

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF BENTON TOWNSHIP, OTTAWA COUNTY, STATE OF OHIO:

ARTICLE I - GENERAL PROVISIONS

Section 100. Enacting Clauses

The Board of Trustees of Benton Township, Ottawa County, Ohio in accordance with enabling legislation for township zoning as provided in Section 519 of the Ohio Revised Code hereby provide as follows:

Section 101. Purpose

This resolution is adopted for the purpose of protecting and promoting public health, safety, morals, comfort, and general welfare; conserving and protecting property and facilitating adequate but economical provisions of public improvements; and amending the Zoning Resolution of the Board of Trustees of Benton Township, Ottawa County, Ohio effective November 3, 1964 as amended to the date of the adoption of this amending resolution, in each and every part thereof that is inconsistent with this amending resolution.

Section 102. Interpretation and Conflict

In interpreting and applying the provisions of this resolution, they shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare. It is not intended by this resolution to interfere with or abrogate or annul any resolution, rules, or regulations previously adopted or issued and not in conflict with any of the provisions of this resolution, or which shall be adopted or issued, pursuant to law resisting to the use of buildings or premises and likewise not in conflict with this resolution; nor is it intended by this resolution to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this resolution imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces or larger lot areas than are imposed or required by such other resolutions or agreements, the provisions of this resolution shall control.

Section 103. Compliance with Regulations

103.1 No building or structure shall be located, erected, constructed, reconstructed, enlarged, or structurally altered except in conformity with the area, height, and yard regulations of the district in which such building or structure is located.

103.2 No buildings, structures, or lot shall be used for any purpose other than that which is permitted in the district in which such building, structure, or lot is located.

103.3 No yard or other open space existing about any building or structure shall be so reduced in area or dimensions as to make it less than the minimum required by this resolution.

103.4 No lot held under one ownership at the time of the effective date of this resolution shall be reduced or subdivided in any manner below the minimum area and yard provisions required by this resolution.

103.5 Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot except as specifically provided herein.

103.6 Exceptions to these specific regulations in specific cases may be authorized by the Board of Zoning Appeals where there are practical difficulties or unnecessary hardships in carrying out the strict letter of this resolution providing such exception is in harmony with the general purpose and intent of the resolution and in accordance with the procedures and provisions specified in Article XII. Hardship shall be based on physical limitations of the land or structures and does not encompass financial considerations.

103.7 The dumping and/or burying and/or spreading, in any manner, of sewage and/or sewage sludge and/or industrial waste is fully prohibited in all thirteen (13) zoning classifications listed herein.

103.8 Landfills for solid waste disposal or for any other waste material shall be fully prohibited in all thirteen (13) zoning classifications listed herein.

Section 104. Uses Exempted from Provision of this Resolution

104.1 Except as provided in **Section 519.21**, Sections 519.02 to 519.25 of the Revised Code confer no power on any township zoning commission, board of township trustees, or board of zoning appeals in respect to prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, including buildings or structures that are used primarily for vinting and selling wine and that are located on land any part of which is used for viticulture and no zoning certificate shall be required for any building or structure. (Revised, 2006)

A township zoning resolution, or an amendment to such resolution may in any platted subdivision approved under Section 711.05, 711.09, or 711.10 of the Revised Code, or in any area consisting of fifteen (15) or more lots approved under Section 711.131 of the Revised Code, that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road, regulate

1. Agriculture on lots of one (1) acre or less;
2. Buildings or structures incident to the use of land for agricultural purposes on lots greater than one acre but not greater than five acres by setbacks, building lines, height, and size;
3. Dairying and animal and poultry husbandry on lots greater than one acre but not greater than five acres when at least thirty-five percent of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured homes under Section 4503.06 of the Revised Code. After thirty-five percent of the lots are so developed, dairying, and animal and poultry husbandry shall be considered nonconforming uses of land and buildings and structures pursuant to Section 519.19 of the Revised Code; and

Division B of the section confers no power on any township zoning commission, board of township trustees, or board of zoning appeals to regulate agriculture, buildings or structures, and dairying and animal and poultry husbandry on lots greater than five acres.

104.1 Section 519.02 to 519.25 of the Ohio Revised Code confer no power on any **zoning commission**, board of township trustees or board of zoning appeals to prohibit **in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for a farm market where fifty percent or**

more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. However, a board of township trustees, as provided in Section 519.02 of the Revised Code may regulate such factors pertaining to farm markets as size of the structure, size of parking areas that may be required, set back building lines, and egress or ingress, where such regulation is necessary to protect the public health and safety. (Revised, 2006)

104.2 Such sections confer power on a board of township trustees or board of zoning appeals with respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of a public utility engaged in the business or transporting persons or property, or both, or providing or furnishing such transportation service, over any public street, road, or highway in this state, and with respect to the use of land by any such public utility for the operation of its business, to the extent that any exercise of such power is reasonable and not inconsistent with Chapter 4901, 4903, 4909, 4921, and 4923 of the Revised Code. However, this division confers no power on a board of township trustees or board of zoning appeals with respect to a building or structure of, or the use of land by, a person engaged in the transportation of farm supplies to the farm or farm products to market or to food fabricating plants. (Revised, 2006)

104.3 Such sections confer no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit the sale or use of alcoholic beverages in areas where the establishment and operation of any retail business, hotel, lunchroom, or restaurant is permitted.

104.4 Such sections do not confer any power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit the use of any land owned or leased by an industrial firm for the conduct of oil or natural gas well drilling or production activities or the location of associated facilities or equipment when such oil or natural gas obtained by the industrial firm is used for the operation of its own plants.

104.5 Such sections confer some power to regulate telecommunication towers. The requirements of 519.211(B) shall be met when regulating telecommunication towers. (Revised, 2006)

Section 105 Validity

If any article, section, subsection, paragraph, sentence, or phrase of this Resolution is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution.

Section 106 Effective Date

This Resolution shall be in full force and effect from and after its passage on November 3, 1964 as provided by the Ohio Revised Code.

ARTICLE II - DEFINITIONS

For the purpose of this resolution certain terms and words are herein defined as follows:

The words "used for" include "designed for" and vice versa; words used in the present tense include the future; words in the singular number include the plural number and vice versa; the word "building" includes the word "structure", the word "dwelling" includes the word "residence"; the word "lot" includes the word "plot"; and the word "shall" is mandatory and not directory.

Accessory Building: A detached subordinate building, the use of which is clearly incidental to that of the main building or to the use of the land. **On land used for residential purposes, a structure or vehicle designed and intended to be used as a temporary or permanent residence, such as mobile homes and recreational trailers, and any other vehicles designed or intended to be used for the movement of goods and materials over the highways, such as truck trailers, containers, or pods shall not be used as an accessory building. (Revised, 2006)**

Accessory Use: A use customarily incidental and subordinate to the principal use of the building or property and located on the same lot with such principal use or building.

Adult Arcade: Any place to which the public is permitted and or/charged an admittance fee wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of nudity or sexual or genital areas. (Revised, 1998)

Adult Bookstore: Any establishment which utilizes ten (10) percent or more of its retail selling area for the purpose of retail sale or rental or for the purpose of display by coin-operated or slug-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices, books, magazines, periodicals, films, tapes, and cassettes which are distinguished by their emphasis on adult materials or characterized by the depicting or describing of nudity or genital areas. (Revised, 1998)

Adult Cabaret: A nightclub, bar, restaurant, or similar establishment in which persons appear in a state of nudity in the performance of their duties. (Revised, 1998)

Adult Health Club: Any establishment that provides equipment and facilities for exercising and improving physical fitness where employees and/or patrons appear in a state of nudity. (Revised, 1998)

Adult Material: Any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure image, description, motion picture film, phonographic record or tape, other tangible thing, or any service, capable of arousing interest through sight, sound, or touch, and which material is distinguished or characterized by an emphasis on matter displaying, describing, or representing sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination; or which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality or human bodily functions of elimination. (Revised, 1998)

Adult Motion Picture Theatre: A commercial establishment, where for any form of consideration, films, motion pictures, video cassettes, slides, or similar

photographic reproductions are regularly shown which are characterized by the depiction or description of specified anatomical areas or specified sexual activities, nudity, or sexual or genital areas. (Revised, 1998)

Adult Oriented Sexual Business: An inclusive term used to describe collectively adult cabaret, adult motion picture theatre, adult media store, bathhouses, massage shops, or stores that primarily sell adult materials as defined herein. (Revised, 2006)

Agriculture: The use of land for farming; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry; including but not limited to the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage, drying storage and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production. (Revised, 1998)

Airport or Aircraft Landing Field: Any land area, runway, or other facility designed, used, or intended to be used either publicly or by any person or persons for the landing and taking off of aircraft, including all necessary taxi-ways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open space.

Alley: A public or private thoroughfare designed to provide access to the rear or side of property or lots and generally less than thirty (30) feet in width.

Alteration, Structural: Any change which would tend to prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams, or girders.

Animal Hospital/Clinic: A place where animals are given medical care and where to boarding of animals is limited to short-term care incidental to the hospital use. (Revised, 2006)

Apartment: Same as "Dwelling Unit".

Apartment Hotel: A building or portion thereof designed for or containing both individual guest rooms or suites of rooms and dwelling units.

Attorney: Ottawa County Prosecuting Attorney or the Township's legal advisor.

Automotive Repair: The repair, rebuilding, or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

Automobile Service Station: Any premises used for supplying gasoline and oil, at retail direct to the customer, including minor accessories and services for automobiles.

Automobile, Recreational Vehicle Utility Trailer, and Yard & Farm Implement Sales Area: An open area, other than a street, used for the display or sale of new or used automobiles, utility trailers, yard and farm implements, and the following recreational vehicles.

Recreational Vehicle: Defined as and including the following:

- a. Travel Trailer (including 5th wheels): A vehicular portable structure built on a chassis designed to be used as a temporary

dwelling for travel, recreation, and vacation use and not exceeding thirty-five (35) feet in length.

- b. **Truck Camper:** A structure designed primarily to be mounted on a truck and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation, and vacation use.
- c. **Motor Home:** a portable dwelling designed and constructed as an integral part of a self-propelled vehicle which is more than seven (7) feet high and/or more than sixteen (16) feet long.
- d. **Folding Tent Trailer:** A canvas folding structure mounted on wheels and designated for travel and vacation use.
- e. **Boat and Boat Trailers:** Includes boats, floats, rafts, and the normal equipment to transport the same on the highway.

No repair work shall be undertaken except for minor incidental repair of the vehicles being displayed or sold on the premises. (Revised, 1998)

Automobile Wrecking: The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete, or wrecked vehicles or their parts.

Automobile Wrecking Yard: Any place where two (2) or more motor vehicles not in running condition, or parts thereof, are stored in the open, in a fenced area or in a partially enclosed building, and are not being restored to operation, or any land used for wrecking or storing of such motor vehicles or farm machinery or parts thereof, stored in the open and not being restored to operating condition.

Bakery: A facility for producing, mixing, compounding, or baking bread, biscuits, cakes, pies, buns, or other similar products of which flour or meal are the primary ingredient. (Revised, 2006)

Balcony: A railing enclosed platform projecting from the outer wall of a building.

Bar/Tavern: Premises used primarily for the sale or dispensing of alcoholic beverages by the drink for on-site consumption and where food may be available for consumption on the premises as accessory to the principal use. (Revised 2002)

Base Metal Processing: A factory where base metal material is processed into products that are sold as is or further processed elsewhere. (Revised, 2006)

Basement: A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story where more than one-half (1/2) of its height is above the average level of the adjoining ground.

Bed and Breakfast Inn: An owner-occupied, single-family residential dwelling in which rooms are rented to paying guests on an overnight basis and breakfast only is provided.

Billboard or Poster Panel: Any sign or advertisement used as an outdoor display for the purpose of making anything known, the origin or point of sale of which is remote from said display.

Board: Shall mean the Board of Zoning Appeals.

Board of Township Trustees: Shall mean the duly elected and/or duly appointed Benton Township Trustees.

Boarding House: A building or portion thereof, other than a hotel, where meals, or lodging and meals for five (5) or more persons are provided for compensation.

Boat Sales and Repair: A facility where new and used boats are sold to the public and where repairs are performed on boats owned by others. (Revised, 2006)

Building: A structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, chattels, or property.

Building, Community: A building for social, educational, and recreational activities of a neighborhood or community, provided any such use is not operated for commercial gain.

Building Height: The vertical distance measured from the adjoining curb grade to the highest point of the roof surface if a flat roof; to the deck line of a mansard roof, and to the mean height level between eaves and ridges for a gable, hip, or gambrel roof, provided that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade along the front of the building.

Building, Main: A building in which is conducted the principal use of the lot on which it is situated.

Building Material Sales: A building or structure in which building or construction and home improvement materials are offered for sale at retail, including minor fabrication services. (Revised, 2006)

Building, Unit Group: Two or more buildings (other than dwellings) grouped upon a lot and held under one ownership, such as universities, hospitals, and institutions.

Building Width: The shorter or shortest dimension of a dwelling unit consisting of enclosed living spaces, but not including enclosed porches and breezeways, attached garages and the like.

Business, General: Retail and service establishments which, in addition to catering to the community residents' and workers' daily needs for convenience goods and services, also include establishments offering comparative type shopping facilities. General business includes but is not limited to supermarkets, stores for the sale of drugs, hardware, appliances, furniture, apparel, foot ware, business and personal services, professional services, offices, and other similar or related activities which can be grouped by design into a unified shopping center.

Business, Highway: Includes commercial uses requiring locations on major thoroughfares and at their principal intersections. Highway uses include motels, gas stations, restaurants, drive-in establishments, auto and farm implement sales and services, building trades and services, commercial recreation and similar commercial activities.

Business, Neighborhood: Retail and service establishments which cater to and can be located in close proximity to or within residential districts without creating noise or other objectionable influence. To prevent congestion, local retail and service uses include only those enterprises which normally employ less than ten (10) persons. Permitted uses include drugstores, beauty salons, barber shops, carry-outs, dry cleaning and laundry pick-up facilities, hardware, and grocery stores if less than 10,000 square feet of floor area.

Other small businesses of and equally restricted in local nature may be permitted, based on the discretion of the Board of Zoning Appeals.

Business Services: Any activity conducted for gain which renders services, primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes or businesses.

Campsite or Trailer Camp: An area of land on which three (3) or more travel trailers, campers, motor homes, tents, or other similar recreational vehicles are accommodated with or without charge. Such camp shall include any building, structure, or fixture of equipment that is used or intended to be used in connection with providing such accommodations.

Cemetery: Land set aside or used as a place for the internment of the dead. (Revised, 2006)

Child Care Clinic: A building or portion thereof used for the care, diagnosis, and treatment of children under the age of eighteen. (Revised, 2006)

Child Day Care Center: Any commercial building, residential building, or other building or place administering to the needs of infants, 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 (24) hour day in a building, place, or residence other than the child's own home. (Revised, 1998)

Clinic: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians practicing medicine together or professionals licensed to practice the healing art.

Club: A building or portion thereof or premises owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Cluster Housing: A development design technique that locates buildings in limited areas of a site allowing the remaining land to be kept open and used for a variety of open space uses, primarily benefiting the residents of the development. (Revised, 2006)

Commercial Entertainment Facilities: Any activity conducted for gain which is generally related to the entertainment field, such as motion pictures, theaters, carnivals, night clubs, and similar entertainment activities, but not including adult oriented sexual businesses. (Revised, 1998)

Commercial Recreational Facility: See "Recreational Facilities" (Revised, 2006)

Commission: Shall mean the Zoning Commission of Benton Township.

Community Water and Sewerage Facilities or Services: The water distribution and/or sewerage collection system provided by or authorized or franchised by a public authority.

Conditional Use (Special Exception): A use which is subject to conditional approval by the Board of Zoning Appeals. A conditional use may be granted by the Board only when there is a specific provision for such special exception made in this Resolution. A conditional use is not considered to be a non-conforming use.

Condominium: Same as "Dwelling, Multiple-Family".

Contractor Material and Equipment Storage Yard: An area of land and buildings where a contractor's equipment and material are stored, including shop and assembly areas. (Revised, 2006)

Curb Grade: The elevation of the established curb in front of the building measured at the center of the front. Where no curb grade has been established, the County Engineer **may** establish such curb grade or its equivalent for the purpose of this Resolution. (Revised, 2006)

Day-Care-Center: Same as "**Child Day Care Center**". (Revised, 2006)

Density: The number of dwelling units per acre of land.

Disabled Vehicle: An inoperable vehicle or extensively damaged vehicle, such damage including but not limited to missing wheels, tires, motors, or transmission.

District, Zoning District: Administrative tracts designating the uses to which land can legally be utilized. Boundaries of districts are shown on the "District Map" which is a part of this Resolution.

Drive-In Commercial Uses: Any retail commercial use providing considerable off-street parking and catering primarily to vehicular trade such as drive-in restaurants, drive-in theatres, and similar uses.

Dwelling: A building or portion thereof designed exclusively for residential occupancy including one-family, two-family, multiple-family dwellings and HUD approved manufactured homes subject to Section 707, but not including hotels, boarding or rooming houses, or recreational vehicles.

Dwelling Units: One or more rooms in a dwelling or apartment hotel designed for occupancy by one (1) family for living purposes and having cooking facilities.

Dwelling, Single-Family: A detached building designed exclusively for occupancy by one (1) family. (Revised, 2006)

Dwelling, Two-Family: A building designed exclusively for occupancy by two (2) families living independently of each other, including a duplex, (one dwelling unit above the other) or a semi-detached dwelling, (one dwelling unit beside the other).

Dwelling, Multi-Family: A building or portion thereof designed for occupancy by three (3) or more families living independently of each other.

Easement: Authorization by a property owner for the use by another party, and for a specific purpose, of any designated part of his property.

Educational Institution: A college or university giving general academic instruction equivalent to the standards prescribed by the State Board of Education.

Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, traffic signals, hydrants, and other similar equipment and accessories in conjunction therewith and

reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety, or general welfare but not including buildings.

Family: Up to five (5) persons above the age of eighteen (18) and up to six (6) persons below the age of eighteen who are related by blood, adoption, marriage, or guardianship to any of the first five (5) above eighteen (18) years of age. (Revised, 1998)

Farm Pond/Retention Pond/Recreation Pond: A pond, pool, or basin used for permanent storage of water runoff, but not including structures using water for landscaping purposes and containing less than four hundred (400) square feet of area. (Revised, 2006)

Farm Vacation Enterprises: Farms adapted for use as vacation farms, picnicking and sports areas, fishing waters, camping scenery and nature recreation areas, hunting areas, hunting preserves, and watershed projects.

Fence: A barrier intended to prevent intrusion or escape excluding decorative structures not designed for such purposes.

Flea Market: An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

Floor Area: The sum of the gross horizontal area of all floors, excluding basements areas not used for living quarters and other areas not used for permanent occupancy or use.

Food Processing: The preparation, storage, or processing of food products. Examples of activities included are bakeries, dairies, canneries, and the like.

Forestry: The growing and care of trees for commercial purposes, including the cutting and marking of timber.

Frontage: All of the property on one side of a street between two intersecting streets (crossing or terminating), measured at the set-back building line -- or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

Garage, Private: A detached accessory building or portion of a main building for the parking or temporary storage of automobiles of the occupants of the premises and wherein (a) not more than one space is rented for parking to persons not a resident of the premises: (b) not more than one commercial vehicle per dwelling unit is parked or stored: and (c) the commercial vehicles permitted do not exceed five tons capacity.

Garage, Private: A building other than a private garage used for the care, repair, or equipment of automobiles, or where such vehicles are parked or stored for remuneration, hire, or sale.

Garage Sale, Yard Sale, Barn Sale: The sale of personal property, to the general public, that is conducted as a permitted use in a parcel of land properly zoned and upon which a dwelling is located. The following requirements shall apply to all such sales. (Revised, 2006)

- a. The personal property offered for sale on the property must belong to the occupant of the dwelling unit located on the property. Vacant land may not be used for such a sale. (Revised, 2006)

- b. No more than four such sales shall be held in any calendar year and no such sale shall last longer than four consecutive days. (Revised, 2006)
- c. The hours of operation shall be limited to daylight hours with no artificial lighting permitted in the conduct of the sale. (Revised, 2006)

Gas Station, Gasoline Service Station: See "Automobile Service Station".

Grain Elevator and Feed Mill: A structure where grain is brought for storage and/or shipment to a processing facility. (Revised, 2006)

Greenhouse and Nursery: A structure whose roof and sides are largely made of glass and/or plastic and used for the cultivation of plants, but it may also include areas in the out-of-doors for such cultivation. (Revised, 2006)

Group Water and Sewerage Facilities or Services: Provide for distribution of water and/or collection and disposal of sewage for an area which is economically infeasible to be serviced by publicly owned, authorized, or franchised water distribution and/or sewage collection and disposal systems. Such systems may be provided by a developer or other persons only in accordance with local and/or state regulations governing their design and operation.

Guest House: Living quarters within a detached accessory building located on the same premises with the main building, for use by temporary guests of the occupants of the premises; such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling.

Highway, Major: A street or road of considerable continuity and used primarily as a traffic artery for intercommunication among larger areas.

Home Occupation: The use of a part of a single-family dwelling for pursuits compatible with a domestic household. Such uses include, but are not limited to the following: offices for professionals such as architects, doctors, insurance agents, lawyers, real estate agents, etc.; personal services including barber shops beauty parlors, manicure & pedicure shops, pet grooming, etc.; instructional services such as music, dance, arts & crafts, etc.; babysitting services; studios for artists, musicians, photographers, etc.; workrooms for tailors, dressmakers, carpenters, etc.; and repair services including watch & clock, small appliance, computers, lawnmowers, etc. All of the following conditions must be met: (Revised, 2006)

- a. No person other than members of the family residing on the premises shall be engaged in such occupation conducted in the dwelling or garage containing 800 square feet or less; (Revised, 2006)
- b. Permitted activities shall include the making, servicing or repairing of goods, wares, or merchandise or the providing of goods or services for hire or gain. (Revised, 2006)
- c. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the total floor area of the dwelling unit shall be used in the conduct of the home occupation; (Revised, 2006)
- d. 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 as permitted in Article 800 of this Resolution; (Revised, 2006)
- e. No external storage of goods or materials outside of the dwelling or garage shall be permitted; (Revised, 2006)
 - f. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of the home occupation shall be met using off-street parking; (Revised, 2006)
 - g. No equipment or process 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; (Revised, 2006)
 - h. The home occupation shall not create or become a public nuisance; and (Revised, 2006)
 - i. The Board of Zoning Appeals, after due process including at a minimum an investigation by the zoning inspector and a public hearing, shall have the authority to revoke the authorization of the single-family dwelling as a home occupation if any of the above conditions are violated. (Revised, 2006)

Home Office: An accessory use in which work for compensation is undertaken within the primary residential structure, including but not limited to, receiving or initiating correspondence such as phone calls, mail, faxes, or e-mails; preparing or maintaining business records; word and data processing; and telephone, mail order, and off-premise sales. There shall be no non-resident employees and no more than twenty-five (25) percent of the residential floor area shall be used in the conduct of the home office. Delivery trucks used to deliver necessary supplies are limited to passenger vehicles, mail carriers, and express carriers such as UPS. (Revised, 2006)

Hospital: Any institution, building, or place established for the maintenance, observation, medical and dental care, and supervision and skilled nursing care of persons afflicted with or suffering from sickness, disease, or injury. (Revised, 2006)

Hotel: Any building or portion thereof which contains guest rooms which are designed or intended to be used, let, or hired out for occupancy by, or which are occupied by ten or more individuals for compensation, whether the compensation be paid directly or indirectly.

Industrial Park: Any parcel containing more than one industry.

Industrial Unit or Dwelling: A constructed unit that is approved by the Ohio Department of Industrial Relations and meets the requirements of Section 4101:2-98 of the Ohio Basic Building Code. Verification of whether the unit is an industrial unit or dwelling as approved by the State of Ohio can be made by the Ottawa County Building Inspection Office. A mobile home is not an approved industrial unit.

Institution: Buildings or land occupied by a non-profit corporation or a non-profit establishment for public use.

Institutional Home: A home or institutional facility for the care of babies, children, pensioners, or elderly people, except those for correctional or mental cases.

Junk Yard: An open area where waste, scrap metal, paper, rags, or similar material are bought, sold, exchanged, stored, packed, or handled including

building wrecking yards, but excluding uses taking place entirely within an enclosed building, or for the maintenance or operation of a machinery or automobile graveyard except for the storage of wrecked or impounded automobiles for a period of less than ninety (90) days exclusively for storage, repair, or resale without alteration. Fences will be required as per O.R.C. (Revised, 1998)

Kennel or Cattery: Any lot or premises on which four (4) or more dogs or cats more than four (4) months of age are housed, groomed, bred, boarded, trained, bought, or sold. (Revised, 1998)

Laboratories: A place equipped for experimental study in a science or for testing and analysis. (Revised, 2006)

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 or other appropriate means of access.

Lot: A parcel of land of sufficient size to meet the minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street or on an approved private street and may consist of:

- a. a single lot of record;
- b. a portion of a lot of record; or
- c. a combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.

Lot Area: The total horizontal area within the lot lines of a lot.

Lot, Corner: A lot, or portion thereof, not greater than one hundred (100) feet in width and situated at the intersection of two (2) or more streets.

Lot Coverage: Percentage of lot coverage shall be the ratio of enclosed ground floor area of all buildings to the horizontally projected area of the lot, expressed as a percentage.

Lot Depth: The horizontal distance between the front and rear lot lines, measured along the median between the two (2) side lot lines.

Lot of Record: Any lot which individually or as a part of a subdivision has been recorded in the Office of the Recorder of Deeds of Ottawa County.

Lot, Interior: A lot other than a corner lot.

Lot Lines: The lines bounding a lot as defined herein and as defined in the Subdivision Regulations of Ottawa County.

Lot, Minimum Area of: The area of a lot is computed from the center of the road right-of-way.

Lot, Reversed Corner: A corner lot on the side street line of which is substantially a continuation of the front lot line of the lot to its rear.

Lot, Through: An interior lot having frontage on two (2) or more streets.

Lot Width: The continuous width of a lot at the building setback line, established by the zoning district, measured at right angles to its depth. The continuous width of lots fronting on a cul-de-sac shall be the chord

distance between side lot lines for the curve coinciding with the required depth of the front yard. (Revised, 1998)

Master or Comprehensive Plan: The Master Plan or Comprehensive Plan as adopted and amended by Ottawa Regional Planning Commission and the Ottawa County Commissioners in accordance with the Ohio Revised Code.

Manufactured Home: A building unit or assembly of closed construction that is fabricated in an off site facility and constructed in conformance with federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403 and has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards. (Revised 2002)

Manufactured Home Park: Any lot, parcel, or tract of land under single ownership which has been planned and improved for the placement of two or more manufactured homes for non-transient habitation, either free of charge or for revenue purposes and including any roadway, building, structure, vehicle or enclosure used or intended for use as part of the facilities provided on such lot, parcel, or land.

Manufacturing: Any production or industrial process including food processing which combines one or more raw materials or components into a product or which changes the nature of the materials entering the process.

Manufacturing, General: Any manufacturing, industrial production, or storage which by the nature of the materials, equipment and processing utilized are generally conducted within an enclosed building if outside storage of material is required, such storage is conducted within a well maintained enclosure. General manufacturing shall include the manufacture of dairy, canned fruit and vegetables, bakery, soft drink and confectionary products; textiles mill products and apparel; lumber wood products, furniture and fixtures; plastic products; perfumes and cosmetics; fabricated products; perfumes and cosmetics; fabricated products from metal coils and sheets, rolling and finishing of ferrous and nonferrous metals; screw machine products and bolts, nuts, washers, and screws; cutlery, hand tools and general hardware; electrical machinery, equipment and supplies; radio and television sets; electronic components and accessories; and products of a similar nature.

Manufacturing, Heavy: Any industrial use which requires buildings and open areas for manufacturing, fabricating, processing, heavy repair, dismantling, storage or disposal of raw materials, manufactured products or wastes, which is not injurious to the health and safety of humans or animals. Heavy manufacturing shall include primary metal industrial operations involving the use of blast furnaces, the rolling and finishing of ferrous and nonferrous metals, iron and steel foundries, primary and secondary smelting and refining facilities, metal plate and sheet fabricating facilities for metal plates and sheets and any other operation which shall be deemed to be of a similar nature. Heavy manufacturing shall also include the manufacture of food and meat products; paper and allied products, chemicals and allied products, including plastic materials, synthetic rubber and man-made fibers, soaps and detergents, paints and agricultural chemicals; petroleum refining and related industries, including production of paving and roofing materials, tire products, stone, clay and glass products and any other products of a similar nature.

Manufacturing, Restricted: Any industrial use which is conducted entirely within an enclosed, substantially constructed building or buildings; involving the use of only light machinery and equipment; does not use the open area about the buildings for the storage of materials and equipment other than for

the unloading or loading operations at the rear or within an enclosure which abuts a building. Restricted manufacturing shall include the manufacture of drugs, jewelry, musical instruments, sporting goods, the processing and assembly of small glass products; small household appliances; small electronic products; scientific instruments and parts for the production of finished equipment; office, computing and accounting machines; research and laboratory testing; printing, publishing, and engraving plants; and other similar products and operations.

Massage: Any method of exerting pressure on, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating, the external soft tissue of the body with the hands, or with the aid of any mechanical or electrical apparatus or appliance. (Revised, 1998)

Massage Establishment: Any fixed place of business where a person offers massages to patrons for a fee which may be in connection with the provision of another legitimate service. (Revised, 1998)

Masseur or Masseuse: Any individual who performs massages at a massage establishment. (Revised, 1998)

Metal Salvaging and Storage: The salvaging of metal in all forms for sale and storage.

Mineral Extraction and Storage: Any mining, quarrying, or storage of coal, limestone, clay, or other mineral resources except sand.

Mineral Processing: The processing of coal, limestone, clay, and other mineral resources except sand and gravel, provided no chemical change in the mineral is involved in the process.

Mini-Storage Buildings: A structure containing separate, individual, and private storage spaces of varying sizes that are leased or rented for varying periods of time. (Revised, 2006)

Mortuaries and Funeral Homes: A place for the storage and showing of human bodies prior to their burial or cremation. (Revised, 2006)

Motel: A group of attached or detached dwellings containing less than three hundred (300) square feet of floor area for each sleeping or living unit and which are provided for transient guests; including auto-courts, motels, and motor lodges.

Nonconforming Building or Use: The use of land or a building or portion thereof, lawfully existing at the time this resolution or amendments thereto become effective, which does not conform with the use regulations of the district in which it is situated. (Revised, 1998)

Nude or Nudity: Showing of either the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the female breast with less than a full opaque covering on any part of the nipple. (Revised, 1998)

Nursing Home: An establishment where persons are housed or lodged and furnished with meals and nursing or convalescent care for hire.

Nursery School: See Child Day Care Center. (Revised, 1998)

Office: A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government and generally furnished with desks, tables, files, and communication equipment. (Revised, 2006)

Parking Area, Private: An open area, other than a street or alley, used for the parking of the automobiles of occupants of a dwelling.

Parking Area, Public or Customer: An open area, other than a private parking area, street, or alley used for the parking of automobiles and available for public or quasi-public use.

Parking Space, Automobile: Space within a building or a private or public parking area for the parking of one (1) automobile.

Personal Services: An enterprise conducted for gain which primarily offers services to the general public such as shoe repair, watch repairing, barber shop, beauty parlors and similar activities.

Planned Unit Development: An area of land in which a variety of housing types and subordinate commercial and industrial facilities are accommodated in a pre-planned environment under more flexible standards, such as lot size and setbacks, than those restrictions that would normally apply under this resolution.

Plant Cultivation: The cultivation of crops, fruit trees, nursery stock, truck gardens products and similar plant materials, outside of structures such as greenhouses, but not including such plants cultivation as is conducted on residential properties for the primary benefit of the resident family.

Printing and Publishing: An establishment used for blueprinting, engraving, stereotyping, electro-typing, printing, typesetting, and may include a duplication shop. (Revised, 2006)

Professional Activities: The use of offices and related spaces for such professional services as are provided by doctors, dentists, lawyers, architects, and engineers.

Prosecutor, County Prosecutor: The Prosecuting Attorney of Ottawa County.

Public Park: Land owned by a governmental entity which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis court, pedestrian/bicycle path, open space, wilderness area or similar public land within the township which is under the control, operation, or management of the township, county, or state. (Revised, 1998)

Public Service Facility: Any facility operated by a public agency providing a service to the general public with or without fees. (Revised, 2006)

Public Uses: Public parks, schools and administrative, cultural and service buildings, not including public land or buildings devoted solely to the storage and maintenance of equipment and material.

Quarrying: See "Mineral Extraction and Storage".

Radio and Television Towers: An establishment engaged in transmitting oral and visual programs to the public consisting of transmitters and antennas. (Revised, 2006)

Reclaiming of Rubber: A facility where various types of rubber compounds are reprocessed. (Revised, 2006)

Recreational Facilities:

- a. Noncommercial Recreational Facilities: Private and semipublic recreational facilities which are not operated for commercial gain, including private country clubs, riding clubs, golf courses, game preserves, ski slopes, hunting and trapping, and other noncommercial recreational areas and facilities or recreation centers including private community swimming pools. Noncommercial recreational facilities may be leased to outside groups or organizations provided the fee for such purpose is limited to incidental maintenance and custodial expenses. Does not include adult oriented sexual businesses. (Revised, 1998)
- b. Commercial Recreational Facilities: Recreational facilities open to the public, established and operated for a profit such as commercial golf courses, ski lodges, swimming pools, ice skating rinks, riding stables, race tracks, amusement parks, carnivals, and similar commercial enterprises. Does not include adult oriented sexual businesses. (Revised, 1998)
- c. Restricted Commercial Recreational Facilities: Boat docks and fishing piers, boat launching, maintenance, repair and fueling facilities; concessions for the sale of food, non-alcoholic beverages and boating and fishing supplies and accessories.

Recreational Vehicle: Defined as and including the following:

- a. Travel Trailer (Including Fifth Wheels): A vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreation, and vacation use and not exceeding thirty-five (35) feet in length.
- b. Truck Camper: A structure designed primarily to be mounted on a truck and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation, and vacation uses.
- c. Motor Home: A portable dwelling designed and constructed as an integral part of a self-propelled vehicle which is more than seven (7) feet high and/or more than sixteen (16) feet in length.
- d. Folding Tent Trailer: A canvas folding structure mounted on wheels and designed for travel and vacation use.
- e. Boat and Boat Trailers: Includes boats, floats, rafts, and the normal equipment to transport the same on the highway.

Research and Testing Facilities: A building or portion thereof, used primarily for scientific research, investigation, and testing or experimentation, but not for the manufacturing or sale of products. (Revised, 2006)

Restaurant: An establishment where food and drink are prepared, served, and consumed primarily within the principal building. (Revised, 2002)

Retail Store: A store serving a limited local area or neighborhood selling commodities, not processed on the premises, direct to the public.

Retirement Community: A residential development providing accommodations primarily for retired persons or couples with common facilities often available exclusively for their use. (Revised, 2006)

Riding Stable: Any land or structure used for the care and grooming of horses or ponies for which consideration is offered or received.

Roadside Stand: A structure designed or used for the display or sale of agricultural and related products provided some of the products are raised by the owner or tenant of the property on which the stand is located.

Salvaging Yards: Salvaging of any used or new materials.

Sand and Gravel Extractions: The excavation, storage, separation, clearing, and marketing of sand and gravel.

School: Any public or private educational facility, including, but not limited to, child day care facilities, nursery schools, pre-schools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, colleges, junior colleges, and universities. School includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school. (Revised, 1998)

Scientific Research: See "Research and Testing Facility". (Revised, 2006)

Semipublic Uses: Churches, Sunday schools, parochial schools, colleges, hospitals, and other institutions of an educational, religious, charitable, or philanthropic nature.

Setback Line: A line established on a lot, generally parallel with and measured from the edge of pavement or edge of the traveled road for the front yard and from the lot lines for the side and rear yards, defining the limits of the yard in which no buildings or structures may be located above ground as may be provided in said resolution.

Sewage Disposal System, Combined: An approved sewage disposal system which provides for the combined collection and disposal of sewage from a group of residential, commercial, or industrial buildings.

Sewage Disposal System, On-Site: A septic tank installation on an individual lot which utilizes an anaerobic bacteriological process for the elimination of solid wastes and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitarian officials having jurisdiction.

Sexual or Genital Area: Includes the genitalia, pubic area, anus, perineum of any person, and the breasts of a female. (Revised, 1998)

Sexually Oriented Business: Any of the following: adult arcade, adult bookstore, adult cabaret, adult health club, adult motion picture theater. (Revised, 1998)

Shadow Flicker: The on-and-off flickering effect of a shadow caused when the sun or other light source passes behind the rotor of a wind turbine. (Revised, 2009)

Sign, Advertising: A sign which directs attention to a business, commodity, service or entertainment conducted, sold, or offered elsewhere than on the premises and only incidentally on the premises, if at all, and in conformance with any existing Federal, State or County statute, law, ordinance, or regulation as amended.

Sign, Billboard: Any sign situated on private premises with an area greater than one hundred (100) square feet on which the written or pictorial information is not directly related to the principal use of the land on which

such sign is located and is in conformance with any existing Federal, State, or County statutes, laws, ordinances, or regulations, as amended.

Sign, Business: A sign which directs attention to a business or profession conducted on the premises. A "for sale" sign or a "for rent" sign relating to the property on which it is displayed shall be deemed a "business sign".

Small Wind Farm: A wind powered electric generating facility, consisting of one (1) or more wind turbines, whose main purpose is to supply electricity with a single interconnection to the electrical grid, and designed for or capable of operating at an aggregate capacity of less than five megawatts. (Revised, 2009)

Social Activities: Any building and land used for private or semiprivate club activities including lodges, fraternities, and similar activities.

Special Event: An event that is in existence at an identified location for a temporary fixed period of time with the intent to discontinue such event upon the expiration of the time period. Special events shall include, but not be limited to: carnivals, circuses, public exhibitions, revivals and the like. (Revised, 2006)

Specialized Animal Raising and Care: The use of land and buildings for the raising and care of fur-bearing animals such as rabbits and domestic pets; and animal kennels, pigeon raising, and raising of any other domestic animals or birds of a similar nature.

Specified Anatomical Areas: Means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals. (Revised, 1998)

Specified Sexual Activities: Includes any of the following: 1) the fondling or other erotic touching of human genital, pubic region, buttock, anus, or female breasts; 2) sex acts, actual or simulated, including intercourse, oral copulation or sodomy; 3) masturbation, actual or simulated; or 4) excretory functions as part of or in connection with any of the activities 1-3 above. (Revised, 1998)

Stabling and Care of Horses: A building or portion thereof, used for the boarding and care of horses including incidental exercise areas in the out-of-doors. (Revised, 2006)

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

Story, Half: A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

Street: A public thoroughfare, with a minimum right-of-way of at least thirty (30) feet in width. For the purpose of this resolution, the word "street" shall include the word "road" and "highway". (Revised, 2002)

Street Line, Right-of-Way Line: A dividing line between a lot, tract, or parcel of land and contiguous street.

Street Width: The horizontal distance between the side lines of a street, measured at right angles to the side lines.

Structure: Anything constructed or erected on a permanent basis, 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, manufactured homes, advertising signs, billboards, fences, and backstops for tennis courts.

Structural Alterations: Any change which would tend to prolong the life of a supporting member of a structure such as bearing walls, columns, or girders.

Terrace: A raised platform supported on one or more sides by a wall or bank of earth.

Topsoil Removal: Any activity where the top layer of soil is stripped from the property with no intent to further develop the underlying property. (Revised, 2006)

Tourist Camp: Same as "Campsite, Trailer Camp".

Tourist Home: A building in which board or rooming or both are offered to the traveling public for compensation and open to transient guests, in contract to a hotel, board, or rooming house.

Trailer, Small Utility: Any trailer drawn by passenger automobile and used for the occasional transport of personal effects.

Trailer, Mobile Home: Same as "Manufactured Home".

Transport and Trucking Terminals: The use of land and/or buildings for the purpose of storing, servicing, repairing, or loading and unloading of goods from trucks. (Revised, 2006)

Use: The purpose for which land or a building is arranged, designed, or intended or for which either land or a building is or may be occupied or maintained.

Variance: A variance is a relaxation of requirements where such variation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this resolution would result in a practical difficulty or unnecessary and undue hardship. (Revised, 1998)

Veterinary Animal Hospital or Clinic: A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirmed, 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. (Revised, 1998)

Waste Disposal: Disposition of garbage, combustible and noncombustible waste material.

Warehousing: The receiving, storage, sale, and distribution of manufactured products and equipment, such storage to be within wholly enclosed structures or buildings.

Windmill, Low Impact: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power. (Revised, 2006)

Windmill, High Impact: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics that has a rated capacity greater than 100 kW. (Revised, 2006)

Wholesale Business: An establishment engaged in selling merchandise to retailers or industrial, commercial, institutional, or governmental clients. (Revised, 2006)

Yard: An open space other than a court on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward.

Yard, Front: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the nearest point of the pavement edge and a line parallel thereto on the lot.

Yard, Rear: A yard extending across the full width of the lot between the nearest rear main building and one (1) rear lot line. The depth of the required rear yard shall be measured horizontally from the nearest part of a main building toward the nearest point of the rear lot line.

Yard, Side: A yard between a main building and the side lot line extending from the front yard, or front lot line where no such front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point on the side lot line toward the nearest part of the main building.

Zoning Certificate/Permit: The document issued by the Zoning Inspector authorizing the use of the land or buildings.

Zoning Inspector: The Zoning Inspector or his authorized representative appointed by the Board of Township Trustees.

Zoning Map of Districts: The Zoning District Map or maps of the Township together with all amendment subsequently adopted.

ARTICLE III - ESTABLISHMENT OF DISTRICTS

The Township is hereby divided into districts under four (4) general categories which shall be known as: "Open Space Districts", "Residential Districts", "Commercial Districts", and "Industrial Districts".

Section 301. Open Space Districts

301.1 "S-1" Special: Areas which are large public or semipublic holdings for recreation and conservation purposes.

301.2 "A-3" Agricultural: Land which is level or gently rolling and is best suited for agricultural and other rural purposes.

Section 302 Residential Districts

302.1 "A-4" Rural Residential: For low density residential development which may or may not have community water and sewage services.

302.2 "R-A" Suburban Residential: For relatively low density residential development which has group water or sewerage facilities developed.

302.3 "R-1" Residential: For medium density residential development served by group water and sewerage services.

302.4 "R-3" Residential: For high density residential development which has ready access to most community facilities.

302.5 "R-4" Residential: For Planned Unit Developments. (Revised, 2006)

302.6 "R-5" Residential: For cluster housing and retirement communities served by group water and sewerage facilities. (Revised, 1998)

Section 303. Commercial Districts

303.1 "C-1" Neighborhood Commercial: Areas for small local business with convenience-type goods such as are handled in food markets and drugstores, plus personal services such as barber shops and beauty salons. Uses in these areas must be compatible with surrounding residential uses and not be large generators of traffic.

303.2 "C-2" Entertainment Commercial: Areas for specialized entertainment commercial facilities such as restricted commercial recreational facilities, adult oriented sexual businesses, and commercial entertainment facilities. (Revised, 1998)

303.3 "C-3" Community Commercial: Areas along major highways or thoroughfares which provide sales and services oriented to highway travelers; or general businesses including sales and service for automotive, farm machinery, building trades, etc. (Revised, 1998)

Section 304. Industrial Districts

304.1 "M-1" General Industrial: Areas which, because of their access to transportation and community services and relative isolation from other land uses, provide good sites for most types of general manufacturing.

304.2 "M-2" Restricted Industrial: Areas for light industries with restricted manufacturing operations, research facilities and offices of a restricted nature which will have little or no detrimental effects on neighboring land uses.

304.3 "M-3" Heavy Industrial: Areas which are isolated from other urban uses and therefore can accommodate industrial uses which might cause detrimental effects in other areas.

Section 305. District Map

305.1 The boundaries of the districts are shown upon the map that are made a part of this resolution, which map is designated as the "District Map". The District Map and all of the notations, references, and other information shown thereon, are a part of this resolution and have the same force and effect as if the District Map and all of the notations, references, and other information shown thereon were all fully set forth or described herein, the original of which District Map is properly attested and is on file with the Board of Township Trustees.

305.2 No change of any nature shall be made to the Official Zoning Map of 1964 (District Map) as amended, except in conformity with the procedures set forth in Article 13 of this Resolution.

305.3 In the event that the Official District Map becomes damaged, destroyed, outdated, or lost, the Township Board of Trustees may by resolution adopt a new Official District Map which will supercede the prior Official District Map. (Revised, 2002)

Section 306. District Boundaries

306.1 The district boundary on said map are intended to follow either centerlines of streets or alleys or lot lines; and where the districts designated on the map are bounded approximately by such street, alley or lot lines; the street or alley or lot line shall be construed to be the boundary of the district unless such boundary is otherwise indicated on the map. In the case of undivided property, the district boundary line shall be determined by the use of the scale appearing on the Zoning District Map or by dimensions. In the case of the vacation of a street, alley, watercourse or other right-of-way, the abutting zoning classification on each side thereof shall automatically be extended to the centerline of the vacated street, alley, watercourse, or right-of-way.

306.2 Where boundaries appear to approximately follow such aforesaid lines and are not more than ten (10) feet distant therefrom, such lines shall be construed to be the boundary lines unless specifically shown otherwise.

ARTICLE IV USE REGULATIONS (Revised, 2002, 2009)

The permitted and conditional uses for each district are shown in the following tabulations that shall constitute Article IV of the Zoning Resolution. The interpretation of uses given in categorical terms shall be as defined in Article II. Uses not specifically listed or interpreted by the Board of Trustees to be included categorically under this Article and Article II shall not be permitted, except by action of the Board of Zoning Appeals.

"S-1" SPECIAL

<u>Permitted Uses</u>	<u>Conditional Uses Requiring Board of Zoning Appeals Approval</u>
Public Parks Public Uses Forestry Plant Cultivation Agriculture	Semipublic Uses Public Service Facility Commercial Recreational Facility Cemetery Airports Sand and Gravel Extraction

"A-3" AGRICULTURE

<u>Permitted Uses</u>	<u>Conditional Uses Requiring Board of Zoning Appeals Approval</u>
Single-Family Dwelling (Revised, 2006) Agriculture Plant Cultivation Forestry Farm Vacation Enterprises Public Uses Public Service Facilities Semipublic Uses Stabling and Care of Horses and Ponies (1 acre per horse or pony exclusive of dwelling) Accessory Uses & Buildings Farm Pond/Retention Pond/Recreation Pond, subject to Section 706 Home Office (Revised, 2006) Garage Sale, Yard Sale, Barn Sale (Revised, 2006)	Two-Family Dwelling Special Event, (Revised, 2006) Restricted Commercial and Non-Commercial Recreational Facilities Institutions Cemetery and Associated Facilities Radio and Television Towers Bed & Breakfast Inn, subject to Sect. 709 Billboards Home Occupations Sand, Gravel Extraction Airports Oil and Gas Wells Greenhouses and Nurseries Mini-storage buildings as regulated in Section 712 (Revised, 1998) Restricted Manufactured Home Placement as per Section 1206 Topsoil Removal Windmills, High & Low Impact (Revised, 2006) Small Wind Farm (Revised, 2009)

"A-4" RURAL RESIDENTIAL

<u>Permitted Uses</u>	<u>Conditional Uses Requiring Board of Zoning Appeals Approval</u>
Single-Family Dwelling Public Uses Semipublic Uses Public Services Accessory Uses & Buildings	Two-Family Dwelling Restricted Commercial and Noncommercial Recreational Facilities (Revised, 1998) Cemetery and Associated Facilities Home Occupations

Plant Cultivation
Agriculture except as other-
wise regulated in Section
104.1
Stabling and Care of Horses
and Ponies (1 acre per
horse or pony exclusive
of dwelling)
Home office (Revised, 2006)
Garage Sale, Yard Sale, Barn Sale
(Revised, 2006)

Restrictive Manufactured Home Placement
as per Section 1206.
Oil and Gas Wells
Bed and Breakfast Inn, subject to Section
709
Mini-storage buildings as regulated in
Section 712 (Revised, 1998)
Windmill, Low Impact (Revised, 2006)
Special Event (Revised, 2006)

"R-A" SUBURBAN RESIDENTIAL

Permitted Uses

Single-Family Dwelling
Public Uses
Semipublic Uses
Essential Services
Accessory Uses & Buildings
Plant Cultivation
Agriculture except as otherwise
regulated in Section 104.1
Home Office (Revised, 2006)
Garage Sale, Yard Sale, Barn Sale
(Revised, 2006)

Conditional Uses Requiring
Board of Zoning Appeals Approval

Two-Family Dwelling
Public Service Facility
Home Occupations
Restricted Manufactured Home Placement
as per Section 1206
Bed and Breakfast Inn, subject to Section
709
Windmill, Low Impact (Revised, 2006)
Special Event (Revised, 2006)

"R-1" RESIDENTIAL

Permitted Uses

Single-Family Dwelling
Two-Family Dwelling
Public Uses
Semipublic Uses
Essential Services
Accessory Uses & Buildings
Agriculture except as otherwise
regulated in Section 104.1
Home Office (Revised, 2006)
Garage Sale, Yard Sale, Barn Sale
(Revised, 2006)

Conditional Uses Requiring
Board of Zoning Appeals Approval

Public Service Facility
Home Occupations
Restricted Manufactured Home Placement
as per Section 1206
Bed and Breakfast Inn, subject to Section
709
Special Event (Revised, 2006)

"R-3" RESIDENTIAL

Permitted Uses

Single-Family Dwelling
Two-Family Dwelling
Multi-Family Dwelling **(Revised, 2006)**
Public Uses
Semipublic Uses
Essential Services
Accessory Uses & Buildings
Agriculture except as otherwise
regulated in Section 104.1

Conditional Uses Requiring
Board of Zoning Appeals Approval

Public Service Facility
Hospitals
Child Day Care Center (Revised 1998)
Child Care Clinic
Professional Activities
Home Occupations
Mortuaries & Funeral Homes **(Revised, 2006)**
Nursing Homes
Conversions of Dwellings to Apartments

Home Office (Revised, 2006)
Garage Sale, Yard Sale, Barn Sale
(Revised, 2006)

Bed and Breakfast Inn, subject to Section
709
Special Event (Revised, 2006)

"R-4" RESIDENTIAL DISTRICT - PLANNED UNIT DEVELOPMENT (Revised, 2006)

Permitted Uses

Conditional Uses Requiring
Board of Zoning Appeals Approval

Planned Unit Development, subject
To Section 900 (Revised, 2006)

"R-5" RESIDENTIAL DISTRICT (Revised, 1998)

Permitted Uses

Conditional Uses Requiring
Board of Zoning Appeals Approval

Single-Family Dwelling
Two-Family Dwelling
Multiple-Family Dwellings
Cluster Housing, subject to
Section 708
Retirement Community, subject
To Section 708
Accessory Buildings and Uses
Home Office (Revised, 2006)
Garage Sale, Yard Sale, Barn Sale
(Revised, 2006)

Nursing Home
Public Service Facilities

"C-1" NEIGHBORHOOD COMMERCIAL

Permitted Uses

Conditional Uses Requiring
Board of Zoning Appeals Approval

Neighborhood Business (See
definition)
Personal Services
Professional Activities
Public Uses
Public Service Facility
Essential Services
Accessory Uses & Buildings
Automobile Service Station
Agriculture
Bar/Tavern (Revised, 2002)
Restaurant (Revised, 2002)

"C-2" ENTERTAINMENT COMMERCIAL (Revised, 1998)

Permitted Uses

Conditional Uses Requiring
Board of Zoning Appeals Approval

Agriculture
Commercial Entertainment
Facilities
Non-Commercial Entertainment

Adult Oriented Sexual Businesses subject
Section 711

Facilities
Public Uses
Public Service Facilities
Accessory Uses & Buildings

"C-3" COMMUNITY COMMERCIAL

Permitted Uses

Agriculture
Retail Store
Personal Services
Business Services
Office
Restaurants
Banks
Professional Activities
Automotive, Recreational
 Vehicle, Utility Trailer,
 And Yard & Farm Implement
 Sales and Repair (Revised
 1998)
Semipublic Uses
Public Service Facility
Accessory Uses & Buildings
Public Uses
Automobile Service Station
Motels and Hotels
Neighborhood Business
General Business
Highway Business
Boat Sales and Repair
Flea Market

"C-5" TRAILER CAMP

Permitted Uses

Campsite or Trailer Camp
(subject to Section 710)
Accessory Buildings and Uses

"M-1" GENERAL INDUSTRIAL

Permitted Uses

Agriculture
Contractor's Material and
 Equipment Storage Yard
General Manufacturing
 (See definition)
Manufacturing, Sale and Storage
 of Building Materials
Transport and Trucking Terminals
Wholesale Business
Warehousing
Public Service Facility

Conditional Uses Requiring
Board of Zoning Appeals Approval

Warehousing
Printing and Publishing
Bakery
Wholesale Business
Animal Hospitals/Clinics
Laboratories
Restricted Manufacturing
Mortuaries and Funeral Homes
Scientific Research Activities
Mini-storage Buildings as regulated in
 Section 712 (Revised, 1998)

Conditional Uses Requiring
Board of Zoning Appeals Approval

Conditional Uses Requiring
Board of Zoning Appeals Approval

Restaurants
Automobile Service Stations
Sand and Gravel Extraction
Oil and Gas Wells
Grain Elevators and Feed Mills

Accessory Uses & Buildings

"M-2" RESTRICTED INDUSTRIAL

Permitted Uses

Agriculture
Restricted Manufacturing
(See definition)
Office
Research and Testing Facilities
Public Service Facility
Laboratories
Accessory Uses

Conditional Uses Requiring
Board of Zoning Appeals Approval

Restaurants
Automobile Service Stations
Wholesale Business
Warehousing

"M-3" HEAVY INDUSTRIAL

Permitted Uses

Agriculture
Heavy Manufacturing
Automobile Service Stations
Transport and Trucking Terminal
Wholesale Business
Warehousing
Topsoil Removal
Manufacturing of Lime, Cement, and
Chemical Fertilizer
Mineral Extraction, Storage, and
Processing
Public Service Facility
Accessory Uses & Buildings

Conditional Uses Requiring
Board of Zoning Appeals Approval

Metal Salvage Operations
Recreational Facilities
Oil and Gas Wells
Sand and Gravel Extraction
Waste Disposal
Base Metal Processing
Automobile Wrecking Yard
Reclaiming of Rubber

ARTICLE V MINIMUM DIMENSIONAL REQUIREMENTS

SECTION 500. Basic Yard, Area, and Height Requirements for Dwellings

The following table establishes minimum yard, area, and height requirements for dwellings used for residential purposes. (Revised, 1998)

<u>District</u>	<u>Min. Lot Width in Feet</u>	<u>Min. Lot Area Per Family</u>	<u>Min. Yard in Feet Front*</u>	<u>Min. Yard Width in Feet</u>			<u>Sum of Side Yards</u>	<u>Max. Hgt. of Bldgs. Story/Feet</u>	<u>Min. Bldg Width</u>
				<u>Rear</u>	<u>Either Side</u>	<u>Side</u>			
"A-3"	150	1 acre	70	60	25	60	2 1/2/35	22	
"A-4" with individual water & sewer	125	28,125 sq.ft.	50	40	15	40	2 1/2/35	22	
"A-4" with group water & sewer	100	15,000 sq.ft.	45	40	12	28	2 1/2/35	22	
"R-A" group water or sewer facilities required	80	16,000 sq.ft.	45	40	10	24	2 1/2/35	22	
"R-1" group water and sewer facilities required									
Single-family	75	10,000 sq.ft.	40	35	8	20	2 1/2/35	22	
Two-family	90	8,000 sq.ft.	40	35	10	24	2 1/2/35	22	
"R-3" group water and sewer facilities required									
Single-family	70	8,500 sq.ft.	40	30	6	18	2 1/2/35	22	
Two-family	90	6,000 sq.ft.	40	30	10	24	2 1/2/35	22	
Multi-family	125	5,000 sq.ft.	40	30	15	30	2 1/2/40	22	
"R-5" group water and sewer facilities required									
Single-family	70	8,500 sq.ft.	40	30	6	18	2 1/2/35	22	
Two-family	90	6,000 sq.ft.	40	30	10	24	2 1/2/35	22	

Cluster Housing & Retirement Community - See Section 708

NOTE: Accessory buildings such as garages may be located in the rear **or side** yard provided such buildings are set back at least three (3) feet from the side lot lines and six (6) feet from the rear lot lines. **(Revised, 2006)**

SECTION 501 Floor Area Requirements for Dwellings (Revised, 1998)

The floor area per family in dwellings erected on any lot shall not be less than that established by the following table. In determining floor area, only that area used for living quarters shall be counted. Garages, carports, porches, and basements are to be excluded.

MINIMUM FLOOR AREA PER EACH FAMILY IN SQUARE FEET

<u>District</u>	<u>Single-Family Dwelling</u>	<u>Two-Family Dwelling</u>	<u>Multi-Family Dwelling</u>
<u>"A-3"</u>			
One Story	900	900	-
More Than One Story	1,200	1,200	-
<u>"A-4"</u>			
One Story	900	900	-
More Than One Story	1,200	1,200	-
<u>"R-A"</u>			
One Story	1,000	1,000	-
More Than One Story	1,200	1,200	-
<u>"R-1"</u>			
One Story	900	900	-
More Than One Story	1,200	1,200	-
<u>"R-3"</u>			
One Story	900	900	700
More Than One Story	1,200	1,200	900
<u>"R-5"</u>			
One Story	900	900	700
More Than One Story	1,200	1,200	900

SECTION 502 Basic Yard, Area, Lot Coverage, and Height Requirements for All Buildings Other Than Dwellings (Revised, 1998)

The following table established the yard, area, lot coverage and height requirements by District for all buildings except dwellings and structures accessory to dwellings.

<u>District</u>	<u>Min. Lot Width In Feet</u>	<u>Min. Lot Area</u>	<u>Min. Depth in Feet</u>			<u>Max. Height of Building Stories Feet</u>	
			<u>Front*</u>	<u>Rear</u>	<u>Side</u>		
"S-1"	250	3 Acres	70	60	50	3	45
"A-3"	250	3 Acres	70*	60*	50*	3	45
"A-4"	200	2 Acres	70	60	50	2	40
"R-A"	200	2 Acres	70	60	50	2	40
"R-1"	150	1 Acre	70	50	40	2	35
"R-3"	200	2 Acres	70	60	50	3	45
"R-5"	200	2 Acres	70	60	50	3	45
"C-1"	60	5,000 sq. ft.	60	10	0	2	35
"C-2"	100	30,000 sq. ft.	70	40	20	2	35
"C-3"	100	25,000 sq. ft.	70	40	20	2	35
"C-5"	See Section 710						
"M-1"	175	1 Acre	70	40	30	2	35
"M-2"	175	1 Acre	70	40	30	3	45
"M-3"	175	1 Acre	70	40	30	3	45

NOTE: All front setback requirements in all Districts shall be measured from the edge of the existing pavement.

* Drainage structures shall be exempt from this requirement.

SECTION 503 Side and Rear Yard Requirements for Non-Residential Uses
Abutting "A-4" or "R" Districts

503.1 Minimum Yard Requirements: Business and industrial buildings or uses shall not be located nor conducted closer to any lot line of an "A-4" or "R" District than the distance specified in the following table, except as provided in Section 503.2 of this section and in Article VII.

<u>Use</u>	<u>Side Yard Setback</u>	<u>Rear Yard Setback</u>
Access drive for residential uses	25	40
Churches, schools, and public or semi-public buildings	50	100
Recreation facilities, entertainment facilities, motels, all commercial uses, and billboards	30	30
All industrial uses, except those listed below	50	100
Outside sale or storage of building materials or construction equipment	150	150
Auto and metal salvage operations, mineral extraction, storage, or processing	200	250

SECTION 504. Height Regulations for Institutional, Office Industrial, and Apartment Buildings and Structures.

504.1 Institutional, industrial and apartment buildings with a height in excess of the minimum height specified in Section 500 and 502 for such buildings may be permitted provided the required front, side, and rear yards are increased by one (1) foot for each foot of additional building height above the maximum specified in Sections 500 and 502, except that no building shall exceed a maximum height of sixty (60) feet without prior approval of the Board of Zoning Appeals.

504.2 The height regulations prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, silos and similar structures, elevator bulkheads, smokestacks, conveyors and flagpoles, except where the height of such structures will constitute a hazard to the safe landing and take-off of aircraft at an established airport.

SECTION 505. Existing Lots of Record

Any lot of record fifty (50) feet or wider existing at the effective date of this Resolution in any "A-4" or "R" District may be used for the erection of a single-family dwelling even though its area and width are less than the minimum requirements set forth herein. Each side yard shall be a minimum of five (5) feet. Where two adjacent lots of record with less than the required area and width are held by one owner, the Board may require that the lot be combined and used for one (1) main building. In either case, the prevailing setback shall be met. Where three (3) or more contiguous unimproved lots of record with less than the required area and width are held by one owners, the

Board may restrict the use to fewer lots to permit compliance with minimum yard requirements.

505.1 Any lot of record in a "C-1" District of fifty (50) feet or wider existing at the effective date of this Resolution may be used for the purpose that "C-1" zoning allows.

SECTION 506. Architectural Projections

Open structures such as porches, canopies, balconies, platforms, carports, and covered patios, and similar architectural projections, shall be considered a part of the building to which attached and shall not project into the required minimum front, side, or rear yard.

SECTION 507. Special Yard Requirements (Revised, 2006)

507.1 Lots having frontage on more than one street shall provide the required front yard along the major traveled street and meet one-half (1/2) of the setback requirement on the other street but in no event less than twenty-five (25) feet on the minor traveled street.

SECTION 508. Accessory Use and Building Requirements (Revised, 2006)

508.1 No accessory buildings shall be located in any front yard except under unusual circumstances where such activity shall not conflict with the intent and purpose of this Resolution; or, where enforcement shall result in extreme hardship. Either exception shall require approval of the Board of Zoning Appeals. Accessory buildings such as garages may be located in the side or rear yard provided such buildings are set back at least three (3) feet from the side lot lines and six (6) feet from the rear lot lines.

508.2 No accessory uses or structures, except off-street parking incident to the principal use, or material or equipment storage shall be located in any required front yard without approval of the Board of Zoning Appeals.

508.3 The outer edge of the satellite dish antenna shall not be closer than three (3) feet from the side lot lines, six (6) feet from the rear lot line, and sixty (60) feet from the edge of the road or street right-of-way line for the front yard setback.

SECTION 509. Traffic Visibility Across Corner Lots

In any district on any corner lot, no fence, structure or planting shall be erected or maintained within thirty (30) feet of the "corner" at a height between two and one-half (2-1/2) and ten (10) feet above curb or street grade, or so as to interfere with traffic visibility across the corner. The "corner" shall be the point of intersection of the two (2) pavement edges.

SECTION 510 Special Drainage Requirement

The top of the dwelling foundation shall be a minimum of twelve (12) inches above the finished grade so that surface water is properly drained away from the structure's foundation. Final grading shall provide a downward slope away from the house along all foundation walls. The final grade shall provide a minimum slope of 1/2 inch per foot for a minimum of 15 feet from the house.

ARTICLE VI OFF-STREET PARKING AND LOADING REQUIREMENTS

SECTION 600. Off-Street Parking Requirements

600.1 General Requirements: In all districts, in connection with every industrial, commercial, institutional, recreational, residential, or other use, there shall be provided, at any time any building or structure is erected, or is enlarged or increased in capacity, off-street parking spaces for automobiles in accordance with the following requirements:

- (a) Each off-street parking space shall have an area of not less than one hundred eighty (180) square feet exclusive of access drives or aisles, and shall be of usable shape and conditions.
- (b) There shall be adequate provisions for ingress and egress to all parking spaces. Where a lot does abut on a public or private alley or easement of access, there shall be provided an access drives of not less than eight (8) feet in width in the case of a dwelling, and not less than twenty (20) feet in width in all other cases, leading to the parking or storage or loading or unloading spaces required hereunder.

602.2 Number of Spaces Required: The number of off-street parking spaces to be provided shall not be less than the following:

<u>USE</u>	<u>PARKING SPACES REQUIRED</u>
One-family units	2 for each dwelling
Two-family and multi-family dwellings	1-1/2 for each dwelling unit
Hotel/motel or similar use	1 for each sleeping room or suite
Private club, golf club or lodge	1 for each four (4) members
Church or temple	1 for each five (5) seats in main auditorium
School(except high school or college) auditorium	1 for each five (5) seats in or main assembly room, or two (2) for each classroom, whichever is greater
College or high school	1 for each four (4) seats in main auditorium or four (4) for each classroom, whichever is greater
Community center, library, museum or art gallery	10 plus one (1) additional for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet
Commercial golf course	40 for each nine (9) holes plus one (1) for each employee
Hospital	1 for each bed plus one (1) space per every three (3) employees

Sanitarium, convalescent home, home for the aged or similar institution	1 for each two (2) beds plus one (1) space for every three (3) employees
Theater or auditorium (except school auditorium), sports area, stadium or gymnasium	1 for each five (5) seats or each ten (10) lineal feet of bench seating spaces
Bowling alley	5 for each lane; plus one (1) additional space for each two hundred (200) square feet of area used for eating, drinking, or other recreation
Mortuary or funeral home	1 for each fifty (50) square feet of floor space in parlors or individual funeral service rooms
Personal or professional services, restaurants, night clubs, cafes or similar recreation or amusement establishments, dance halls, assembly or exhibition halls without fixed seats	1 for each fifty (50) square feet of floor area
Retail business or business service establishments except otherwise specified herein	1 for each one hundred fifty (150) feet of gross floor area plus one (1) for each two (2) employees on the maximum work shift
Furniture or appliance store, hardware store, wholesale establishments, machinery or equipment sales and services	2 plus one (1) additional for each two hundred (200) square feet of floor area over one thousand (1,000) square feet
Printing or plumbing shop or similar establishment	1 for each person employed therein plus one (1) space per three hundred (300) square feet of gross floor area
Manufacturing or industrial establishment, research or testing laboratory, dairy processing, bakery, bottling plant, warehouse or similar establishment	1 for each two (2) employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith
Establishments servicing or accommodating trucks	The number of parking spaces will be determined by the type of the establishment and will be subject to the determination of the Board of Zoning Appeals.

600.3 Interpretation: The following rules shall govern the determination of spaces required:

- (a) "Floor area" shall mean the gross floor area of the specified use. The outside wall dimensions shall be used in determining the area of a structure.
- (b) Fractional numbers shall be increased to the next whole number.

- (c) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.
- (d) Whenever a building or use constructed or established after the effective date of this Resolution is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this Resolution is enlarged to the extent of fifty (50) percent or more in floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.
- (e) One (1) additional space of proper size and construction over and above the parking space requirements of this section shall be provided for each additional operational motor vehicle owner and/or continuously stored on a residential property by the resident or owner.

SECTION 601. Special Parking Provisions

Every parcel of land hereafter used as a public, commercial, or private parking lot shall be developed and maintained in accordance with the following requirements.

601.1 Screening and Landscaping: Off-street parking areas for more than ten (10) vehicles shall be effectively screened on each side which adjoins or faces premises situated in any "A-4" or "R" District, or institutional premises, by a fence of acceptable design. Such fence shall be not less than four (4) feet or more than six (6) feet in height and shall be maintained in good condition without any advertising thereon. The space between such wall or fence and the lot line of the adjoining premises in any "A-4" or "R" District shall be landscaped with grass, hardy shrubs, or evergreen ground cover and maintained in good condition. In lieu of such wall or fence, a strip of land not less than ten (10) feet in width, and planted and maintained with an evergreen hedge or dense planting of evergreen planting materials not less than four (4) feet in height when planted, may be substituted.

601.2 Minimum Distance and Setbacks: No part of any parking area for more than ten (10) vehicles shall be closer than twenty (20) feet to any dwelling, school, hospital or other institution for human care located on an adjoining lot, unless separated by an acceptably designed screen. In no case shall any part of a parking area be closer than five (5) feet to any established street or alley right-of-way. The wall or hedge required in Section 601.1 hereof shall be set back from each street, the same as if it were a building wall, so as to observe the front yard requirements of this Resolution.

601.3 Joint Use: Two (2) or more nonresidential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap, provided that a written agreement, approved and accepted by the Board of Zoning Appeals shall be filed with the application for zoning certificate.

601.4 Other Locations: Parking spaces may be located on a lot within three hundred (300) feet other than that containing the principal use with the approval of the Board of Appeals, provided a written agreement, approved by the Ottawa County Prosecuting Attorney or the Township Attorney and accepted by the Board of Appeals, shall be filed with the application for a zoning certificate.

601.5 Surfacing: Any off-street parking area for more than ten (10) vehicles shall be graded for proper drainage and surfacing so as to provide a durable and dust less surface.

601.6 Lighting: Any lighting used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjoining premises in any "A-4" or "R" District.

601.7 Disabled Vehicles: A disabled vehicle is an inoperable vehicle or extensively damaged vehicle, such damage including but not limited to any of the following: missing wheels, tires, motor, or transmission. The parking of a disabled vehicle within a residential district for a period of more than two (2) weeks shall be prohibited, except that such vehicle may be stored in an enclosed garage or other accessory building provided that no business shall be conducted in connection therewith while such vehicle is parked or stored.

601.8 Unlicensed Vehicles: Only one (1) automotive vehicle, boat, or recreational trailer of any type without current license plates shall be parked or stored on property located in the "A-3", "A-4", "R-A", "R-1", and "R-3" Districts other than in a completely enclosed building. Parking or storage must be in the rear yard.

SECTION 602. Off-Street Loading Requirements

602.1 In any district, in connection with every building or part thereof hereafter erected and having a gross floor area of ten thousand (10,000) square feet or less, which is to be occupied by manufacturing, storing, warehouse, retail store, wholesale store, market, hotel, hospital, mortuary, dry cleaning, or other uses similarly requiring the receipt or distribution by vehicle of material or merchandise, there shall be provided and maintained on the same lot with such building, at least one (1) off-street loading space, plus one (1) additional such loading space for each additional twenty thousand (20,000) square feet or major fraction thereof of gross floor area when required because of the volume or receipt or distribution by vehicle or material or merchandise.

602.2 Each loading space shall be ample to accommodate the largest vehicle anticipated.

602.3 Subject to the limitations in Section 503.1 of Article V, such space may occupy all or any part of any required yard or court space.

602.4 No such space shall be located closer than forty (40) feet to any other lot in any "A-4" or "R" District, unless wholly within a completely enclosed building or unless enclosed on all sides facing lots in any "A-4" or "R" District by a wall or fence not less than six (6) feet in height.

ARTICLE VII - SPECIAL PROVISIONS FOR RESIDENTIAL USES

Section 700. Parking of Boats, Trailers and Manufactured Homes

Parking of a manufactured home outside a manufactured home park in any Residential district for seventy-two (72) hours or a longer period of time shall be prohibited except for small utility and vacation trailers when authorized by the Board of Zoning Appeals. Said homes may be stored in an enclosed garage or other accessory building, provided in all cases no living quarters shall be maintained or any business conducted in connection therewith while such unit is stored or parked and to insure compliance therewith, a zoning certificate shall be required. The parking of a manufactured home (other than utility, boat or vacation) for less than seventy-two hours outside of an enclosed garage or other accessory building shall be permissible. Any utility, boat or vacation trailer (including boat on skids) parked for more than seventy-two (72) hours, shall be parked in the rear yard.

Section 701. Swimming Pools

701.1 Private Swimming Pools: A private swimming pool not including farm ponds shall be any pool, lake or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and one-half (1-1/2) feet. No such swimming pool, exclusive of portable swimming pools with a diameter less than twelve (12) feet or with an area of less than one-hundred (100) square feet, shall be allowed in any "C", "A-4" or "R" District except as an accessory use and unless it complies with the following conditions and requirements:

- (a) The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located and their guests.
- (b) It may not be located, including any walks or paved areas or accessory structures adjacent thereto, closer than (10) feet to any property line of the property on which located.
- (c) The swimming pool, or the entire property on which it is located, shall be so walled or fenced so as to prevent uncontrolled access by children from the street or from adjacent properties.
- (d) **Temporary inflatable pools intended for the private use of the property owner shall not be required to meet these requirements. (Revised, 2006)**

701.2 Community or Club Swimming Pools: A community or club swimming pool shall be any pool constructed by an association of property owners, or by a private club for use and enjoyment by members of the association or club and their families. Community and club swimming pools are permitted in all districts, but shall comply with the following conditions and requirements:

- (a) The pool is intended solely for the enjoyment of the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated.
- (b) The pool and accessory structure thereto, including the areas used by the bathers, shall not be closer than one hundred (100) feet to any property line of the property on which located.

- (c) The swimming pool and all of the area used by the bathers shall be so walled or fenced as to prevent uncontrolled access by children from the street or adjacent properties. The said fence or wall shall not be less than six (6) feet in height and maintained in good condition.

Section 702. Fences and Planting Screens

702.1 Fences, plant material and similar screening devices up to three (3) feet in height are permitted in yards fronting on the public street. These same screening devices up to six (6) feet in height are permitted in the remaining yards.

Section 703. Conversion of Dwellings

In an "R-A" or "R" District, a residence may be converted to accommodate an increased number of dwelling units provided:

- (a) If the building is to be altered on the outside, the yards shall not be reduced to less than the yard dimensions required by the zoning regulations for new structures in that district.
- (b) The lot area per family is equal to the lot area requirements for new multifamily structures in that district.

Section 704. Stabling of Horses

704.1 Stabling of horses or ponies shall be permitted in any "A-4" Residential District provided there shall be at least one acre per horse or pony on the single property, exclusive of dwelling, on which the horses or ponies are stabled and provided the structure to stable the horses or ponies shall be a minimum of fifty (50) feet from all property lines and that the horses and ponies shall be restricted to five (5) feet from all property lines, but in no event shall a horse or pony be kept closer than fifty (50) feet to any existing dwelling on an adjacent property.

Section 705. Treatment of Sewage

Sewage plants, package treatment plants, or central treatment plants shall be fully housed in conformity with the development of the surrounding area. Prior to issuance of zoning certificate, plans approved by the State Environmental Protection Agency and/or the appropriate Ottawa County Department must be submitted to Zoning Commission before final approval shall be given.

Section 706. Farm Ponds/Retention Ponds/Recreation Ponds

The following requirements for farm ponds/retention ponds/recreation ponds shall be met:

- (a) The applicant shall submit evidence that the proposed pond location has been reviewed and approved by the Ottawa County Board of Health.
- (b) The applicant shall submit detailed plans for construction by the contractor, including soil retention plans.
- (c) Ponds shall be located on lots containing three

- (3) or more acres of land, regardless of pond size.
- (d) A minimum pond surface area of 1/2 acre shall be required. The maximum pond size shall not exceed 50% of land area.
- (e) The pond shall be a minimum of eight (8) feet deep over 25% of the pond area unless non-penetrating matter is in the area.
- (f) The ponds slope shall be a minimum of (3) foot horizontal to one (1) foot vertical.
- (g) For the beach area, the slope shall be a minimum of five (5) foot horizontal to one (1) foot vertical.
- (h) A water source is available.
- (i) The soil is verified by the Soil Conservation Service as conducive to farm ponds/retention ponds/recreational ponds prior to any excavation work beginning.
- (j) There shall be a minimum setback of seventy-five (75) feet in the front yard and thirty (30) feet in the side and rear yard. Measurement of the front yard setback shall be from the edge of the road pavement to the water's edge. For corner lots, both front yards shall have a minimum setback of seventy-five (75) feet. Measurement of the side and rear yard setbacks shall be from the property line to the water's edge.
- k) No water shall be directed to flow onto existing streets or roads or adjoining property as a result of the construction and design of a pond. A pond over-flow pipe into an adequate outlet as recommended by the Soil Conservation Service shall be required.

Section 707. Manufactured Home Requirements (Revised, 2002)

707.1 Manufactured homes shall be required as one family dwelling if the following conditions are met:

- (a) A manufactured home shall be firmly attached to a permanent foundation constructed on the site and shall have a continuous and complete frost protected perimeter foundation for the main building. The design of the foundation must qualify it for real property taxation and the title must be surrendered. A concrete pad shall not constitute a foundation.
- (b) If the manufactured home or its parts have been constructed with tow bars, wheels, or axles or other equipment for moving the building or its parts, such wheels shall be removed and all other such equipment shall be completely concealed or removed.
- (c) A manufactured home shall have a minimum width of twenty-two (22) feet and a minimum length of twenty-two (22) feet and a minimum floor area (dwelling bulk) required for its district. (Benton Township Zoning Code Section 501).
- (d) The exterior siding of a manufactured home and any attachments thereto must be residential in appearances, consist of materials customarily used on conventional dwellings constructed on site and extend to the top of the foundation.

- (e) The replacement of a manufactured home previously located on a lot shall be required to comply with all of the above conditions.

Section 708. Multi-family Dwelling (Condominium) Regulations (Revised, 1998)

708.1 All multi-family housing developments shall meet the following requirements:

- a. Multi-Family Housing Development Lot Area: A minimum area of not less than 1 acre per multi-family housing development is required. The minimum lot area per dwelling shall be twenty thousand (20,000) square feet for the first unit and six thousand (6,000) square feet for each additional unit for each multi-family housing development. Measurements of lot area shall be made to the street right-of-way line.
- b. Lot Width and Depth: The multi-family housing development shall have a minimum lot width of one hundred feet and a minimum depth of one hundred and twenty-five (125) feet. Ratio of width to depth shall not exceed one to five (1:5).
- c. Lot Coverage: Total area coverage of all buildings (including dwelling units and related service buildings) shall not exceed forty (40) percent of the area of the total site, exclusive of any dedicated public right-of-way.
- d. Existing Lot of Record - A multi-family housing development may be permitted on a lot of less area or width which was recorded at the time of the adoption of this Resolution, as amended, and the owner thereof owns no adjoining land, provided the lot area per unit is complied with.
- d. Yard - There shall be a front yard of not less than thirty-five (35) feet, a side yard of not less than ten (10) feet and a rear yard of not less than twenty-five (25) feet.
- e. Building Separation - Buildings designed for living purposes shall be separated from each other by a minimum distance of twenty (20) feet. This measurement shall be from the nearest point of one (1) building to the nearest point of the adjacent building.
- f. Dwelling Size - The stated minimum floor area shall be provided as specified in Section 501
- g. Building Height - The maximum building height shall be thirty-five (35) feet measured to the peak and thirty (30) feet measured to the eaves. The maximum pitch from the thirty (30) foot point to the peak shall not exceed an 8:12 pitch.
- h. Open Space - A minimum of ten (10) percent of all land included in the multi-family housing development shall be set aside for open space. Open space shall consist of natural areas including grass, trees, and the like.
- i. Parking Requirements - Each dwelling must be provided with two (2) parking spaces. All other requirements of Article 7 shall be met.

- j. Trash Receptacles - An area of land shall be set aside for the purpose of trash and garbage receptacles. Such receptacle area shall be properly screened and maintained.

708.2 In addition to the above items, the following items shall apply to cluster housing/retirement communities.

- a. A "Cluster Housing Retirement Community" shall be defined as a parcel of land developed with one-family, two-family, or multi-family dwellings located on separate building lots where flexible spacing of lots and buildings are permitted in order to encourage:
 - 1. The creation of functional and interesting residential areas.
 - 2. The provision of readily accessible recreation areas and open space.
 - 3. The conservation of the natural amenities of the landscape.
- b. "Retirement" shall be defined as: at least 50 years of age and retired from full time work. Each unit within the "Cluster Housing Retirement Community" must be occupied by at least one individual meeting the retirement definition.
- c. Parcel size: In order to qualify for a "Cluster Housing Retirement Community" the parcel must contain a minimum of five (5) gross acres.
- d. Density: The maximum number of dwelling units for the complete development shall be not more than six (6) per acre.
- e. Preliminary Site Development Plan: The applicant shall submit a preliminary site development plan for approval by the Zoning Commission. This plan shall include the following information:
 - 1. Name of the development, and the name, address, and telephone number of the owner, the developer, and the engineer, architect, and other individuals assisting in the preparation of the site plans, date, north point, and scale.
 - 2. Zoning classification of the site and other surrounding properties.
 - 3. Location and use of all proposed buildings, including setback lines and yard areas.
 - 4. Statement of the average net residential density and the number of dwelling units to be contained in the total tract, and, where applicable, in each stage thereof.
 - 5. Proposed general grading and/or other methods to be used for adequate drainage control.
 - 6. Location of all public and private streets, roads, or highways.
 - 7. Proposed sanitary sewers, storm sewers and central water utilities, showing their connections with the existing system.
 - 8. Contour lines sufficient to define the topography of the site.
 - 9. The dimensions and bearings of the property lines, site acreage and legal description of the property.
 - 10. A vicinity map showing the location of the property in relation to existing streets and roadways.
- f. Final Site Development Plans: After the preliminary site plans have been approved, the final site development plans may be submitted for approval. The final site development plans shall be prepared and sealed by a professional engineer registered in the State of Ohio. The final site development plans shall contain the following:

1. All of the items required on the preliminary site plans and all additional criteria, amendments, and revisions required by the Zoning Commission drafted in the form of construction drawings. Construction drawings for site improvements shall include detailed sanitary sewer, waterline, storm drainage and roadway plans, and a site grading plan.
 2. A staged development plan if applicable.
- g. Staged Development: Developments larger than six (6) acres may be constructed in stages. A stage shall be at least three (3) gross acres in size. Each stage shall be submitted for approval and shall contain all the requirements listed herein.
- h. Amendments: Amendments to the final plans may be sought by the applicant in accordance with the procedures required by this section for the original approval subject to the same limitations and requirements as those under which final plans were originally approved.
- i. Time Limitations: Approval by the Zoning Commission shall expire after a period of one (1) year from the date of approval of the final plans, for the entire site or any particular stage, whichever is applicable.
- j. Approval by the Benton Township Zoning Commission for a cluster housing community has no impact upon Ottawa County's review of the proposed development. The requirements of the Ottawa County Subdivision Regulations shall be met, if appropriate. Prior to finalizing any permitted use action, this review and approval by the Ottawa Regional Planning Commission must be obtained.

Section 709 Bed and Breakfast Inn

The following conditions shall be met for all Bed and Breakfast Inns in addition to those identified in its definition in Article II.

1. The Inn must be owner-operated; it must be the principal residence of the owner, and occupied by the owner.
2. No more than four (4) rooms shall be offered for rent.
3. Each room rented shall contain a minimum of one hundred (100) square feet. No rented room shall have independent outside entrance (but emergency fire exits are permitted).
4. Neither any rented room nor the owner's dwelling space shall be located in an accessory structure.
5. No cooking facilities of any type shall be permitted in the rented rooms.
6. A minimum of one (1) on-site parking space per room offered for rent and two (2) spaces for the owner shall be required.
7. The outside appearance of the dwelling shall remain residential in appearance as the result of the operation of the bed and breakfast, including any additions thereto. (Revised, 2002)
8. One (1) sign not exceeding six (6) square feet in area shall be permitted identifying the dwelling as a "Bed and Breakfast Inn".
9. Any other condition or safeguard deemed appropriate by the Board of Zoning Appeals.

Section 710 Trailer Camp Regulations

The following requirements and conditions shall be met and approval granted by the Zoning Commission.

710.01 General Standards for Trailer Camps: The Zoning Commission shall review the particular facts and circumstances of each proposed trailer camp in terms of the following standards and shall find evidence showing that the trailer camp development:

- a. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity;
- b. Will not be hazardous or detrimental to existing or future neighboring uses;
- c. Will be served adequately by essential public services and facilities, such as highways, streets, police and fire protection, drainage and refuse disposal; or that the person(s) or agencies responsible for the establishment of the trailer camp shall be able to provide adequately for such services;
- d. Will not create excessive additional requirements at public cost for public facilities and services;
- e. Will be consistent with the intent and purpose of this Resolution;
- f. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets or roads;
- g. Will not result in the destruction, loss or damage of natural, scenic or historic features of major importance; and
- h. Will meet all the requirements of the Ohio Revised Code and Ohio Administrative Code.

710.02 Contents of Application: A written application shall be filed with the Chairman of the Zoning Commission. At a minimum, the application shall contain the following information:

- a. Name, address and phone of applicant;
- b. Legal description of property;
- c. Present land use;
- d. Present zoning district;
- e. Proposed zoning district (C-5);
- f. A vicinity map at a scale approved by the Commission showing property lines, streets, existing and proposed zoning districts and other such items as the Commission may require to evaluate the relationship of the proposed development to the surrounding areas;
- g. A plan at a scale approved by the Commission showing the location and dimensions of streets and other roadways; all individual camp sites; improvements; recreation areas; all accessory buildings and parking areas; buffering, screening or fencing; provisions for garbage and trash removal; provisions for restrooms, water supply, etc.;

- location of utilities including lighting, walkways, etc.; and other such things that the Commission deems necessary; and
- h. The fee as established by the Board of Township Trustees.

710.03 Trailer Camp Requirements: All trailer camps shall meet the following requirements:

- a. Size - A trailer camp shall contain a minimum of 10 acres and provide a minimum of 50 camp sites upon opening.
- b. Density - The maximum density shall not exceed ten (10) individual camp sites per gross acre.
- c. Width and Depth - The minimum width of a trailer camp shall not be less than 300 feet. The ratio of width to depth shall not exceed one to five (1:5).
- d. Yards - All individual camp sites or accessory buildings greater than 200 square feet shall be located no closer than fifty (50) feet from the front property lines, nor closer than thirty-five (35) feet from the side and rear property lines. If the side or rear property line abuts a public or private right-of-way, the minimum side or rear yard shall be fifty (50) feet.
- e. Access - All trailer camps shall have access to adequate collector streets with a right-of-way not less than fifty (50) feet in width. Marginal access roads may be required if deemed necessary for trailer camps that have direct access onto an arterial street.
- f. Streets - The design and construction of the interior streets shall be sufficient to adequately serve the size and density of the development. All interior streets shall be all-weather roads with a right-of-way not less than twenty-five (25) feet and a road surface of not less than twenty (20) feet. Parking on the interior streets shall not be permitted.
- g. Walkways - All trailer camps shall have pedestrian walkways at least four (4) feet in width. The location of necessary walkways shall be decided by the Commission and may vary relative to location, intensity of use, and location of recreational areas and service facilities.
- h. Recreational and Open Space - At least thirty-five (35) percent of the gross land area of the trailer camp shall be reserved for recreation and open space. This figure is in addition to any other open areas required by yard dimensions or any other sections of this resolution. Individual camp sites shall not be included in this recreation and open space area.
- i. Buffering and Screening - The outer boundaries of the trailer camp shall contain a buffer zone. This buffer zone shall be composed of a green strip, not less than twenty (20) feet in width, located along all camp boundaries. In addition, all trailers, campers, tents, and camp sites shall be located no closer than one hundred (100) feet from any property zoned for residences.

Proper buffering shall be determined by the Commission and may include fencing, screening, and/or the planting of trees and bushes.

710.04 Individual Camp Site Requirements: Individual camp sites within the trailer camps shall meet the following requirements:

- a. Camp Site Area - Each individual camp site shall be at least 2,500 square feet in area.
- b. Camp Site Width - Each individual camp site shall be at least forty (40) feet in width.
- c. Camp Site Setbacks - There shall be a minimum of eight (8) feet open space between the vehicle, trailer, tent or structure used for camping purposes and any such camp site boundary line. The width and/or length of the vehicle, trailer, tent or structure shall include all projections, awnings, porches, tip outs, flip outs, slip outs, etc.
- d. Corner Markers - The four (4) corners of each individual campsite shall be marked in a manner acceptable to the Commission.
- e. Streets - All individual camp sites shall front on an all-weather road with a right-of-way not less than twenty-five (25) feet and a pavement surface of not less than twenty (20) feet.

710.05 Trailer Camp Utilities and Other Services: All trailer camps shall conform to the requirements for utilities and other services as follows:

- a. Storm Drainage - With each trailer camp, storm drainage shall be provided in accordance with the following requirements:
 1. All areas of a trailer camp shall be graded in a manner so that there will be no poorly drained area. Grading shall not obstruct the natural drainage of surrounding properties.
 2. Open drainage ditches are prohibited. All drainage systems shall be designed in accordance with and approved by the County Engineer.
- b. Water Supply - Within each trailer camp, the requirements of Section 3701-25-37 of the Ohio Administrative Code shall be met.
- c. Sewage - Within each trailer camp, the requirements of Section 3701-25-57 of the Ohio Administrative Code shall be met.
- d. Toilet Facilities - Within each trailer camp, the requirements of Section 3701-25-61 of the Ohio Administrative Code shall be met.
- e. Other Requirements - Within each trailer camp, the requirements of Section 3701-25-51 through 3701-25-75 inclusive (Ohio Administrative Code) shall be met.

710.06 Supplementary Regulations - All trailer camps shall conform to the following:

- a. No trailer, camper, tent, etc. shall be occupied

- on a permanent basis.
- b. Inspection - The County Board of Health and the Zoning Inspector shall have the right of entry and access to trailer camps at any reasonable time for the purpose of inspecting and investigating conditions relating to the administration and enforcement of the regulations and requirements of the resolution.
- c. Sale of Camp Sites - The sale of individual camp sites shall be prohibited.
- d. Campfires - If campfires are permitted, suitable facilities shall be provided and necessary precautions taken.

710.07 Penalty for Violation: The violation of any part of this Resolution shall be punishable under Section 1106. The appropriate prescription of conditions and safeguards, in conformity with this Resolution, shall be met. Violations of such conditions and safeguards, when made a part of the zoning permit, shall be deemed a violation of this Resolution and punishable under Section 1106.

710.08 Existing Park Expansion: The expansion of any existing trailer camp will be required to meet these requirements for the expanded portion.

Section 711 Adult Oriented Sexual Business (Revised, 1998)

This section establishes reasonable and uniform regulations to prevent any deleterious location and concentration of adult oriented sexual businesses within the township. This requirement has neither the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented material. Similarly, it is not the intent nor effect of this requirement to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors or exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this requirement to condone or legitimize the distribution of obscene materials.

711.1 Such Uses shall be conditionally permitted subject to the following conditions as well as those addressed elsewhere herein.

- a. The applicant shall file in writing a report containing the following information:
 - 1. The address where the adult sexually oriented business is operated or is to be operated.
 - 2. The status of the applicant as an individual, partnership, or limited partnership, domestic or foreign corporation, or other entity; the full name, residence address, date of birth, and social security number of the applicant or the person applying on behalf of a partnership, corporation or other entity. If the applicant is a partnership or limited partnership, the name of the partnership, the status of the partnership as a general or limited partnership; the state or other jurisdiction under which it is organized; the address of its principal office in Ohio; its federal identification number; the name and address, date of birth, and social security number of each partner; and the status of each partner as a general or limited partner. If the applicant is a corporation, the name of the corporation; the state or other jurisdiction under which it is organized;

the address of its principal office; the address of its principal office in Ohio; its federal identification number; the name and address of its statutory agent in Ohio; and the full name, residence address, date of birth, and social security number of each stockholder holding more than two (2) percent of the applicant's stock. If any shareholder is a corporation or a general or limited partnership, the same information shall be included for such shareholder as is required for an applicant that is a corporation or general or limited partnership.

3. The application must contain the address where the adult sexually oriented business is to be located and shall be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
4. Applicants for a permit under this section shall have a continuing duty to promptly supplement application information required by this section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change, by supplementing the application on file with the township, shall be grounds for revocation or non-renewal of a permit.
5. Any other information determined by the Board to be necessary.

- 711.2 Adult sexually oriented business uses shall be located at least one thousand five hundred (1,500) feet from any church, child day care center, library, public park, public or private school, social service facility, neighborhood center, or amusement arcade.
- 711.3 Adult sexually oriented business uses shall be located at least one thousand five hundred (1,500) feet from any boundary of any residential district including those in an abutting local unit of government.
- 711.4 Adult sexually oriented business uses shall be located at least one thousand five hundred (1,500) feet from any other adult entertainment uses.
- 711.5 Adult sexually oriented business uses shall be located at least one thousand five hundred (1,500) feet from a bar, tavern, or other business serving or selling liquor, beer, wine, or other alcoholic beverages.
- 711.6 A permit or license issued under this section to an adult sexually oriented business shall expire one (1) year after the date of issuance. An application for a renewal permit shall be filed not later than forty-five (45) days of the expiration of the permit. An application for renewal shall be acted upon within thirty (30) days of receipt of the application. The information contained with the initial application for a permit and supplementary information required by Item B.1.d. above shall be used to determine whether or not to renew a permit. Each permit for an adult sexually oriented business shall contain the name of the applicant, the address of the

adult sexually oriented business and the expiration of the permit.

Section 712 Mini-Storage Buildings (Revised, 1998)

712.1 The following regulations shall apply to mini-storage buildings:

1. The parcel on which the mini-storage building will be located must contain a minimum of one (1) acre of land and have frontage upon a public highway.
2. The maximum lot coverage by buildings shall be sixty (60) percent.
3. The land area providing access to the mini-storage building and the individual units shall be stoned or paved and have adequate drainage.
4. Any lighting used on the site shall be directed away from the adjoining properties.
5. If adjacent to a residential structure, the side yard setback shall be increased to fifty (50) feet with a screen, planting, or solid fence erected on or near the lot line, prior to the construction of the min-storage building.
6. The mini-storage building and units shall not be used for the storage of flammable, hazardous, or chemical materials, potentially dangerous to the general public.
7. No outside storage shall be allowed.
8. Trash receptacles shall be provided within a property screened and maintained area.

713.1 **Low Impact Wind Powered Electric Generator/Windmill (Revised, 2009)**

1. **The proposed wind powered electric generator/windmill shall be a distance of at least 125% of the height of the total structure to any property line and public or private road or right-of-way. Total structure includes the blades of the unit. (Revised, 2009)**

Where the adjoining land has no permanent buildings and is being used for agricultural purposes, and the owner of the adjoining land agrees to grant and record in the County Recorder's office a "fall zone easement" that will remain in existence as long as the wind powered electric generator exists, the Board of Zoning Appeals may allow the total structure to be located closer to the lot line than 125% of its height. During the time that the wind powered electric generator is operational, no structure shall be placed, built or located within the fall zone easement. (Revised, 2009)

No zoning permit shall be issued until a copy of the recorded easement is presented to the zoning inspector. (Revised, 2009)

2. The maximum lighting used for or on the structure is a low intensity red light as defined by the Federal Aviation Administration. (Revised, 2006)
3. The wind powered electric generator/windmill shall have a rated capacity of not more than 100 kW. (Revised, 2006)

4. The wind powered electric generator/windmill may service up to two residential structures, that are located side by side to each other but not across the street from each other, with a minimum setback of at least 125% of the height of the total structure to any property line not serviced by the electric generator/windmill. (Revised, 2009)
5. The Board of Zoning Appeals shall review the possibility that shadow flicker may negatively impact any existing residential structures. A site plan identifying the area impacted by shadow flicker shall be submitted with the application. (Revised, 2009)
6. The noise level measured at all of the adjoining property lines shall not exceed 60 dBA. (Revised, 2009)

713.2 High Impact Wind Powered Electric Generator/Windmill (Revised, 2009)

1. The proposed wind powered electric generator/windmill shall be a distance of at least 150% of the height of the total structure to any property line, and public or private road or right-of-way. (Revised, 2009)

Where the adjoining land has no permanent buildings and is being used for agricultural purposes, and the owner of the adjoining land agrees to grant and record in the County Recorder's office a "fall zone easement" that will remain in existence as long as the wind powered electric generator exists, the Board of Zoning Appeals may allow the total structure to be located closer to the lot line than 150% of its height. During the time that the wind powered electric generator is operational, no structure shall be placed, built or located within the fall zone easement. (Revised, 2009) (Revised, 2009)

No zoning permit shall be issued until a copy of the recorded easement is presented to the zoning inspector. (Revised, 2009)

2. The maximum lighting used for or on the structure is a low intensity red light as defined by the Federal Aviation Administration. (Revised, 2006)
3. The wind powered electric generator/windmill shall have a rated capacity of more than 100 kW. (Revised, 2006)
4. The Board of Zoning Appeals shall review the possibility that shadow flicker may negatively impact any existing residential structures. A site plan identifying the area impacted by shadow flicker shall be submitted with the application. (Revised, 2009)
5. The noise level measured at all of the adjoining property lines shall not exceed 60 dBA. (Revised, 2009)

Section 714 Special Events (Revised, 2006)

Section 714.01 Requirements (Revised, 2006)

- a) The special event shall not last longer than fourteen (14) days; (Revised, 2006)
- b) The special event will not create a level of noise that will interfere with the normal living conditions of adjoining property owners; (Revised, 2006)
- c) The required and necessary facilities for the special event such as restrooms, garbage/refuse containers, parking and the like are available in adequate amounts for the type of special event

- planned; (Revised, 2006)
- d) The special event will not interfere with the traffic flow and the public's safety; and (Revised, 2006)
 - e) Other conditions which the Board of Zoning Appeals feels are necessary to protect the public's health, safety and welfare shall be imposed. (Revised, 2006)

Section 715 Small Wind Farm (Revised, 2009)

The Township Trustees now have the authority to regulate small wind farms within certain limitations. If they wish to regulate this use, the Trustees should consider adopting the following regulations. (Revised, 2009)

Section 715.01 A small wind farm shall be subject to the following conditions: (Revised, 2009)

- a. The aggregate output of electricity that can be generated by the small wind farm shall be less than five (5) megawatts. (Revised, 2009)
- b. A letter shall be submitted from the owner of the electrical grid agreeing to accept the output generated by the small wind farm. (Revised, 2009)
- c. A site plan showing the planned location of each wind powered electric generator, property lines, setback lines, roads (public and private), substations and other accessory buildings required by the small wind farm, a lighting plan, associated transmission lines, the area that will be impacted by shadow flicker, and other pertinent information shall be submitted with the conditional use application. (Revised, 2009)
- d. The small wind farm shall conform to all construction, design safety, electrical standards, and other applicable industry standards. The appropriate warning signs shall be displayed. (Revised, 2009)
- e. All wind powered electric generators part of the small wind farm shall be equipped with a redundant braking system including both aerodynamic over-speed controls and mechanical brakes. (Revised, 2009)
- f. The wind powered electric generators, including the blades, shall be a non-obtrusive color such as white, off-white, silver, or gray and contain no advertising display or message on any of its parts. (Revised, 2009)
- g. The small wind farm and the wind powered electric generators located within it shall not be artificially lighted except to the extent required by the Federal Aviation Administration. (Revised, 2009)
- h. On-site transmission and power lines shall be placed underground to the maximum extent possible. (Revised, 2009)
- i. Access to the wind powered electric generators, electrical equipment, and any accessory structures shall be controlled using appropriate fencing. Climable access to the generators shall begin no less than fifteen feet off the ground. (Revised, 2009)
- j. A wind powered electric generator shall be setback a distance of not less than 125% of the height of the tower supporting the generator from the nearest off-site residence, public road, and any school, church, or other building used for public gathering. The setback distance shall be measured from the center of the base to the nearest point of the foundation of the structure. (Revised, 2009)
- k. The small wind farm shall be designed and all reasonable efforts shall be made to minimize or eliminate shadow flicker to any occupied building on a non-participating property. (Revised, 2009)
- l. If a non-participating landowner, adjacent to the small wind farm,

agrees to waive the setback requirement and shadow flicker established above, such waiver shall be recorded in the Ottawa County Recorder's Office. The waiver shall describe the property benefited and burdened and advise all subsequent purchasers of the burdened property that the setback waiver shall run with the land and may forever burden the subject property. The waiver will automatically be removed/eliminated when the wind farm is no longer operational and the decommissioning of the small wind farm has been completed. (Revised, 2009)

- m. The anticipated audible sound from the small wind farm shall be provided to the Board of Zoning Appeals for their review. The noise level measured at all of the adjoining property lines shall not exceed 60 dBA. (Revised, 2009)
- n. There shall be maintained a general liability insurance policy covering bodily injury and property damage with limits of at least \$1 Million per occurrence and \$1 Million in the aggregate with certificates of insurance submitted annually to the township. (Revised, 2009)
- o. The facility owner and operator shall, at its expense, complete the decommissioning of the small wind farm within twelve months of the facility no longer functioning as intended. All equipment and structures shall be removed and the site returned to an appearance similar to the surrounding property. (Revised, 2009)
- p. The small wind farm conditional use shall be reviewed every three years by the Board of Zoning Appeals to insure all of the requirements established by the approval are being complied with. (Revised, 2009)

ARTICLE VIII - SPECIAL PROVISIONS FOR COMMERCIAL AND INDUSTRIAL USES

Section 800. Performance Requirements

800.1 Requirements: No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises provided that any use permitted by this Resolution may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the Federal Government or appropriate State statutes as amended.

- (a) Fire Hazards: Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire fighting and fire suppression equipment and by such safety devices that are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.
- (b) Radioactivity or Electrical Disturbance: No activity shall emit dangerous radioactivity at any point, or electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.
- (c) Noise: Noise which is objectionable as determined by the Board because of intermittence, beat, frequency or shrillness, shall be muffled or otherwise controlled. Noises may equal but shall not exceed average street traffic noise during such periods that traffic noise exceeds 85 decibels as measured at the boundary or boundaries of any adjacent District.
- (d) Vibration: No continuous vibration shall be permitted which will have the effect of destroying adjoining property and is found to be detrimental to the legal use of any adjoining lot or property.
- (e) Odors: No malodorous gas or matter shall be permitted which produces a public nuisance or hazard on any adjoining lot or property.
- (f) Air Pollution: No pollution of air by fly ash, dust, vapor or other substances shall be permitted which can cause damage to health, animals, vegetation or other property. All provisions of State and Federal EPA's shall be reflected in established standards.
- (g) Glare: No direct or reflected glare shall be permitted which is visible from any property outside an "M" District or from any public street, road or highway.
- (h) Erosion: No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties.
- (i) Water Pollution: Pollution of water shall be subject to the requirements and regulations established by appropriate State and Federal agencies.

800.2 Enforcement Provisions: The Zoning Inspector or Board of Zoning Appeals prior to the issuance of a zoning certificate, may require the

submission of statements and plans indicating the manner in which dangerous and objectionable elements involved in processing and in equipment operations are to be eliminated or reduced to acceptable limits and tolerances as determined by Federal & State statutes and regulations.

Section 801. Signs and Outdoor Advertising Structures

801.1 No sign shall be permitted in any district except as hereafter provided.

801.2 General Provisions

- (a) Signs not exceeding twelve (12) square feet in area and advertising the sale, rental, or lease of the premises on which the sign is located shall be permitted on any property.
- (b) Announcement or professional signs for home occupations and professional activities where permitted shall not exceed six (6) square feet in area in any District.
- (c) Bulletin boards and signs for a church, school, community center, or other public or semipublic institutional building shall be permitted provided the area of such bulletin board or sign shall not exceed fifteen (15) square feet in area excluding supporting structures.
- (d) No building wall shall be used for display of advertising except that pertaining to the use carried on within such building.
- (e) Temporary signs not exceeding in the aggregate fifty (50) square feet announcing special events or the erection of a building, the architect, the builders, contractors, etc., may be erected for the period of sixty (60) days, plus the construction period.
- (f) Temporary signs for elections and special events shall be removed within fifteen (15) days after the event or election is completed.
- (g) Signs for agricultural activities shall not exceed sixty (60) square feet in total area and no one (1) sign shall exceed thirty (30) square feet in area indicating the sale of specific agricultural products.
- (h) No sign shall be placed within fifteen (15) feet of the edge of the pavement except publicly owned signs, such as traffic control and directional signs.
- (i) Any existing sign replaced must conform to the provisions of this Resolution.
- (j) In cases where Federal or State statutes and regulations differ from the above requirements, the most restrictive requirement shall be met.

801.3 Commercial or Industrial District Signs

- (a) Free-standing signs with either a single display area or with back-to-back display areas not over thirty (30) feet in height, having a maximum total sign area of one hundred (100) square feet per display area and located not closer than five (5) feet to any street right-of-way and not closer than ten (10) feet to any

adjoining lot line may be erected to serve a group of business establishments. There shall be only one free-standing sign for each building, regardless of the number of businesses conducted in said building.

Pole signs of symbolical design shall be permitted for business establishments including automobile service stations provided:

1. No part of such sign shall project into the right-of-way of any street or highway.
 2. The maximum area of any face of such sign shall not exceed forty-five (45) square feet.
 3. The pole support of the sign shall not be less than fifty (50) feet from any lot in any "A-4" or "R" District.
- (b) The area of all advertising signs for any single business enterprise may have an area equivalent to one and one-half square feet of sign area for each lineal foot of width of a building, or part of a building, occupied by such enterprise, but shall not exceed a maximum area of one hundred (100) square feet. In computing the area of free-standing or protruding signs all faces on which advertising is displayed are considered sign area. In addition, projections of wall signs shall not exceed two (2) feet measured from the face of the main wall of the building.
- (c) Expressway Interchange signs. In any business or industrial use district located adjacent to the interchange of any expressway, inter-state highway or limited access highway, one business identification sign shall be permitted, in addition to any other signs hereinbefore provided. Any such signs shall conform to the following:
1. The height of such signs shall not exceed 100 feet;
 2. The maximum area of any face of such signs shall not exceed 200 square feet;
 3. The signs shall contain only the name of the company, service provided, directional, or use to which the property is being used and in no event shall contain any more descriptive material;
 4. Such signs shall be non-movable and if illuminated must maintain constant illumination and not flash.

801.4 Setback Requirements: Except as provided above, signs or outdoor advertising structures, excluding pole and symbolical signs, where permitted shall be set back from the established right-of-way line of any street or highway at least as far as the required front yard depth for a principal use in such district except for the following modifications, providing such modifications are not in conflict with Federal or State requirements, as amended:

- (a) For every square foot by which such sign or outdoor advertising structure exceeds eighty (80) square feet, such setback shall be increased by one-half foot but need not exceed 100 feet.
- (b) At the intersection of any state or federal highway with a major or secondary street, the setback of any sign or outdoor

advertising structure shall not be less than one hundred (100) feet from the established right-of-way of each highway or street.

- (c) Real estate signs, directional signs, and bulletin boards for a church, school or any other public or semipublic, religious or educational institution may be erected not closer than fifteen (15) feet from the edge of the pavement line of any street or highway provided such sign or bulletin board does not obstruct traffic visibility at street or highway.

801.5 Special Yard Provisions: The following special provisions shall be observed in the erection or placement of signs and outdoor advertising structures:

- (a) No such sign or advertising structure shall be permitted which faces the front or side lot line of any lot in an "A-4" or "R" District within one hundred (100) feet of such lot line, or which faces any public parkway, public square or entrances to any public park, public or parochial school, library, church, or similar institution, within three hundred (300) feet thereof.
- (b) Signs and advertising structures where permitted shall be erected or placed in conformity with the side and rear yard requirements of the district in which it is located except no sign or advertising structure shall be erected or placed closer than within fifty (50) feet to a side or rear lot line in any "A-4" or "R" District.

801.6 Illumination: The following provisions shall be observed in the illumination of signs and advertising structures:

- (a) All signs and advertising structures except as hereinafter modified may be illuminated internally or by reflected light provided the source of light is not directly visible and is so arranged as to reflect away from the adjoining premises and provided that such illumination shall not be so placed as to cause confusion or a hazard to traffic or conflict with traffic control signs or lights.
- (b) No illumination involving movement or causing the illusion of movement by reason of the lighting arrangement or other devices shall be permitted which may cause confusion or a hazard to traffic control signs or lights.

801.7 Permits

- (a) A separate permit shall be required for the erection of signs regulated in this Resolution, except that no permit shall be required for temporary real estate signs with an area of twelve (12) square feet or less for the sale or lease of property and for small announcement signs with an area of less than six (6) square feet. Announcement signs, except those for professional and home occupations, shall be removed by the person or persons responsible for posting same within ten (10) days after the completion of such scheduled event.
- (b) Each application for a sign permit shall be accompanied by a drawing showing the design proposed, the size, character and color of letters, lines and symbols, method of illumination; the exact location of the sign in relation to the building, right of way, and property lines, the details and specifications for

construction. A fee of fifteen dollars (\$15.00) shall accompany each application for a sign permit.

801.8 Exemptions: Public notices, traffic control signs and other public and semi-public official signs and notices are exempt from the provisions of this section.

Section 802 Mineral Extraction, Storage, and Processing

802.1 The extraction, storage and processing of minerals, excluding oil and natural gas as regulated in Section 1206, shall be conducted in accordance with the following requirements:

- (a) Extraction, storage and processing of minerals of all types shall be permitted in districts as specified in the Use Regulations of Article IV of this Resolution.
- (b) All additions to existing mineral processing plants and new mineral processing plants shall employ recognized equipment of the industry in question to minimize objectionable elements or conditions adversely affecting the surrounding properties. Operations of the equipment shall comply with the standards promulgated by the industry.
- (c) Other mineral extraction and processing in an "M-3" District shall not be constructed closer than 500 feet from any existing residence or any "A-4" or "R" District so zoned prior to the establishment of the adjacent "M-3" District, nor closer than two hundred (200) feet from any structure used for human occupancy in any district.
- (d) A stone or earthen barrier, wall or fence shall be erected to encompass extraction operations and serve as a screen and mode of protection for the public. Earthen barriers should be planted with grass, ground cover or other plantings.
- (e) Buildings and structures for which no future use is contemplated and for which no other acceptable use is practicable or feasible shall be demolished and removed.
- (f) At the time of a request for rezoning for mineral extraction purposes the operator shall file with the Zoning Inspector a detailed map of at least two hundred (200) feet to the inch scale, which clearly shows areas to be mined and the location of adjacent properties, roads and natural features. The operator shall submit information on the anticipated depth of excavations and on depth and probable effect on the existing water table.

Section 803. Automobile Wrecking and Metal Salvaging, Sales and Storage

803.1 The dismantling or wrecking of automobiles or the salvaging of metal materials for the sale or storage of the salvaged parts or material shall be permitted only in an "M-3" District subject to approval of the Board of Zoning Appeals as regulated in Section 1206.

803.2 Junk storage and sales shall be effectively screened on all sides by means of walls, fences or plantings. Walls or fences shall be a minimum of eight (8) feet in height with no advertising thereon. In lieu of such wall or fence, a strip of land not less than fifteen (15) feet in width and planted and maintained with an evergreen hedge or dense planting of evergreen shrubs

not less than four (4) feet in height when planted and not less than six (6) feet in height when mature may be substituted. Storage of materials shall not exceed the height of the screening.

Section 804. Temporary Buildings

Temporary buildings and construction trailers used in conjunction with construction work only may be permitted in any district during the period construction work is in progress, but such temporary buildings shall be removed upon completion of the construction work.

Section 805. Open Storage and Display of Material and Equipment

805.1 The open storage and display of material and equipment incident to permitted or conditional uses in "C" or "M" Districts shall be permitted, provided the area used for open storage and display shall be effectively screened from all adjoining properties in any "A-4" or "R" District by means of walls, fences or plantings. In no case shall this storage be maintained beyond the front building lines except for items displayed for sale or rental. Walls or fences shall be a minimum of four (4) feet in height without advertising thereon. In lieu of such wall or fence a strip of land not less than ten (10) feet in width and planted and maintained with an evergreen hedge or dense planting of evergreen shrubs not less than four (4) feet in height at the time of planting may be substituted.

805.2 The temporary open storage of contractor's equipment and material shall be permitted on the site upon which buildings or structures are being erected or installed for the duration of the construction period. Storage of such equipment and material beyond the project shall be subject to a special permit authorized by the Board of Zoning Appeals.

Section 806. Treatment of Sewage

Sewage plants, package treatment plants, or central treatment plants shall be fully housed in conformity with the development of the surrounding area. Prior to issuance of zoning certificate, plans approved by the State Environmental Protection Agency and/or the Ottawa County Department of Health must be submitted to zoning commission before final approval shall be given.

Section 807 Trash Receptacles

An area of land shall be set aside for the purpose of trash and garbage receptacles. Such receptacle area shall be screened and properly maintained.

ARTICLE IX PLANNED UNIT DEVELOPMENT

Section 900. Planned Unit Development (Revised, 2006)

900.1 Definition: An area of a minimum contiguous size, as specified herein, to be planned and developed as a single entity containing one or more residential clusters or planned unit residential developments and usually one or more public, quasi-public, commercial, or industrial area in such ratios of non-residential uses to residential uses as are specified herein. (Revised, 2006)

900.2 The following regulations shall be met for all planned unit developments: (Revised, 2006)

1. Benton Township will permit development of land using a planned unit development concept in order to achieve the following: (Revised, 2006)
 - a. A maximum choice of living environments by allowing a variety of housing and building types and a reduction in lot dimensions, yards, building setbacks, and area requirements, while preserving the overall density objectives set by zoning. (Revised, 2006)
 - b. A more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location of desirable neighborhood commercial uses and services. (Revised, 2006)
 - c. A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, prevents the disruption of natural drainage patterns, and conserves and protects the aquifer and groundwater supplies. (Revised, 2006)
 - d. A more efficient use of land than is generally achieved through conventional development, which may result in substantial savings through shorter lengths of utilities and streets. (Revised, 2006)
 - e. A development pattern in harmony with land use density, transportation facilities, connecting open space, and community facilities. (Revised, 2006)
 - f. A development, that in the opinion of the trustees is advantageous to the community at large. (Revised, 2006)

2. Types of Uses Permitted (Revised, 2006)

The following types of uses are permitted after recommendation by the zoning commission and approval by the board of township trustees: (Revised, 2006)

- a. Land and buildings in the planned unit development shall be limited to one or more of the following uses: (Revised, 2006)

1. Detached single-family dwellings. (Revised, 2006)
2. Zero lot line, attached twin single, townhouse, condominium, or other innovative forms of residential development. (Revised, 2006)
3. Home occupations as defined in Article II. (Revised, 2006)
4. Parks, playgrounds and playfields open to the public without fee. (Revised, 2006)
5. Public or private golf courses or other similar outdoor recreational facilities and normal accessory buildings and uses, provided all uses and functional characteristics are specifically included in the approved planned unit development. (Revised, 2006)
6. Churches and other places of worship. (Revised, 2006)
7. Other residentially-oriented uses, that in the opinion of the zoning commission and township trustees, meet the purpose and intent of a planned unit development and are adequately designed, located, or otherwise provided for by the development plan and other required documents. (Revised, 2006)
8. Accessory buildings and uses in association with a permitted residential use and the planned unit development as provided herein. (Revised, 2006)

- b. Residential uses may be combined with compatible, subordinate commercial, public, and quasi-public uses in a planned unit development, provided that the proposed location of the commercial uses will not adversely affect adjacent property, and/or the public health, safety, and general welfare. (Revised, 2006)

The amount of land devoted to commercial uses in a residential-commercial development shall be recommended by the zoning commission and determined by the board of township trustees, in accordance with these standards. (Revised, 2006)

- c. Only uses designated in the approved planned unit development as a permitted use shall be allowed as a matter of right at each location in a planned unit development, and any use not so designated shall be prohibited. (Revised, 2006)
- d. Open space uses consistent with residential developments, such as golf courses, nature trails, etc. (Revised, 2006)

3. Development Standards (Revised, 2006)

- a. Lot Area, Width, and Depth (Revised, 2006)

1. The gross lot area of the tract to be developed under the planned unit development approach shall conform to the following schedule: (Revised, 2006)

<u>Type of PUD</u>	<u>Minimum Area (Acres)</u>
Residential	5

2. When the planned unit development is a mixture of uses, no more than ten (10) percent of the tract may be devoted to commercial activities which are listed as uses permitted in the "C-1" Neighborhood Commercial District and which are specifically permitted in the approved planned unit development. (Revised, 2006)
3. In addition, commercial uses that provide a visually open area to adjacent residential areas, such as golf course grounds, riding or walking trails, or parklands not permitting camping may be specifically permitted as commercial uses in excess of the ten (10) percent limit, if, and only if, the zoning commission and board of trustees find that this use of additional land creates an enhancement of the adjacent residential areas and of the entire tract. (Revised, 2006)
4. The area of a planned unit development must be an integral tract. It cannot be a collection of isolated pieces of land, except that roads, streets, or waterway may lie between portions of the tract. (Revised, 2006)
5. The minimum lot width of a planned unit development shall be two hundred (200) feet. (Revised, 2006)
6. Each lot to be sold in a planned unit development shall have a minimum width of sixty (60) feet and a minimum lot area of seven thousand (7,000) square feet. (Revised, 2006)

4. Density (Revised, 2006)

- a. The density of development within the planned unit development shall not exceed four (4) units per acre. (Revised, 2006)

For purposes of calculating the maximum density, the acreage of the tract of land included as part of the planned unit development shall be multiplied by the permitted density number. (Revised, 2006)

For a planned unit development spanning or incorporating two (2) or more contiguous parcels with prescribed densities, the total average density for the aggregate parcel may apply if requested by the developer and approved by the trustees. (Revised, 2006)

- b. Each phase submitted for approval shall not exceed the density requirements for the acreage included in that phase. If a phase is approved with less than the maximum density allowed for that phase, a subsequent phase of the planned unit development may be permitted to include the

allowed density not incorporated in that previous phase.
(Revised, 2006)

- c. Aggregating or clustering of dwelling units is permitted, but there shall be no more than ten (10) dwelling units permitted per aggregation or cluster. (Revised, 2006)

5. Common Open Space (Revised, 2006)

- a. Common open space and recreational facilities may be reserved for the residents and users of the area being developed. It shall be so sited that residents will have easy access to it without trespassing on private areas. (Revised, 2006)

Common open space is land within the development, not individually owned or dedicated for a specific use like roads or easements, that is designed and intended for the common use or enjoyment of the residents of the development and their guests and may include complementary structures and improvements as are necessary and appropriate. (Revised, 2006)

- b. At least twenty (20) percent of the gross area included in each phase shall be set aside as common open space. At least one-third of the twenty (20) percent common open space for each phase must be dry land not normally covered or inundated by water. (Revised, 2006)
- c. Such common open space land reserved under a planned unit development shall be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development. (Revised, 2006)
- d. The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final development plan and shall be included in deed restrictions, protective covenants, and other legal statements or devices to be used to control the use, development, and maintenance of the land and the improvements thereon, including those areas which are to be commonly owned and maintained. (Revised, 2006)
- e. Common open space and recreational facilities shall be of a size, shape, topography, and location to be usable and accessible to the residents of the planned unit development. Wherever possible, common open spaces in a planned unit development shall be designed to complement open space within an adjoining development. (Revised, 2006)
- f. If approved by the zoning commission and the township trustees, a portion of the required open space for a planned unit development may be acquired off-site and donated to the township as public land. This alternative must be mutually agreed upon by all parties. (Revised, 2006)

6. Building Height (Revised, 2006)
 - a. The maximum height for all residential and commercial buildings and structures in the planned unit development shall be thirty-five (35) feet, unless approved at a greater height by the township trustees during the review process. (Revised, 2006)
7. Building Yards (Revised, 2006)
 - a. All principal buildings shall have a minimum front yard setback of twenty (20) feet, a minimum side yard setback of ten (10) feet, and a minimum rear yard setback of twenty (20) feet. Corner lots shall have the front yard setback on both streets. (Revised, 2006)
 - b. Units with a common wall or that are contiguous because of an authorized zero setback are considered one building. There shall be a minimum twenty (20) foot separation between buildings of this type. (Revised, 2006)
 - c. In areas where aggregation or clustering is proposed, the township trustees shall have the flexibility to reduce these setbacks when appropriate. (Revised, 2006)
8. Dwelling Size and Accessory Building Standards: (Revised, 2006)
 - a. The dwelling size in a planned unit development shall be approved by the zoning commission and township trustees. All floor-space measurements exclude open or enclosed porches, patios, breezeways and garages. (Revised, 2006)
 - b. Accessory buildings for each dwelling unit shall have a total area no greater than six hundred (600) square feet and a maximum height no greater than fifteen (15) feet. Accessory building must be located within two hundred (200) feet of the dwelling unit it serves. (Revised, 2006)
9. Off-Street Parking Requirements (Revised, 2006)
 - a. Each dwelling must be provided with two (2) parking spaces. (Revised, 2006)
 - b. Approved commercial uses shall provide one (1) parking space for each two hundred (200) square feet of floor area. (Revised, 2006)
 - c. All other requirements of Article VI of this Resolution shall apply to parking spaces for both dwellings and for commercial uses. (Revised, 2006)
10. Commercial Uses (Revised, 2006)
 - a. When the planned unit development includes commercial uses, commercial buildings and establishments shall be planned as groupings having common parking areas and

common ingress and egress points in order to reduce the number of potential accident locations at intersections with thoroughfares. (Revised, 2006)

- b. Only commercial uses that are listed as uses permitted in the "C-1" Neighborhood Commercial District shall be permitted. Other uses, no more intensive as to traffic of persons or automobiles, or noise, music, odors or light or other effects on adjoining premises may be substituted with permission of the township trustees. (Revised, 2006)
- c. The planned unit development shall provide, where commercial areas abut residential areas, a landscape plan that, in the opinion of the zoning commission and township trustees, provides a sufficient buffer where necessary, for instance, between commercial parking areas and abutting residential areas. (Revised, 2006)

11. Traffic Circulation (Revised, 2006)

- a. The planned unit development shall provide for the integrated and harmonious design of buildings, and for adequate and properly arranged facilities for internal traffic circulation, landscaping, and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding non-commercial areas. (Revised, 2006)

12. Non-Illuminated Signs Permitted in the PUD District: (Revised, 2006)

- a. The requirements of Article 8 shall apply for all dwellings and commercial uses. (Revised, 2006)
- b. All permanent signs to be erected within the planned unit development must be provided for and approved as a part of the planned unit development. (Revised, 2006)

13. Fences (Revised, 2006)

- a. Fences or hedges must be approved as part of the planned unit development. Fences may not exceed four (4) feet in the front yard and seven (7) feet in all other locations. No barbed wire fence shall be constructed. (Revised, 2006)
- b. At street and/or highway intersections, no wall, fence, hedge, shrubbery, or other structure or planting which obstructs the view of motorists and thereby creates a traffic hazard shall be erected, placed, planted, or maintained within the triangular area formed by connecting with a straight line, two (2) points located at the respective right-of-way lines, twenty-five (25) feet distance from their point of intersection. (Revised, 2006)

900.4 Approval Process of Each Phase of a Planned Unit Development (Revised, 2006)

During the rezoning process, the developer shall provide a preliminary proposal to the zoning commission and township trustees for the parcel of land proposed to be rezoned to the "R-4" Residential District. This preliminary proposal shall be sufficient in detail to assist the zoning officials and the general public in understanding the conceptual layout of the planned unit development, including prescribed density and open space calculations, clustering of units, setbacks, and commercial uses. (Revised, 2006)

Suggestions offered concerning the preliminary proposal, by the zoning officials and the general public, should be given strong consideration by the developer when the final development plan is prepared. (Revised, 2006)

Once the property is rezoned by the township trustees to the "R-4" Residential District, as provided for in Article 13 of this Resolution, the following procedure shall be followed. (Revised, 2006)

1. Application to the Zoning Inspector (Revised, 2006)
 - a. An application for a planned unit development phase shall be submitted to the zoning inspector. The application shall be executed by or on behalf of all of the owners of all the land to be included in the planned unit development. A filing fee, as determined by the trustees, shall be submitted with the application. (Revised, 2006)

2. Data Required with Application (Revised, 2006)
 - a. The application for approval of a planned unit development phase shall include ten (10) copies of a development plan, drawn at a scale of 1"= 100' and shall include the following information: (Revised, 2006)
 1. The location and the size of the area involved and the nature of the landowner's interest in the land proposed to be developed should be identified. A legal description of the area involved in the planned unit development phase is required. (Revised, 2006)
 2. The density of land use to be developed, the type of dwelling unit, and the location of the required open space shall be presented in tabular form and also clearly shown on the plans. (Revised, 2006)
 3. The location, function, ownership, and manner of maintenance of common open space areas shall be shown. (Revised, 2006)
 4. The use, general outline, location, and maximum height of all buildings and other structures shall be identified. The plan shall list and show the exact use, height, floor area, number of each type of dwelling units, and the outline and location of all buildings and structures, including accessory buildings. (Revised, 2006)
 5. The land to be dedicated to each dwelling building or

type and the areas of common open space shall be listed and displayed and the exact areas of common open space used to justify the density proposed. (Revised, 2006)

6. Conceptual plans for drainage, landscaping, preservation of vistas, natural features, groundwater supply and aquifer shall be included. (Revised, 2006)
7. Conceptual plans for the disposal of sanitary wastewater and storm water, and for the supply of all other utilities, including water shall be submitted. (Revised, 2006)
8. The proposed schedule of site development, construction of structures, and associated facilities including sketches showing the design principles and concepts to be followed shall be identified. (Revised, 2006)
9. The provisions for parking of vehicles and the location and width of proposed streets and existing streets abutting the property shall be shown. (Revised, 2006)
10. The location and size of walkways, plazas, public areas, fences and signs, and of landscaping and planting shall be identified. (Revised, 2006)
11. The substance of covenants, deed restrictions, grants, or easements or other restrictions to be imposed upon the use of land, buildings and structures, including proposed easements for public utilities, and for maintenance of common open space, common facilities, private streets, drives and other infrastructure of the planned unit development shall be filed. (Revised, 2006)
12. A plan for landscaping or other maintenance of all areas not immediately developed must be identified. (Revised, 2006)
13. An overall plan of the entire planned unit development delineating each phase so that the township can understand the interrelationships between the various phases. (Revised, 2006)

b. Upon initial review, any additional information, as may be required by the township zoning commission or township trustees in order to determine compliance with this resolution, shall be provided. (Revised, 2006)

3. Basis of Approval (Revised, 2006)

a. The township zoning commission shall review and hold public hearings on the application. It shall base its review of the planned unit development on the following considerations: (Revised, 2006)

1. The proposed development will be initiated within two (2) years from the date of approval. (Revised, 2006)
2. Each individual phase of the development, as well as the total development, can exist as a independent phase capable of creating an environment of sustained desirability and stability, and that adequate

- assurance is provided that such objective will be attained. (Revised, 2006)
3. The uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect. (Revised, 2006)
 4. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic in such amounts as not to overload the street network outside the planned unit development. (Revised, 2006)
 5. Any appropriate commercial development at the locations proposed. (Revised, 2006)
 6. Any exception from standard district requirements is warranted by the design and other amenities to be incorporated in the planned unit development and is in accord with the adopted policy of the zoning commission and the board of township trustees. (Revised, 2006)
 7. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development. (Revised, 2006)
 8. The planned unit development is compatible with the comprehensive plan of the township and can be reasonably integrated into the comprehensive plan. (Revised, 2006)
 9. The existing and proposed utility services are adequate for the population density and the nonresidential uses proposed. (Revised, 2006)
 10. That the benefits, improved arrangements, and the design of the proposed planned unit development justify the deviation from standard residential development requirements included in this resolution. (Revised, 2006)
 11. The zoning commission may require such changes or modifications in the planned unit development, as are needed to achieve conformity to the standards as herein specified. (Revised, 2006)
- b. Upon the finding by the zoning commission that all of the standards as herein specified have been met, it may recommend approval of the planned unit development to the township trustees. It shall also, where it deems appropriate and necessary, recommend those conditions to be imposed upon the project, its operation, or both, that are needed to assure adherence to the aforesaid standards. (Revised, 2006)
- c. A public hearing by the board of township trustees shall be held within thirty (30) days after receipt of the recommendation of the zoning commission. The board of township trustees shall review the application. It shall base its approval of a phase of a planned unit development on the same criteria as listed for the zoning commission. (Revised, 2006)
- d. Within twenty (20) days after such hearing is concluded, the board of township trustees shall either adopt or deny

the recommendations of the township zoning commission, or adopt some modification thereof. (Revised, 2006)

- e. The planned unit development approved as a result of the application is to be a binding plan, not subject to change by the owner or developer after its approval and acceptance, except for minor deviation permitted herein. (Revised, 2006)
- f. Unless a deviation from a regulation in the township's zoning resolution, otherwise applicable to the property, is shown in the approved planned unit development, such regulation shall not be assumed to be waived. (Revised, 2006)

900.4 Election by Property Owner (Revised, 2006)

- a. The property owner shall elect, and shall so notify the township trustees within thirty (30) days after approval of the planned unit development by the board of trustees, to have the planned unit development regulations and plan that was approved apply to the property included in the planned unit development. (Revised, 2006)
- b. Limitations and restrictions on uses of some lands and buildings as compared to others in this or another planned unit development are accepted and are not a basis for appeals for variances. (Revised, 2006)
- c. Such election shall be irrevocable and binding on the property owner, his successors and assigns. Failure to so elect and notify the township trustees in the timeframe noted shall revoke the planned unit development approval, and all the land contained in it shall be governed by the zoning regulations in the "R-4" District. (Revised, 2006)

900.5 Other Approvals (Revised, 2006)

- a. For such parts of the planned unit development that are proposed to be subdivisions, the Ottawa County requirements must also be met, including specifications and performance bonds or escrow funds for construction of water, sewer, streets, roads, and drainage. (Revised, 2006)
- b. The approval of the planned unit development by the township trustees does not imply approval by any other agency with jurisdiction over the development of the property. Approvals by county, state, and federal agencies must be obtained before proceeding with the planned unit development. (Revised, 2006)

900.6 Minor Deviations (Revised, 2006)

- a. Minor changes in the location or siting of buildings, structures, streets, or parking areas, or in the areas of open space after approval of a planned unit development

by the board of township trustees shall not be made without approval by the board of township trustees. (Revised, 2006)

- b. The board of township trustees may hear and may approve by majority vote such change at any public meeting if such change is made necessary by engineering or other circumstances not foreseen at the time the planned unit development was approved. No change approved by the board of township trustees or cumulative change resulting from a series of changes may cause a change in the use or character of the development or any of the following: (Revised, 2006)
 - 1. An increase in the density of dwelling units by more than two (2) percent. (Revised, 2006)
 - 2. A reduction in common open space or in visual open space. (Revised, 2006)
 - 3. An increase in problems of vehicular or pedestrian traffic circulation or safety, or of utilities. (Revised, 2006)
 - 4. A reduction of off-street parking or loading space. (Revised, 2006)
 - 5. A reduction in approved pavement widths. (Revised, 2006)
 - 6. A reduction of more than five (5%) percent in structural setbacks from the planned unit development's boundary. (Revised, 2006)
- c. All other changes or cumulative changes not meeting the above standard shall require a public hearing with notification to the adjoining property owners. The changes must be requested through the submission of a formal written request identifying the area affected. (Revised, 2006)

900.7 Default (Revised, 2006)

- a. If no significant construction has begun within two (2) years after approval of a planned unit development, it shall be void, unless an extension of the time limit of the approved planned unit development is approved by the board of township trustees, after submission of a written request identifying the basis for the time extension, and a finding by the board of township trustees that such extension is not in conflict with the public interest. (Revised, 2006)
- b. If construction is started but amenities, roads and drives, sewer, water, drainage, utilities, and landscaping are not done in accordance with the approved planned unit development, the board of township trustees may require of the owner that it be done forthwith. (Revised, 2006)

ARTICLE X NON CONFORMING USES

Section 1000. Nonconforming Uses

1000.1 Any lawful use of buildings or land existing at the effective date of this Resolution may be continued, even though such use does not conform to the provisions hereof. The nonconforming use of a building may be extended throughout those existing parts of the building which were arranged or designed for such use. No nonconforming building or structure shall be moved, extended, enlarged, or altered and no nonconforming use of land shall be expanded except when authorized by the Board of Zoning Appeals in accordance with the provisions of Article XIII, Section 1202.

1000.2 Whenever the use of a building or land becomes nonconforming through a change in the amended Resolution or in district boundaries, such use may be continued.

1000.3 After the effective date of this Resolution, a nonconforming use which is discontinued for a period of two (2) years shall not again be used except in conformity with the regulations of the district in which it is located.

1000.4 A nonconforming use which has been damaged by fire, explosion, act of God, or the public enemy may be repaired, replaced, or reconstructed and used as before the time of damage, provided such repairs or reconstruction are started within one (1) year of the date of such damage.

1000.5 It is not the intention herein to classify as nonconforming, a use or building allowed in a district as a conditional use under the regulations of this Resolution.

1000.6 Any building arranged, intended or designed for a nonconforming use, the construction of which has been started at the time of the passage of this Resolution, or amendment thereto, but not completed, may be completed and put into such nonconforming use, provided it is done within one (1) year after this Resolution or amendment thereto takes effect.

1000.7 A conforming structure that is made non-conforming by the actions of an adjoining property owner shall be allowed to continue to be used in the same manner as it was prior to the action of the adjoining property owner and shall not be considered non-conforming for purposes of this Resolution.
(Revised, 2002)

Section 1001. Zoning Certificates for Nonconforming Uses

1001.1 A zoning certificate shall be required for all lawful nonconforming uses of land and building created by adoption of this Resolution or amendment thereto in accordance with the provisions of Section 1105 of Article XI.

ARTICLE XI - ENFORCEMENT

SECTION 1100. Zoning Inspector

1100.1 It shall be the duty of the Township Zoning Inspector who shall be appointed by the Board of Trustees, to enforce this Resolution. It shall also be the duty of all officials and employees of the township to assist the Zoning Inspector by reporting to him upon new construction, reconstruction, or land uses or upon seeing violations.

1100.2 Appeal from the decision of the Zoning Inspector may be made to the Board of Appeals, as provided in Article XIII.

SECTION 1101. Zoning Certificates

It shall be unlawful for an owner to use or to permit the use of any structure, building or land, or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until a zoning certificate shall have been issued by the Zoning Inspector. It shall be the duty of the Zoning Inspector to issue a certificate, provided he is satisfied that the structure, building or premises, and the proposed use thereof conform with all the requirements of this Resolution. No permit for excavation, construction or reconstruction shall be issued by the Zoning Inspector unless the plans, specifications and the intended use conform to the provisions of this resolution.

SECTION 1102. Conditions under which Certificates are Required

A zoning certificate shall be required for any of the following, except as herein provided:

- (a) Construction or structural alteration of any building, including accessory buildings. However, no zoning certificate shall be required for any accessory building containing less than two hundred (200) square feet.
- (b) Change in use of an existing building or accessory building to a use of a different classification.
- (c) Occupancy and use of vacant land.
- (d) Change in the use of land to a use of a different classification.
- (e) Any change in the use of a nonconforming use.
- (f) A zoning certificate shall be required for all lawful nonconforming uses of land or buildings created by adoption of this Resolution or any amendments.

SECTION 1103. Application and Issuance of Zoning Certificates

1103.1 Written application shall be made for a zoning certificate for the construction of a new building or the alteration of an existing building. Said certificate shall be issued within ten (10) days after a written request for the same has been made to the Zoning Inspector or his agent, provided such construction or alteration is in conformity with the provisions of this Resolution.

1103.2 Written application for a zoning certificate for the use of vacant land, or for a change in the use of land or of a building, or for a change in a nonconforming use, as herein provided, shall be made to the Zoning

Inspector. If the proposed use is in conformity with the provisions of this Resolution, the certificate therefore shall be issued within sixteen (16) days after the application for same has been made.

1103.3 Every application for a zoning certificate shall be accompanied by a plot plan in duplicate, and such other plans as may be necessary to show the location and type of buildings to be erected or alterations to be made. Where construction or physical improvement of the land is involved, the lot and location of the buildings to be erected thereon shall be staked out on the ground before construction is started, and all dimensions shown on filed plans shall be based on an actual survey.

(a) Each plan shall show:

1. The street providing access to the lot and the exact location of the lot in relation to the nearest cross street.
2. The name of the concerned lot plan, if any, and the lot numbers of the concerned and abutting properties.
3. The actual dimensions of the lot, the yard and other open space dimensions thereof, and the location and size of any existing structure thereon.
4. The location and size of the proposed structure and/or the proposed enlargement of the existing structure.
5. Any other information which in the judgement of the Zoning Inspector may be necessary to provide for the enforcement of this Resolution.
6. A roadway drainage plan for the property with all proposed structures shown and indicating all culvert needs.
7. The distance between the top of the foundation and the finished grade.

(b) Each plan shall bear statements declaring:

1. That no part of the land involved in the application has been previously used to provide required yard space or lot area for another structure.
2. Which abutting land was formerly that of the owner of the land involved in the application, and, if any, the approximate date of title transfer.

(c) Where complete and accurate information is not readily available from existing records, the Zoning Inspector may require the applicant to furnish a survey of the lot by a registered engineer or surveyor.

(d) Each property owner or authorized agent shall be required to attest to the correctness of the statements and data furnished with the application.

(e) A file of such applications and plans shall be kept in the office of the Zoning Inspector.

NOTICE REGARDING AGRICULTURAL EXEMPTION (Revised, 2006)

I. REMOVAL OF BUILDING OR USE

Be advised that the exemption from township zoning regulations applies only for as long as the agricultural use continues. For instance, a building constructed on a piece of property and identified for agricultural purposes must be sized appropriately for the proposed agricultural use. It cannot be converted, at a later date, to a non-agricultural use unless it complies with all of the township zoning regulations in effect at that time.

The owner of the building could request a variance from these requirements, but if the variance was not approved, the building would need to comply or it would need to be removed. The same logic applies to the use of land such as a pond for agricultural purposes.

The township trustees do not desire to interfere in legitimate agricultural activities. Ohio law prohibits them from doing so. However, they do plan on equal enforcement of their zoning regulations for all structures.

II. CRIMINAL CHARGES

If your intent is to inappropriately claim an agricultural exemption, merely to avoid zoning and/or building regulations, you may be prosecuted for the crime of falsification. This crime, under 2921.13(A) of the Ohio Revised Code, is punishable by up to six months in jail and up to a \$1,000 fine.

The undersigned hereby declares that the proposed use of land and/or the proposed building to be located at

_____ in Benton Township is exempt from zoning regulations as an agricultural use for the following reasons:

I have read the Notice of Agricultural Exemption form and understand any change of use in the future for the building or land to a non-agricultural use will require compliance with the zoning rules and regulations.

Signature of Owner/Agent

Date of Signing

Filed and accepted this _____ day of 200_.

Zoning Inspector

1103.4 Zoning Certificates shall be issued for a period of one (1) year. If no construction is started within this specified time, the applicant must reapply for a new zoning certificate.

SECTION 1104. Fee for Zoning Certificates

1104.1 A fee, as established by the Board of Trustees, shall accompany each application for a zoning certificate.

1104.2 The Zoning Inspector shall forthwith deposit all fees with the Township Clerk who shall credit such fees to the credit of the General Revenue Fund of the Township.

1104.3 Every zoning certificate shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all zoning certificates shall be kept on file in the Office of the Zoning Inspector or his agent, and copies shall be furnished upon request to any person having proprietary or tenancy interest in the building or land affected.

SECTION 1105. Zoning Certificate for Nonconforming Uses

A zoning certificate shall be required for all lawful nonconforming uses of land or buildings after the adoption of this Resolution. Application for such certificate for a nonconforming use shall be filed with the Zoning Inspector by the owner or lessee of the building or land occupied by such nonconforming use within one (1) year of the effective date of this Resolution. It shall be the duty of the Zoning Inspector to issue a certificate for a lawful nonconforming use but failure to apply for such certificate for a nonconforming use or refusal of the Zoning Inspector to issue a certificate for such nonconforming use shall be evidence that said nonconforming use was either illegal or did not lawfully exist at the effective date of this Resolution. No charge shall be made for issuing a zoning certificate in accordance with this section.

SECTION 1106. 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 provision of this Resolution or any amendment or supplement thereto adopted by the Board of Trustees. Any person, firm or corporation violating any regulations thereto, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than **five** hundred dollars. Each and every day during which such illegal location, construction, reconstruction, enlargement, change, maintenance, or use continues, may be deemed a separate offense. **(Revised, 2006)**

SECTION 1107. Violation - Remedies

1107.1 Any certificate issued upon a false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statement shall be established to the satisfaction of the Board of Township Trustees, the certificate shall be revoked by notice in writing to be delivered to the holder of the certificate upon the premises concerned, or, if such holder be not found there, by posting the said notice of revocation in some conspicuous place upon the said premises. Any person who shall proceed thereafter with such work or use without having obtained a new certificate in accordance with this Resolution shall be deemed guilty of violation thereof.

1107.2 In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used or any land is or is proposed to be used in violation of this Resolution or any amendment or supplement thereto, the Zoning Inspector, Township Solicitor, 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, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

ARTICLE XII BOARD OF ZONING APPEALS

SECTION 1200. Organization and Procedures

1200.1 Appointment: There is hereby established a Board of Zoning Appeals which shall consist of five (5) electors appointed by the Board of Trustees. The Board of Trustees shall choose a successor to fill any vacancy. The five (5) electors first appointed shall serve for terms of one (1), two (2), three (3), four (4) and five (5) years, respectively; thereafter appointments shall be for five (5) year terms, beginning January 1st. Each member shall serve until his successor is appointed and qualified. Vacancies shall be filled by the Board of Trustees and shall be for the respective unexpired term. The members of the Board of Zoning Appeals may receive compensation as the Board of Trustees provides.

1200.2 Hearings, Rules, etc: The hearings of the Board of Zoning Appeals shall be public. The Board shall organize annually and elect a President, Vice President and Secretary. The Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this Resolution.

The Board shall hear any owner of property adjacent to the lot for which the granting of any zoning permit is pending, and shall also hear any other parties having substantial interest as determined by the Board.

1200.3 Minutes and Records: The Board shall keep minutes of its proceedings, showing the vote of each member upon each question; or, if absent, or failing to vote, indicating such fact; and shall keep records of its examinations and other officials actions, all of which shall be immediately filed in the office of the Board of Trustees and shall be a public record.

1200.4 Information: The Board may request additional information from the applicant if necessary.

1200.5 Department Assistance: The Board may call upon the various officials and employees of the township for assistance in the performance of its duties and it shall be the duty of such departments to render such assistance to the Board as may reasonably be required.

SECTION 1201. Applicants and Appeals

1201.1 Applicants: An application, in cases in which the Board has original jurisdiction under the provisions of this Resolution, may be taken by any person aggrieved, including a tenant, or by a governmental officer, department, board or bureau. Such application shall be filed with the Zoning Inspector who shall transmit same to the Board. A fee as determined by the Board of Trustees shall be paid upon filing of each appeal, for the purpose of defraying the costs of the proceedings described herein. Applicant must furnish the proper current names and addresses of all adjoining property owners.

1201.2 Appeals

- (a) An appeal to the Board may be taken for any person aggrieved or by any officer of the Township affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision, by filing with the Zoning Inspector and with the Board a notice of appeal specifying the grounds thereof. The Zoning Inspector shall forthwith transmit to the Board, all

of the papers constituting the record upon which the action appeal form was taken.

- (b) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector shall certify to the Board of Zoning Appeals after the notice of appeal shall have been filed with it that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case, proceedings shall not be stayed otherwise than by restraining order which may be granted by a court of equity, after notice to the officer from whom the appeal is taken and on due cause shown.
- (c) The Board may, in conformity with the provisions of this Resolution, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make such order, requirement, decision or determination, delete as in its opinion ought to be made in the premises; and to that end, shall have all powers of the Zoning Inspector from whom the appeal is taken.

SECTION 1202. Hearings

1202.1 The Board shall fix a reasonable time for the hearing of an appeal, give at least ten (10) day's public notice thereof in a newspaper of general circulation in the Township and at least (10) day notice to adjoining property owners. At this hearing, any party may appear in person or by attorney.

1202.2 The hearings of the Board shall be public.

1202.3 Upon the day for hearing any application or appeal, the Board may adjourn the hearing in order to permit the obtaining of additional information or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be substantially interested in said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the Board so decides.

SECTION 1203. Decision of the Board

1203.1 The Board shall decide all applications and appeals within thirty (30) days after the final hearing thereon.

1203.2 A copy of the Board's decision shall be transmitted to the applicant. Such decision shall be binding upon the Zoning Inspector and observed by him, and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant, whenever a permit is authorized by the Board.

1203.3 A decision of the Board shall not become final until the expiration of five (5) days from the date of such decision is made, unless the Board shall find the immediate taking effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.

1203.4 The Board may reverse or affirm wholly or partly, or may modify the order, requirements, decision, or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises; and to that end, shall have all powers of the Zoning Inspector from whom the appeal is taken. Any party adversely affected by a decision of the Board may appeal to the Court of Common Pleas of the County.

SECTION 1204. Powers and Duties

The Board of Zoning Appeals shall have the following powers and it shall be its duty:

1204.1 To hear and decide appeals where it is alleged there is an error of law in any order, requirement, decision, or determination made by the Zoning Inspector in the enforcement of this Resolution or any amendments thereto.

1204.2 In hearing and deciding appeals, the Board shall have the power to grant an exception in the following instances:

- (a) Permit the extension of a district where the boundary line of a district divides a lot or tract held in a single ownership at the time of passage of this Resolution.
- (b) Interpret provisions of this Resolution in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several districts, accompanying and made a part of this Resolution where the street layout actually on the ground varies from the street layout as shown on the map aforesaid;
- (c) Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirement; or permit (a) the waiver of the requirement that automobile parking spaces be provided on the same lot with a dwelling, if other suitable and convenient parking space is available within or without a building; (b) the dual use of parking facilities (i.e. by stores during the day and theatres during the evening) provided there is no overlapping of use and the parking space requirements for each building or use are complied with during each period;
- (d) Permit in the "A" or "R" Districts, public parking areas or storage garages adjacent to any existing or proposed use in the multiple dwelling, commercial, or industrial districts;
- (e) Determine whether an industry should be permitted within an "M" Industrial District because of the methods by which it would be operated and because of its effect upon uses within surrounding zoning districts;
- (f) The substitution of a nonconforming use existing at the time of the enactment of this Resolution to another nonconforming use, if no structural alterations except those required by law or resolution, are made; provided, however, that in an "A-4" or "R" District, no change shall be authorized by the Board to any use which is not a permitted or conditional use in any "A-4" or "R" District, and in a "C" District no change shall be authorized to any use which is not a permitted or conditional use in any "C" District.
- (g) Temporary Structures and Uses: Permit the temporary use of structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this Resolution for the district in which it is located, provided that such use be of a temporary nature and does not involve the erection of a substantial structure. A zoning certificate for such use shall be granted in the form of a temporary and revocable permit, for not more than twelve (12) month period in undeveloped sections of the Township and not more than six (6)

months in developed sections, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

SECTION 1205. Variances (Revised, 1998)

Variances: There are two types of variances which the township may grant: an area variance and a use variance. The factors to be considered by the Board of Zoning Appeals differ for the two types of variances.

In either type of variance request, the variance as granted shall be the minimum variance necessary to accomplish the reasonable use of the land or building. The granting of a variance runs with the land and is not approved for the present landowner only.

The Board shall have the power to hear and decide appeals and authorize such variances from the provisions or requirements of this Resolution as will not be contrary to the public interest. In authorizing a variance, the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objectives of this Resolution. On appeal where there is unnecessary hardship, the Board may grant a variance in the application of the provisions of the Zoning Resolution only if all of the following findings are made:

The Board shall have the authority to grant an extension or permit completion of a building devoted to a nonconforming use upon a lot occupied by such building, or on a lot adjoining, provided that such lot was under the same ownership as the lot in question on the date such building became nonconforming, and where such extension is necessary and incidental to the existing use of such building; provided, however, that the floor areas of such extension shall not exceed in all one hundred (100) percent of the floor area of the existing building or buildings devoted to a nonconforming use.

1205.1 Area Variance - Finding of Fact (Revised, 2006)

An area variance is a departure from the provisions of the zoning resolution usually relating to setbacks, side yards, height, frontage/lot width, and lot size. These variances relate to the physical characteristics of the property. Strict enforcement of the zoning requirements for the specific lot would present "practical difficulties", basically making the property unusable. (Revised, 2006)

The factors or standards to be considered and weighed for an area variance include, but are not limited to the following: (Revised, 2006)

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. (Revised, 2006)

2. Whether the variance is substantial. (Revised, 2006)

3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance. (Revised, 2006)

4. Whether the variance would adversely affect the delivery of governmental services (for example, water, sewer, garbage). (Revised, 2006)

5. Whether the property owner purchased the property with knowledge of the zoning restriction. (Revised, 2006)

6. Whether the property owner's predicament feasibly can be prevented through some method other than a variance. (Revised, 2006)

7. Whether the spirit and intent behind the zoning requirements would be observed and substantial justice done by granting the variance. (Revised, 2006)

DECISION

It is therefore the decision of the Benton Township Board of Zoning Appeals that this area variance petition is _____. Any conditions stated in the minutes are conditions incorporated herein by reference and made a part of this decision. (Revised, 2006)

Adopted this _____ day of _____, 20__.

1205. 2 Use Variance - Finding of Fact (Revised, 2006)

A use variance involves the development or conversion of land for a use not permitted in the specific zoning district. The factors or standards applied to a use variance are those related to the concept of "unnecessary hardship". (Revised, 2006)

A use variance must not be contrary to the public interest and the board of zoning appeals must insure that the spirit of the zoning resolution is observed. In other words, the use requested is consistent and harmonious to the existing uses. In addition, all of the following conditions must also be found to exist: (Revised, 2006)

1. The special circumstances or conditions applying to the building or land in question are peculiar to such lot or property and do not apply generally to other land or buildings in the vicinity and were not created by the applicant. (Revised, 2006)

2. The granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve a convenience to the applicant. (Revised, 2006)

3. The authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas, or in any way impair the health, safety, convenience, or general welfare of the inhabitants of the Township. (Revised, 2006)

DECISION

It is therefore the decision of the Benton Township Board of Zoning Appeals that this use variance petition is _____. Any conditions stated in the minutes are conditions incorporated herein by reference and made a part of this decision. (Revised, 2006)

Adopted this _____ day of _____, 20__.

SECTION 1206. Conditional Uses

1206.1 Under the authorization granted in Chapter 519 of the Ohio Revised Code, to hear and decide special exceptions to the terms of this Resolution, the Board shall have the power to decide applications for conditional uses in those cases specified in Article IV of this Resolution. In considering such applications, the Board shall give due regard to the nature and condition of all adjacent uses and structures; and may impose such requirements and conditions as the Board may deem necessary for the protection of adjacent properties and the public interest, including specific limitations as to future expansion.

1206.2 The following basic standard shall apply to conditional uses in "S" "A-4" or "R" District:

- (a) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, its site layout and its relation to streets giving access to it shall be such that both pedestrian and vehicular traffic and from the use and the assembly of persons in connection with it will not be hazardous, inconvenient or conflict with the normal traffic on residential streets, both as the time and as the same may be expected to increase with any prospective increase in the population of the area, taking into account convenient routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to street intersections, and the general character and intensity of development of the area.
- (b) The location and height of buildings, the location, nature, and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder land and buildings.
- (c) The placement of a manufactured home not meeting the requirements of Section 707 may be allowed for a period of one (1) year renewable upon approval by the Board for reasons of health, disability, or natural disaster.
- (d) Provide a time limit on permits for recreational and non-recreational facilities which may be renewed at the Boards discretion.
- (e) Insure the location of an oil, natural gas, or other well under the jurisdiction of the Ohio Department of Natural Resources is so located on the lot as to not create a safety and/or health hazard for adjoining lots owners. In no case shall any such well be located closer than seventy-five (75) feet from any structure used for residential occupancy.

1206.3 The following basic standard shall apply to conditional uses in any "C" or "M" District:

- (a) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, its site layout and its relation to streets giving access to it shall be such that vehicular traffic to and from the use will not be more hazardous than the normal traffic of the district, both at the time and as the same may be expected to increase with increasing development of the township, taking into account, vehicular turning movements in relation to routes of traffic

flow, relation to street intersections, sight distances, and relation to pedestrian traffic.

- (b) The nature, location, size and site layout of the use shall be such that it will be a harmonious part of the business or industrial district in which it is situated, taking into account prevailing shipping habits, convenience of access by prospective patrons, the physical and economic relationships of one type of use to another, and characteristic groupings of uses in a commercial or industrial district.

1206.4 Conditional Use - Finding of Fact (Revised, 2006)

A conditional use is a use authorized in a particular zoning district upon showing that such use in a specified location will comply with all of the conditions and standards for the location or operation of the use as specified in Sections 7 and 12 of the Benton Township Zoning Resolution and as authorized by the Board of Zoning Appeals. (Revised, 2006)

The following factors shall be analyzed by the Board of Zoning Appeals:
(Revised, 2006)

1. The location, size and character will be in harmony with the appropriate and orderly development of the surrounding neighborhood and applicable regulations of the Zoning District in which it is to be located. (Revised, 2006)

2. The proposed development is in accord with the overall development plans of the area. (Revised, 2006)

3. The proposed development will be in keeping with the existing land use character and physical development potential of the area. (Revised, 2006)

4. The necessity or desirability of the proposed use to the neighborhood or community has been proven. (Revised, 2006)

5. If permitted, the use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the District involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking provisions for pedestrian traffic, with particular attention to minimizing child-vehicle contacts in residential districts. (Revised, 2006)

6. The use will be designed as to its location, size, intensity, site layout and periods of operation to eliminate any possible nuisances emanating therefrom which might be injurious to the occupants or damaging to their property of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke, or lights. (Revised, 2006)

7. The use will be such that the proposed location and height of buildings or structures and the location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value. (Revised, 2006)

8. The use will relate harmoniously with the physical and economic aspects of the adjacent land uses regarding prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the Township. (Revised, 2006)

9. The use is so designed, located, and proposed to be operated that the public health, safety and welfare will be protected. (Revised, 2006)

10. The use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located. (Revised, 2006)

Article 7, Specific Supplemental Regulations Requirements (Revised, 2006)

All of the specific supplemental regulations for the requested conditional use, as listed in the Benton Township Zoning Resolution, are met and any objections to the contrary have been addressed as noted below for each listed item. (Revised, 2006)

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____

DECISION

It is therefore the decision of the Benton Township Board of Zoning Appeals that this conditional use application is _____. Any conditions stated in the minutes are incorporated herein by reference and made a part of this decision. (Revised, 2006)

Adopted this _____ day of _____, 20__.

SECTION 1207. Performance Requirements

1207.1 The Board shall have the power to authorize issuance of a zoning certificate for uses that are subject to performance requirements as set forth in this Resolution.

1207.2 The application for a zoning certificate for a use subject to performance requirements shall be accompanied by a plan of the proposed construction or development; a description of the proposed machinery, processes and products; and specifications for the mechanisms and techniques to be used in meeting the performance requirements.

1207.3 The Board may refer to application to one or more expert consultants qualified to advise as to whether a proposed use will conform to the performance requirements. The costs of such services shall be borne by the applicant.

SECTION 1208. Interpretation of District Map

1208.1 Where the street or lot layout actually on the ground, or as recorded, differs from the street and lot lines as shown on the Zoning Map, the Board, after notice to the owners of the property and after public hearings, shall interpret the map in such a way as to carry out the intent and purpose of this Resolution. In case of any questions as to the location of any boundary line between zoning districts, a request for interpretation of the Zoning District may be made to the Board and a determination shall be made by said Board.

ARTICLE XIII DISTRICT CHANGES AND RESOLUTION AMENDMENTS

SECTION 1300. General

1300.1 Whenever the public necessity, conveniences, general welfare or good zoning practices require, the Board of Trustees may, by resolution - after receipt of recommendations thereof from the Zoning Commission, and subject to the procedures provided by law - amend, supplement or change the regulations, districts boundaries or classification of property, now or hereafter established by this Resolution or amendments thereof. It shall be the duty of the Commission to submit its recommendations regarding all applications or proposals for amendments or supplements to the Board of Trustees.

SECTION 1301. Procedure for Change in Zoning Districts

1301.1 Amendments or supplements to zoning resolution; procedures; referendum. Amendments or supplements to the zoning resolution may be initiated by the motion of township rural zoning commission, by the passage of a resolution therefore by the Board of Township Trustees or by the filing of an application therefore by one or more of the owners or lessees of property within the township. The board of township trustees shall upon the passage of such resolution certify it to the township zoning commission.

Upon the adoption of such motion, or the certification of such resolution or the filing of such application, the township zoning commission shall set a date for a public hearing thereon, which date shall not be less than twenty nor more than forty days from the date of the certification of such resolution or the date of adoption of such motion or the date of the filing of such application.

1301.2 Application for any change of district boundaries or classifications of property as shown on the Zoning Map, shall be submitted to the Commission, at its public office, upon such forms, and shall be accompanied by such data and information, as may be prescribed for that purpose by the Commission, so as to assure the fullest practicable presentation of facts for the permanent record. Each such application shall be verified by at least one of the owners or lessees of property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the applications. Applications for amendments initiated by the Commission shall be accompanied by its motion pertaining to such proposed amendment.

1301.3 Names and Addresses of Adjacent Property Owners: Any person or persons desiring a change in the zoning classification of property shall file with the application of such change, a statement giving the names and addresses of the property owners **within, contiguous to, and directly across the street from the property to be rezoned as listed on the County Auditor's current tax listing.** (Revised, 2006)

1301.4 Referral of Proposed Change to County Planning Commission:

Within five (5) days after the application for change in the resolution or districts, the Zoning Commission shall transmit a copy thereof, together with text and map pertaining thereto to the County Planning Commission (or County Regional Planning Commission). The County Planning Commission shall recommend the approval or denial of the proposed amendment or supplement or the approval of some modification thereof and shall submit such recommendation to the Zoning Commission. Such recommendation shall be considered at the public hearing held by the Zoning Commission on such proposed amendment or supplement.

1301.5 Public Hearing by Commission: Before submitting its recommendation on a proposed amendment to the Board of Trustees, the Commission shall hold a public hearing thereon, notice of which shall be given by publication in a newspaper of general circulation in the Township at least ten (10) days before the date of hearing.

If the proposed amendment intends to rezone or redistrict ten or fewer parcels of land as listed on the county auditor's current tax list, the published and mailed notices shall set forth the time, date, and place of the public hearing, and shall include all of the following:

- (1) The name of the zoning commission that will be conducting the public hearing.
- (2) A statement indicating that the motion, resolution, or application is an amendment to the zoning resolution;
- (3) A list of the addresses of all properties to be rezoned or redistricted by the proposed amendment and of the names of the owners of these properties, as they appear on the county auditor's current tax list;
- (4) The present zoning classification of property named in the proposed amendment and the proposed zoning classification of such property;
- (5) The time and place where the motion, resolution, or application proposing to amend the zoning resolution will be available for examination for a period of at least ten (10) days prior to the public hearing;
- (6) The name of the person responsible for giving notice of the public hearing by publication or by mail, or by both publication and mail;
- (7) Any other information requested by the zoning commission;
- (8) A statement that after the conclusion of such hearing the matter will be submitted to the Board of Township Trustees for its action.

If the proposed amendment alters the text of the zoning resolution, or rezones or redistricts more than ten parcels of land, as listed on the county auditor's current tax list, the published notice shall set forth the time, date, and place of the public hearing, and shall include all of the following:

- (1) The name of the zoning commission that will be conducting the public hearing on the proposed amendment;
- (2) A statement indicating that the motion, application, or resolution is an amendment to the zoning resolution;
- (3) The time and place where the text and maps of the proposed amendment will be available for examination for a period of at least ten (10) days prior to the public hearing.
- (4) The name of the person responsible for giving notice of the public hearing by publication;
- (5) A statement that after the conclusion of such hearing the matter will be submitted to the Board of Township Trustees for its action;
- (6) Any other information requested by the zoning commission.

1301.6 Notice to Property Owners: If the proposed amendment or supplement intends to rezone or redistrict ten or less parcels of land, as listed on the tax duplicate written notice of the hearing shall be mailed by the Zoning Commission, by first class mail, at least **ten (10)** days before the date of the public hearing to all owners of property within and contiguous to and directly across the street from such area proposed to be re-zoned or re-districted to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by the Board of County Commissioners. The failure to notify, as

provided in this section, shall not invalidate any recommendations adopted hereunder; it being the intention of this section to provide, so far as may be possible, due notice to persons substantially interested in the proposed change that an application is pending before the Commission, proposing to make a change in the Zoning District Map or the regulations set forth in this Resolution.

1301.7 Action of Commission: The Commission may recommend that the application be granted as requested, or it may recommend a modification of the zoning amendment requested in the application, or it may recommend that the application be not granted. These recommendations shall then be certified to the Board of Trustees within thirty (30) days after the hearing.

1301.8 Public Hearing by Board of Township Trustees: After receiving from the Commission the certification of said recommendations on the proposed amendment, and before adoption of such amendment, the Board of Trustees shall hold a public hearing thereon, at least ten (10) days notice of the time and place of which shall be given by publication in a newspaper of general circulation in the Township.

If the proposed amendment intends to rezone or redistrict ten or fewer parcels of land as listed on the county auditor's current tax list, the published notice shall set forth the time, date, and place of the public hearing and shall include all of the following:

- (1) The name of the board that will be conducting the public hearing.
- (2) A statement indicating that the motion, application, or resolution is an amendment to the zoning resolution;
- (3) A list of the addresses of all properties to be zoned or redistricted by the proposed amendment and of the names of owners of these properties, as they appear on the county auditor's current tax list;
- (4) The present zoning classification of property named in the proposed amendment and the proposed zoning classification of such property.
- (5) The time and place where the motion, application, or resolution proposing to amend the zoning resolution will be available for examination for a period of at least ten (10) days prior to the public hearing;
- (6) The name of the person responsible for giving notice of the public hearing by publication or by mail, or by both publication and mail.
- (7) Any other information requested by the board.

If the proposed amendment alters the text of the zoning resolution, or rezones or redistricts more than ten parcels of land as listed on the county auditor's current tax list, the published notice shall set forth the time, date, and place of the public hearing, and shall include all of the following:

- (1) The name of the board that will be conducting the public hearing on the proposed amendment;
- (2) A statement indicating that the motion, application, or resolution is an amendment to the zoning resolution;
- (3) The time and place where the text and maps of the proposed amendment will be available for examination for a period of at least ten (10) days prior to the public hearing;
- (4) The name of the person responsible for giving notice of the public hearing by publication;
- (5) Any other information requested by the board.

1301.9 Action of the Board of Trustees: Within twenty (20) days after holding the public hearing, the Board of Township Trustees shall consider all

recommendations and vote on the passage of the proposed amendment to the text of the Resolution or Zoning District Map. The Board of Township Trustees may overrule the recommendation of the Commission by **majority** vote of the full membership of the Board of Township Trustees. (Revised, 2009)

1301.10 Referendum: Such amendment or supplement adopted by the Board shall become effective in thirty (30) days after the date of such adoption unless within thirty (30) days after the adoption of the amendment or supplement there is presented to the board of township trustees a petition, signed by a number of qualified voters residing in the unincorporated area of the township or part thereof included in the zoning plan equal to not less than eight percent of the total vote cast for all candidates for governor in such area at the last preceding general election at which a governor was elected, requesting the board of 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 has been requested shall be put into effect unless a majority of the vote cast 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.

SECTION 1302. Application Fees

1302.1 At the time that an application for change in zoning district is filed with the Commission, as provided herein, if not contrary to the Ohio Revised Code enabling statutes for township zoning, there shall be deposited with the Township a fee as determined by the Board of Trustees to cover the legal notices and secretarial and clerical expenses incidental to the administrative processing for such application. A written receipt shall be issued to the person making such payment and records thereof shall be kept in the manner as prescribed by law. No fee shall be charged for actions initiated by the Board of Trustees or the Commission.

ARTICLE XIV VALIDITY AND SEPARABILITY

SECTION 1400. If any article, section, subsection, paragraph, sentence, or phrase of the Resolution is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution.

INSTRUCTIONS:

The Applicant shall complete the appropriate form as part of the application submission. The Board of Zoning Appeals shall publicly review the submitted form at the public hearing, stipulating the responses identified by the applicant.

Each item on the form needs to be addressed. The Board shall receive the testimony of those in attendance that are in support of the application and those that are opposed to the request. The Board may consider written comments that are submitted in advance of the hearing during its review.

At the conclusion of the testimony, the Board should complete a separate form to become part of the public record. The Board should summarize its findings concerning each item after reviewing the application and hearing the testimony.

Should an issue not be adequately addressed, the Board may continue the hearing to provide adequate time for the necessary material to be submitted to address the Board's concerns.

Failure by the Board to conclude that all of the noted criteria have been properly addressed will result in denial of the applicant's request.

Area Variance - Finding of Fact

An area variance is a departure from the provisions of the zoning resolution usually relating to setbacks, side yards, height, frontage/lot width, and lot size. These variances relate to the physical characteristics of the property. Strict enforcement of the zoning requirements for the specific lot would present "practical difficulties", basically making the property unusable.

The factors or standards to be considered and weighed for an area variance include, but are not limited to the following:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.

2. Whether the variance is substantial.

3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.

4. Whether the variance would adversely affect the delivery of governmental services (for example, water, sewer, garbage).

5. Whether the property owner purchased the property with knowledge of the zoning restriction.

6. Whether the property owner's predicament feasibly can be prevented through some method other than a variance.

7. Whether the spirit and intent behind the zoning requirements would be observed and substantial justice done by granting the variance.

DECISION

It is therefore the decision of the Benton Township Board of Zoning Appeals that this area variance petition is _____. Any conditions stated in the minutes are conditions incorporated herein by reference and made a part of this decision.

Adopted this _____ day of _____, 20__.

INSTRUCTIONS:

The Applicant shall complete the appropriate form as part of the application submission. The Board of Zoning Appeals shall publicly review the submitted form at the public hearing, stipulating the responses identified by the applicant.

Each item on the form needs to be addressed. The Board shall receive the testimony of those in attendance that are in support of the application and those that are opposed to the request. The Board may consider written comments that are submitted in advance of the hearing during its review.

At the conclusion of the testimony, the Board shall complete a separate form to become part of the public record. The Board shall summarize its findings concerning each item after reviewing the application and hearing the testimony.

Should an issue not be adequately addressed, the Board may continue the hearing to provide adequate time for the necessary material to be submitted to address the Board's concerns.

Failure by the Board to conclude that all of the noted criteria have been properly addressed will result in denial of the applicant's request.

Use Variance - Finding of Fact

A use variance involves the development or conversion of land for a use not permitted in the specific zoning district. The factors or standards applied to a use variance are those related to the concept of "unnecessary hardship".

A use variance must not be contrary to the public interest and the board of zoning appeals must insure that the spirit of the zoning resolution is observed. In other words, the use requested is consistent and harmonious to the existing uses. In addition, all of the following conditions must also be found to exist:

1. The special circumstances or conditions applying to the building or land in question are peculiar to such lot or property and do not apply generally to other land or buildings in the vicinity and were not created by the applicant.

2. The granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve a convenience to the applicant.

3. The authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas, or in any way impair the health, safety, convenience, or general welfare of the inhabitants of the Township.

DECISION

It is therefore the decision of the Benton Township Board of Zoning Appeals that this use variance petition is _____. Any conditions stated in the minutes are conditions incorporated herein by reference and made a part of this decision.

Adopted this _____ day of _____, 20__.

INSTRUCTIONS:

The Applicant shall complete the appropriate form as part of the application submission. The Board of Zoning Appeals shall publicly review the submitted form at the public hearing, stipulating the responses identified by the applicant.

Each item on the form needs to be addressed. The Board shall receive the testimony of those in attendance that are in support of the application and those that are opposed to the request. The Board may consider written comments that are submitted in advance of the hearing during its review.

At the conclusion of the testimony, the Board shall complete a separate form to become part of the public record. The Board shall summarize its findings concerning each item after reviewing the application and hearing the testimony.

Should an issue not be adequately addressed, the Board may continue the hearing to provide adequate time for the necessary material to be submitted to address the Board's concerns.

Failure by the Board to conclude that all of the noted criteria have been properly addressed will result in denial of the applicant's request.

Conditional Use - Finding of Fact

A conditional use is a use authorized in a particular zoning district upon showing that such use in a specified location will comply with all of the conditions and standards for the location or operation of the use as specified in Sections 7 and 12 of the Benton Township Zoning Resolution and as authorized by the Board of Zoning Appeals.

The following factors shall be analyzed by the Board of Zoning Appeals:

- 1. The location, size and character will be in harmony with the appropriate and orderly development of the surrounding neighborhood and applicable regulations of the Zoning District in which it is to be located.

- 2. The proposed development is in accord with the overall development plans of the area.

3. The proposed development will be in keeping with the existing land use character and physical development potential of the area.

4. The necessity or desirability of the proposed use to the neighborhood or community has been proven.

5. If permitted, the use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the District involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking provisions for pedestrian traffic, with particular attention to minimizing child-vehicle contacts in residential districts.

6. The use will be designed as to its location, size, intensity, site layout and periods of operation to eliminate any possible nuisances emanating therefrom which might be injurious to the occupants or damaging to their property of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke, or lights.

7. The use will be such that the proposed location and height of buildings or structures and the location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

8. The use will relate harmoniously with the physical and economic aspects of the adjacent land uses regarding prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the Township.

9. The use is so designed, located, and proposed to be operated that the public health, safety and welfare will be protected.

10. The use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.

Article 7, Specific Supplemental Regulations Requirements

All of the specific supplemental regulations for the requested conditional use, as listed in the Benton Township Zoning Resolution, are met and any objections to the contrary have been addressed as noted below for each listed item.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

DECISION

It is therefore the decision of the Benton Township Board of Zoning Appeals that this conditional use application is _____. Any conditions stated in the minutes are incorporated herein by reference and made a part of this decision.

Adopted this _____ day of _____, 20__.

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BENTON TOWNSHIP ZONING REGULATIONS

Adopted: November, 1964

Amended: 1972

Amended: 1984, 1986 & 1992, 2001, 2003, 2006

Latest Amendment: 2009

Effective Date: September 17, 2009

BOARDS

Trustees

James Buhro
Wesley Gahler
Kenneth Leist
Gayle Millinger, Fiscal Officer

Zoning Commission

Glen Klaustermeyer
Gary Diefenthaler
Jan James
Dale Kremer
Thomas Knierman
Carol Woggon

Zoning Appeals

Edward Davidge
Glen Tank
David Zimmerman
Larry Schanke
Ronald Lajti, Sr.
Alan Seeger, Alternate

Zoning Inspector

Michael Reif

