted within the Regional Flood Plain District provided they do not require structures, fill, or storage or materials or equipment. No uses 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 2602 CONDITIONAL USES.

It is recognized that there are areas within the regional Flood Plain 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 2603.

- 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 Chapter IX, 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 2601.
- I. 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. Structures 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 one and one-half (1.5) feet above the regional flood protection elevation for the particular area and shall extend at the 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 channels or floodways of any tributary to the mainstream, drainage ditch or any other drainage facility or system, as determined by the Perry Township Zoning Commission in conjunction with a recognized water management and flood control authority.

SECTION 2603 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 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 2605, and the following standards.

A. Fill.

1. Any fill proposed to be deposited in the floodway 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 bulk heading.

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 flood flow, and

- b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
 - 4. Structures shall be firmly anchored to prevent 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-proofed.
- 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 2604 APPLICATION FOR A CONDITIONAL USE.

In addition to the requirements of Article 4, Subsection 406.02, 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 purposed 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, flood-proofing 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-sectional 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 on the site; location and elevation of streets, 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 heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters.

SECTION 2605 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 of 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 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 proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the Comprehensive Plan and Flood Plain 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 floodwaters expected at this site.
- L. Such other factors which are relevant to the purposes of this Article.

SECTION 2606 CONDITIONS ATTACHED TO CONDITIONAL USE PERMITS.

Upon consideration of the factors listed above and the purposes of this Article, the Board may attached 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 consistent with the regional flood protection elevation for the particular area, flood velocities, durations, rate of rise, 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. Re-enforcement of wall to resist water pressures.
 - 4. Use of paints, membranes, or mortars 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 floodwater.

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 store 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 matter which will assure that the facilities are situated at elevations above the height associated with the regional flood protection elevation.

ARTICLE 27

COMMUNITY ORIENTED RESIDENTIAL SOCIAL SERVICE FACILITIES

PREAMBLE: A dwelling unit in which personal care, supervision and accommodations are provided to a group of individuals of whom five or more are unrelated to the provider. These individuals have some condition, which required assisted living, such as being 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. Such facilities are designated as Permitted Uses within the B-1 and R-1 through R-3 Residential Zoning District and as such are required to comply with the following provisions:

SECTION 2701 SUBMISSION REQUIREMENTS.

The operator or agency applying for a conditional use permit to operate a Community Oriented Residential Social Service Facility shall submit the following information to aid the Board of Zoning Appeals on its review of the requested facility.

- A. Identification of similar facilities presently existing within Perry Township and contiguous jurisdictions, as well as confirmation that the siting of the facility is compatible with the Residential Care Opportunities Guide for Montgomery County.
- B. 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 subject property. If licensing is not required, an affidavit from the applicant so stating shall be presented.
- C. A copy of the sponsoring agency's operational and occupancy standards and a detailed plan for services and programs.

- D. A site plan for the proposed home, indicating home structure outline and floor plan, 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 sufficient information to indicate that the proposed site will be compatible with the character of the neighborhood.

SECTION 2702 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. Indoor and outdoor recreational space shall be provided for the clientele served, based upon standards specified by the licensing authority and/or the sponsoring agency.

If no such standards exists then the following minimum area shall apply:

- 1. Common indoor area shall consist of at least twenty-five (25) square feet per individual.
 - 2. Common outdoor area shall consist of at least sixty (60) square feet per individual. If a public park or other common open space is available in the immediate vicinity of the facility, the Board may waive the outdoor space requirement.
- 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 compatible with the surrounding neighborhood.
 - 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 for each three (3) persons residing in a community based residential social facility except for facilities prohibiting ownership or operation of automobiles by occupants of such facilities. In

any case, suitably screened off-street parking shall be provided on a one-to-one ratio based upon the numbers of autos operated out of the facility. Within neighborhoods in which on-street parking is accepted practice, on-street space directly abutting the subject lot may be substituted for a portion of the required off-street spaces if approved by the Board of Appeals.

- F. No facility shall be permitted within fifteen hundred (1,500) feet of another Community Oriented Residential Social Service Facility, and the siting of the facility complies with the Residential Care Opportunities Guide for Montgomery County.

The BZA may reduce this standard if the applicant can show that, due to unique conditions, a reduction of the separation requirement or deviation from the Residential Care Opportunities Guide will not contribute to the concentration of such facilities (e.g., the proposed site is located in a distinctly different neighborhood which is separated from an existing site by an interstate highway or the site is in an area that does not constitute a typical residential neighborhood due to a diversity of land uses).

- G. The facility must be reviewed by the Fire Department or a certified Fire Safety Inspector.

SECTION 2703 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. Upon finding all such facts to be true, the Board shall grant the Conditional Use. The proposed facility:

- A. Complies with all the applicable facilities requirements.
- B. Is in fact a community based residential social service facility licensed by an agency of the State of Ohio (and Perry Township). If such licensing is not required, an affidavit so stating has been presented to document this statement.
- C. Is approved by the local agency responsible for providing support services and/or programs to the facility.

- D. Will be designed, constructed, and maintained so that such use will not change the general character of the area and operated in compliance with relevant licensing or certification standards.
- E. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage facilities, refuse disposal, water and sewer, and schools; or that persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
- F. Will have vehicular approaches to the property, which shall be designed to prevent any undo interference with traffic on surrounding public street.

ARTICLE 31

PLANNED DEVELOPMENT

SECTION 3101 PURPOSE.

This Chapter is intended to permit creation of new Planned Development Districts. Such districts are to be permitted as amendments to the Zoning Maps, on application and approval of specific and detailed, plans where tracts suitable in location and character for the uses and structures proposed are to be planned and developed as units. Regulations set forth herein are adapted to unified planning and development in such districts. Applications for Planned Development rezoning will be granted only when the plan for the project is such that the public health, safety, and morals will not be jeopardized by a departure from the restrictions on corresponding uses in the standard zoning district.

SECTION 3102 APPLICATION.

The provisions of Article 32, 33, 34 and 35 shall apply to a track of land for a Planned Development as defined in Subsection 216.01.

SECTION 3103 TYPES OF PLANNED DEVELOPMENT.

- “PD-1” Planned Residential District
- “PD-2” Planned Office District
- “PD-3” Planned Business District
- “PD-4” Planned Industrial District

SECTION 3104 STANDARDS FOR PLANNED DEVELOPMENT.

The Board of Township Trustees shall not approve an application for Planned Development District unless it shall, in each specific case, make specific findings of fact directly based upon the particular evidence presented to it, which support conclusions that:

- A. The Planned Development can be substantially completed within the period of time specified in the schedule of development submitted by the developer. The Planned Development will not jeopardize the public health, safety and morals.

- B. The site will be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed Development and the streets and driveways on the site of the proposed Development will be adequate to serve the residents or occupants of the proposed Development. Traffic control signals will be provided without expense to Montgomery County when the County Engineer determines that such signals are required to prevent traffic hazards or congestion in adjacent streets.
- C. The development will not impose an undue burden on public services and facilities, such as fire and police protection.
- D. The Development Plan contains such proposed covenants, easements and other provisions relating to the proposed development standards, as reasonably are required for the public health, safety and morals.
- E. 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 a Planned Development not used for structures, parking and loading areas, or accessways, shall be landscaped or otherwise improved.
- F. When business or manufacturing structures or uses in a Planned Development District abut a Residential District, screening shall be provided as provided in Articles 32,33, 34 and 35. In no event shall a business or manufacturing structure in a Planned Development District be located nearer than one hundred fifty (150) feet to a residential building.

SECTION 3105 PROCEDURE.

The following procedure shall be followed in placing land in one of the Planned Development Districts.

3105.01 Submission of applications.

- A. The owner(s) or lessee(s) of a tract of land may request that the Zoning District Maps be amended to include such tract in one of the Planned

Development Districts. Such amendment shall be processed, notices and heard in the manner prescribed in Article 6.

- B. The applicant is encouraged to engage in formal consultations with the Staffs of the Perry Township Zoning Commission and Montgomery County Planning Commission prior to preparing his final plans, it being understood that no statement or representation by members of either Staff shall be binding upon either commission or upon any zoning body.
- C. An application for a Planned Development may be processed, noticed, and heard by the Township Zoning Commission concurrently with an application for a proposed subdivision or resubdivision of the same property pursuant to the subdivision regulation of Montgomery County.

3105.02 Submission of development plans.

Two (2) copies of a Development Plan and one photostat 8 ½ x 11 of the Development Plan shall be submitted with the application and shall include in text and map form:

- A. A survey of the tract that is to be developed showing existing features of the property including streets, alleys, easements, utility lines, existing land use, general topography and physical features.
- B. A site plan showing the location and arrangement of all existing and proposed structures, the proposed traffic circulation pattern within the Development, the areas to be developed for parking, the points on ingress and egress, including access streets where required, the relationship of abutting land uses and zoning districts, proposed lots and blocks, if any, and proposed public or common open space, if any, including parks, playgrounds, school sites, and recreational facilities.
- C. Preliminary sketches of the proposed structures and landscaping.

- D. When a Planned Development is to be constructed in stages or units, a schedule for the development of such stages or units shall be submitted. When a Planned Development provides for common open space, the total area of common open space provided at any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire Planned Development as the stages or units completed or under development bear to the entire Planned Development.
- E. Evidence that the applicant has sufficient control over the tract to affect the proposed plan, including a statement of all the ownership and beneficial interests in the tract of land and the proposed Development.
- F. In the case of an Office, Business or Industrial Planned Development a statement identifying the principal types of office, business and/or industrial uses that are to be included in the proposed Development.
- G. When a Planned Development includes provisions for common open space, or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted.
- H. Copies of any restrictive covenants that are to be recorded with respect to property included in the Planned Development District.

3105.03 Action by the Township Zoning Commission.

The Township 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. Within thirty (30) days after the last public hearing on such plan the Commission shall prepare and transmit to the Board of Township Trustees and to the applicant specific findings of fact with respect to the extent to which the Development Plan complies with the standards set out in Section 3104 of this Article and the District for which the change has been requested, together with its recommendations to the Township Trustees with respect to the action to be taken on the Development plan. The Commission may recommend disapproval, approval, or approval with amendments, conditions or restrictions. Copies of the findings and recommendations of the Commission shall be made available to any other interested persons.

3105.04 Final development plan.

Prior to the Board of Township Trustees public hearing the applicant shall submit a reproducible final Development Plan showing the information on the Development plan and any additional information, which the Township Zoning Commission requires to be shown to properly describe the Planned Development which was approved and agreed to by the applicant.

3105.05 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 and such resolution shall incorporate

the Plan, including any condition or restriction that may be imposed by the Board of Township Trustees.

3105.06 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.

3105.07 Expiration date for development plan approval.

A. Single Stage Development Plans.

The approval of the final development plan shall become null and void unless within twelve (12) months of the Township Trustees approval, the final subdivision plat has been recorded in the records of the Montgomery County Recorder. An extension of time may be granted by the Board of Township Trustees upon a finding of the purpose and necessity of such an extension. The Board of Township Trustees or Township Zoning Commission may, at their discretion, initiate action to reclassify the subject property to its former zoning district using the procedure in Article 6 of this Resolution.

B. Multi-Stage Development Plans.

When the recording of the Final Subdivision Plat for the successive stages falls more than one (1) year behind the schedule submitted under the Subsection 3105.02 E., the final development plan shall become null and void for that portion of the tract for which no subdivision plat has been recorded. An extension of time may be granted by the Board of Township Trustees upon a finding of the purpose and necessity of such an extension. The Board of Township Trustees or Township Zoning Commission may, at their discretion, initiate action to reclassify the remainder of the subject property to its former zoning district using the procedure in Article 6 of this Resolution.

3105.08 Extension of time or modification.

The approved Development Plan may be amended by following the procedure set out in Article 6 of this resolution. However, minor adjustments in the final plan which become necessary because of field conditions, detailed engineering data, topography or critical design criteria pertaining to drives, curb cuts, retaining walls, swimming pools, tennis courts, fences, building locations and building configurations, parking area locations or other similar project particulars, may be authorized in writing by the Board of Township Trustees. These minor adjustments may be permitted provided that they do not increase density, decrease the number of parking spaces or allow buildings closer to perimeter property lines. The Building Inspection Department shall be advised of all minor adjustments so authorized. An extension of any time limit may be approved by the Board of Trustees upon a finding of the purpose and necessity of such an extension.

ARTICLE 32

“PD-1” PLANNED RESIDENTIAL DISTRICT

SECTION 3201 PRINCIPAL PERMITTED USES.

- A. Residential use developed in a unified manner in accordance with the approved Development Plan.
- B. Other uses may be permitted if specifically approved as part of the Plan, provided that the areas and structures occupied shall be so located and designed as to protect the character of the surrounding property, and provided further that convenience establishments shall be subject to additional requirements as herein specified:
 - 1. Convenience Establishments.
 - a. Such establishments and their parking areas shall not occupy more than five (5) percent of the total area of the development.
 - b. Such establishments shall be limited to those permitted in the “B-1” Business District and shall fulfill all requirements of Article 19.
 - c. Such establishments shall be so located, designed and operated as to serve primarily the needs of persons within the Development Plan and not persons residing elsewhere.
 - d. Off street parking and loading requirements shall be appropriate to the particular case based upon the types of convenience establishments permitted and the anticipated proportion of walk-in trade. Multiple use of off street parking and service areas and accessways for convenience establishments may be permitted, if such multiple use will not lead to congestion or the creation of hazards to pedestrian vehicular traffic.

SECTION 3202 DEVELOPMENT STANDARDS

In addition to the provisions of Chapter VIII and IX, General Regulations and Special Regulations, the Development Plan must comply with the following:

3202.01 Area requirements.

No minimum land area shall be required.

3202.02 Land use.

The relationship between the size of the tract, the floor area of the structure, the open space, the living space and the recreation space in any given Planned Development shall be considered as part of the planned development.

3202.03 Site planning.

The Site Plan shall provide among other things for:

- A. The physical character of the site shall be suitable for development in the manner proposed without hazards to persons or property, on or off the site from probability of flooding, erosion, subsidence, or slipping of the soil or other dangers, annoyances, or inconveniences.
- B. The site must have direct access to a major street without creating traffic on minor residential streets outside the district. Must either be so located in relation to utilities and public facilities existing or to be developed that no additional public expense will be involved.
- C. Efficient, safe, convenient, and harmonious grouping of structures, uses and facilities.
- D. Appropriate relation of space inside and outside buildings to intended uses and structural features.
- E. Vehicular access to streets and pedestrian ways.
- F. Protection of pedestrian and traffic visibility.

- G. Location of common open space.
- H. Screening of off street parking areas, and service areas for loading and unloading vehicles, and areas for storage and collection of trash and garbage.
- I. Where the Planned Residential District abuts another Residential District a permanent open space at least twenty-five (25) feet wide shall be provided along the property lines. A ten (10) foot depth along the property lines shall be maintained in landscaping and no driveway or off street parking shall be permitted in such area.

3202.04 Parking and loading.

Off street parking and loading spaces shall be required as set forth under Article 42 and Article 43 of this Resolution.

ARTICLE 33

“PD-2” PLANNED OFFICE DISTRICT

SECTION 3301 PRINCIPAL PERMITTED USES.

- A. Office establishments developed, operated and maintained within an organized development of associated office activities in accordance with the approved Development Plan.

- B. Residential uses developed in a unified manner in accordance with Article 32.

SECTION 3302 DEVELOPMENT STANDARDS

In addition to the provisions of Chapter VIII and IX, General Regulations and Special Regulations, the following standards for arrangement and development of land and building are required in the “PD-2” Planned Office District

3302.01 Area requirements.

No minimum land area shall be required.

3302.02 Land occupancy by buildings.

Total land occupancy by all buildings for an office park, shall not exceed sixty (60) percent of the area of the tract, provided, however, that underground parking structures, the highest portions of which are not more than thirty (30) inches above the level of the centerline of the nearest adjacent street, shall not be included in computations of land occupancy by buildings.

3302.03 Open space requirements.

Open space shall be twenty (20) percent of the land area and shall not be used or occupied by automotive vehicles. Such space shall be reserved for landscaping, and its location, use and other improvements shall be consistent with the character of the site and its relation to the general area in which it is located.

3302.04 Relation to major transportation facilities.

There shall be direct access to at least one major thoroughfare, as established on the Official thoroughfare plan for Montgomery County, Ohio.

3302.05 Site planning.

The same requirements applicable to Planned Residential District, as set forth in Subsection 3202.03 of Article 32, shall apply to Planned Office District. In addition, yards with a minimum width of twenty-five (25) feet shall be provided along all property lines, except where it adjoins a Business or Industrial District. Landscaping and use of such yards shall be as follows:

- A. Along thoroughfares or collector streets, as established on the Official thoroughfare Plan for Montgomery County, Ohio, the nearest ten (10) feet to the right-of-way shall be maintained in landscaping, unless turnout or merging lanes are provided.
- B. Where lots in Residential District front onto residential streets at the boundary of a Planned Office District, the nearest twenty-five (25) feet to the right-of-way within the Development Plan shall be maintained in landscaping and no off street parking shall be permitted in such area. Vehicular access through such landscaped strip shall be permitted.
- C. All other yards within the Development Plan, except those abutting a Business or Industrial District shall be maintained in landscaping and not used for parking, to the extent of a ten (10) foot depth along the property lines.

3302.06 Parking and loading.

Off street parking and loading spaces shall be required as set forth under Article 42 and Article 43 of this Resolution.

ARTICLE 34

“PD-3” PLANNED BUSINESS DISTRICT

SECTION 3401 PRINCIPAL PERMITTED USES.

- A. Retail, service and office establishments developed, operated and maintained within an organized development of associated activities in accordance with the approved Development Plan.
- B. Residential uses developed in a unified manner in accordance with Article 32.

SECTION 3402 DEVELOPMENT STANDARDS

In addition to the provisions of Chapter VIII and IX, General Regulations and Special Regulations, the following standards for arrangement and development of land and building are required in the “PD-3” Planned Business District

3402.01 Area requirements.

No minimum land area shall be required.

3402.02 Land occupancy by buildings.

Total land occupancy by all buildings for a Business District shall not exceed sixty (60) percent of the area of the tract, provided, however, that underground parking structures, the highest portions of which are not more than thirty (30) inches above the level of the centerline of the nearest adjacent street, shall not be included in computations of land occupancy by buildings.

3402.03 Relation to major transportation facilities.

- A. Planned Business District less than twenty (20) acres in area shall have direct access to at least one major thoroughfare, as established on the Official Thoroughfare Plan for Montgomery County, Ohio.

- B. Planned Business Districts more than twenty (20) acres in area shall have direct access to at least two (2) major thoroughfares as established on the Official Thoroughfare Plan for Montgomery County, Ohio.

3402.04 Site planning.

The same requirements applicable to Planned Residential district, as set forth in Subsection 3202.03 of Article 32, shall apply to Planned Business District. In addition, yards with a minimum width of fifty (50) feet shall be provided along all property lines, except where it adjoins a Business or Industrial District. Landscaping and use of such yards shall be as follows:

- A. Along thoroughfares or collector streets, as established on the Official Thoroughfare Plan for Montgomery County, Ohio, the nearest twenty (20) feet to the right-of-way shall be maintained in landscaping, unless turnout or merging lanes are provided, which case the nearest twenty (20) feet to the turnout or merging lane shall be landscaped.
- B. Where lots in Residential District front on residential streets at the boundary of a Planned Business District, the nearest thirty (30) feet to the right-of-way within the Development Plan shall be maintained in landscaping and no off street parking shall be permitted in such area. Vehicular access through such landscaped strip shall be permitted only for convenience of residents of adjoining residential areas, or for access to dwelling units within the Planned Business District and not for use by the general public.
- C. All other yards within the Development Plan, except those abutting a Business or Industrial District, shall be maintained in landscaping and not used for parking, to the extent of a twenty (20) foot depth along the property lines.
- D. When residential uses separate the retail, service and office uses from a Residential District the yard requirements of Article 32 shall be applicable.

3402.05 Off street parking and loading requirements.

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 shipping center and specific uses within it, and no space designated for off street parking shall be used as off street loading space.

ARTICLE 35

“PD-4” PLANNED INDUSTRIAL DISTRICT

SECTION 3501 PRINCIPAL PERMITTED USES.

- A. 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.

SECTION 3502 DEVELOPMENT STANDARDS

In addition to the provisions of Chapter VIII and IX, General Regulations and Special Regulations, the following standards for arrangement and development of land and building are required in the “PD-4” Planned Industrial District

3502.01 Area requirements.

No minimum land area shall be required.

3502.02 Land occupancy by buildings.

Total land occupancy by all buildings for an Industrial District shall not exceed sixty (60) percent of the area of the tract.

3502.03 Relation to major transportation facilities.

- A. Industrial parks shall have direct access to at least one major thoroughfare as established on the Official Thoroughfare Plan for Montgomery County, Ohio.

3502.04 Site planning.

The same requirements applicable to Planned Residential District, as set forth in Subsection 3202.03 of Article 32, shall apply to Planned Industrial District. In addition, yards with a minimum width of one hundred (100) feet shall be provided along all property lines, except where it adjoins a Business or another

Industrial District. Landscaping and use of such yards shall be as follows:

- A. Along thoroughfares or collector streets, as established on the Official Thoroughfare Plan for Montgomery County, Ohio, the nearest thirty (30) feet to the right-of-way shall be maintained in landscaping, unless turnout or merging lanes are provided, which case the nearest thirty (30) feet to the turnout or merging lane shall be landscaped.
- B. Where lots in Residential District front onto residential streets at the boundary of a Planned Industrial District, the nearest fifty (50) feet to the right-of-way within the Development Plan shall be maintained in landscaping and no off street parking shall be permitted in such area.
- C. All other yards within the Development Plan, except those abutting a Business or another Industrial District, shall be maintained in landscaping and not used for parking, to the extent of a thirty (30) foot depth along the property lines.

3502.05 Parking and loading.

Off street parking and loading space shall be required as set forth under Article 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 all street parking shall be used as off street loading space.

ARTICLE 36

EXISTING AND NON-CONFORMING USE

SECTION 3601 CONFORMANCE REQUIRED

3601.01 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.

3602 INTENT

3602.01 The legitimate interests of those who lawfully established these non-conformities are recognized in this article by permitting such non-conformities to continue, subject to regulations for and limitations upon their completion, restoration, reconstruction, extension, and substitution. It is recognized, however, that non-conformities substantially and adversely affect the orderly development, maintenance, use, and taxable value of other property in the district, property that is itself subject to the regulations of this Zoning Resolution. In order to secure eventual compliance with the standards of this chapter, it is necessary to regulate non-conformities strictly and to prevent the reestablishment of non-conformities that have been discontinued.

SECTION 3603 NON-CONFORMING VACANT LOTS

3603.01 Non-Conforming Vacant Lots in Agricultural Residential District

In any district where dwellings are permitted, one single family detached dwelling may be erected on any lot of official record as of November 4, 2004 of the Zoning Resolution of Perry Township, when by reason of its lot area, width or depth it does not meet minimum requirements for a lot under these regulations.

The side and rear yard requirements are as follows:

Side Yard: The width of any side yard shall not be less than 10 percent of the width of the lot.

Rear Yard: The minimum rear yard requirement for nonconforming lots having a lot depth of 120 feet or less shall be 30 feet. Lots having a lot depth greater than 120 feet shall comply with the minimum rear yard requirements for the zoning district in which they are located.

3603.02 Non-Conforming Vacant Lots in Other Districts

In any district, other than Agricultural or Residential District, a building designed for any permitted use in such district may be erected on any lot of official record as of November 4, 2004 of the Perry Township Zoning Resolution provided that such building shall comply with all regulations applicable in the district in which it is located.

SECTION 3604 NON-CONFORMING STRUCTURES

3604.01 Continuation

Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or development standards, may be continued, so long as it remains otherwise lawful, subject to the restrictions of 3604.02 through 3604.04.

3604.02 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 non-conformity or increase the degree of existing non-conformity of all or any part of such structures; except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be determined by Subsection 3603.01 or 3603.02, whichever is applicable.

3604.03 Damage or Destruction

In the event that any such structure described in Subsection 3604.01 is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of the current replacement cost of the entire structure, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided, that structures located on a lot that does not comply with the applicable lot size requirements shall not in any event be required to provide a side yard that exceeds the yard requirements in Subsection 3603.01 or 3603.02, whichever is applicable. When a structure is damaged to the extent of fifty (50) percent or less, no repairs or restoration shall be made unless a zoning certificate is obtained and restoration is actually begun within one year after the date of such partial destruction.

3604.04 Moving

No structure described in Subsection 3604.01 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 3605 NON-CONFORMING USES

3605.01 Continuation

Any lawfully existing non-conforming use of part or all of a structure or any lawfully existing non-conforming use of land, not involving a structure, may be continued, so long as otherwise lawful, subject to the restriction of Subsection 3605.02 through 3605.09.

3605.02 Repair, Maintenance and Structural Alteration

- A. Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations, which do not physically extend or intensify the nonconforming use. This paragraph shall not be deemed to authorize any violation of Subsections 3605.03 through 3605.09.
- B. Nothing in this Resolution shall be deemed to prevent the strengthening or restoring to a safe condition any building or there structure (other than a damaged or destroyed building or other structure subject to the provisions of 3605.05 of this section) in accordance with the order of a public official who is charged with protecting the public safety and who declares such building or other structure to be unsafe and orders its restoration to a safe condition.
- C. All non-conforming residential buildings in a Business or Industrial District may be maintained, repaired, improved, modernized or enlarged in accordance with the development standards of Article 19 through Article 23; provided, however, that no increase in the number of dwelling units shall be permitted. A dwelling may not, however, be demolished and a new dwelling constructed unless the new dwelling is in full compliance with this Resolution.

3605.03 Structural Alteration- Single-Family Residence

Structural alterations to non-conforming single family residences within any zoning district shall be permitted in accordance with the development standards of Article 7 through Article 11; provided, however, that no increase in the number of dwelling units shall be permitted.

3605.04 Extension and Enlargement

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

- A. A non-conforming use may be extended throughout any part of such building or other structure that was lawfully and manifestly designed or arranged for such use on the effective date of this Resolution.
- B. The Board may permit either an expansion of a non-conforming building or structure, or a substitution of a non-conforming use in such a building or structure, but not both.
- C. A building or structure that is devoted to a non-conforming use 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 building may be enlarged or extended to an extent not exceeding twenty-five (25) percent of the gross floor area of such structure or building lawfully existing at the time of the adoption of this Resolution.
- D. The extension or enlargement of a building or structure may not occupy ground space suitable and otherwise available for meeting the off-street parking requirements of this Resolution.
- E. A non-conforming use of land may not be extended, enlarged or increased in intensity.
- F. Nothing contained in this section shall in any way prohibit a non-conforming use from acquiring additional off-street parking space.
- G. Application for an extension or enlargement in accordance with paragraphs A. and F. shall be noticed and heard in the manner prescribed for appeals in Section 404 hereof.

- H. In granting an extension or enlargement, the Board may impose such reasonable safeguards and restrictions upon the premises benefited by the extension or enlargement as may be necessary to reduce or minimize any potentially injurious effect of such extension or enlargement upon other property in the neighborhood and to carry out the general purpose and intent of this chapter.

3605.05 Damage or Destruction

- A. Nothing in this Resolution shall be deemed to prevent the total restoration of any legal non-conforming single-family residence, so long as such restoration is actually begun within one year after the date of its damage or destruction
- B. In the event that any building or structure that is devoted in whole or in part to a non-conforming use, other than that of a single family residence, is damaged or destroyed by any means, to such an extent that the cost of restoration to the condition in which it was before such damage or destruction exceeds fifty (50) percent of the current replacement cost of the entire building or other structure, exclusive of foundation, such building or other structure shall not be restored unless such building or other structure and the use thereof shall thereafter conform to the regulations of the district in which it is located. Moreover, even if such damage is fifty (50) percent or less, no repair or restoration shall be made unless a building permit is obtained, and restoration is actually begun, within one year after the date of such partial destruction.

3605.06 Moving

No structure devoted in whole or in part to a non-conforming use, shall be moved to any other location on the same lot or any other lot unless the entire structure and the use thereof shall thereafter conform to the regulations of the district in which it will be located after being so moved. Moreover, no non-conforming land use shall be relocated, in whole or in part, to any other location on the same or any other lot unless such use shall thereafter conform to the regulations of the district in which it is located after being moved.

3605.07 Change

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

- A. The Board may permit either an expansion of a non-conforming building or structure or a substitution of a non-conforming use, but not both.

- B. A non-conforming use of land (as opposed to a building or structure) may not be changed.
- C. Application for a substitution in accordance with paragraph A. shall be noticed and heard in the manner prescribed for appeals in Section 404 hereof.
- D. The proposed use shall be of no greater intensity and shall be more compatible with the surrounding neighborhood than the existing non-conforming use.

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

1. Adequate utilities, drainage, and other such necessary facilities have been or will be provided.
2. Adequate access roads or entrance and exit drives shall be provided and will be designed so as to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets.
3. All exterior lighting fixtures are shaded wherever necessary to avoid casting direct light upon any property located in a residential district.
4. The proposed substitution will not cause substantial injury to the value of other property in the neighborhood in which it is located and will contribute to and promote the convenience and welfare of the public.
5. In granting a substitution, the Board of Appeals may impose such reasonable safeguards and restrictions upon the premises benefited by the substitution as may be necessary to comply with the above standards and to reduce or minimize any potentially injurious effect of such substitution upon other property in the neighborhood and to carry out the general purpose and intent of this chapter.
6. If a non-conforming use is changed to any use other than a conforming use without obtaining approval pursuant to this paragraph, that change shall constitute a discontinuance of the non-conforming use, and the property involved shall thereafter be used only for conforming uses.

3605.08 Discontinuance

- A. Discontinuance of non-conforming use of land: In the event that operation of a non-conforming use of land is voluntarily discontinued for a period of two (2) years, such non-conforming use shall not thereafter be 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 non-conforming use of buildings or structures: In the event that operation of a non-conforming use of all or part of a building or other structure is voluntarily discontinued for a period of two (2) years, such non-conforming use shall not thereafter be 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.
- C. When any lawful non-conforming use of any structure or land in any zoning district has been changed to a conforming use, it shall not thereafter be changed back to any non-conforming use.

3605.09 Non-Conforming Accessory Uses

ARTICLE 37

PROVISIONS AFFECTING AREA, YARDS AND COURTS

SECTION 3701 MINIMUM FLOOR AREA FOR DWELLINGS.

See appropriate Districts.

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. 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.

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 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 other 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 Article 42 and 43.

ARTICLE 38

ACCESSORY USES

SECTION 3801 PERMITTED ACCESSORY USES – AGRICULTURAL, RESIDENTIAL AND OFFICE RESIDENTIAL DISTRICT.

The following accessory uses are permitted in each aforesaid District, unless otherwise specified:

- 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. Swimming Pools

No private swimming pool, exclusive of pools less than two feet in depth and with a diameter less than eight (8) feet, or with an area of less than eighty (80) square feet, shall be allowed in any District, except as an accessory use, and unless it complies with the following conditions and requirements:

- 1. The pool is intended and is to be used solely for the enjoyment of the occupants and guests of the principal use of the property on which it is located.
- 2. The pool shall only be located in the rear yard and shall be no closer to the side lot line than the side yard requirement for the district in which it is located.
- 3. The swimming pool, or the entire property, on which it is located, shall be walled or fenced to prevent uncontrolled access by children from the street or from adjacent properties. Said fence or wall shall not be less than forty-two (42) inches in height and be maintained in good condition with a

locked entrance. Such forty-two (42) inch fence or wall may be the extension of the side walls of the swimming pool.

4. All pools, regardless of size, shall have a permit if electricity is a part of the system, or electrical wiring is within five (5) feet of the pool.
 5. Bathhouses shall comply with all accessory building regulations and building codes.
- E. A child's playhouse, tree house or birdhouse.
- F. Statuary arbors, trellises, barbecue equipment, flag poles, fences, play equipment, non-mechanical laundry drying equipment, walls and hedges.
- G. Fallout shelters.
- H. 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 203.01.
- I. Recreational equipment subject to the following conditions:
1. 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.
 2. If the camping and recreational equipment is parked or stored outside a garage, it shall be parked behind a visual barrier or stored to the rear of the house, not visible from the road.
 3. Notwithstanding the provisions of subparagraph 2, 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 or block sales) may be held from 8:00 a.m. to sundown.

1. No sale may extend for more than three (3) consecutive days (or portion thereof).
 2. No more than two (2) garage sales per dwelling unit may be held on any such zoning lot in any calendar year.
 3. No person conducting a garage sale under the provisions of this Article shall sell or offer for sale any food or beverage for consumption on the premises. Food or beverage may be provided for such consumption at no cost to the customer, but only if a permit is obtained in advance from the Board of Health.
 4. No fee or other charge shall be imposed upon members of the public attending any such sale.
 5. One non-illuminated sign, not exceeding thirty-two (32) sq. ft. on each side, total of sixty-four (64) square feet, may be displayed on the property where the sale is being held.
 6. Off-premises directional type signs (a maximum of two (2) signs), may be used in conjunction with such garage sale providing they do not exceed four (4) sq. ft. per sign, are not more than three (3) feet in height. All signs shall be removed within twenty-four (24) hours following the conclusion of the garage sale.
 7. Balloons, streamers, special lighting, noise making devices or other similar advertising displays or noises shall not be used to call attention to garage sales.
- K. Estate auctions and moving sales shall be permitted not more than one week per calendar year, provided that such estate auction is made necessary for settling the estate of the resident, or provided that such moving sale is made necessary when a resident is moving away from that lot to another dwelling.
- L. Radio, television, wind generating or other similar dish antennae, over twenty-four (24) inches in diameter, or

structure provided such items are not located closer to the street than the rear line of the house.

M. A carnival or circus, religious tent meeting, tent theater, horse show or exhibition, and events of public interest held longer than one day are permitted accessory uses in the Agricultural District only and shall be subject to the following:

1. Documentation from the Combined Health District of Montgomery County that adequate arrangements has been made for potable water and sanitary facilities.
2. No permanent or temporary lighting shall be installed without an electrical permit and inspection.
3. All uses shall be confined to the date(s) specified in the permit and shall not exceed fourteen (14) days. The Zoning Administrator may grant a seven (7) day extension provided all of the required conditions are complied with.
4. Hours of operation shall conform or comply to those specified in the permit.
5. “Perry Township expense reimbursement warranty.” A certified check or surety bond not to exceed five thousand dollars (\$5,000) shall be submitted with the permit application to indemnify or make good any defect resulting from the event as follows:
 - a. The site shall be cleared of all trash and debris at the end; and
 - b. All temporary construction and/or structures shall be removed within thirty (30) days after closing;
 - c. Any surface and/or structural damage caused to a public right-of-way.

The Zoning Administrator or his/her designated representative will inspect the site (a., b., & c.) defects, at the closing of the event, and will release all claims to reimbursement when no defect is found.

6. Public parking for the exclusive use of the facility shall be provided, and a stabilized driveway to the parking area shall be maintained. It shall be the responsibility of the applicant to guide traffic to those areas and to prevent patrons from unlawful parking.
 7. Traffic control arrangements required by the Perry Township Police Department in the vicinity of major intersections, shall be arranged by the applicant.
 8. Serving alcoholic beverages shall not be permitted without a permit from the Ohio Liquor Commission.
- N. Temporary Shelter: When fire or natural disaster has rendered a single-family residence unfit for human habitation, the temporary use of a mobile home located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional requirements.
1. Required potable water and sanitary facilities must be approved by the Combined Health District of Montgomery County.
 2. Maximum length of permit shall be six month, but the Zoning Administrator may extend the permit for periods not to exceed sixty (60) days in the event of circumstances beyond the control of the owner. Application for extension shall be made at least fifteen (15) days prior to the extension of the original permit or current extension.
 3. The mobile home shall be removed from the property upon issuance of any occupancy permit for the new or rehabilitated residence. The applicant shall be required to provide express consent and authorization to the Township to remove the shelter at the owner's expense upon termination of the permit.
- O. Steel Storage Containers as Permanent Storage
1. Steel storage containers used as permanent storage shall not exceed 40 feet in length and 15 feet in height.
 2. Steel storage containers shall be placed on a solid surface such as hard packed gravel and must be located at least 10 feet from both the rear and side property lines.
 3. Steel storage containers shall be painted in colors that blend aesthetically with the primary building on the lot.
 4. No part of the steel storage container shall be located closer to the front property line than the rear of the main house situated on the lot.

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 203.01, and which complies to the applicable standards of the District in which it is located is permitted.

SECTION 3803 ACCESSORY USES NOT PERMITTED IN ALL ZONING DISTRICTS.

Purpose:

To allow for agricultural and residential properties to coexist and to enhance each others property values (and aesthetics values) the following accessory uses are not permitted in any zoning district:

- A. Semi-trailers, box beds, railroad cars, buses, trolley cars, mobile homes and the like, shall NOT be permitted or parked unless they are enclosed within a structure, or they are maintained operable and licensed, and used on a regular/routine basis over the road by the landowner or tenant.
- B. Outdoor storage, such as but not limited to: junk, wood, lumber, building materials, parking of inoperative or unlicensed motor vehicles or similar items of property, unless specifically permitted by the specific zoning district regulations.
- C. LAND APPLICATION OF SEWAGE SLUDGE.
(As a Conditional Use within the Agricultural District).
 - 1. Application Requirements
 - a. Application for all sludge disposal sites shall be accompanied by all comments and recommendations concerning the submitted Site Plan and Management Plan for the proposed site by the local office of the OEPA, Montgomery County Engineer and the Soil & Water Conservation District.

- b. The application of sewage sludge shall include a map depicting the roads within Perry Township, which the sludge trucks would use to and from the site, days of delivery, and time of delivery. The Montgomery County Engineer shall review the proposed routing and forward comments to the Perry Township Trustees and the Board of Zoning Appeals.

2. Site Location Criteria

- a. The site shall be a minimum of six hundred (600) feet from residentially zoned land and/or existing residences, unless a notarized waiver is signed by the affected parties.
- b. Sites are preferred whose soils rate low to minimum in nutrient value as determined by soil tests performed by a recognized independent testing facilities. Such test results shall be submitted by the applicant as part of the application process.
- c. All sludge application sites shall conform to the standards of preventing contamination of underground drinking water sources as set forth in the latest U.S. EPA regulations on "Criteria for classification of Solid Waste Disposal Facilities."

3. Operational Criteria

In conjunction with the respective requirements of the above agencies, the following operational criteria shall be observed:

- a. Application of sludge must be controlled to avoid surface water run off and the contravention of surface and groundwater standards. An emergency/spill control plan must also be filed with the Township Trustees.

- b. Sludge application rates must be based upon nutrient values of the sludge, i.e., sludge, soils, and the specific crop to be grown.
- D. Portable Storage Containers are not permitted as a principal permitted use, permitted accessory use or a conditional use in all zoning districts.

The prohibition for Portable Storage Containers shall not apply to the following:

1. Temporary construction sites.
 2. 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.
 3. A portable storage container may be located on the property for a period not to exceed seven (7) consecutive days and not more than twice per year, provided that a permit is obtained from the zoning administrator, and that the container is not placed in the public street, alley, or public right-of-way.
 4. The containers must not be stored in the required front yard and should be on a hard surface.
 5. Storage of hazardous materials is not permitted.
- E. After receipt of any of the above violations, such violation shall be resolved within fifteen (15) days subject to the penalties for violation as provided

SECTION 3804 STANDARDS.

- A. An accessory building may be erected, as an integral part of a principal building or it may connect thereto by a breezeway or other similar structure.
- B. 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 yard.

- C. 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 the accessory building and be included in the computation.
- D. A detached accessory building shall not exceed twenty-five (25) feet in height.
- E. A detached accessory building shall be at least ten (10) feet from the side or rear lot lines.
- F. On a corner lot abutting in the rear the side lot line of a lot in a Residential District, any accessory building or part thereof 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 width of the side yard required for the principal building to which it is accessory.
- G. Except as provided in Article 39, Section 3905 B., any accessory building if not located in the rear yard shall be in integral part of, or connect with, the principal building to which it is accessory; and shall be so placed as to meet all yard and court requirements for a principal building of the same height and other dimensions as said accessory building.
- H. All accessory buildings shall be constructed of common solid building materials, such as wood, metal, aluminum, vinyl, and the like. All building materials and prints must be approved by the Zoning Administrator and the Montgomery County Building Department prior to installation on construction thereof.

NOTE: Under no conditions will a temporary type construction be permitted in any district, all outer buildings must meet Montgomery County Building Standards. All necessary building permits shall be obtained.

- I. The front of the accessory building shall not be closer to the front line than the rear of the main home structure on the lot.

ARTICLE 39

EXCEPTIONS, MODIFICATION AND INTERPRETATIONS

SECTION 3901 APPLICATION.

The requirements and regulations specific herein before 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 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 limited 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 distance not less than twenty-five (25) feet in all parts from every lot line.

SECTION 3903 AREA REQUIREMENTS WITHOUT UTILITIES.

In a Residential District where plumbing facilities will not be connected to public sewer and water, each lot shall contain a minimum area of 1.446 acre (63,000 sq. ft.) and shall have at least two hundred twenty-five (225) 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.

SECTION 3905 FRONT YARD EXCEPTIONS AND MODIFICATIONS.

- A. In any Residential 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 cases, this shall not be less than the average depth of said existing front yards, or the average depth of existing front yards of 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 nor required to be more than fifty (50) feet.
- B. In any Residential 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 line.

- C. All lots in Residential 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) non-intersecting 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 sidewall of a building is not parallel with the side lot 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.
- B. A side yard along the side street lot line of a corner lot, which lot abuts in the rear, either directly or across an alley, the side lot line of another in a Residential District, shall have a width of not less than one-half (1/2) the required depth of the front yard on such other lot fronting the side street.

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 chimney 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 on 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 requested 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 yard 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 a 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 (3½) feet and shall be subject to the traffic visibility requirement of Article 3703 for a corner lot.

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 appliances 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. Canopies may be erected over service station pump islands provided that no canopy shall be closer the five (5) feet to the right-of-way and provided that the vertical supports for the canopy shall not be closer than twelve (12) feet to the right-of-way. Such canopy shall not exceed eighteen (18) feet above the ground level and shall be at least fourteen (14) feet above the ground level. On corner lots, no canopy shall be closer than ten (10) feet to the right-of-way of the intersection. All setbacks are taken from the right-of-way as shown on the Official Thoroughfare Plan for Montgomery County, Ohio.
- C. 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 for Montgomery County, Ohio. All curb openings
- D. 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. The term “exotic animal or reptiles” shall mean other wild animals/reptiles not indigenous to Ohio. Example; lions, tigers, elephants, alligators, crocodiles, poisonous snakes, etc.
- B. Exemptions and special provisions:
 - 1. Exotic animals purchased or adopted and housed prior to the adoption of this Resolution or Amendment providing:

- a. That a bill of sale or notarized statement, which verifies this date is provided.
 - b. That such exotic animals 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.

SECTION 3912 NONCONFORMING JUNK YARDS.

For the protection of public health, safety, morals and general welfare, owners of nonconforming junkyards must maintain a list of vehicles in stock and submit the list to the Board of Zoning Commission or Board of Township Trustees on request.

SECTION 3913 EXCAVATIONS, DUMPS, LANDFILLS

No excavations or dumping of earth, gravel, stone or other natural products shall be carried on in any District unless the same is permitted by the Board of Zoning Appeals, subject to such conditions and safeguards as it may determine for the protection of the public health, safety and morals of the people of Perry Township.

Dumping of refuse or waste matter and/or burning of such on any land, in any natural land cavity, existing excavations, or quarries shall be prohibited in any District unless the said use exists at the time of the enactment of this Resolution, and in that case, the Board of Zoning Appeals may establish the necessary conditions so that such process will not be detrimental to the community.

SECTION 3914 DRAINAGE PROVISIONS

A. Surface Drainage

Plans for proposed surface drainage shall be submitted to, and approved by the Montgomery Soil & Water Conservation Service prior to submitting an application for a zoning certificate.

B. Curtain Drains

1. Curtain drains shall be installed in conformity with Regulation 550 of the Combined Health District of Montgomery County Sanitary Regulation as provided for in Section 550.17, A through F. Approved by the Health District shall be requirement for approval by the Township.
2. All such curtain drains connect into a functioning tile of sufficient size to accommodate the project drainage volume as shown on a submitted plot plan for such drainage submitted to the Perry Township Zoning Administrator.
3. In addition, it is a Perry Township requirement that no curtain drains shall discharge upon the surface of the property or into a roadway side ditch.

SECTION 3915 TRASH COLLECTION FACILITIES

- A. A trash collection facility shall include a large container such as dumpster or a small container such as a garbage can, bag or other similar container. No trash collection facility shall be stored in the front yard of a premise.
- B. Small trash containers may be placed at the public right-of-way during the normal trash collection day.
- C. A large collection facility shall be situated in a permanent location and placed on a concrete pad (4000 psi minimum). A dumpster pad shall be of a dimension that will allow a dumpster to sit entirely on the pad and to permit the front or rear wheels of a trash disposal truck to rest on the pad while emptying said dumpster.

ARTICLE 40

EXEMPTIONS FROM ZONING PROVISIONS

SECTION 4001 ESSENTIAL SERVICES

The location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement by public utilities for county or other governmental agencies of underground or overhead gas, electric, steam or water generation, transmission or distribution systems; including buildings, structures, towers, poles, wires, mains, drains, sewer 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 therein, for the furnishing of adequate service of such public utilities or county or other governmental agencies or for the public health, safety and morals.

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

SECTION 4004 MEDICAL MARIJUANA

By Section 519.21 Item (D) and Section 3796.29 of the Ohio Revised Code, enacted as part of House Bill 523, which became effective on September 8, 2016; the Perry Township Board of Trustees adopted Resolution 2017-26 on February 14, 2017, by unanimous vote the following:

PROHIBITION OF THE ESTABLISHMENT AND OPERATIONS OF MEDICAL MARIJUANA CULTIVATION, PROCESSING AND RETAIL DISPENSARIES

This shall take effect immediately provided it receives the affirmative vote at least (2) two board members, or otherwise to take effect and be enforced at the earliest period allowed by law; and

WHEREAS, on June 8, 2016 Ohio Governor John Kasich signed House Bill 523 into law after it passes the Ohio General Assembly; and

WHEREAS, House Bill 523 will be come effective on September 8, 2016; and

WHEREAS, House Bill 523 provides for the regulation and legalization of medical marijuana within the State of Ohio; and

WHEREAS, Ohio Revised Code Section 519.21 Section (D), enacted as part of House Bill 523, provides that nothing in this section prohibits Board of Trustees to adopt a resolution to prohibit medical marijuana cultivators, processors, and dispensaries being located in the unincorporated territory of the township; and

WHEREAS, Ohio Revised Code Section 3796.29, enacted as part of House Bill 523, provides that a Board of Township Trustees may adopt a resolution to prohibit medical marijuana cultivators, processors, and dispensaries within the limits of the township; and

WHEREAS, the Board of Trustee of Perry Township takes legislative notice that the use, possession, cultivation, distribution, and sale of marijuana, whether for medical or recreational use, **remains illegal under the Controlled Substance Act, codified at 21 U.S.C. Section 841; and**

NOW THEREFORE BE IT RESOLVED, the Perry Township Board of Trustees adopt by resolution that we;

- 1) As a land use matter, medical marijuana cultivators, dispensaries and processors, as defined in House Bill 523, **are hereby prohibited within the Township**, to protect the health, safety, and welfare of the residents of Perry Township.
- 2) The Board finds and determines that all formal actions of this Board concerning and relating to the passage of this Resolution were adopted in open meetings of this Board and, that the deliberations of this board and any committees that resulted in those formal actions were in meeting open to the public in compliance with legal requirements including Section 121.22 of the Ohio Revised Code.

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 of standards of a specific Zoning District.

- A. All signs shall be set back twenty-five (25) feet from the right-of-way as shown on the Official Thorough-way Plan for Montgomery County.

4101.01 Automobile service station signs.

- A. Identification signs:
 - 1. Two (2) freestanding signs which shall not:
 - a. Exceed the maximum height permitted for free-standing signs in the district in which located, or:
 - b. Exceed one hundred (100) square feet of total sign area per sign; however, if one sign is erected instead of the two (2) signs, the total sign area may be increased to one hundred thirty (130) square feet.
 - 2. Wall signs shall not:
 - a. Exceed seventy-five (75) square feet in sign area.
 - b. Extend more than ten (10) feet above the roof-line, if attached to a building.
- B. Identification signs (over thirty (30) feet in height):
 - 1. Shall be permitted only within one thousand (1,000) feet from the centerline of an interstate highway system.

2. Must conform to Federal and State Highway Standards.
3. Limited to one sign not to exceed eight hundred (800) square feet in area (both sides included) per principal business use. If two (2) principal uses exist (such as service station and motel), two (2) signs will be permitted, but their combined square footage (both sides included), shall not exceed twelve hundred (1,200) square feet.
4. The area of the modular sign shall be measured by the smallest rectangle, triangle, or circle, which will encompass the entire advertising device including border, trim, cutout and extension.
5. No sign shall exceed one hundred (100) feet in height measured from the highest point on the sign or extension thereof, to the average grade of the ground adjoining the base.
6. Signs may be lighted either internally or with directed ground lighting. All rotating, blinking, flashing, or intermittent lighting is prohibited.
7. Signs must be properly maintained in structure and appearance at all times.

C. Miscellaneous permanent and temporary identification signs:

1. Shall be limited to a total of thirty-two (32) square feet of sign area per sign.
2. Shall not exceed sixty-four (64) square feet of total sign area for all such types of signs located on the premises.
3. May either be wall, freestanding or projecting signs.
4. Shall not extend above the roofline.

D. Oil company identification signs:

1. Shall not exceed two (2) square feet in area each.

2. Shall be affixed flat on the side of the pump.
 3. Sign area shall not be counted in the above area limitations if not more than two (2) signs are used on each pump.
 4. Permits shall not be required for these signs.
- E. No sign shall project beyond the setback line.
- F. Advertising signs shall not be permitted.
- G. Moving signs are permitted.

4101.02 Awning 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.

4101.03 Exempted signs.

The following signs are not subject to the provisions 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 a patriotic, religious, charitable or civic character.
- C. Commemorative plaques placed by recognized historical agencies.

- D. Signs within a stadium, open-air theatre, shopping center, arena or other use which signs can be viewed only by persons within such stadium, open-air theatre, shopping center, arena or other use.
- E. Directional signs.

4101.04 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.

4101.05 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.

4101.06 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 ($\frac{1}{2}$) of its replacement value then it shall be removed not to be repaired or replaced.

- B. Any nonconforming sign, which is altered, relocated, or replaced, shall comply with all provisions of this Resolution.

4101.07 Painted wall signs.

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

4101.08 Permits.

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

4101.09 Prohibited signs.

- A. No sign 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. Pennants, banners, streamers, and similar type devices.
- C. No sign shall have spinning devices or strings of spinning devices or similar type devices.
- D. Signs, which are not securely affixed to the ground or otherwise affixed in a permanent manner to an approved supporting structure, shall be prohibited.
- E. No projecting sign shall extend above the wall or parapet of a building to which it is affixed.
- F. All blinking, flashing, or intermittent lighting is prohibited.

4101.10 Projecting signs.

- A. The bottom of a projecting sign may not be 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 or with the property line where the detached sign is erected.
- C. Projecting signs erected at the corners of buildings or properties may be set so as to bisect the angle between the intersecting walls or property line.
- D. A projecting sign extending not more than three (3) feet from the face of the building shall not be restricted as to the angle it makes with the face of the building wall.

4101.11 Sign responsibility.

- A. The building owner shall be held responsible for the removal and disposal of all abandoned signs including the completed blocking out of painted wall signs.
- B. The owner of the sign shall be held responsible for the maintenance, repair and upkeep of his sign.
- C. If any sign reaches a state of disrepair and is deemed unsightly or unsafe by the Perry Township Zoning 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.

4101.12 Roof signs.

- A. Shall not exceed the height limitations of the Zoning District in which they are located.
- B. Shall not extend beyond or overhang any exterior wall of the building upon which they are secured.
- C. Are permitted to be erected upon the one story building roofs, provided not more than one roof sign structure shall be permitted upon a building.

- D. No roof sign structure shall be erected higher than twenty-five (25) feet above the roof of the building to which attached at the point of mounting, and a clearance of at least six (6) feet shall be provided between the base of such signs and the roof level.

4101.13 Signs near “R” and “PD-1” Districts.

- A. No sign shall be located in a “B” or “I” District within one hundred (100) feet of any “R” or “PD-1” District in such a manner as to be primarily viewed from “R” zoned property or from any street or alley within an “R” or “PD-1” District.
- B. Any sign the face of which is parallel to a street property line and lies for its entire width opposite of “B” or “I” District shall be deemed prima facie, not to be primarily viewed from an “R” District.

4101.14 Temporary signs.

- A. Shall be located on the premises to which they refer.
- B. Shall be removed within five (5) days after the intended use has expired, unless otherwise stated herein or special written approval has been granted by the Zoning Administrator.
- C. Shall not be illuminated.
- D. Shall not be more than thirty-two (32) square feet on each side, total of sixty-four (64) square feet.
- E. Political signs may be displayed sixty (60) days prior to election and shall be removed within five (5) days after the election.
- F. Liquidation signs may be posted thirty (30) days prior to the sale and be removed within five (5) days after the sale.
- G. Signs shall NOT be posted on any type of utility pole.

- H. No sign shall be erected in such a manner so as to obstruct the free and clear vision of any traffic.
- I. Temporary signs DO NOT require a zoning certificate.
- J. Temporary signs are described as follows, i.e., but not limited to: Agricultural use, Political, Liquidation, Real Estate, Construction, Model Home, Grand Openings, Special Events, Garage Sale.

4101.15 Traffic hazards.

- A. No sign shall be erected at or near any intersection of any street, 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 signs, signal or device, or which makes use of the words “stop”, “look” or “danger”, or other word or phrase or symbol in such manner as to interfere with, mislead or confuse traffic.
- B. Light sources or 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.

4101.16 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 4102 SIGNS IN RESIDENTIAL DISTRICTS “R-1” THRU “R-3”,
“OR-1” AND “PD-1”**

4102.01 General requirements.

- A. The following functional types of signs are permitted in Residential Districts:
 - 1. Bulletin boards.
 - 2. Construction.
 - 3. Directional.
 - 4. Identification.
 - 5. Temporary signs.
 - 6. 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, bulletin board, temporary and/or construction sign is permitted.

- D. On corner and through lots, one identification, 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 sign.

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. All signs may be illuminated except where illumination is specifically prohibited.
- I. Warning signs:
1. Shall not exceed twelve (12) square feet in sign area.
 2. Shall be permitted as needed.
- J. Sign height:
1. Freestanding signs shall not exceed thirty (30) feet in height.
 2. Signs mounted on or attached to the wall of a building shall not exceed the height of the building.

4102.02 Standards.

- 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 dwelling.
 2. Two family dwelling.
 3. Accessory uses, home occupation 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 and tennis courts, and accessory uses.

C. Identification sign area for multiple family dwelling:

1. Shall be computed on the basis of one square foot per face for each dwelling unit.
2. No sign shall exceed thirty-two (32) square feet per face.
3. Total sign area limited to sixty-four (64) square feet.

SECTION 4103

SIGNS IN AGRICULTURAL, BUSINESS AND INDUSTRIAL DISTRICTS.

4103.01

General requirements.

A. The following functional types of signs are permitted in the Agricultural, Business and Industrial Districts:

1. Advertising signs (billboards)

a. Outdoor advertising billboards shall not exceed one hundred (100) sq. ft. in area on each side. No billboard may have more than one sign per side regardless of the square feet. No billboard sign will be permitted to be lighted in Residential or Agricultural zoned districts.

b. All billboards shall have a set back from the adjoining property line of one hundred (100') feet, unless the Board of Zoning Appeals approves a lesser amount.

c. If the Board of Zoning Appeals approves a lesser amount than 100 feet they shall require a written notarized form from the adjoining property owner stating their approval.

d. All billboards shall have a set back of forty (40) feet from the nearest road right-of-way as shown on the Official Thoroughfare Plan Map for Montgomery County.

2. Construction signs.

3. Directional signs.

4. Identification signs.

5. Temporary signs.

6. 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 signs.
 6. Projecting signs.
 7. Roof signs.
 8. Wall signs.
- C. 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 may be of the following structural types of signs:
1. Freestanding signs.
 2. Projecting signs.
 3. Roof signs.
 4. Wall signs.
- E. All signs may be moving signs, except in “A” Agricultural District.
- F. All signs may be illuminated, except in “A” Agricultural District.
- G. Sign height:
1. Freestanding signs shall not exceed the height required of that district.
 2. Signs mounted on or attached to the wall of a building shall not exceed the height of the building.
 3. Freestanding signs oriented towards a street which is higher in elevation than the base of the sign shall observe the following height limitations:
 - a. The sign height may exceed the height of the elevated street to which it is oriented by twenty (20) feet, but in no case shall the sign exceed sixty (60) feet in height measured from the base.

- b. To be considered oriented towards an elevated street frontage, a sign must be within one hundred fifty (150) feet of said elevated street.
- H. Total sign area permitted for identification signs shall be four (4) square feet of sign area per lineal foot of frontage plus the area of the sign allowed in Subsection 4103.02 A., 1., a.

4103.02 Standards.

- A. Wall signs or painted wall signs:
 - 1. Two (2) identification wall or painted wall signs per frontage.
 - a. One sign to be limited to a maximum of three hundred (300) square feet of area.
 - b. The area of the second wall sign to be counted as part of the total sign area allowed per frontage as determined by Subsection 4103.01 H.
- B. Identification, projecting, freestanding, roof, marquee, awning or canopy identification sign per frontage:
 - 1. One sign per frontage.
 - a. Sign area is determined by using the distance to the nearest common wall with an adjoining use or the nearest property line (whichever is closer); multiply the first fifteen (15) feet or portion thereof times five (5), the next ten (10) feet or portion thereof times four (4) and the remainder times three (3).
 - b. No sign shall be restricted to less than sixty-four (64) square feet of sign area.
- 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. Warning signs:
1. Shall be permitted as required.
 2. Size not to exceed thirty-two (32) square feet per sign.
- G. Wall, projection, freestanding, or roof 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-to-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 eighteen (18) feet in vertical dimension, not greater than fifty-five (55) feet in horizontal dimension and containing not more than one advertising sign will be permitted.

SECTION 4104 SIGNS IN “PD-2” DISTRICTS.

4104.01 General requirements

- A. The following functional types of signs are permitted in the “PD-2” Planned Office District:
- 1. Bulletin boards.
 - 2. Construction.
 - 3. Directional.
 - 4. Identification.
 - 5. Temporary signs.
 - 6. Warning signs

4104.02 Standards.

- A. Identification signs for the following uses shall not exceed one square foot in sign area per face:
- 1. Nursing, rest, or convalescent homes.
 - 2. Nursery or childcare centers.
 - 3. Accessory uses and conditional uses.
- B. Identification signs for the following uses shall not exceed four (4) square feet of sign area per lineal foot of frontage upon which the property abuts:
- 1. Banks and financial institutions.
 - 2. Hospitals.

3. Offices.
4. Medical and dental clinics, medical and research facilities.

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 materials or merchandise by vehicle, in accordance with the requirements of Section 4202 of this Article.

SECTION 4202 OFF STREET LOADING REQUIREMENTS.

Off street loading requirements shall be as follows:

<u>BUILDING AREA</u>	<u>NUMBER OF SPACE REQUIRED</u>
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 or portland cement concrete.

- C. Drainage: All loading spaces shall be provided with adequate facilities as approved by the County Engineer.
- D. Location: All required loading space 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:

<u>USE</u>	<u>NUMBER OF SPACE REQUIRED</u>
<i>Group #1</i> <i>Dwelling and Lodging Uses:</i>	
One & Two Family Dwelling	One space for each dwelling.
Three Family Dwelling & Mobile Home Parks	One and one-half spaces for each dwelling unit.
Four or more Dwelling Units	Two spaces for each dwelling unit.
University Owned or leased housing, fraternities & sororities.	Two spaces for each dwelling.
Hotels & Motels.	Once space for each rental unit plus one space for each employee on the maximum work shift plus such spaces as required by this Resolution for restaurants, assembly rooms and affiliated facilities.
Housing for the Elderly.	One space for each two Dwelling units.

<u>USE</u>	<u>NUMBER OF SPACE REQUIRED</u>
Rooming Houses.	One space for each two roomers or boarders based on the designed capacity of the building plus two spaces for a resident manger or resident owner.
<i>Group #2 Business and Commercial:</i>	
All business & commercial Establishments, except those Specified hereafter.	One space for each 300 sq.ft. of floor area.
Retail stores.	One space for each 250 sq.ft. Of floor area.
Barber shops, beauty parlors, or similar personal service.	Four spaces per chair.
Eating place.	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 Place – Carry-Out.
Automobile service station.	Six spaces, plus one for each employee on the largest shift, except that stations which primarily dispense only petroleum products and have no under-roof-facilities for the repair and servicing of motor vehicles will require only two spaces, plus one for each employee on the largest shift.

<u>USE</u>	<u>NUMBER OF SPACE REQUIRED</u>
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 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 member or their guest.
Group #3	
Office:	
Administrative or business Office.	One space for each 300 sq. ft. of floor area.
Group #4	
Medical & Health	
Dental clinics & office.	Two spaces for each examination or treatment room, plus one space for each dentist & other employees.
Medical clinics & offices.	Three spaces for each examination or treatment room, plus one space for each doctor & 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.

<u>USE</u>	<u>NUMBER OF SPACE REQUIRED</u>
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.
<i>Group #5 Education:</i>	
Elementary Schools, Junior High Schools, public or private.	One space for every 30 classroom seats, plus one space for each teacher or other employee.
High Schools, public and private.	One space for each 6 students based on the design capacity of the building, plus one space for each teacher or other employee.
Nursery or childcare 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, & other public buildings.	One space for each 300 sq. ft. of floor area.

<u>USE</u>	<u>NUMBER OF SPACE REQUIRED</u>
Group #6	
Recreation & Religion:	
Churches, chapels, temples, synagogues, auditoriums, gymnasiums, stadiums & other places or public assembly.	One space for each three seats or bench seating spaces.
Theatres.	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	One space for each 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 #7	
Industry:	
Manufacturing, warehousing wholesaling, or similar establishments.	One space for each two employees on the combined work shifts, plus one space for each 10,000 sq. ft. of floor ware, plus one space for each vehicle maintained on the premises.

SECTION 4303 OFF STREET PARKING STANDARDS.

SECTION 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 district.

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, or a contiguous parcel, or within three hundred (300) feet of the nearest point of the principal structure.
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 11:00 p.m. and 7:00 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, notified 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 a hard surface of bituminous or portland cement concrete, except residential tracts exceeding one acre (43,560 sq. ft.) in land area.

B. Separation.

All open off street parking areas shall be separated from public sidewalks by a space of 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 used for any non-residential purposes containing more than two (2) parking spaces is not separated from a district zoned residential by a dedicated street, 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-3".

G. Interior Design.

All parts of open off street parking areas which are unusable either for parking or for traffic, shall be paved or landscaped with planting of grass, flowers, shrubs and/or trees, which shall be continuously maintained.

H. Marking.

Designated parking spaces shall be marked on the surface of the parking area with paint or permanent marking materials and maintained in clearly visible condition.

4303.03 Units of measurement.

For the purpose of determining off street parking requirements, the following units of measurements shall apply:

A. Floor Area.

Floor area for 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 Assemble.

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 result in requirements of a

fractional space, and fraction up to one-half ($\frac{1}{2}$) shall be disregarded and fractions of over and including one-half ($\frac{1}{2}$) shall require one parking space.

4303.04 Additions and extensions.

Whenever any addition to a building or extension of land use results in an increase in the number of units used to measure required off street parking spaces, and such addition or extension creates a need for an increase of more than ten (10) percent in the number of required off street parking spaces, additional off street parking shall be provided on the basis of the increase in the number of such units of measurement.

A. Exception.

In the case of additional dwelling units created by conversion of an existing dwelling, one off street parking space shall be required for each additional dwelling unit so created.

4303.05 Mixed occupancies and uses not specified.

In the case of mixed uses, the total requirements for off street parking facilities shall be the sum of the requirements for the various uses computed separately. Where a use is not specifically mentioned in Section 4302, the requirements for a use, which is so mentioned and to which said use is similar shall apply. Off street parking facilities for one use shall not be considered as providing requirements for any other use, except as specified for joint use.

4303.06 Collective provision.

Nothing in this Article shall be construed to 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

SOLAR SYSTEMS REGULATIONS

PREAMBLE: Applicability

No solar energy system shall be constructed, erected, installed or located within Perry Township until proper approval has been obtained pursuant to this Zoning Regulation.

A. Rooftop/Integrated Solar Systems mounted flat on the roof or wall of any building shall be permitted as an accessory, as governed in this section in all districts including agriculture.

B. Ground Mounted Solar Energy Systems which are freestanding, mounted on poles or any other structure excluding rooftop or walls, shall be a permitted use less than 25KW in Agriculture, R1, R2, R3. Conditional uses for 25KW to 100KW in Agriculture, R1, R2, R3. Zero (0) to 50 Megawatts are a conditional use in B1 only.

C. Ground Mounted Solar Energy Systems 0 to 25 kilowatts which are free standing, mounted on poles or other structures shall be a conditional use pursuant to Article 4.

D. Ground Mounted Solar Energy Systems 0 to 50 Megawatts are a conditional use in B2, B3, B4, OR-1 and I-1.

E. Ground Mounted Solar Energy Systems are not allowed in the Flood Plain Districts.

F. The solar energy system shall be no larger than necessary to provide 120 percent of electrical energy requirements of the structure to which it is an accessory to as determined by a contractor licensed to install solar and photovoltaic energy systems.

SECTION 4401 Solar Facility

A. Large Solar Facility

Solar facilities of fifty (50) megawatts or more must submit an application with the Ohio Power Siting Board (OPSB) at the Public Utilities Commission of Ohio (PUCO). Such facilities must meet all applicable OPSB regulations and be located on a parcel of 2500 acres or more.

B. Smaller Solar System

Any solar energy system that does not exceed fifty (50) megawatts in generating capacity and is located on a parcel of less than 2500 acres.

SECTION 4402 Principal Permitted Uses

A. Integrated Solar Energy System

Subject to the restrictions contained herein, any construction, erection or siting of an Integrated Solar System shall be a permitted use.

B. Rooftop Solar Energy System

Subject to the restrictions contained herein, any construction, erection or siting of a Rooftop Solar Energy System shall be a permitted use.

C. Ground Mounted Solar Energy System

Subject to the restrictions contained herein, any construction, erection, or siting of a Ground Mounted Solar Energy System shall be a permitted use.

SECTION 4403 General Requirements

A. Integrated or Rooftop Solar Energy Systems.

1. Height: The maximum height of an Integrated or Rooftop Solar Energy System shall not exceed the height applicable to principal structure located in the zoning district where the system is located. A Rooftop Solar Energy System shall not vertically exceed the highest point of the roof which it is attached.

2. Coverage: An Intergrated or Rooftop Solar Energy System shall not cover no more than 35% of a structures wall. A Rooftop Solar Energy System will not cover more than 35% of a rooftop as applicable.

B. Ground Mounted Solar Energy Systems

1. Height: The maximum height of any Ground Mounted Solar Energy System shall not exceed 12 feet.

2. Coverage: Ground Mounted Solar Energy Systems shall be included as part of any lot or ground coverage calculation applicable to the zoning district where the system is located. In the event a zoning district does not limit the ground area occupied by building, structures or other impervious surfaces, Gound Mounted Solar Energy Systems shall not exceed an aggregate of 2500 square feet of the total area of the lot or tract.

3. Visual Buffer: Grounded Mounted Solar Energy Systems shall have a visual buffer of natural vegetation, planting and or fencing to provide reasonable visual screening to minimize the view and noise of Small Solar System from adjacent lots and public rights of way.

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C. Lighting

The lighting for a Small Solar System must meet the lighting restrictions applicable to the zoning district. Small Solar Systems must be arranged to prevent unreasonable glare onto adjacent building, properties or roadways.

D. Noise

Any Small Solar Systems shall comply with the township's noise regulations, including but not limited to, those applicable to the zoning district where located.

E. Setbacks

Small Solar Systems must comply with the setback requirements of the zoning district where they are located.

F. Maintenance

1. Small Solar Systems must always be maintained in good working order. If a system ceases to operate, written notice of abandonment from both the property owner and the owner of the Small Solar System must be provided to the Perry Township Trustees within (30) thirty days of ceasing operations. The system must be dismantled and removed within three (3) months of abandonment. The property owner shall bear all cost associated with dismantling, including the removal of all apparatuses, supports and hardware related to the system.

2. A Small Solar System is considered abandoned if it ceases transmitting electricity for thirty (30) consecutive days. Removal must include restoring the property to a condition that is graded, seeded and landscaped to match the state of the property prior to the systems construction or installation.

G. Decommissioning Plan

All Small Solar System shall submit a decommissioning plan prepared by a professional engineer registered with the state Board of Registration for Professional Engineers and Surveyors. The Board of Zoning Appeals may reject the engineers chosen by the applicant and require the applicant to choose another engineer. The plan must include the following:

1. A list of all parties responsible for decommissioning.

2. A schedule of decommissioning activities, not to extend beyond the twelve (12) months from the date the system ceased operations.

3. An estimate of the full costs of decommissioning the system, including the proper disposal of all system components and restoration of the property on which the system is located to its preconstruction state.

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4. As detailed above, the professional engineer must recalculate decommissioning costs every five years from the date of the original decommissioning plan.

H. Performance Bond

The applicant must provide a performance bond equal to the estimate of the decommissioning costs. The bond shall be posted to cover the system's decommissioning costs prior to beginning construction to ensure that the funds are available for the system decommissioning. The bond shall be held in escrow in a financial institution until the Board of Trustees or their representative has determined that the system has been fully decommissioned to the requirement the decommissioning plan.

I. Building Permits

All Small Solar System and parts thereof shall obtain all applicable required Building Permits for the State of Ohio and County or other local building jurisdictions.

J. Advertising

Small Solar System and properties where located shall not be used for the display of advertising. For the purpose of this section, reasonable and customary identification (name, insignia, logo, and or similar) of the manufacture or operator of the system that is incorporated into or manufactured on the equipment itself shall not be considered advertising.

K. Other Restrictions

All Small Solar System shall comply with all applicable federal, state, and local laws, rules and regulations.

L. Location:

1. Any Small Solar System other than an Integrated or Rooftop Solar Energy System (except components located entirely underground) shall be located entirely in the rear yard.
2. No Small Solar System shall be located on the front facade of any structure or on any facade facing a public right-of-way.
3. No Small Solar System except Rooftop Solar Systems shall be located in front of a principal building or structure. In the case of corner lots, no Small Solar System except Rooftop Solar Systems shall be located between a principal building or structure and the public right of way.

M. Height

The maximum height of any Small Solar System shall not exceed 12 feet.

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N. Buffers and Setback

1. Where a Small Solar System is located on agricultural property adjacent to or in close proximity to property zoned for residential use (as determined by the Zoning Administrator) no part of the Small Solar System shall be located within 150 feet of another property line (other than components located entirely underground).

2. No Small Solar System in residential zones (R-1,2,3) shall be located within 50 feet of another property line.

3. No Small Solar System shall be located within 150 of a public right-of-way or shared use driveway.

O. Visual Buffer

A Small Solar System shall have a visual buffer or vegetation, planting and/ or fencing designed to and that does the following:

1. Enhance the view from an existing residential dwelling and from any public right-of-way.

2. Is in harmony with the existing vegetation and view of the surrounding area.

3. Provide reasonable visual screening to minimize the view of and noise from Small Solar System to adjacent lots and from any public-right-of-way.

P. Glare

Small Solar Systems panels shall be placed or arranged in a manner so as not to reflect unreasonable glare onto adjacent building, properties or roadways.

Q. Lighting

All lighting associated with the Small Solar System must narrowly focus light inward toward the equipment, be downlit and shielded and prohibit any spillover onto any adjacent property.

R. Fencing

Any fencing and/or screening installed in connection with the Small Solar System shall be harmonious and compatible with the surrounding properties and uses. Fencing shall be maintained in good repair and in an aesthetic manner at all times.

SECTION 4404 Certificate of Zoning Compliance

A. A Certificate of Zoning Compliance shall be required before any construction commences on a Small Solar System.

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B. The applicant shall submit the following items.

1. Engineering report with the system's size, height and megawatt capacity.
2. A site plan showing the system's location, setback and distances from adjacent properties and structures.
3. Compliance documentation with all zoning restrictions.
4. A maintenance and dismantling plan.
5. A performance bond equal to the estimate of the decommissioning cost
6. Any other information or materials reasonably requested by the Zoning Administrator

ARTICLE 45

EXTRACTION OF MINERALS

SECTION 4501 SUBMISSION OF ADDITIONAL INFORMATION.

Two (2) copies of the additional information shall be submitted with the application and shall include:

- A. Name of the owner or owners of land from which removal is to be made
- B. Name of the applicant making request for such a permit.
- C. Name of the person or corporation conducting the actual mining operations.
- D. Location, description and size of the area from which the removal is to be made.
- E. Location of the processing plant to be used and any accessory or kindred operations that may be utilized in connection with the operations that may be utilized in connection with the operation of the processing plant by the mining processor or any other firm, person or corporation. The processing plant shall be located as to minimize the problems of dust, dirt and noise, insofar as reasonable possible.
- F. Type of resources or materials to be removed.
- G. Proposed method of removal and whether or not blasting or other use of explosives will be required.
- H. General description of the equipment to be used.
- I. Method of rehabilitation and reclamation of the mined-out area, including a grading plan showing existing contours in the area to be excavated and the proposed future contours showing the topography of the area after completion. Such plan shall include the surrounding area within five hundred (500) feet of the property boundary line, drawn to an appropriate scale with contour lines at intervals of five (5) feet or less.

SECTION 4502 DEVELOPMENT STANDARDS.

- A. No mining of sand and gravel shall be carried on, or any stock pile 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 butting 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 Ohio Revised Code.
- C. Any excavated are 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, including the planting of multi-flora rose, 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. 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.
- G. 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 4503

REHABILITATION REQUIREMENTS.

All mined-out areas shall, within a reasonable length of time, be reclaimed and rehabilitated and the Board, at its' discretion, may fix a bond in a reasonable amount to assure that such rehabilitation and reclamation will be carried out. The Board shall be guided by the following standards with respect to rehabilitation and reclamation of mined-out areas:

- A. All excavation shall be made either to a water producing depth, such depth to be not less than five (5) feet below the water mark, or shall be graded or back-filled with non-noxious, non-combustible and non-flammable solids, to secure:
 - 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 reduce the peaks and depressions thereof so as to produce a gently rolling surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.
- B. The banks of all sand and gravel excavations in a water producing excavation, and to the pit bottom in a dry operation, shall be sloped to the water line, at a slope which will not be less than three (3) feet horizontal to one (1) foot vertical and said banks shall be restored with vegetation in a manner set forth in Paragraph C.
- C. Vegetation shall be restored by the spreading of sufficient soil and by appropriate seeding of grasses or planting shrubs and trees in all parts of said mining area where the same is not submerged under water.
- D. Proper drainage shall be provided for the mined-out area.
- E. All equipment and structures shall be removed from the mined-out area within six (6) months of the completion of the mining therefrom.

- F. The Board may impose such other reasonable conditions and restrictions as it may deem necessary for the protection of the public and to encourage the mining and processing of the sand and gravel from the authorized area.

- G. Due to the inherent difficulties in reclaiming and rehabilitating areas from which stone has been quarried, the Board is hereby empowered, in the issuance of a conditional use permit for quarrying operations, 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.

ARTICLE 46

PRIVATE NON-COMMERCIAL GOLF COURSES, SWIMMING POOLS AND TENNIS COURTS

SECTION 4601 REQUIRED CONDITIONS.

- A. All swimming pools shall be a distance of at least one hundred fifty (150) feet from all residential property lines, except for a swimming pool for the occupants of a single family dwelling.
- 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 buildings only within which such equipment is installed, and does not create a nuisance and disturb the peace of the other persons or properties in this or any other District.
- C. Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon any property or upon any public street. All outdoor lighting shall be directed toward and confined to the ground areas of lawns or parking lots.
- D. Gun Clubs: The firing line shall be a distance of at least five hundred (500) feet from all residential property lines.

ARTICLE 47

ADULT ENTERTAINMENT FACILITIES

SECTION 4701 REQUIRED CONDITIONS.

- A. No adult entertainment facility shall be established within five hundred (500) feet of any area zoned for Residential or Agricultural 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 two thousand (2,000) feet of any church, synagogue or permanently established place of religious services, which is attended by person 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.

ARTICLE 48

STORM WATER MANAGEMENT, DRAINAGE AND PONDS

SECTION 4801 STORM WATER MANGEMENT

- A. All lots, tracts or parcels shall be graded to direct water away from buildings and into a natural or man-made drainage facility without causing erosion. In addition, each lot will be graded in such a way in order to accept water runoff that naturally flows onto the lot, including surface and subsurface flow. Runoff from each lot will be directed to an appropriate drainage facility, such as a stream, open ditch, swale, or storm sewer. The peak discharge will not be increased.
 - 1. Water management plans shall be submitted to the Zoning Office prior to ANY construction.

SECTION 4802 CONSTRUCTION AND BUILDING

- A. ANY subsurface drain (tile) that is damaged during construction shall be repaired to its original condition. Prior to relocating a subsurface drain, a map showing the existing and planned relocation shall be submitted to the Zoning Office and approved prior to beginning any construction, earth moving, or relocation. The Montgomery Soil & Water Conservation District will provide technical assistance to the Township and landowners as requested.
- B. Eave spouts or downspout and other runoff will not be outletted directly into a subsurface drain through surface inlets unless the capacity of the drain can be shown to be adequate. If post construction runoff exceeds pre-development runoff, on-site storage will be required and will not exceed pre-development runoff. Subsurface drains will not be used to outlet storage facilities unless adequate capacity can be shown. Pre-construction approval from the Zoning Office is required.

SECTION 4803 MAINTENANCE

- A. Drainage is an important requirement for developing land in Perry Township. Nearly every land unit will have a subsurface drain. Maintenance of these systems is the responsibility of the property owner. Should “blowholes” or other damage occur, the property owner or his/her agent shall repair/replace or reroute the drain so as to assure its original capacity and condition.

- B. There are several drainage projects in Perry Township that have been completed through petition. The improvements were paid by landowners in the watershed. Periodically, maintenance assessments will be placed on real estate tax statements. Procedures followed under this petition process are outlined in Ohio Revised Code Section 1515.

SECTION 4804 PONDS

Anyone building a pond must first submit to the Zoning Administrator a plot plan drawn to scale, showing buildings on the lot as well as the septic system, well and the location of the proposed pond site. The Zoning Administrator, after reviewing the plan will contact Montgomery Soil & Water Conservation District, (SWCD) who will make an on-site evaluation and review the request with the applicant. SWCD will then submit a letter to the Township as to their findings. If the site is acceptable by SWCD the applicant shall either request the assistance of SWCD engineer staff or contact a qualified State of Ohio Licensed Professional Engineer for a complete set of drawings. The drawings shall include but not limited to; showing the exact location, exact size, percent of grade of all side-walls, and the depth. It shall also show the emergency over flow and where the water will be dispersed. These drawings will then be submitted to the Township Zoning Administrator for final approval. If approved, a Zoning Certificate will be issued. Under no circumstances shall any one be permitted to build a pond closer than seventy-five (75) feet from any property line, building or septic system or within twenty-five (25) feet of any well. All distances shall be measured from the high water level of the pond. No pond shall be constructed that encompasses any larger area than recommended by SWCD.

ARTICLE 49

HOME OCCUPATION CATEGORY I AGRICULTURAL DISTRICT

SECTION 4901 - INTENT

To provide for the operation of limited business activities within the Agricultural District. These standards are designed to ensure compatibility with other approved uses within this district.

SECTION 4902 – STANDARDS

The following conditional use standards shall apply:

- A. Home Occupation shall be limited to not more than two per residence.
- B. The home occupation shall be operated by a full-time resident of the property on which the business activity is located. Any participant engaged in the home occupation shall be limited exclusively to family members who are permanent residents within the home.
- C. The home occupation shall be clearly secondary to the use of the lot, parcel or track of land and shall not change the character thereof.
- D. The home occupation shall not require the construction of any structure that would not otherwise be permitted in the agricultural district, nor shall a Home Occupation Permit be used for justification for a zoning change.
- E. The home occupation will be operated substantially within the dwelling or within an accessory building normally associated with uses permitted in the Agricultural District.
- F. The home occupation shall not comprise or interfere with existing uses in the geographic area.
- G. The home occupation shall not generate noise, vibration, bright lights or glare, fumes, odor, electrical interference, or any other disturbance(s) beyond what normally occurs within the Agricultural District.
- H. Use, storage and disposal of toxic or hazardous materials shall comply with Federal, State and Local Regulatory Agencies.
- I. Off-street parking spaces shall be provided for clients and/or patrons within a normally sized residential driveway expected in the Agricultural District and shall not be located in any required yard.

- J. All outside storage of materials or equipment used in connection with the home occupation is prohibited.
- K. No more than one sign not to exceed two square feet, (e.g., 16" X 16"), shall be permitted. Such sign shall not be illuminated.

SECTION 4903-EXCLUSIONS AND LIMITATIONS

A. EXCLUSIONS

In no event, shall any home occupation include the following activities:

1. Body or mechanical repair, modification or painting of motor vehicles and repair of internal combustion engines,
2. Healthcare facilities,
3. Restaurants,
4. Adult Entertainment Facilities,
5. Any other activities prohibited by the zoning regulation.

B. LIMITATIONS

1. The Zoning Administrator may grant a proposed Home Occupation request within the scope of Section 4901 and 4902 without referral to the Board of Zoning Appeals.
2. A proposed home occupation request beyond the scope of Section 4901 and 4902 shall require approval by the Board of Zoning Appeals.
 - a. Parking expansion beyond a normally sized residential driveway expected in the Agricultural District, must receive prior approval by the Board of Zoning Appeals.
 - b. One sign limited to four square feet, (e.g. 24" x 24"), may be installed when approved by the Board of Zoning Appeals. Article 41 does not apply.
3. A new permit shall be required if the applicant moves from the premise or the property is sold, and (or) the size or nature of the Home Occupation changes.

ARTICLE 49

HOME OCCUPATION CATEGORY II RESIDENTIAL DISTRICT

SECTION 4904 –INTENT

To provide for the operation of limited business activities within the Residential District. These standards are designed to ensure compatibility with other approved uses within this district.

SECTION 4905 – STANDARDS

- A. Said occupation shall not involve the sale of any commodities on the premises.
- B. It does not occupy more than two hundred fifty (250) square feet of floor area or 25% of the total gross floor area of any one story, whichever is least within the dwelling unity and does not require alteration of the structure.
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding (2) square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
- D. No traffic shall be generated by such home occupation in greater volume than normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in this resolution and shall not be located in a required front yard.
- E. No equipment or processing shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment which causes fluctuations in line voltage off the premises.
- F. A home occupation shall not be conducted in an accessory building.

SECTION 4906-EXCLUSIONS AND LIMITATIONS

A. EXCLUSIONS

In no event, shall any home occupation include the following activities:

1. Body or mechanical repair, modification or painting of motor vehicles and repair of internal combustion engines,
2. Healthcare facilities,
3. Restaurants,
4. Adult Entertainment Facilities,
5. Any other activities prohibited by zoning resolution.

B. LIMITATIONS

1. All Home Occupation request in Category II Residential shall be approved by the Board of Zoning Appeals.

ARTICLE 50

**WHEN EFFECTIVE; REPEAL OF
CONFLICTING RESOLUTION; VALIDITY**

SECTION 5001 WHEN EFFECTIVE.

This Resolution shall be in full force and effect upon an affirmative majority vote of the voters in the unincorporated portions of Perry Township and upon certificate of such vote by the Montgomery County Board of Elections. Until such time, the Montgomery County Zoning Resolution shall be in effect.

SECTION 5002 REPEAL OF CONFLICTING RESOLUTION.

The County Zoning Resolution now in effect in Montgomery County, Ohio, and in conflict with the Zoning Resolutions as they are established herein, 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 all violations of existing Zoning Resolution, prosecutions for which have not been yet 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.

SECTION 5003 VALIDITY.

ARTICLE 51

SANITARY AND CONSTRUCTION MATERIAL LANDFILL

SECTION 5101 INTENT

- A. It is the intent of this section to establish reasonable and uniform limitations, safeguards and controls for the operation and use of sanitary landfill facilities. Such regulations are deemed necessary in the public interest to protect the use and value of adjoining properties, as well as the best interests of the community.

- B. For purpose of this section, a sanitary or construction landfill facility is deemed to include sanitary landfill, incineration, grinding or any other process oriented to disintegration or recycling of solid waste material.

SECTION 5102 GENERAL REQUIREMENTS

- A. Sanitary and Construction Material Landfills are only allowed in areas zoned “I-2 Heavy Industrial Districts.”

- B. Landfill facilities shall not be located in areas where leachate, chemicals, or hazardous materials will contaminate ground water. Said facilities shall not be located in areas containing sand, gravel, or rock as a major portion of the soil composition when wells in the vicinity are used for a source of water supply.

- C. Landfill facilities shall not be located in areas subject to flooding.

- D. Location of landfill facilities in close proximity to rivers or streams shall be considered satisfactory only when it can be demonstrated that there would not be contamination of said water bodies by negligent handling of refuse, seepage or poor drainage.

- E. Location of landfill facilities in ravines or low areas shall only be considered satisfactory when drainage of said areas is positively controlled. Refuse shall not be deposited in standing water or areas where springs exist.

- F. Adequate area shall be provided for the use contemplated.

- G. The site shall be accessible from a thoroughfare designated as a minor arterial or higher, and interior facilities shall be accessible from an all-weather road.
- H. Minimum setback lines for any activities in connection with landfill operations shall be 1,000 feet from an adjoining property line, except for necessary grading to establish the elevation thereof in conformity to the operational site plan. A buffer planting screen shall be provided between such operations and said adjoining property lines.
- I. Off-street parking spaces shall be provided in accordance with Article 43.
- J. At least one identification sign shall be provided, indicating the name and address, the hours of operation and similar information, as further regulated in Article 41.
- K. Removal of debris from roadway, fences, roadside brush and trees are required daily.

SECTION 5103 APPLICATION REQUIREMENTS

An application for a landfill shall be accompanied by the following:

- A. A vicinity map indicating residential areas (both existing and zoned), property lines, thoroughfares, etc., within a 1,000-foot perimeter around the site.
- B. An operational site plan indicating clearly the orderly development, operation and maintenance of the refuse disposal facility.

The operational site plan shall indicate the proposed fill area; any borrow area; access roads; on-site drives; grades for proper drainage on each lift required and a typical cross section of a lift; special drainage devices if necessary; location and type of fencing; structures existing or to be located on the site; existing wooded areas, trees, ponds or other natural features to be preserved; existing and proposed utilities; phasing of landfill operations on the site; a plan and schedule for site restoration and completion; a plan for the ultimate land use of the site; and all other

pertinent information to indicate clearly the orderly development, operation and completion of the landfill.

- C. A proposed routing plan for truck traffic and supporting traffic analysis shall be presented to the Township for its review. Only a plan whose traffic impact upon the Township and its environs that is deemed within acceptable limits will be approved by the Township.
- D. Approval of a sanitary landfill facility shall not be granted without the prior recommendation, in writing of the Montgomery County Combined Health District and the Ohio Environmental Protection Agency.

SECTION 5104 OPERATIONAL REQUIREMENTS

- A. Landfill facilities as herein established shall be operated and enlarged or diminished only in accordance with the operational site plan approval of Perry Township. A permit and an operating license from the Ohio Department of Health must be secured.
- B. Accessory uses shall be permitted that are maintained on the same lot and commonly associated with the operation of the Conditional Use, including storage, parking of trucks and equipment, and offices, subject to the terms of this Resolution.
- C. Salvaging (the controlled removal of reusable materials), if permitted shall be organized so that it will not interfere with prompt sanitary disposal of refuse or create unsightliness or health hazards. Scavenging (the uncontrolled removal of materials) shall not be permitted.
- D. Open dumping shall not be permitted. For purposes of this Resolution, an open dump is defined as a site where refuse is dumped and due to lack of control, may create a breeding place for insects and rodents, may catch fire or produce air, ground or water pollution.
- E. No use in this classification shall be maintained or operated in a manner constituting a hazard to health, safety or the general public welfare.
- F. Such operations shall be designed and operated so that conditions of unlawful pollution will not be created, and injury to ground and surface waters will be avoided.

Water-filled areas not directly connected to rivers or streams may be filled with specific inert material not detrimental to legitimate water uses and which will not create a nuisance or hazard to health. Special approval shall be required in writing from appropriate authority, such as the Miami Conservancy District, OEPA, etc.

- G. Hazardous materials, including liquids and sewage, shall not be disposed of in a sanitary landfill unless special provisions are made for such disposal through the health department or agency having jurisdiction. This provision in no way precludes the right of a landfill operation to exclude any materials as a part of these operational standards.
- H. The entire site, including the fill surface, shall be graded and provided with drainage facilities to minimize run-off onto and into the fill, to prevent erosion or washing of the fill, to drain off rain water falling on the fill, and to prevent the collection of standing water.
- I. Measures shall be provided to control dust and blowing material. The general area shall be kept clean and orderly.
- J. Refuse shall be spread so that it can be compacted in layers of suitable depth. Large and bulky items, when not excluded from the site, shall be disposed of in a manner approved by the Montgomery County Combined Health District or other pertinent agency.
- K. Cover material shall be provided on a regular basis of such type, depth and frequency as approved by the health agency having jurisdiction, and the final cover shall be maintained in accordance with OEPA regulations.
- L. Conditionals unfavorable for the production of insects and rodents shall be maintained by carrying out routine sanitation measures promptly in a systematic manner. Supplemental insect and rodent control measures shall be instituted whenever necessary, and infestation by same constitutes a violation of this Resolution.
- M. Landfill facilities and surrounding area shall be policed (cleaned) on a daily basis, when open, to ensure such operations are kept in a clean and orderly condition. This shall include, but not limited to, picking-up all wind-blown, misplaced or scattered debris.

- N. Adequate numbers, types and sizes of properly maintained equipment shall be used in operating the facilities in accordance with good engineering practice. Emergency equipment shall be available on the site or suitable arrangements made for such equipment from other sources during equipment breakdown or during peak loads.
- O. A qualified supervisor shall be on duty at all times during the hours of operation. When the landfill facility is not in operation, provisions shall be made for securing the area from unauthorized dumping.
- P. Landfill facilities shall be open for inspection by the Perry Township Zoning Administrator during normal business hours.
- Q. Hours of Operation. All operations, other than the maintenance of equipment within a fully enclosed building, shall be conducted only between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, and the hours of 7:00 a.m. and 3:00 p.m. Saturdays. A sign stating the hours and prohibiting dumping of other items shall be placed in a conspicuous location at the entrance. Keys for admittance to the Solid Waste Facility shall be given to the Fire Chief. Solid Waste Facilities shall have qualified personnel on duty at all times to direct the operations of the Solid Waste Facility.
- R. Tipping fees agreement shall be part of the application agreement and shall include the following:
 - 1. Amount the Township General Fund shall receive per ton.
 - 2. Township residents shall not be charged a tipping fee.

SECTION 5105 RECLAMATION

A map shall be submitted at time of application that will disclose the approximate final grade and the levels to be established upon completions of the disposal area. The map shall also show any proposed uses of the land, if any, being contemplated for the future.

- A. Minimize erosion due to rainfall. Such graded or backfilled area shall be sodded or surfaced with soil of a quality of at

least equal to the topsoil in areas immediate surrounding, and to a depth of at least twelve (12) inches.

- B. Said topsoil shall be planted with trees, shrubs, legumes or grasses, as indicated on the approved operational site plan.
- C. Reclamation shall be completed as per EPA standards and as approved on the site plans.

SECTION 5106 PERFORMANCE ASSURANCES

Conditions established may include sureties satisfactory to Perry Township, Montgomery County Combined Health District, Ohio EPA or any other pertinent agency for the faithful performance of all of the conditions and requirements of this resolution concerning the operation and completion of a landfill. When applicable, an application for zoning compliance permit shall be accompanied by a corporate surety bond running to the Township, which specifies the amount, sufficient time period and renewal options. Said bond may be filed for the total operation or for one or more phases thereof.

ARTICLE 52

TELECOMMUNICATION TOWERS

CONDITIONAL USES

Telecommunications Towers as defined in Article 2, Subsection 203.20 and subject to the conditions in Article 52.

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, calculation, 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 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 structure.

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

- A. No existing towers or structures are located with the geographic area required to meet applicant's engineering requirements.
- B. Existing towers or structure are not of sufficient height to meet applicant's engineering requirements.
- C. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- D. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- 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 tower 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.

- A. Towers shall be located at least two hundred (200) feet or at distance equal to the height of the tower, which ever is greater, from any residential structure or adjacent property.
- B. Tower shall be set back at least a distance equal to the height of tower from adjacent thoroughfare(s) right-of-way as specific by the Montgomery County Thoroughfare Plan.
- C. 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 twenty (20) feet wide.

5204.03 SECURITY FENCING

Towers shall be enclosed by securing fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the governing authority may waive such requirements, as it deems appropriate.

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 the 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 (4) feet wide and six (6) 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 landforms 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.

SECTION 5204.05 HEIGHT

- A. For a single user, up to ninety (90) feet in height;
- B. For two users, up to one hundred twenty (120) feet in height;
- C. For three or more users, up to one hundred fifty (150) feet in height;
- D. Communication tower in excess of one hundred (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, to 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 light is preferred, as opposed to white strobe lights).

5204.07 ENCOURAGEMENT OF TOWER USE BY MULTIPLE PROVIDERS

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

SECTION 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 respect 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 twenty (20) feet.
- E. Antennas and equipment on existing structures, including and associated with the installation, must be integrated into the design of the structure upon which it is located and shall be aesthetically and architecturally compatible with the structure upon which it is located and the surrounding environment.

- F. An existing pole may be replaced, if not structurally suitable to hold the antennas and equipment related to a communication system, but in no case shall the new pole exceed the height of the existing pole plus twenty (20) feet.

SECTION 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 (6) 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 thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such tower in compliance within said thirty (30) days, the governing authority may remove such tower at the owner's expense.
- 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 six hundred (600) square feet of building area.
- D. The use of guyed wires is strictly prohibited within all of Perry Township.

- 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.

Complete removal of all associated buildings, fences and foundations to a depth of at least twenty-four (24) inches below grade, fill all holes and re-grade back to the original ground level.

APPENDIX

The illustrations contained in this Appendix are provided solely to clarify the intent of textural provisions and are not to be considered a part of the Zoning Resolution for purposes of construction, interpretation or otherwise.

RESOLUTION # 11- 72

RESOLUTION TO AMEND RESOLUTION #88-014 (and revised on November 19, 2001), NUISANCE ABATEMENT PROCEDURES, AS PROVIDED FOR IN SECTION 505.87 OF THE OHIO REVISED CODE

- Whereas,** the State of Ohio has enacted legislation to permit townships to provide for the abatement, control, or removal of nuisances; and
- Whereas,** the Perry Township Board of Trustees believe that it is in the best interest of Perry Township to amend its procedures, in accordance with O.R.C. Section 505.87, to abate, control, or remove nuisances in Perry Township; and
- Whereas,** following the adoption of Resolution #88-014, O.R.C. Section 505.87 has been amended; and

Now, Therefore, Be It Resolved, by the Perry Township Board of Trustees to enact the following amended nuisance abatement policy and procedures, as follows, effective immediately:

NUISANCE ABATEMENT

- I. **Policy Statement** - It is the policy of Perry Township to encourage property owners to voluntarily maintain their property in a nuisance free condition. When the Board of Trustees determines that a property owner(s)' maintenance of vegetation, garbage, refuse or other debris constitutes a nuisance, the Board of Trustees may take appropriate action to abate the nuisance.
- II. **Definitions:**

Nuisance: A nuisance condition may be determined to exist if vegetation, garbage, refuse or other debris is kept in such a manner that causes damage, annoyance, inconvenience, blight, and/or affects the health, safety and welfare of adjacent residents or properties.
- III. **Procedures:**
 - A. Upon information that a nuisance condition exists, the Board of Trustees will make cause to inspect the property. If the Board of Trustees finds a possible nuisance condition to exist, notice to the owner(s) of such property and all lien holders of record shall be made to attend a public hearing, where the Board of Trustees will determine if the property owner(s)' maintenance of vegetation, garbage, refuse or other debris constitutes a nuisance. Notification of said public hearing will be made in the following manner:

1. By certified mail and regular mail and by posting the notice on the principal structure on the land. Said posted notice shall then be photographed with a camera capable of recording the date of the photograph on it. (The posting is optional)

2. If the owner(s) address is unknown and cannot be reasonably obtained, it shall be sufficient to publish the notice once in a newspaper of general circulation in the Township.

3. Identification of the owner(s) and lien holder(s) of a particular parcel shall be determined by public records, as same are kept in the regular course of business, by the Montgomery County Auditor's Office and the Montgomery County Recorder's Office.

B. The notice of public hearing shall contain:

1. The date, time and location of the public hearing;
2. The location of property containing the alleged nuisance;
3. A description of the alleged nuisance;
4. That the property owner(s) may appear at said hearing and present evidence and/or witnesses on his/her behalf; and
5. That the property owner (s) may be represented by an attorney at said hearing;
6. That if the Board of Trustees determines that the property owner(s)' maintenance of vegetation, garbage, refuse or other debris constitutes a nuisance, the Board will cause said nuisance to be abated or removed as provided below.

C. If the Board of Trustees determines at the public hearing, based upon the evidence presented therein, that a nuisance exists, the Board of Trustees shall notify the property owner(s) and any holders of liens of record upon the land, that:

1. That the Board of Trustees has determined, after public hearing, that a nuisance exists on the property; and
2. The property owner(s) is ordered to abate, control or remove the vegetation, garbage, refuse or debris; and
3. If such vegetation, garbage, refuse, or other debris is not abated, controlled, or removed within seven (7) days of notification, the Board of Trustees will provide for the abatement, control, or removal of the nuisance, and any expenses incurred by the Board of Trustees in performing that task will be entered upon the tax duplicate and will be a lien upon the land from the date of entry.
4. That the property owner or the lien holders may, within the seven day period after notification, enter into an agreement with the Board of Trustees providing for either the property owner (s) or the Board to perform the abatement, control, or removal.

5. Said written notice, containing the abatement order as described in Section D(1-4) above, shall be sent to the property owner(s) and all lien holders by first class mail. Alternatively, the Board of Township Trustees can notify the owner by posting the notice on the principal structure on the land. Said posted notice shall then be photographed with a camera capable of recording the date of the photograph on it. Failure of delivery of said notice shall not invalidate any action to abate taken by the Board of Trustees or its agents or employees. If the address of the property owner(s) is unknown and cannot be reasonably obtained, the Board of Trustees will post the notice on the township's internet web site for four consecutive days.

6. If, within four (4) days after notice is given, the property owner(s) fails to abate, control or remove the vegetation, garbage, refuse and other debris, or if the property owner(s) fails to enter into an agreement with the Board of Trustees to provide for abatement of the nuisance, the Board of Trustees shall make available funds and take all necessary actions to abate the nuisance. All expenses incurred in abating the nuisance shall be approved by the Board of Trustees and paid from the general fund.

E. Upon having the nuisance abated, the Board of Trustees shall prepare, and the Clerk shall submit, a written report to the Montgomery County Auditor. The report shall include a statement of the Board of Trustees' actions under this Resolution and Ohio Revised Code Section 505.87, as well as a statement of all expenses incurred in providing for the abatement, control or removal of any vegetation, garbage, refuse or debris, including the Board's charges for its services, notification, the amount paid for labor, materials and equipment along with a proper description of the property.

Dale Seim, Trustee President

Melissa Mears, Trustee Vice President

Ron Price, Trustee

Attested:

State of Ohio: Montgomery County:

I, Rhonda Behnken, Fiscal Officer of Perry Township, Montgomery County, Ohio do hereby certify that the foregoing is taken and copied from the Record of the Proceedings of said Township meeting on August 9, 2011; that the same has been compared by me with the Resolution on said Record and that it is a true and correct copy thereof.

Rhonda Behnken
Perry Township, Fiscal Officer