CHAPTER 17
CONDITIONAL USES

17-1 PURPOSE

Conditional uses are those uses having some special impact or uniqueness which require a careful review of their location, design, configuration and special impact to determine, against fixed standards, the desirability of permitting their establishment on any given site. They are uses which may or may not be appropriate in a particular location depending on a weighing, in each case, of the public benefit against the local impact, the amelioration of any adverse impacts through special site planning, and development techniques and contributions to the provision of public improvements and rights-of-way.

17-2 AUTHORITY

The Board of Zoning Appeals may, in accordance with the procedures and standards set out in this Chapter, and other regulations applicable to the district in which the subject property is located, approve by resolution those uses listed as conditional uses in the Table in Section 17-12, in the Table of Permissible Uses in Chapter 3, or in any other part of this Resolution.

17-3 EFFECT OF CONDITIONAL USE LISTING

17-3.1 Compliance with Zoning Requirements

The listing of a conditional use in the Table in Section 17-12, in a Table of Permissible Uses in Chapter 3, or in any other part of this Resolution does not constitute an assurance or presumption that such conditional use will be approved except as provided in Section 17-3.2. Rather, each proposed conditional use shall be evaluated by the Board of Zoning Appeals on an individual basis. This shall be done in relation to its compliance with the standards and conditions set forth in this Chapter and with the standards for the district in which it is located, in order to determine whether approval of the conditional use is appropriate at the particular location and in the particular manner proposed.

17-3.2 Compliance with Other Requirements

Nothing in this Chapter shall be deemed to prohibit or unreasonably limit any use guaranteed by state or federal law. However, reasonable conditions may be required by the BZA in order to satisfy the purposes as outlined in section 17-1.

17-4 REVIEW PROCEDURE FOR CONDITIONAL USE APPLICATIONS

17-4.1 Applicant

An application for a Conditional Use Zoning Certificate may be filed with the Board of Zoning Appeals by the owner, lessee, or other person having a legal or equitable interest in the subject property.

17-4.2 Application

An applicant for a conditional use shall file a plan and an application on forms provided by the Administrator of the Board of Zoning Appeals. The plan for the use and development of the tract shall demonstrate that the general and specific criteria have been met.

17-4.3 Scheduling of Hearing and Transmittal of Application

Within five (5) days after filing of an application determined to be complete pursuant to Chapter 20, the BZA Administrator shall:

(a) set a date for a public hearing not less than thirty (30) nor more than sixty-two (62) days after filing of a complete application.
(b) transmit a copy of the application and plan, together with the date of the scheduled hearing, to the Sycamore Township Zoning Commission for staff review andrecommendation.

17-4.4 Staff Report

Within twenty (20) days after the filing of a complete application, the Administrative Official shall prepare and transmit to the Board of Zoning Appeals a written report incorporating or summarizing comments of other departments, agencies, and officials. A recommendation shall be included, setting forth whether the application for a conditional use should be approved, approved with modifications, or denied and reasons for such recommendation.

17-4.5 Notice and Hearing

The Board of Zoning Appeals (BZA) shall hold a public hearing in accordance with the adopted Procedures, Rules, and Regulations of the BZA. Notice of the hearing shall be given at least ten (10) days before the hearing by notice in writing sent by the BZA Administrator to: the applicant, the township in whose jurisdiction the tract is located, the owners within two hundred (200) feet in all directions. Notice shall be issued in accordance with ORC 519.15. Upon the hearing, any party may appear in person or by attorney.

17-4.6 Decision

Within twenty one (21) days after the close of the public hearing, the BZA shall, (1) approve the conditional use; (2) approve the conditional use subject to further specified approvals or modifications necessary to achieve full compliance with all standards; or (3) disapprove the conditional use.

17-4.7 Notification of Decision

Following the decision of the Board of Zoning Appeals, that BZA shall return to the applicant one copy of the resolution and submitted plans permanently marked to show either (1) approval of the conditional use; (2) approval of the conditional use subject to further specified approvals or modifications necessary to achieve full compliance with all standards; or (3) disapproval of the conditional use.

17-5 COORDINATED REVIEW AND APPROVAL OF APPLICATIONS

When an application for a Conditional Use Zoning Certificate is filed, applications shall be filed with the Board of Zoning Appeals for all other required approvals, including variances.

17-5.1 Notice of Applications for Additional Approvals

Whenever an applicant files an application for other approvals pursuant to this Section, all required notices shall include reference to the request for any and all additional approvals.

17-5.2 Procedures and Action by Board of Zoning Appeals

Whenever an applicant files applications for other approvals pursuant to this Section, the Board of Zoning Appeals shall review and process all such applications at the same public hearing. In reviewing such combined applications the Board of Zoning Appeals shall, except as hereinafter provided with respect to limitations on the time for taking action, comply with all of the provisions of this Resolution applicable to each of the applications.

The Board of Zoning Appeals shall act on any such combined application within the longest time period applicable to any one of the individual applications or within such further time as may be consented to by the applicant. The Secretary of the Board of Zoning Appeals shall issue notices and certificates of such action in accordance with the provisions of this Resolution applicable to the various applications involved.

17-6 GENERAL CONSIDERATIONS FOR CONDITIONAL USES

In approving an application for a Conditional Use Zoning Certificate, the Board of Zoning Appeals shall make a finding that the proposed conditional use is appropriate in the location proposed. The finding shall be based upon the general considerations set forth below, as well as the designated specific criteria for specific uses contained in Section 17-7.

(a) Spirit and Intent. The proposed use and development shall comply with the spirit and intention of the Zoning Resolution and with district purposes. The proposed use and development will be in harmony with the general and specific purposes for which this Resolution was enacted and for which the regulations of the district in question were established and complies with all additional standards imposed on it by the particular provisions of this Resolution authorizing such use.

(b) No Adverse Effect. The proposed use and development shall not have an adverse effect upon adjacent property, or the public health, safety, morals, and general welfare.

(c) Protection of Public Interests. The proposed use and development should respect, to the greatest extent practicable, the natural, scenic, and historic features of significant public interest.

(d) Consistent with Adopted Plans. The proposed use and development shall, as applicable, be consistent with objectives, policies and plans related to land use adopted by the Board of Township Trustees.

17-7 SPECIFIC CRITERIA PERTAINING TO CONDITIONAL USES

In addition to the general considerations contained in Section 17-6, each conditional use is subject to one or more specific criteria as identified in the Table in Section 17-12. The following list contains all the specific criteria with each preceded by a number for reference in the Table in Section 17-12.

(1) Site shall contain a minimum of 5 acres, and all buildings shall not occupy over 10 percent of the total area of the site.

(2) Site shall contain a minimum of 20 acres.

(3) Interment shall not be within 50 feet of any property line and any mausoleum, crematory, or other structure shall be at least 100 feet from every property line.

(4) Any structure (except fences), parking area, or storage area shall be setback at least 100 feet from every property line.

(5) Setbacks from any adjacent residential property line shall be a minimum of 50 feet for all buildings and 25 feet for all parking areas.

(6) Parking shall not be permitted in the area defined as the front yard setback of the existing zone district.

(7) Use shall have direct access to a collector or arterial street.

(8) The vehicular use area shall be located and designed so as to minimize impact on the neighborhood.

(9) Any use for which drop-off or pick-up of children, residents, visitors, products, or emergency vehicles is a common occurrence shall provide for the separation of incoming and outgoing vehicles so as not to impede other traffic.

(10) The use shall be located within 300 feet of an arterial highway.

(11) The facility shall be reasonably accessible, either by its location or transportation provided by the applicant, to medical, recreational, and retail services as well as to employment opportunities that may be required by its residents.

(12) Measures shall be taken to minimize the impact of potential nuisances such as noise, odor, vibration, and dust on adjacent properties.

(13) No exterior alterations of an existing structure shall be made that depart from the residential character of the building. All new structures shall be compatible in residential design with the surrounding neighborhood. However, any improvement required by code or necessitated by licensing requirements shall not be deemed incompatible.

(14) The architectural design and site layout of the structure and the location, nature, and height of any walls, screens, and fences are to be compatible with adjoining land uses and the residential character of the neighborhood.

(15) Landscaping shall be installed in accordance with one of the following buffers as described in Chapter 14:

(a) Boundary Buffer A (shown in Figure 14 A)

(b) Boundary Buffer B (shown in Figure 14 B)

(c) Streetscape Buffer (shown in Figure 14C)

(16) Signage shall be regulated as follows:

(a) No signs shall be erected for purposes of identification except a permitted street address sign

(b) One sign permitted at a maximum of 12 square feet and non-internally illuminated

(c) One sign permitted at a maximum of 32 square feet

(d) Subject to sign standards in Chapter 13

(17) The conditional use shall be subordinate to the principal permitted use with regard to usage and character.

(18) Outdoor playgrounds, tot lots, exercise areas, and pools shall be fully enclosed by a fence.

(19) All exterior lighting shall be directed away from adjacent residential properties.

(20) Documentation indicating the need for the facility, the specific clientele it will serve, and the location and type of similar facilities operated by the applicant shall be submitted as part of the application.

(21) Security measures shall be submitted as part of the application.

(22) The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents, along with a structured procedure whereby their grievances may be filed and resolved.

(23) A refuse collection plan shall be submitted as part of the application.

(24) Meals shall be served only to guests or residents of the facility and not to the general public.

(25) The intensity of the particular use shall be evaluated with regard to the location, size, and configuration of the tract.

(26) An emergency response plan shall be submitted detailing safety measures and response procedures.

(27) No structure, storage area, or vehicular use area shall be located closer than:

(a) 100 feet to a residential use or district

(b) 200 feet to a residential use or district.

(28) No landing strip shall be closer than 1,000 feet from a residential use.

(29) Coverage of the required rear yard by the unit shall not exceed 10 percent, and coverage of the entire lot by the unit and the principal unit shall not exceed 20 percent.

(30) The unit shall contain a maximum of 900 sq. ft. and not exceed 15 ft. in height.

(31) The terms of continuation of this use and those under which it shall eventually be removed or terminated are to be specified in the application and contained within the approving Resolution.

(32) There shall be central management of the use to assure seasonal occupancy only (April 1 to October 31).

(33) All mechanical equipment is to be screened from view from any residential property line.

(34) All trash handling areas / dumpsters are to be located no closer than 25 feet from any residential property line and must be screened from view.

(35) All photometric lighting levels are to be at 0 foot candles at all property lines.

(36) A development agreement shall be signed and executed by the Sycamore Township CIC (Community Improvement Corporation).

(37) There shall not be a Cannabis Dispensary within three (3) miles of another Cannabis Dispensary. The measurement shall be from the closest boundary of the parcels.

(38) This use shall not be established within one thousand (1,000) feet of any area zoned for or with the use of:

a. A residential use within the Township jurisdiction;
b. Any school, daycare, library, or teaching facility, whether public or private, governmental or commercial, which school, daycare, library, or teaching facility is attended by persons under eighteen (18) years of age;
c. Any park or recreational facility attended by persons less than eighteen (18) years of age;
d. Any publicly funded facility;
e. Any religious place of worship, which is attended by persons less than eighteen (18) years of age.

17-8 ACCESSORY USES TO CONDITIONAL USES

Any use or structure that is accessory to a conditional use shall be processed in the same manner as prescribed in this chapter for conditional uses. If an application for an accessory use is made concurrently with an application for the primary conditional use, they may be considered together as one application. Whether processed in conjunction with a primary conditional use or as a later supplement to an existing primary conditional use, the accessory use shall meet the appropriate specific criteria listed in Section 17-7 as well as the general conditions contained in Section 17-6.

17-9 ADDITIONAL REGULATIONS PERTAINING TO CONDITIONAL USES

In addition to the general standards contained in Section 17-6, the specific criteria contained in Section 17-7, all conditional uses are subject to the following regulations.

17-9.1 Additional Conditions

The Board of Zoning Appeals may impose additional conditions and limitations concerning use, construction, character, location, landscaping, screening, timing of implementation, and other matters relating to the purposes and objectives of this Resolution upon the premises benefited by a conditional use. Such conditions are intended to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services or to assure compliance with general or specific standards. However, such conditions shall not be used as a device to authorize as a conditional use that which is intended to be temporary in nature. All such conditions, including the designated specific criteria for a particular use, shall be expressly set forth in the resolution granting the Conditional Use Zoning Certificate. Violation of any such condition, limitation, or specific criteria shall be a violation of this Resolution and shall constitute grounds for revocation of the Conditional Use Zoning Certificate.

17-9.2 Effect of Approval of Conditional Use

The approval of a proposed conditional use by the Board of Zoning Appeals shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals that may be required by the regulations of the Township and County, including but not limited to, a Conditional Use Zoning Certificate, a building permit, a certificate of occupancy and subdivision approval.

17-9.3 Certification of Conditional Use Plan Compliance

Upon receipt from the applicant of an application for a Zoning Compliance Plan certification, the Administrative Official shall review the application to determine if it is complete pursuant to Chapter 20, Section 20-2.2, including any additional conditions required in conjunction with the approval by the Board of Zoning Appeals. Within seven (7) days of receipt of the completed application, the Administrative Official shall either (1) certify that the Zoning Compliance Plan complies with the BZA approval; or (2) refuse to certify the Zoning Compliance Plan for lack of compliance with the BZA approval.

17-9.4 Affidavit of Compliance with Conditions

Whenever any proposed conditional use authorized pursuant to this Chapter is made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Zoning Inspector so stating. Such affidavit shall be accompanied by a nonrefundable fee as established by the Board of Township Trustees upon recommendation of the Administrative Official, to recover the Township's actual direct cost of an inspection to verify that such conditions and limitations have been met.

17-9.5 Limitations on Conditional Use Approval

The approval of a proposed conditional use by the Board of Zoning Appeals shall be deemed to authorize only the particular use for which it was issued, and such authorization shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of twenty-four (24) consecutive months or more.

Except when otherwise provided in the Resolution for approving a conditional use, a conditional use shall be deemed to relate to, and be for the benefit of, the use and lot in question rather than the owner or operator of such use or lot.

17-9.6 Amendments to Conditional Uses

A Conditional Use Zoning Certificate may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in this Chapter for its original approval.

17-9.7 O, E, F, OO, EE, FF Conditional Uses

Any use that requires conditional use approval in the E-Retail, O-Office or F-Light Industrial District or any double letter EE, OO, or FF District shall be subject to a new Conditional Use consideration and review by the Board of Zoning Appeals in the event of any tenant change, name change, signage change, or in the event of any proposed expansion of the use or the use's premises. A new application and case shall be required consistent with applicable Chapter 17 provisions.

17-10 PERIOD OF VALIDITY

Subject to an extension of time granted by the Board of Zoning Appeals, no Conditional Use Zoning Certificate shall be valid for a period longer than one (1) year unless a building permit is issued.

17-11 APPEAL OF DECISION

Any party aggrieved by the decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas of Hamilton County on the ground that such decision was unreasonable or unlawful.

17-12 ADDITIONAL REGULATIONS PERTAINING TO ADULT ENTERTAINMENT FACILITIES

17-12.1 Definitions

Adult Entertainment Facility shall mean an establishment having a significant portion of its function as adult entertainment which includes the following listed categories:

A. ***Adult Arcade*** means a commercial establishment, where for any form of consideration, one (1) or more still or motion picture projectors, slide projectors, or similar machines or other image producing machines, for viewing by five (5) or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides or photographic reproductions characterized by the depiction or descriptions of "specified sexual activities" or "specified anatomical areas."

B. ***Adult Book Store, Adult Novelty Store or Adult Video Store*** means an establishment having as a significant or substantial portion of its sales inventory such adult materials.

C. ***Adult Mini Motion Picture Theater*** means a facility with a capacity for less than fifty (50) persons, used for presenting adult material for observation by patrons therein.

D. ***Adult Motel or Hotel*** means an establishment offering public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions, characterized by the depiction of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this type of material by means of a sign visible from the public right-of-way, or by means of off- premises advertising; or offers a sleeping room for rent for a period of time less than ten (10) hours; or allows a tenant or occupant to sub-rent the sleeping room for a period of time less than ten (10) hours.

E. ***Adult Motion Picture Theater*** means an enclosed motion picture theater or motion picture drive-in theater used for presenting adult material for observation by patrons therein.

F. ***Adult Entertainment Business*** means 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 male or females, and which is characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons. Services or products included within the scope of adult entertainment business are photography, dancing, reading, massage, and similar functions which utilize activities as specified above.

G. ***Escort Agency*** means a person or business association that, for any form of consideration, furnishes, or offers to furnish an escort(s), guide(s), or date(s) for another person.

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

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

J. ***Nude Model Studio*** means any place where a person, who regularly appears in a state of nudity, or displays "specified anatomical areas", is provided, for any form of consideration, to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

K. ***Specified Sexual Activities*** shall mean:

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.

L. ***Specified Anatomical Areas*** shall mean:

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.

M. ***Sexual Encounter Establishment*** means a business or commercial establishment, that is one (1) of its primary business purposes, offers for any form of consideration, a place where two (2) or more persons congregate, associate or consort, for the purpose of "specified sexual activities", or the exposure of "specified anatomical areas", or activities when one (1) or more of the persons is in a state of nudity or semi-nude (not including an establishment where a medical practitioner, psychologist, psychiatrist or similar person licensed in the state of Ohio, engages in medically approved and recognized sexual therapy.)

17-12.2 Regulations

A. Required Conditions:

1. No adult entertainment facility shall be established within one thousand (1000) feet of any area zoned for residential use within the Township jurisdiction.

2. No adult entertainment facility shall be established within a radius of one thousand (1000) 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.

3. No adult entertainment facility shall be established within a radius of one thousand (1000) feet of any park or recreational facility attended by persons less than eighteen (18) years of age.

4. No adult entertainment facility shall be established within a radius of five hundred (500) feet of any other adult entertainment facility or within a radius of one thousand (1,000) feet of any of the following establishments:

    a. Establishments for the sale of beer or intoxicating liquor for consumption on the premises.
    b. Pawn shops.
    c. Pool, billiard halls or amusement centers.
    d. Dance halls or Dance Clubs.

5. No adult entertainment facility shall be established within a radius of one thousand (1000) feet of any religious place of worship, which is attended by persons less than eighteen (18) years of age.

6. No adult entertainment facility shall be established within a radius of one thousand (1,000) feet of any publicly funded facility.

7. Divisions (1) through (6) 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 radii, giving their consent to the establishment of an adult entertainment facility, and if the Board determines:

    a. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and interest of this Section will be observed.
    b. That the proposed use will not enlarge or encourage the development of a skid row or similar depressed area.
    c. That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation not will it interfere with any program of urban renewal, residential or commercial reinvestment, or renovation of a historical area.
    d. That all applicable regulations of this Section will be observed.

8. All building openings, entries, windows, etc. for adult entertainment facilities shall be located, covered, or serviced in such a manner as to prevent a view into the interior from any public or semi-public areas, sidewalk or street. For new construction, the building shall be oriented so as to minimize any possibility of viewing the interior from any public or semi-public areas.

9. No advertising signage for an adult entertainment facility, shall be visible from any interstate or freeway. Furthermore, no off-premises signage advertising adult entertainment uses shall be permitted.

10. Displays or other promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other areas public or semi-public.

11. No employees of the subject establishment shall conduct themselves outside the confines of the structure in such attire and/or by actions, in a manner distracting, distasteful and/or detrimental to adjacent business interests, residents or passersby.

12. No screens, loudspeakers or sound equipment shall be used that can be seen or discerned by the public from public or semi-public areas.

Table 17-12
CONDITIONAL USES

	CONDITIONAL USES BY DISTRICT*									Specific Criteria for Conditional Uses
SPECIFIC USES	**AA-C**	**D**		**O**	**E**	**F**				(Numbers as per Sec. 17-7)
RESIDENTIAL USES:										
Accessory Apartment	**C**									13, 16a,17, 25
Bed and Breakfast	**C**	**C**								6, 8, 13, 16b, 19, 24
Day Care, Type A		**C**								5, 7, 8, 9,14, 16a, 18, 19, 25
Granny Cottage	**C**	**C**								14, 16a, 29, 30, 31
Group Home	**C**	**C**								6, 11, 13, 14, 16a, 19, 20, 22
COMMERCIAL USES:										
Office (excluding medical) - *low intensity (Max ISR = .50)*		**C**								6, 7, 8, 14, 15 b&c, 16d, 19, 25
Restaurant or Bar as accessory to office use				**C**						15, 16a, 17,
Cannabis Dispensary				**C**	**C**	**C**				15a&c, 16d, 36, 37
INDUSTRIAL USES:										
Mini-Storage Facility					**C**					5, 7, 15c, 16c, 21
Adult Entertainment Facility						**C**				See Section 17-12 for criteria.
Warehouse as accessory use				**C**	**C**					5, 8, 12, 16a, 17, 19
Smoke Shop						**C**				15a&c, 16d and 38
INSTITUTIONAL USES:										
Church (ISR Max .45)	**C**									6,8,12,14,15b,c,16 d,18,19,33,34,35
Cemetery	**C**									2, 3, 7, 15 a&c, 16c, 19
Correctional Facility, Halfway House						**C**				2, 7, 9, 15 b&c, 16c, 17, (19), 20, 21, 22, 25
Day Care Center, Child		**C**								8, 9, 12, 15 a&c, 16b, 18, 19
Hospital		**C**								5, 6, 7, 8, 9, 15 b&c, 16c, 19, 25
School	**C**	**C**								12, 15 a&c, 16c, 19
University or College	**C**									4, 12, 15 a&c, 16c, 19
PUBLIC SERVICE USES:										
Government Facility	**C**	**C**								5, 6, 8, 9, 15 a&c, 16c, 19
Library	**C**	**C**								5, 7, 8, 15 a&c, 16b, 19, 25
Park and Ride Facility	**C**	**C**								5, 7, 8, 9, 12, 15 a&c, 16b, 19, 25

	CONDITIONAL USES BY DISTRICT*									Specific Criteria for Conditional Uses
SPECIFIC USES	AA-C	D		O	E	F				(Numbers as per Sec. 17-7)
RECREATIONAL, CULTURAL & ENTERTAINMENT USES:										
Cultural Facility										
Botanical Garden	**C**									5, 6, 8, 16c, 19
Museum	**C**									4, 7, 8, 12, 15 b&c, 16c, 19, 25
Outdoor drama theaters (not drive-in's)	**C**									1, 4, 8, 12, 15 a&c, 16c, 19, 22
Zoo	**C**									2, 7, 8, 12, 15 a&c, 16c, 19, 21, 22, 23, 25, 26, 27b
Recreation, Community Facility - Private										
Athletic/Play Field	**C**	**C**								8, 12, 15a, 16c, 19, 21, 22, 23, 25
Club, Private	**C**	**C**								6, 7, 8, 14, 15 b&c, 16c, 19, 25
Golf Course	**C**	**C**								2, 5, 6, 8, 16c, 19, 24
Recreation Center, Internal	**C**									8, 12, 14, 15a, 16b, 19
Summer Camp	**C**									2, 9, 12, 16c, 19, 21, 26, 32
Swim/Tennis Facility	**C**	**C**								4, 8, 9, 12, 14, 15 b & c, 16c, 17, 18, 19, 21, 25

***Zone Districts:**

AA-C	=	AA, A, A-2, B, B-2, & C Residential Districts	F	=	Light Industrial District
D	=	Multi Family Residential Districts			
O	=	Office District			
E	=	Retail Business District			

17-13 ADDITIONAL REGULATIONS PERTAINING TO TELECOMMUNICATION TOWERS IN AREAS ZONED FOR RESIDENTIAL USE

17-13.1 Purpose and Intent

The following regulations are intended to minimize adverse health, safety, public welfare or visual impacts of telecommunications facilities in areas zoned for residential use through buffering, sitting, design and construction, and reduction of the need for new towers. It is the further purpose and intent of this Section to provide for authorization of telecommunications facilities in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community. These regulations shall not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless communications services. This section shall also govern the maintenance and removal of buildings and structures that are used in the provision of telecommunications service.

17-13.2 Authority and Scope

Except in accordance with Ohio Revised Code 519.211 and the provisions of this section of the Sycamore Township Zoning Resolution, no person shall, in an area zoned for residential use, locate, erect, construct, reconstruct, change, alter, use or enlarge any telecommunications tower. Whenever a notice has been received or an objection has been lodged, in the manner prescribed in Ohio Revised Code Section 519.211 regarding a telecommunications tower in an area zoned for residential use, the Board of Zoning Appeals shall, upon application, have the power to issue at its discretion a Conditional Use Zoning Certificate after public hearing,

allowing the construction, location, erection, reconstruction, change, alteration, or enlargement of such telecommunication facility if it finds that the applicant has satisfied all of the applicable requirements herein.

In the event of any inconsistency between this Section 17.13 and other provisions of the Sycamore Township Zoning Resolution, the provision of this Section shall prevail.

17-13.3 Exceptions:

1. A Zoning Certificate shall be granted as-of-right, without the need for public hearing, to permit the construction of a new telecommunications facility in an area zoned for residential use if that new tower or antenna is added to an existing tower (including electrical transmission towers and other utility towers), and if such installation extends less than 25 feet above the original height of the structure on which it is mounted.

2. Telecommunications towers not located in an area zoned for residential uses are exempt from zoning.

3. Telecommunications towers located in an area zoned for residential use are exempt from zoning unless within 15 days after the date of mailing of the applicant's notice sent under Ohio Revised Code Section 519.211:

a. The Board of Township Trustees or a contiguous property owner gives written notice to the Township Trustees requesting that the tower be subjected to zoning regulations, or
b. A member of the Township Trustees makes an objection to the proposed location of the telecommunication tower.

17-13.4 Definitions.

The following definitions shall apply to this Section:

Area Zoned for Residential Use. Land included in zoning districts where the primary permissible use is residential development and land in all other districts within 300 feet of any residential district wherein special provisions for setbacks, landscaping, buffers, and other development standards may be required for the protection of existing or future residential development.

Co-location. The use of a telecommunications tower by more than one wireless telecommunications provider. Co-location also includes the location of telecommunications towers or antennas with other facilities such as water tanks, electrical transmission towers or other utility facilities.

Telecommunication. The technology that enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems (also referred to as wireless communication).

Telecommunications Tower. Any free-standing structure, or any structure to be attached to a building or other structure; owned or principally used by a public utility or other person or entity engaged in the provision of wireless telecommunication services; in an area zoned for residential use; at a height greater than that permitted within the applicable zone, or an attached structure proposed at a height greater than either the height of the building or structure to which it is to be attached or that permitted within the applicable zone; to have attached to it radio frequency transmission or reception equipment. Towers may be constructed as: a "monopole," meaning one cylindrical column in the air; a "lattice tower," meaning three or more vertical legs trussed together; or a "guyed tower," meaning a structure that, because it is less substantial, is secured to the ground by wires, cables or similar material. Such towers may be related to, but are not limited to, radio and television transmission, microwave, commercial mobile, common carrier, cellular telephone, and personal communications services. The tower site may include separate buildings or accessory structures used to house any supporting electronic equipment.

17-13.5 Application Procedure.

The following procedures shall be in addition to any procedures required by this Chapter 17 pertaining to conditional uses and the Ohio Revised Code pertaining to telecommunications towers.

Pre-application Conference. Any person or company intending to construct or to apply for the placement or operation of a telecommunications tower or antenna within a residential district or an "area zoned for residential use" as defined in Section 17.13-4 shall first schedule a pre-application conference with the Zoning Administrator or designee. The purpose of the pre-application conference is to discuss the needs of the applicant, evaluate the impact of the proposed tower on adjacent property and neighborhoods, discuss possibilities of co-location, identify alternative suitable sites that may minimize the negative impact on residential areas, and clarify application process and requirements.

17-13.6 Documentation

Any request filed under this Section for review of a proposal to construct a telecommunications tower or antenna shall include the following:

1). Analysis of Co-location Alternatives. Unless co-locating, certification, supported by evidence, must be submitted indicating that co-location of the proposed telecommunications facility with an existing approved tower cannot be accommodated. The applicant's certification shall include a listing of all existing towers, a description of each existing site, and a discussion of the ability or inability to co-located on each existing site according to the following scope of analysis:

- For a tower proposed to exceed a height of 200 feet, analysis must include all towers within a 1 ½ mile radius,
- For a tower proposed to exceed a height of 100 feet but less than 200 feet, analysis must include all towers within a 1 mile radius,
- For a tower proposed to be built at a height less than 100 feet, analysis must include all towers with a 1/2 mile radius.

Reasons for not co-locating on a site would include, but not be limited to, the following:

a) No existing telecommunications towers are located within the above radius of the site;
b) Existing telecommunications towers are not of sufficient height to meet the applicant's engineering requirements;
c) Existing telecommunications towers do not have sufficient structural strength to support applicant's proposed antenna and related equipment;
d) Applicant's planned equipment would cause radio frequency interference with other existing or planned equipment of the telecommunications tower, or the existing or planned equipment of the telecommunications tower would cause interference with the applicant's planned equipment which cannot be reasonably prevented;
e) Unwillingness of the owner of the existing telecommunications tower to allow the sitting or enter into a co-location proposal; or
f) Existing telecommunications towers do not provide an acceptable location for requisite coverage for the applicant's communications network.

2). Analysis of New Tower Site Alternatives. Unless co-locating, certification, supported by evidence, must be submitted indicating that a proposed new site for a telecommunications tower is an essential location. The applicant's certification shall include a listing of potential sites, a description of each potential site (including ground elevations), and a discussion of the ability or inability of the site to host a telecommunications tower according to the following scope of analysis:

- For a tower proposed to exceed a height of 200 feet, analysis must include all towers within a 1 ½ mile radius,
- For a tower proposed to exceed a height of 100 feet but less than 200 feet, analysis must include all towers within a 1 mile radius,
- For a tower proposed to be built at a height less than 100 feet, analysis must include all towers within a 1/2 mile radius.

Potential sites that should be considered (in order from most preferred to least preferred) include: existing telecommunications towers and utility towers, public land in non-residential district, industrial districts, commercial districts, and residential districts.

Reasons for not locating on a potential site would include, but not be limited to, the following:

•Unwillingness of the site owner to site a telecommunications tower on commercially reasonable terms;
•Topographic limitations of the site;

Adjacent impediments that would obstruct adequate transmission;
(a) Physical site constraints that would preclude the construction of a telecommunications tower;
2 Technical limitation of the telecommunications system;
(a) Existing potential sites do not provide an acceptable location for requisite coverage for the applicant's communications network.

3). Analysis of Visual Impact. The applicant for a Conditional Use Certificate to construct a telecommunications tower shall submit, subject to a non-site owner's permission to enter upon the land, a pictorial representation, such as a silhouette drawing, photograph, etc., of the proposed telecommunications facility from a point 400 feet from the facility in each of the four compass directions showing the relationship of the tower and/or facilities against the massing of surrounding structures, trees, and other intervening visual masses.

4). Expert Review. Prior to granting a Conditional Use Certificate, The Board of Zoning Appeals may require that the applicant's proposal and analysis be reviewed by an independent qualified consultant(s), at the cost of the applicant. Special review fees, not to exceed $2500.00 may be established to cover the costs of staff and/or external expert review of requests filed under this section.

5). Agreement to Enable Co-location. In the event of the construction of a new tower by the applicant, the applicant shall agree to the shared use of such facilities, when technically feasible, by other telecommunication companies upon payment of reasonable fees to the owner, or agreement to reciprocal terms for co-location involving other site(s), provided such shared use does not violate any law, rule or regulation. Any new towers shall be designed to accommodate antennas for more than one use. Such agreement shall be incorporated on the conditional use plan.

6). Agreement to Accommodate Public Safety Antennas. The applicant shall agree to accommodate the communications antennas of the local police, fire, ambulance and other government departments at no charge where technically feasible. Such agreement shall be incorporated on the conditional use plan.

7). Consistency with Adopted Plans. A justification statement demonstrating that the proposed construction is in agreement with any plans, relating to telecommunications towers, duly adopted by the Sycamore Township Board of Trustees.

8). Agreement to Submit an Annual Network Inventory. On or before January 1st of each calendar year each applicant (having conditional use approval of a telecommunications tower or facility) shall provide a listing of the present locations of the applicant's telecommunications towers and/or facilities in Sycamore Township. With each application, the applicant shall provide any changes to the "annual" plan that have occurred since January 1st or verify the continued accuracy of the plan submitted. Such agreement shall be incorporated on the conditional use plan.

9). Guarantee of Removal if Abandoned. To ensure the removal of all improvements at any abandoned telecommunications facility in an area zoned for residential use, any applicant filing a request, except for multi-user co-location towers, under this Section shall, deposit with the Board of Zoning Appeals and to the benefit of the Township Trustees a letter of credit, a performance bond, or other security acceptable to the Township Trustees. Performance Bonds are to be issued by a bonding agency certified and licensed by the State of Ohio. The bonding agency shall recommend the amount of the bond required covering the costs in association with the removal of the improvements and the restoration of the land to its original condition prior to the construction of the telecommunications tower. Verification of the performance bond, line of credit or other security issued to guarantee the removal and restoration of the land, are to be submitted to the BZA Staff on or before January 1 of each calendar year while the telecommunications tower is in use. Any guarantee submitted shall be irrevocable and shall provide for the Township Trustees to collect the full amount of the guarantee if the applicant fails to maintain the guarantee. A change in ownership, lessee,

successor by merger requires the issuance of a new guarantee. The new guarantee shall be submitted to the Board of Zoning Appeals Administrator for approval and submission to the Township Trustees. The owner or lessee shall enter into a written agreement with the property owner to remove all improvements made in association with the construction of the tower and restore the property to its original state when the telecommunications tower is no longer in use and or at the time of the termination of the lease agreement.

10). Other Approvals. Proof shall be provided by the applicant in a form satisfactory to the Board of Zoning Appeals that the proposal has been approved by all agencies and governmental entities with jurisdiction, and conforms to all applicable requirements of the Ohio Department of Transportation, the Federal Aviation Administration, the Federal Communication Commission, or the successors to their respective functions.

17-13.7 Specific Criteria Pertaining To Telecommunications Towers.

At the time of filing of a request under this Section, the applicant shall provide information demonstrating compliance with the requirements listed below.

1. Design. A new tower built in an area zoned for residential use shall, to the extent economically and technologically feasible, be designed, engineered and constructed as follows: (a) a tower 75 feet tall or less shall be designed, engineered and constructed to support antennas installed by one or more wireless communication service provider; (b) a tower more than 75 feet tall but less that 150 feet tall shall be designed, engineered and constructed to support antenna installed by two or more wireless communication service providers, and (c) a tower 150 feet tall or more shall be designed, engineered and constructed to support antenna installed by three or more wireless communication service providers. Monopole tower installations are required unless it is demonstrated that another type of tower is required for safety purposes or for co-location or multiple use requirements of the Board of Zoning Appeals.

2. Lot Size. Lot size shall be the minimum for the zoning district in which the telecommunication tower is to be built. Sufficient ground space should be provided to enable multiple equipment structures in accordance with co-location requirements and plans.

3. Setbacks for Towers. Telecommunication towers shall be located so as to establish a clear zone for falling tower debris, ice and/or the collapse of the tower. Towers shall be located such that the distance from the base of the tower to any adjoining property line of a residential use or district is a minimum of 100 percent of the proposed tower height and a minimum of 50 percent of the proposed tower height from any adjoining nonresidential use or district.

4. Setbacks for Accessory Structures. All structures, except fences and underground shelters, shall be located at least 50 feet from the property line of any residentially zoned property and shall, in all other circumstances, observe the yard requirements of the district in which they are located.

5. Underground Shelters. Underground equipment shelters are encouraged in residential district, and may be required by the Board of Zoning Appeals.

6. Fences. Fencing shall be utilized for aesthetics and public safety. Razor wire fencing shall be prohibited. Barbed wire fencing may be used to enclose the facility and shall, if used, have barbed wire strands not less than 7 feet and not more than 10 feet above grade and be a minimum of 30 feet from any residential property line.

7. Screening and Landscaping. Existing on-site vegetation shall be maintained to the greatest extent possible. In addition, landscaping or appropriate screening shall be required to screen the support structure and any other ground level features. In general, landscaping should soften the appearance of the tower site. The Board of Zoning Appeals may permit a combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping.

8. Signs. The only signs allowed shall be emergency information signs, owner contact information, warning or safety instructions, and signs required by a federal, stated, or local agency. Such signs shall not exceed 5 square feet in area.

9. Lights. Telecommunications towers and accessory facilities shall not be equipped with lights unless such lighting is required due to factors outside of the applicant's control. Security lighting within the tower structure are permitted provided that such lighting is compliant with the lighting section of the Sycamore Township Zoning Resolution.

10. Visual Impact. Telecommunications towers and accessory facilities shall be constructed using designs and materials that reduce visual impact to the extent economically and technologically feasible. Facilities which have a greater visual impact should be permitted (for example -- taller, lighting required, larger ground space used) when the greater visual impact of a particular facility eliminates the need to construct other facilities in an area zoned for residential use, thus resulting in a reduced total visual impact. Towers and accessory facilities shall be designed, painted, located, landscaped and otherwise constructed so as to reduce visual impact of the facility in the area zoned for residential use to the extent economically and technologically feasible.

11. Abandonment. The applicant (or its successors) shall, within 30 days of permanently ceasing operation of a telecommunication tower, provide written notice of abandonment to the zoning inspector. An unused telecommunication tower may stand no longer than 12 months following abandonment. All costs associated with demolition of the tower and associated equipment buildings shall be borne by the most recent tower operator of record unless such costs are the contractual or legal responsibility of another party. A tower is considered abandoned when it ceases transmission for 30 consecutive days. If the use of any telecommunications tower is discontinued, the owner shall provide the Board of Zoning Appeals with a copy of the notice to the FCC of intent to cease operations within 30 days of such notice to the FCC. If the tower will not be reused, the owner shall have 180 days from submittal of the FCC notice to the BZA to obtain a demolition permit and remove the tower that will not be reused. If the tower is to be reused, the owner shall have no more than 12 months from submittal of the FCC notice to the BZA in which to commence new operation of the tower that is to be reused. Upon failure to commence new operation of the tower that is to be reused within 12 months, the tower shall be presumed abandoned, and the owner shall immediately obtain a demolition permit and remove the tower that is presumed abandoned. If the owner fails to remove a tower in the time provided by this paragraph, the BZA may cause the demolition and removal of the tower and recover its costs of demolition and removal from the Guarantee deposited by the applicant pursuant to Section 17-13.6 (9) above.

12. Maintenance. Every applicant, owner or operator of a telecommunications tower, in an area zoned for residential use, shall annually file with the BZA, on or before January 1st of each year, a declaration that each and every tower that it then maintains within Sycamore Township is used by that applicant for wireless communication purposes.
Any owner of property used as a telecommunications tower site shall maintain such property and all structure in good condition and free from trash, outdoor storage, weeds and other debris.

17-13.8 Modifications.

Where the Board of Zoning Appeals finds that the conditions or circumstances relating to the particular application are such that one or more of the requirements of this Section are not necessary or desirable for the protection of surrounding property or the public health, safety or welfare, either at the time of application or in the foreseeable future, and that such special conditions and circumstances make one or more said requirements unduly burdensome, the Board of Zoning Appeals may modify or waive such requirement, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver.

17-13.9 BZA Action.

Any decision to deny a request to place, construct or modify a telecommunications tower or antenna shall be in writing and supported by substantial evidence contained in a written record of the proceedings of the Board of Zoning Appeals. The BZA may not deny an application for a telecommunications tower or antenna as a conditional use if the denial would unreasonably discriminate among providers of functionally equivalent services or prohibit or have the effect of prohibiting the provision of personal wireless services.

Further, the BZA may not deny an application for a telecommunications tower or antenna as a conditional use on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commissioner's regulations concerning such emissions.