

**Montgomery Township**  
Zoning Regulations

Revised: DECEMBER 2003



**PREAMBLE**

A Resolution of the Township of Montgomery enacted in accordance with a comprehensive plan and the provisions of Chapter 519, of the Ohio Revised Code, dividing the unincorporated portion of the township into Districts encouraging, regulating and restricting therein the location, construction, reconstruction, alteration and use of structures and land; promoting the orderly development of residential, commercial, industrial, recreational and public areas; providing for adequate light, air and convenience of access to property by regulating the use of land and buildings and the bulk of structures in relationship to surrounding properties; limiting congestion in the public right-of-ways; providing the compatibility of different land uses and the most appropriate use of land; providing for the administration of this resolution, defining the powers and duties of the administrative officers as provided hereafter, and prescribing penalties for the violation of the provisions in this resolution or any amendment thereto, all for the purpose of protecting the public health, safety, comfort and general welfare; and for the repeal thereof.

Therefore be it resolved by the Board of Township Trustees of Montgomery Township, Ashland County, Ohio

This Resolution shall be known as the Montgomery Township Zoning Resolution and may be referred to as the Zoning Resolution.

## Article I Districts

**100** For the purposes of this Resolution, Montgomery Township is hereby divided into five (5) Districts, and are as follows:

District	Purpose
General Farm F-1	To protect and maintain the rural character of the countryside. To provide areas for rural developments of various kinds where the General Farm District Is not appropriate.
Residential R-1	To provide areas for low-density residential development in areas that can supports such development without creating any serious health threat.
General Commercial C-1	To encourage the establishment of areas for local business uses which tends to meet the needs of the residents of the area.
Highway Commercial C-2	To provide areas for commercial uses to meet the needs of the motoring public and the more intensive needs of the local area.
Industrial I	To provide areas for the development of manufacturing and wholesale business establishments which are clean, quiet and free of hazardous or objectionable elements such as noise, odor, dust, smoke or glare; generate little industrial traffic; and operate entirely within enclosed structures. Research activities are encouraged.

**101** The location and boundaries of the Districts listed in this Resolution shall be shown on a map entitled "Montgomery Township Zoning Plan 1997". A certified copy of this map is on file in the offices of the Montgomery Township Trustees and said map; all notations, dimensions and designations shown thereon are hereby declared to be part of this Resolution.

**102** District boundaries are intended to follow street, alley, and property or lot lines as they exist at the time of the passage of this Resolution.

**103** Where District boundaries do not follow existing lot or property lines; the dimensions of their areas shall be listed on the Zoning Map.

**104** In the case of a vacation of a street, alley or other right-of-way, the abutting zoning classification on either side shall be automatically extended to the centerline of said vacated area.

**105** Where boundaries appear to approximately follow said aforesaid lines and are not more than ten (10) feet distant from such lines they shall be interpreted to be the boundary unless specifically shown otherwise.

- 106** The Zoning Map or any Zoning Map amendment shall be prepared by authority of the Township Zoning Commission or the Township Trustees. The map or amendment shall be dated with the effective date of the Resolution that adopts the map or amendment.
- 107** A certified print of the adopted map or map amendment shall be maintained in the office of the Township Trustees and in the office of the Regional Planning Commission.

## Article II General Requirements

- 200** No building or structure shall be built or altered for uses other than those permitted in the District in which the structure is located.
- 201** New land uses, other than those listed in this Resolution, shall be prohibited on property in Montgomery Township.
- 202** Parapet walls, chimneys, cooling towers, elevator bulkheads, fire towers, stacks, stage towers, silos, scenery lofts and necessary mechanical accessories are exempt from the height restrictions listed in this Resolution.
- 203** Any addition to an existing building shall not intrude into any required yard or open space.
- 204** New lots of record shall meet all minimum size requirements for the District in which they are located.
- 205** No more than one main building shall be located on a lot of record.
- 206** Two or more lots of record, or platted lots, when contiguous and owned by the same individual may be treated as a single lot of record for the purpose of this Resolution as long as the property in question is located in a single District.
- 207** The Montgomery Township Zoning Resolution shall serve as a supplement to existing and future Federal, State and Local laws. Wherever these Regulations differ from other lawfully adopted regulations the most restrictive or highest standard shall apply.
- 208** Any lot of record existing at the time of the adoption of this Resolution and held in separate ownership different from that of adjoining parcels, may be used for any purpose normally permitted in that District even though its area, width and depth are less than the requirement of that District.
- 209** Agricultural uses, excluding residential uses, are exempt from this Resolution.

## Article III Definitions

For the Purposes of this Resolution, certain terms and words are described as follows:

- 300** 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.
- 301** Accessory Use: A use of land or of a structure or a portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.
- 302** Addition: Enlarging the physical exterior dimensions of any home, main building or accessory building excluding farm buildings. Including, but not limited to, porches, deck, rooms, and so forth.
- 303** Agriculture: The use of land for farming, dairying, pasturage, apiculture, horticulture, floriculture, aviculture and animal and poultry husbandry, the packing, treating or storing of produce provided, however, that the operation of any accessory uses shall be secondary to that of normal agriculture activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.
- 304** Alterations, Structural: Any change in the supporting members of a building such as bearing walls, columns, beams or girders.
- 305** Board: Shall mean the Montgomery Township Board of Zoning Appeals.
- 306** Building: A structure having a roof supported by columns or walls for the shelter or enclosure of persons, animals or chattels. When separated by division walls from the ground up without openings, each portion of such buildings shall be deemed a separate building.
- 307** Building Height: The vertical distance measured from the average elevation of the finished grade along the front of the building to the height point of the roof surface if a flat roof, to the deck line of a mansard roof, and to the main height level between eaves and ridges for a gambrel roof.
- 308** Building, Main: A building in which is conducted the principal use of the lot on which it is located.
- 309** Business, Local: An enterprise engaged in retail trade of a clearly limited nature for the convenience of surrounding residents. These may include, but are not limited to, repair shops, cleaning establishments, drug stores, beauty or barber shops, hobby shops and businesses for the sale of food and beverages for the consumption either on or off the immediate premises.
- 310** Commission: The Montgomery Township Zoning Commission may be referred to as the

Commission or Zoning Commission.

**311** Conditional Use: A use that is subject to approval by the Board of Zoning Appeals. The Board may grant a conditional use when there is a specified provision for such exception made in this Resolution.

**312** Dwelling: A building, or portion thereof, designed exclusively for residential occupancy, including single family dwellings, two family dwellings, multi-family dwellings, condominiums, vacation and seasonal dwellings, and vehicles or residences designed to be moved or towed on wheels, skids, or rollers, but not including hotels, motels, boarding houses or rooming houses. Only one dwelling per parcel is permitted excepting condominiums. All dwellings shall have a solid wall foundation around the perimeter, and extending below the frost line.

1. Condominium: "Condominium" means a building or buildings in which title to the land and multi-unit improvements on the land are required by any two or more persons in any manner whereby each person is vested with title to:
  - a. Some form of undivided ownership in one or more units, such as apartments, offices, suites or the like; and
  - b. An interest as tenant in common in the land and all the improvements, except the units, but including easements of right of way to access drives, garages, off street parking spaces and other common areas.

All requirements set forth in these Zoning Regulations for multiple dwellings shall also apply to condominium developments.

2. Manufactured Dwellings: A detached residential unit designed for transportation after fabrication on public or private thoroughfares on its own wheels or on a flatbed or other trailer and arriving at the site ready for occupancy except for minor and incidental unpacking and assembly operations. A factory built structure having at least nine hundred eighty (980) square feet, excluding porches and garages, of living area and from which all wheels, tongues and axles have been removed and which is set on a permanent foundation with solid walls under the entire perimeter of the structure with footers below the frost line and which is taxed as real property. A constructed unit that is approved by the Ohio Department of Industrial Relations. Approved manufactured dwellings will carry a certification sticker from the State of Ohio. All manufactured dwellings shall meet the requirements of Section 4101.2 of the Ohio Basic Building Code dealing with industrialized units for the year in which they were built. Only manufactured dwellings from manufacturers certified as per Section 4101.2-98 might be located in Montgomery Township. All manufactured dwellings located in Montgomery Township shall be installed using tie-down straps and suitable ground anchors. Manufactured dwellings may only be located in Manufactured Dwellings Parks.

3. Single Family Dwelling: A dwelling which is designed for and occupied by not more than one family and containing a minimum of one thousand two hundred fifty (1,250) sq. ft. of habitable floor area exclusive of porches or garages. Each single-family dwelling should have a one car



garage or accessory building containing a minimum square footage of 240 square feet. All dwellings shall have a solid wall foundation around the perimeter, and extending below the frost line.

4. **Two Family Dwelling:** A structure on a single lot of record containing a maximum of two (2) dwelling units, each of which is totally separated from the other by an unpierced wall extending from an exterior wall to exterior wall, except for a common stairwell exterior to both units. Each unit shall contain a minimum of eight hundred (800) sq. ft. of habitable floor area exclusive of porches or garages. Each unit should have a one-car garage or accessory building containing a minimum square footage of 240 square feet. All dwellings shall have a solid wall around the perimeter, and extending below the frost line.

5. **Multi Family Dwelling:** A structure on a single lot of record containing a maximum of three (3) dwelling units, each of which is totally separated from the others by an unpierced wall extending from an exterior wall to exterior wall, except for a common stairwell exterior to all dwelling units. Each unit shall contain a minimum of eight hundred (800) sq. ft. of habitable floor area exclusive of porches or garages. Each unit should have a one-car garage or accessory building containing a minimum square footage of 240 square feet. All dwellings shall have a solid wall foundation around the perimeter, and extending below the frost line.

- 313 Essential Services:** The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of gas, electrical, water or communication, supply distribution, service or disposal facilities, including poles, wires, mains, drains, pipes, signals or hydrants including any necessary structures or building reasonably required to assure the provision of adequate supplies of public facilities by the utility or branch of government.
- 314 Family:** One or more persons occupying a single family dwelling as a single housekeeping unit under a common housekeeping management plan based on an internally structured relationship providing organization and stability.
- 315 Flood Plain, Regional:** The land inundated by the 100-year flood (regional flood). Refer to flood insurance rate maps published by FEMA maps, which are available at the Ashland County Soil and Water District office and at the Regional Planning office.
- 316 Home Occupation:** A small-scale business conducted in the dwelling, or accessory structure, or yard of the residence.
- 317 Junk:** "Junk" includes old machinery or equipment, scrap copper, brass, rope, rags, batteries, paper, rubber lumber pipe, used building materials, roofing; old or scrap iron steel or other ferrous or nonferrous materials which are not held for sale for remelting purposes by an establishment having facilities for processing such materials; and inoperable or unlicensed, dismantles, partly dismantled or wrecked vehicles or motor vehicles, or parts thereof.

- 318** Junk Yard: An enclosed area where waste scrap metal, paper, or similar materials are bought, sold, exchanged, stored, packed or handled and including building wrecking yards. Also included are 2 or more unlicensed or inoperable motor vehicles unless stored in a completely enclosed solid structure.
- 319** Kennels: Any land used to house dogs for commercial purposes, including breeding dogs for sale. A kennel license obtained by the operator shall automatically deem the kennel to be a commercial kennel, which must adhere to the commercial kennel regulations in this resolution.
- 320** Lighting Requirements: Lighting including spot lights, flood lights, electrical reflectors and other means of illumination or signs, landscaping, structures, parking areas, loading and unloading areas and the like shall be focused, directed and so arranged as to prevent glare or direct illumination on streets or adjoining property.
- 321** Lot: A parcel of land of sufficient size to meet minimum zoning requirements and to provide such yards and other open spaces as herein required. Such lots shall have frontage on an improved public street and may include:
- a. A single lot of record;
  - b. A portion of a lot of record;
  - c. A combination of complete lots of record, or portions of lots of record.
- A. Corner Lot: A lot located at the intersection of two (2) or more streets. A lot abutting on a current street or streets shall be considered a corner lot if straight lines drawn from the foremost point of the lot meet at an interior angle of less than one hundred and thirty five (135) degrees.
- B. Interior Lot: A lot other than a corner lot.
- C. Reversed Lot: A corner lot the side street line of which is substantially a continuation of the front line of the lot to its rear.
- D. Through Lot. An interior lot having frontage on two (2) or more streets.
- 322** Lot Area: The total horizontal area within the lot lines of a piece of property.
- 323** Lot Depth: The horizontal distance between the front and rear lot lines, measured along the median between the two (2) side lot lines.
- 324** Lot Frontage: The horizontal distance between the side lot lines measured at right angles to the lot depth along a dedicated public road or street at the edge (or center) of road right-of-way line.
- 325** Lot lines: The lines bounding a lot as defined herein.
- 326** Lot Width: The horizontal distance between the side lot lines measured at right angles to the lot

depth at the building setback line.

- 327 Non-conforming Building:** A building or a portion thereof lawfully existing at the time this Resolution is adopted which was designed, erected or structurally altered for a use that does not conform to the use Regulations of the District in which it is located.
- 328 Non-conforming Use:** A use which lawfully occupied a building or land at the time of adoption of this Resolution and which does not conform with the Regulations of the District in which it is located.
- 329 Planned Unit Development (PUD):** A contiguous area of land in which a variety of housing types and clusters are accommodated in a pre-planned environment under more flexible standards such as lot sizes and setbacks, than those that normally apply under these Regulations.
- 330 Professional Services:** The use of office and related spaces for such services such as, but not limited to, medical practitioners, veterinarians, lawyers, architects, dentists, engineers, etc.
- 331 Public Use:** Public parks, schools and administrative, cultural and service buildings devoted solely to the storage and maintenance of equipment and material.
- 332 Recreational Facilities:**
- a. **Commercial Recreational Facilities:** Recreational facilities established for profit, such as, but not limited to, commercial golf courses, swimming pools, ice skating, riding stables and race tracks.
  - b. **Non-commercial Recreational Facilities:** Private and semiprivate recreational facilities which are not operated for commercial gain, such as, but not limited to, country clubs, riding clubs, private golf courses, game preserves or community swimming pools. Non-commercial recreational facilities may be leased to outside groups or organizations provided the fees for such purposes is limited to incidental maintenance and custodial expenses.
- 333. Rezoning:** An amendment to, or a change in the Zoning Resolution, rezoning can take three (3) forms:
- a. A comprehensive revision or modification of the Zoning text and map;
  - b. A text change in Zone requirements;
  - c. A change in the Zoning Map.
- 334. Roadside Stands:** Small structures (a maximum of 100 square feet) for the sale of agricultural and plants nursery products, a minimum of fifty (50%) percent of the produce shall be raised on the premises.
- 335. Road Frontage:** The width of the lot measured at the front lot line along an improved

road or street.

- 336.** Setback Line: A line established by zoning, platting or other legal authority on a lot of specified distance and parallel to the lot line to restrict the intrusions of buildings onto a lot line and providing free movement of air and adequate amounts of light.
- 337.** Semi-Public Use: Churches and other places of worship, Sunday Schools, Parochial Schools, Colleges, Hospitals and other institutions of an educational, religious, charitable or philanthropic nature.
- 338.** Structure: Anything constructed or erected with a fixed location on the ground. Among other things, structures include signs, towers, poles and similar constructions.
- 339.** Variance: A variance is a relaxation of requirements where such variance 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 unnecessary and undue hardship.
- 340.** Warehouse & Storage: A warehouse or storage building is a structure or part of a structure used for storing merchandise, goods or wares, whether for the owner or for others and whether it is a public or private warehouse.
- 341.** Yard: An open space at grade between a building or structure and the adjoining lot line, unoccupied and unobstructed by any portion of a structure from the ground upwards, except as otherwise provided herein:
- a. Front Yard: A yard extending across the full width of the lot between the nearest Front building and the front lot line; the depth of the required front yard shall be measured horizontally from the nearest point of the front lot line.
  - b. Rear Yard: A yard extending across the full width of the lot between the nearest rear main building and the rear lot line; the depth of the required rear yard shall be measured horizontally from the nearest point of the rear line, or to the center of an alley if one is present.
  - c. Side Yard: A yard between a main building and the side lot lines extending from the front yard, or from the front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line towards the nearest point of the main building.
- 342.** Manufacturing - Light: Manufacturing, fabricating, and assembling operations which are clean, quiet, and free of hazardous or objectionable elements such as noise, odor, dust, smoke or glare; generate little industrial traffic; and operate entirely within enclosed structures.
- 343.** Manufacturing - Heavy: Establishments engaged in mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as oils, plastics, resins or liquors.

344. **Bed and Breakfast:** An establishment in a private dwelling that supplies temporary accommodations to overnight guests for a fee.
345. **Communications Facilities:** The erection, construction, alteration or maintenance of facilities or structures used by radio or television broadcasters. These include buildings, transmitters, towers, and antennas.
346. **Construction Services:** Establishments or businesses involved in providing services to the building trades. Such businesses and uses include, but are not limited to plumbing contractors, excavators, carpenters, electrical contractors, heating and ventilating contractors, general contractors, and masonry contractors.
347. **Retail Sales:** Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.
348. **Mulch and Composting:** The production, storage and sales of mulch or composting material comprised of wood chips, leaves, grass, and other organic products. Specifically prohibited is the commercial composting of any animals or livestock.

## ARTICLE IV ZONING DISTRICTS

### 400 General Farm District (F-1)

1. Uses Permitted: Zoning Certificate not required.
  - a. Agriculture
2. Uses Permitted: After obtaining a valid Zoning Certificate
  - a. Single Family Dwelling
  - b. Roadside Stands
  - c. Accessory Uses
  - d. Essential Services
  - e. Class I Home Occupations
3. Conditional Uses
  - a. Public Uses
  - b. Semi-Public Uses
  - c. Kennels or Veterinary Clinics
  - d. Communications Facilities
  - e. Mineral Extraction, Storage or Processing
  - f. Cemeteries and Mortuaries
  - g. Nursing Home
  - h. Class II or III Home Occupations
  - i. Non-commercial Recreational Facilities
  - j. Two Family Dwellings
  - k. Manufactured Dwelling Parks
  - l. Warehouse & Storage Building
  - m. Child day care centers.
  - n. Condominiums
  - o. Bed and Breakfasts
  - p. Sawmills
  - q. Mulch or Composting
4. Minimum Lot Area: One and one-half acres (65,340) square feet.
5. Minimum Lot Width: (Road Frontage) One Hundred and Fifty (150) feet.
6. Minimum Front Yard: Eighty (80) feet from the centerline of the right-of-way.
7. Minimum Rear Yard: Forty (40) feet.
8. Minimum Side Yard: Fifteen (15) feet each side.
9. Minimum Lot Depth: Two Hundred (200) feet.

10. Maximum Building Height: Forty (40) feet.
11. Minimum Main Building Size: One thousand two hundred fifty (1,250) square feet.

**401 Residential District (R-1)**

1. Uses Permitted: Zoning Certificate not required.
  - a. Agriculture
2. Uses Permitted: After obtaining a valid Zoning Certificate
  - a. Single Family Dwelling
  - b. Roadside Stands
  - c. Accessory Uses
  - d. Essential Uses
  - e. Condominiums
  - f. Class I Home Occupations
3. Conditional Uses
  - a. Class II Home Occupations
  - b. Multi-Family Dwellings
  - c. Planned Unit Development
  - d. Public Uses
  - e. Semi-Public Uses
  - f. Manufactured Dwelling Parks
  - g. Warehouse & Storage Buildings
4. Minimum Lot Area: One and one-half acres (65,340) square feet.
5. Minimum Lot Width: (Road Frontage) One Hundred Fifty (150) feet.
6. Minimum Front Yard: Sixty (60) feet from the centerline of the right-of-way
7. Minimum Rear Yard: Thirty (30) feet.
8. Minimum Side Yard: Fifteen (15) feet each side.
9. Minimum Lot Depth: One Hundred and Twenty Five (125) feet.
10. Maximum Building or Structure Height: Forty (40) feet.
11. Minimum Main Building Size: One Thousand Two Hundred Fifty (1,250) square feet.

**402 General Commercial District (C-1)**

1. Uses Permitted: Zoning Certificate not required.
  - a. Agriculture
2. Uses Permitted: After obtaining a valid Zoning Certificate
  - a. Single Family Dwellings
  - b. Multi-Family Dwellings
  - c. Local Business
  - d. Offices and Banks
  - e. Public Uses
  - f. Semi-Public Uses
  - g. Essential Services
  - h. Professional Services
  - i. Class I, Class II, Class III Home Occupations
  - j. Warehouse & Storage Building
  - k. Child day care centers
  - l. Condominiums
3. Conditional Uses
  - a. Service Stations
  - b. Planned Unit Developments
  - c. Cemeteries and Mortuaries
  - d. Communications Facilities
  - e. Non-commercial Recreational Facilities
  - f. Restaurants
  - g. Manufactured Dwelling Parks
  - h. Riding Stables
  - i. Manufacturing – Light
  - j. Sawmills
  - k. Mulch or Composting
  - l. Retail Sales
4. Minimum Lot Area: One and one-half acres (65,340) square feet.
5. Minimum Lot Width: (Road Frontage) One Hundred and Fifty (150) feet.
6. Minimum Front Yard: Sixty (60) feet from the centerline of the right-of-way.
7. Minimum Rear Yard: Twenty (20) feet.
8. Minimum Side Yard: Fifteen (15) feet each side.
9. Minimum Lot Depth: One Hundred and Twenty Five (125) feet.
10. Maximum Building Height: Forty-Five (45) feet.
11. Minimum Main Building Size: One Thousand Two Hundred Fifty (1,250) square feet.



**403 Highway Commercial District (C-2)**

1. Uses Permitted: Zoning Certificate not required.
  - a. Agriculture
2. Uses Permitted: After obtaining a valid Zoning Certificate.
  - a. Single Family Dwelling
  - b. Multi-Family Dwelling
  - c. Class I, Class II, Class III Home Occupations
  - d. Professional Services
  - e. Local Business
  - f. Offices and Banks
  - g. Public Uses
  - h. Semi-Public Uses
  - i. Essential Services
  - j. Service Stations
  - k. Theatres
  - l. Restaurants
  - m. Automobile Agencies
  - n. Building Supply Sales
  - o. Recreational Vehicle Sales or Service
  - p. Nurseries
  - q. Motels
  - r. Warehouse & Storage Buildings
  - s. Condominiums
3. Conditional Uses
  - a. Kennels
  - b. Planned Unit Developments
  - c. Cemeteries and Mortuaries
  - d. Non-commercial Recreational Facilities
  - e. Commercial Recreational Facilities
  - f. Manufactured Dwelling Parks
  - g. Communications Facilities
  - h. Adult Oriented Business
  - i. Sawmills
  - j. Mulch or Composting
  - k. Retail Sales
4. Minimum Lot Area: One and one-half acres (65,340) square feet.
5. Minimum Lot Width: (Road Frontage) One Hundred and Fifty (150) feet.
6. Minimum Front Yard: Sixty (60) feet from the centerline of the right-of-way.
7. Minimum Rear Yard: Twenty (20) feet except adjacent to Residential Districts where Fifty (50) feet shall be required.

8. Minimum Side Yard: Fifteen (15) feet except adjacent to Residential District where Fifty (50) feet shall be required.
9. Minimum Lot Depth: One Hundred (100) feet.
10. Maximum Building Height: Forty-Five (45) feet.
11. Minimum Main Building Size: One Thousand One Hundred (1,100) square feet.

**404 Industrial District (I)**

1. Uses Permitted: Zoning Certificate not required.
  - a. Agriculture
2. Uses Permitted: After obtaining a valid Zoning Certificate.
  - a. Roadside Stands
  - b. Public Uses
  - c. Accessory Uses
  - d. Semi-Public Uses
  - e. Commercial Recreational Facilities
  - f. Essential Services
  - g. Local Business
  - h. Service Stations
  - i. Cemeteries and Mortuaries
  - j. Motels
  - k. Restaurants
  - l. Manufacture, Sale and Storage of Buildings Supplies
  - m. Equipment, Storage and Sales
  - n. Warehouse & Storage Buildings
  - o. Grain Elevators and Feed Mills
  - p. Offices and Banks
  - q. Research and Testing Laboratories
  - r. Food Processing
  - s. Kennels or Veterinary Clinics
  - t. Printing and Book Binding
  - u. Manufacturing-Light
  - v. Manufacturing-Heavy
  - w. Sawmills
  - x. Class I, Class II, or Class III Home Occupations
  - y. Mulch or Composting
  - z. Retail Sales
3. Conditional Uses
  - a. Junk Yards
  - b. Mineral Extraction, Storage or Processing

- c. Communication Facilities
- d. Foundries
- e. Asphalt Plants and Refineries
- f. Truck Stops and Truck Terminals

4. Minimum Lot Area: One and one-half acres (65,340) square feet.
5. Minimum Lot Width: (Road Frontage) One Hundred Fifty (150) feet.
6. Minimum Front Yard: Eighty (80) feet from the centerline of the right-of-way.
7. Minimum Rear Yard: Twenty (20) feet except adjacent to Residential District where Fifty (50) feet is required.
8. Minimum Side Yard: Fifteen (15) feet except adjacent to Residential District where Fifty (50) feet is required.
9. Minimum Lot Depth: One Hundred and Twenty Five (125) feet.
10. Maximum Building Height: Sixty-five (65) feet.

## ARTICLE V SUPPLEMENTAL REGULATIONS

### 500 Temporary Structures

Temporary Structures used on a premise in conjunction with construction activities on said premise shall be permitted only during the period of construction. A permit for the location of a temporary structure as identified in these Regulations shall not be required. Such temporary structures shall be permitted for a maximum of one year. Refer to Section 516 – Hardship Manufactured Dwellings.

### 501 Deteriorated or Abandoned Structures

Deteriorated or abandoned structures such as dwellings, barns, silos, sheds, oil storage tanks or other structures in a similar condition which create potential health hazards shall be demolished and removed.

### 502 Junk

Junk refuse, garbage and other material as defined in 316 articles that are creating a health or safety hazard shall be removed from the view of the public.

### 503 Mineral Extraction, Storage and Processing

1. Mineral extraction and related activities shall occur where permitted by these Regulations and only after a valid Zoning Certificate has been obtained.
2. Mineral extraction and related activities shall occur no closer than five hundred (500) feet from any structure intended for human occupancy.
3. The operator of any facility used for mineral extraction shall submit to the Zoning Inspector a map showing the areas to be mined and identifying adjacent property owners, roads, natural features and any additional information deemed necessary by the Inspector.
4. The operator of any facility used for mineral extraction shall submit to the Zoning Inspector a plan outlining how the area shall be reclaimed. The plan shall include the anticipated future use of the property, the final topography indicated by contour lines of intervals of not more than five (5) feet, the type of trees and shrubs, and number per acre, type and quality of grass to be spread, locations of roads, location of proposed drainage courses, plus any information deemed necessary by the Zoning Inspector.
5. In most cases the operator shall file a performance bond payable to the County Commissioner. This bond shall be held to guarantee satisfactory compliance by the operator with the requirements of these Regulations. The rate per acre of property to be mined shall be fixed to equal the expected costs of reclamation. The County Commissioners upon written certification of a compliance with these Regulations and satisfactory completion of the restoration plan shall release said bond.

6. These Regulations do not apply to oil or gas wells.

**504 Accessory Buildings**

1. Accessory buildings stationary or moveable shall be located in the rear yard.
2. Accessory buildings shall be no closer than ten (10) feet of any property line.
3. Accessory buildings shall not occupy more than ten (10) percent of the required rear yard.

**505 Yard Requirements**

1. Interior lots have frontage on two streets shall provide the required front yard on both streets.
2. In the case of corner lots used for residential purposes, the required front yard on both streets.
3. In situations where Forty (40%) percent or more of the frontage on the same side of a street, between two (2) intersecting streets is developed with new structures, new buildings shall be erected no closer, or farther to the right-of-way than the average distance as established by existing buildings.

**506 Home Occupations**

1. Home occupations, as defined, may be permitted in the Districts identified in these Regulations after a valid Zoning Certificate for a specified Home Occupation has been obtained.
2. The operator of a home occupation shall submit an application to the Zoning Inspector, along with a fee established by the Township Trustees to receive said certificate.
3. The home occupation shall not create undue amounts of traffic, noise or nuisances for neighboring or area property owners.
4. For the purposes of these regulations, Home Occupations shall be divided into three (3) classes; Class I, Class II, and Class III.
5. Home occupations, located in the dwelling shall occupy no more than twenty-five (25) percent of the total habitable floor area of the dwelling of the owner. When computing habitable floor area any and all accessory buildings, porches, garages, or basements shall not be included in the total.
6. Depending on the class of the Home Occupations, the activity shall only be permitted to

occur in the zoning district indicated and under the limitations spelled out in this section.

### **CLASS I HOME OCCUPATIONS**

1. The Home Occupations shall occur only in the dwelling .
2. The Home Occupations shall be a use clearly incidental to the use of the dwelling as a residence.
3. Only two (2) residents of the dwelling may be employed at the Home Occupation site.
4. Permitted CLASS I Home Occupations include:
  - a. babysitting
  - b. catering
  - c. home office
5. One (1) two (2)-sided advertising sign with a maximum area of six (6) square feet per side may be posted at the Home Occupation.

### **CLASS II HOME OCCUPATIONS**

1. The Home Occupations shall occur only in the owner's dwelling or a single accessory building.
2. When a portion of the dwelling of the owner of the Home Occupation is used as part of the business, the activity shall be clearly incidental to the use of the dwelling as a residence.
3. The Home Occupation shall occupy no more than eight-hundred (800) square feet in the accessory building.
4. The Home Occupation shall not be permitted on lots of less than three (3) acres.
5. A maximum of two (2) non-residents of the dwelling may be employed on the Home Occupation site at a given time.
6. No outdoor storage of vehicles or equipment, materials or supplies is permitted at the Home Occupation site.
7. Permitted CLASS II Home Occupations include:
  - a. Uses permitted in CLASS I Home Occupations.
  - b. Beauty or barber shop
  - c. Bed and breakfast
  - d. Child daycare centers
  - e. Construction services
  - f. Crafts and the sales of crafts and craft supplies
  - g. Landscaping or lawn care contractors
  - h. Seamstress or sewing
  - i. Small appliance repair.
8. One (1) two (2)-sided advertising sign with a maximum area of six (6) square feet per side may be posted at the Home Occupation.
9. The Board of Zoning Appeals may require the establishment of buffer strips to provide acoustical or visual screening barriers composed of additional setbacks, plantings, mounds or fences as deemed necessary to protect surrounding property owners from potential nuisances when granting Conditional Uses.

### **CLASS III HOME OCCUPATIONS**

1. When a portion of the dwelling of the owner of the Home Occupation is used as a part of the business, the activity shall be clearly incidental to the use of the dwelling as a residence.
2. Class III Home Occupations shall not be permitted on lots of less than 5 acres.
3. On lots of 5 acres activities related to the home occupation are permitted in the dwelling of the owner of the home occupation or in an accessory building where the total area used for the home occupation can not exceed 2,000 square feet.
4. On lots in excess of 5 acres activities related to the home occupation are permitted in the dwelling of the owner of the home occupation or in an accessory building where the total area used for the home occupation can not exceed 1% of the area of the lot expressed in square feet up to a maximum of 6,000 square feet.
5. All accessory buildings used for Class III Home Occupations shall meet the following side yard and rear yard setback requirements and are based on the total amount of space occupied by the home occupation;

Square Footage Occupied by Home Occupations	Minimum Setback
2001 to 3999 square feet	50 feet
4000 to 4999 square feet	75 feet
5000 to 5999 square feet	100 feet
6000 square feet	125 feet

6. A maximum of three (3) non-residents of the dwelling may be employed at the Home Occupation site at a given time.
7. A maximum total of four (4) medium or heavy trucks, trailers and equipment may be parked outside at the Home Occupation and shall observe all minimum yard distances.
8. Permitted CLASS III Home Occupations include:
  - a. Uses permitted in CLASS I or CLASS II Home Occupation
  - b. Construction services
  - c. Large truck, equipment or engine repair
  - d. repair of autos or light trucks
  - e. small engine or lawn mower repair
  - f. welding or machine shop
  - g. woodworking or carpentry
9. One (1) two (2)-sided advertising sign with a maximum area of six (6) square feet per side may be posted at the home occupation.
10. The Board of Zoning Appeals may require the establishment of buffer strips to provide acoustical or visual screening barriers composed of additional setbacks, plantings, mounds or fences as deemed necessary to protect surrounding property owners from potential nuisances when granting Conditional Uses.

**507 Correction Period**

All Zoning violations shall be corrected within Ten (10) days of receipt of a written notice of said violation by the owner of the property. Any violation not corrected in this period of time shall be reported to the County Prosecutor for legal action.

**508 Planned Unit Development**

1. All planned unit developments shall be subject to the following rules, regulations, criteria and standards.
2. The requirements required to obtain a Conditional Use Permit shall be followed.

3. Planned Unit Developments shall only be permitted in Districts identified for such uses in these Regulations.
4. All applicable State and Local Regulations shall be followed during the planning, design, construction and occupation of a Planned Unit Development.
5. The Board of Zoning Appeals shall consider the following points when making their decision:
  - a. Different types of living environments are available by offering a variety of housing and building types and by permitting an increased density of housing units per acre through a reduction in lot dimensions, yard, setbacks and area requirements.
  - b. A well thought out pattern of open space and recreation areas convenient to accessory uses and dwellings are included.
  - c. A development pattern that preserves the natural topography, geological features and vegetation without disrupting natural drainage features.
  - d. That a more efficient use of land is achieved resulting in savings through a shorter street and utility lines.
  - e. A development pattern consistent with the land use density transportation facilities and community facilities objectives.
  - f. That the Planned Unit Development does not adversely affect the neighboring land uses.

**509 Keeping of Animals, Fowl or Bees**

1. A maximum of one (1) cow, horse, or two (2) swine, sheep or goat may be kept on a lot zoned residential of at least two (2) acres. Additional animals may be kept on lots of 2 to 10 acres with the permission of the Board of Zoning Appeals.
2. Chickens, Fowl or Rabbits shall not be kept on lots of less than twenty thousand (20,000) square feet. All animals shall be provided with suitable shelters to avoid disturbing neighbors.
3. Colonies of Bees shall not be located on lots of less than twenty thousand (20,000) square feet. A minimum of one thousand (1,000) square feet shall be required for each colony.
4. Animal runs, barns, pens, shelters or colonies shall be no closer than one hundred and fifty (150) feet to the front of the property line nor closer than fifty (50) feet to any other property line or dwelling.



5. All health and sanitation requirements of the State or County shall be followed.

**510 Public Nuisances and Hazards**

No lands, building or use shall be used or occupied so as to be a nuisance or hazard to adjoining property owners or adversely affect neighboring areas. All noxious or hazardous substances shall be stored, transported or used and disposed of in such a way so as not to be a hazard to adjoining property owners and uses. Adequate precautions shall be taken to insure the safety of adjoining property owners and uses.

**511 Flood Hazard Areas**

1. Structures and land uses in the Regional Flood Plains shall be subject to the following requirements:
2. The Zoning classification of the property shall apply to areas in the flood plain.
3. Only those uses listed for that Zoning District should occur in flood hazard areas
4. Permitted Uses:
  - a. General Farm District (F-1): Agriculture uses, all (except residences); Residential uses lawns, gardens and recreational areas.
  - b. Residential District (R-1): Agricultural uses, all (except residences); Residential uses, lawns, gardens and recreational areas.
  - c. Commercial Districts (C-1, C-2): Agriculture uses, all (except residences); Residential uses, lawns, gardens and recreational areas, Commercial uses, loading, parking or storage areas for items not subject to flood damage or easily moved.
  - d. Industrial District (I): Agricultural uses, all; Commercial uses, loading areas, storage areas for items not subject to flood damage or easily moved.
5. A utility facility such as dams, power plants, flowage areas, transmission lines, pipelines, water monitoring devices or dikes or earthen structures are also permitted.
6. Structures located in the regional flood plain shall not be used for human habitation.
7. Hazardous or toxic substances shall not be stored in flood prone areas.

**512 Signs**

1. All signs located in Montgomery Township shall follow the requirements of these Regulations.

2. The following signs shall be permitted in any District. No permit shall be required:
  - a. Real estate rental or real estate sale signs of no more than thirty-two (32) square feet and must be located on the property advertised.
  - b. Signs advertising Home Occupations of not more than six (6) square feet.
  - c. Signs listing the name and address of occupants of a structure not exceeding four (4) square feet.
  - d. Signs or bulletin boards related to places of worship, public buildings or social clubs or societies not exceeding forty (40) square feet.
  - e. Entrance, exit or directional signs.
  - f. Temporary signs advertising special events or the construction of buildings or similar purpose, such signs shall be removed within two (2) weeks of the completion of the advertised activity.
  - g. Political signs not exceeding four (4) square feet, these signs must be removed within two (2) weeks of the election.
  - h. Signs erected by governmental agencies.
  - i. Signs advertising roadside stands not exceeding four (4) square feet.
  - j. Signs of any size advertising farms.

3. Zoning Certificates shall be required for the following types of signs:

- a. Outdoor advertising signs located either on or off the premises of the establishment advertised.
- b. Such signs shall be set back from the edge of the right-of-way as required by the following table:

Size	Setback
less than or equal to 10 sq. ft.	10 feet
11 to 30 square feet	20 feet
31 to 50 square feet	30 feet
51 square feet or greater	50 feet

- c. Signs shall be separated from each other a minimum of ten (10) times the average size of the signs; signs shall be not less than one hundred (100) feet apart.
- d. Signs shall not be located less than one hundred (100) feet to a residential structure.

- e. No sign shall be greater than one hundred (100) square feet in total surface per side.
  - f. Signs adjacent to interstate highways shall be governed by applicable State Regulations.
  - g. Signs on the premises of commercial or industrial uses; the edge of such signs shall not be closer than fifteen (15) feet to the right-of-way.
4. The following types of signs are prohibited:
- a. Signs attached to or painted to trees, rocks or natural features.
  - b. Flashing or illuminated signs that distract drivers.
  - c. Signs that resemble devices erected under governmental authority.
  - d. Signs located in dedicated right-of-ways.
  - e. Signs deemed to be unsafe or a public hazard.

**513 Non-conforming Buildings and Uses**

- 1. Any lawful uses of buildings or land existing at the time of the adoption of this Resolution may continue, even though such use does not conform to the District requirements.
- 2. A non-conforming structure or use may be enlarged a maximum of twenty (20) percent of the original floor or ground area provided that all other requirements concerning setback and lot area are met.
- 3. Whenever a building or land use becomes nonconforming through an amendment to this Resolution or to the Zoning Map, such use may continue.
- 4. Any non-conforming use that is discontinued for a period of two (2) or more years shall not again be started except in total conformation with these Regulations.
- 5. Any structure under construction at the time of adoption of these Regulations designed for a nonconforming use may be used for its intended purpose.
- 6. A nonconforming building or structure damaged by fire, explosion, act of nature, or a public enemy to the extent that up to seventy five (75%) percent of the structure must

be replaced, may be restored to the same use within twelve (12) months provided all reconstruction portions of the structure conform to the requirements of these Regulations.

**514 JunkYards**

1. Junkyards shall only be operated after an application to and approval from the Board of Zoning Appeals for a conditional use permit.
2. Junkyards shall only be located in Districts designated for said use.
3. The contents of junkyards shall be totally enclosed.
4. All junkyards shall totally comply with applicable sections of the Ohio Revised Code.

**515 Conditional Uses**

1. Under special conditions, land uses other than those specifically permitted by this Resolution may occur in a District. A list of these uses is located in Article 4 of this Resolution. A special permit must be obtained from the Board of Zoning Appeals before the development of any of these used may occur. Land uses occurring at the time of adoption of this Resolution classified as "Conditional Uses" may continue without a permit.
2. All proposed "Conditional Uses" are subject to the following general standards:
  - a. The uses will be harmonious with and in accordance with the general objectives, or with any specific objectives of the Township's Zoning Resolution.
  - b. All structures and uses will be designed, constructed, operated and maintained so as to be harmonious, safe and appropriate in appearance and use with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
  - c. Will not be hazardous or disturbing to existing or future neighboring uses.
  - d. Will be served adequately by essential public services (fire, police, highways, sewers, water, schools) or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
  - e. That the proposed use will not create excessive additional public costs or responsibilities for services or facilities and will not be detrimental to the community.
  - f. The proposed uses will not involve activities, process, materials or equipment detrimental to persons, property or the general welfare of the community because of excessive noise, smoke, odors, traffic glare or fumes.

- g. Adequate access to the use shall be provided that does not interfere with surrounding uses or disrupt current traffic patterns.
  - h. The proposed use will not result in the destruction, loss, or damage of natural, scenic or historic features of major importance.
3. When making its review of the proposed use the Board of Zoning Appeals shall review the proposal on the basis of the above factors and any other criteria deemed pertinent by them. Such review shall follow the requirements established in Article VII of this Resolution.

#### **516 Hardship Manufactured Dwellings**

In some cases the Board of Zoning Appeals may grant a variance for the location of a manufactured home on the same lot as a residence in cases of extreme hardship. In such cases the following conditions shall apply.

1. An application is submitted to the Board of Zoning Appeals.
2. Said Manufactured home shall be occupied only by a member of the immediate family of a resident of the main dwelling. For the purposes of this section, immediate family is defined as mother, father, stepmother, step-father, brother, sister, grandmother, grandfather, great grandmother, great grandfather, foster brother, foster sister, step-brother, step-sister.
3. The Zoning Inspector shall review the Zoning Certificate for the Manufactured home every six (6) months after an inspection.
4. The siting of the Manufactured home is approved by the Ashland City-County Board of Health certifying the adequacy of the septic system and water supply.
5. Provisions are made to assure an adequate safe electrical supply.
6. When the hardship no longer exists, either through recovery, institutionalization or death, the Mobile Home shall be removed within sixty (60) days.
7. Rental payments for the use of the Mobile Home or land on which it rests are prohibited.
8. Seasonal, migrant, temporary or other types or classes of workers or guests of the dwelling it is associated with shall not occupy all Manufactured Dwellings. Included with the application for a hardship Manufactured Dwelling shall be an explanation for the reason of the request.

#### **517 Manufactured Dwelling Parks**

1. All Manufactured Dwelling Parks shall only be located in districts where they are listed as a Conditional Use.

2. All Manufactured Dwelling Parks shall totally comply with all relevant state rules, regulations and requirements.

**518 Off-Street Parking:**

- a. Number of Spaces Required. Where any building or use is erected, reconstructed, or converted, there shall be adequate, as determined by the Zoning Inspector, off-street parking provided, but in no case less than the following:

<u>Building or Use</u>	<u>Spaces Required</u>
(1) Hotels and motels	1 for every sleeping room, plus 1 for each employee on duty.
(2) Churches, temples, schools, public buildings, etc.	1 for every 3 seats in the main auditorium.
(3) Hospitals, clinics, institutions, etc.	1 for every 3 beds.
(4) Private clubs or lodges, etc.	1 for every 6 members.
(5) Colleges, universities, etc.	1 for every 5 students.
(6) Theater or auditorium (except school auditoriums), sports arena, stadium or gymnasium.	1 for each 3 seats or 6 lineal feet of bench seating space for 3 persons.
(7) Bowling alley	8 for each lane, plus 1 additional for each 200 square feet of area used for eating, drinking or other recreation.
(8) Retail commercial or business services; establishment, except as otherwise specified herein.	1 for each 150 square feet of floor space.
(9) Personal or professional services; restaurants, nightclubs, cafes, or similar recreation or amusement establishments.	1 for each 200 square feet of gross floor area.
(10) Offices and institutions, furniture or appliance store, hardware store, wholesale establishments, machinery	1 for each anticipated customer or visitor.

or equipment sales and service,  
and home occupations.

- (11) Printing or plumbing shop or similar service. 1 for each anticipated customer visitor.
- (12) Manufacturing or industrial establishment, research or testing laboratory, dairy processing, bakery, bottling plant, warehouse or similar establishment. 1 for each anticipated customer or visitor.
- (13) In the case of any business or industrial use not specifically mentioned, or a combination of uses, the Zoning Inspector shall determine the parking requirements.
- (14) In addition to the above requirements, one space shall be provided for each employee on the maximum working shift, plus space to accommodate all trucks and other vehicles used in connection therewith.
- (15) Space shall be provided for the parking of freight and delivery trucks during any time in which the off-street loading facilities are insufficient to accommodate all such trucks waiting to use the facilities.

(b) **General Location of Off-Street Parking:** Required spaces for off-street parking or storage of vehicles shall be provided on the premises intended to be served or with the approval of the Zoning Board of Appeals, on adjoining or nearby property within 300 feet of any part of the premises when there is positive assurance that such land shall be used for such purpose during the existence of the use to be served.

(c) **Location of Employee and Company-Owned Vehicle Parking:** Parking space for employees, trucks or other vehicles used in connection with the use of the premises, including trucks waiting to use the off-street loading facilities, shall be located in the required front or side yard area or in front of any main building.

(d) **Location of Customer and Visitor Parking:** Parking spaces to accommodate customers and visitors shall not be permitted within the required front yard or within five feet of a side lot line.

(e) **Parking Lots Adjacent to Public Streets:** Where off-street parking spaces or lots are provided adjacent to a public street, all such spaces or lots shall have protective walls or bumper blocks to prevent encroachment in to the required setbacks.

(f) **Surface and Drainage of Parking Area:** All off-street parking, loading, open service and drive areas shall be constructed to provide adequate drainage and to be improved and maintained in such a manner that no dust or other nuisance will be produced by continuous use.

(g) **Minimum Size of Parking Spaces:** A parking space for one automobile shall have a rectangular area of not less than nine feet by twenty feet, unless a small size is specifically approved by the Zoning Inspector and marked for "small cars only", in addition to adequate area for ingress and egress.

(h) **Arrangement and Marking of Parking Area:** Off-street parking areas shall be arranged and marked to provide for orderly and safe ingress and egress and parking of vehicles, subject to the approval of the Zoning Inspector.

(i) **Access to Parking Lots:** There shall be provided to off-street parking lots or areas an access to drive of not less than twenty feet in width leading to the required parking spaces or lots.

519. **Buffer Strips:** The Zoning Commission, when amending the Official Zoning Map or the Board of Zoning Appeals, when granting a variance or conditional use may require the establishment of buffer strips to create visual screening.

520. **Adult Oriented Businesses:**

**Purpose and Intent**

1. It is the purpose and intent of these requirements to regulate Adult Oriented Businesses (including adult cabarets, and massage establishments) and their employees within the unincorporated area of Montgomery Township in order to promote health, safety, and morals and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of Adult Oriented Businesses within the Township.
2. The provisions of these regulations have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of these regulations to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of these regulations to condone or legitimize the distribution of obscene material. Furthermore, these regulations are adopted pursuant to the authority of sections 519 of the Ohio Revised Code.
3. These Regulations govern massage establishments, adult cabarets, and other adult-oriented businesses within the unincorporated area of the Township, and the owners, operators, persons in charge, employees of, and performers at such establishments.
4. The regulations regarding Adult Oriented Businesses do not apply to the practice of limited branch of medicine or surgery by persons certified to practice under Ohio Revised Code sections 4731.15 and 4731.16, or to the practice of providing therapeutic massage by a licensed physician, chiropractor, podiatrist, nurse, or other health professional licensed, certified, or registered to practice in Ohio.



5. An applicant for a Zoning Certificate under these regulations shall have a continuing duty to promptly supplement the application information required by this section in the event that such information changes in any way from what is represented on the application. The failure to comply with such continuing duty within 30 days from the date of such change, by supplementing the application file with the Township, shall be grounds for suspension or revocation of the Zoning Certificate.

**Adult Book Store:** means an establishment which utilizes 15% or more of its retail selling area for the purpose of retail sale or rental, or the purpose of display by coin or token-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices, or both, books, magazines, other periodicals, films, tapes, cassettes, and compact discs which are distinguished by their emphasis on adult material.

**Adult Cabaret:** Means a nightclub, bar, restaurant, supper club, lounge, or similar establishment in which persons appear in a state of nudity in the performance of their duties.

**Adult Entertainment Business:** Means an adult bookstore, adult cabaret, adult motion picture theater, adult drive-in motion picture theater, adult-oriented business, or an adult only entertainment establishment as further defined in this section.

**Adult Material:** Means material that is distinguished or characterized by its emphasis on sexually oriented material that is harmful to juveniles or obscene.

**Adult Motion Picture Drive-In Theater:** Means an open air drive-in theater which is regularly used or utilized 15% or more of its total viewing time for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or related to adult material.

**Adult Only Entertainment Establishment:** Means an establishment where the patron directly or indirectly is charged a fee where the establishment features entertainment or services which constitute adult material, or which features exhibitions, dance routine, or gyrational choreography of persons totally nude, topless, bottomless, or strippers, male or female impersonators or similar entertainment or services which constitute adult material.

**Adult Oriented Business:** Means an establishment having as its primary stock and trade material that is distinguished or characterized by its emphasis on sexually oriented material or services that may be harmful to juveniles or obscene. Adult oriented business includes, but is not limited to, massage establishments, adult motion picture theaters or drive-ins, adult cabarets, adult bookstores and any other adult and adult only entertainment business as defined in this section.

**Board:** Means the Montgomery Township Board of Zoning Appeals.

**Bottomless:** Means less than full opaque covering of all male and female genitals, pubic area, or buttocks.

**Church:** Means any church, synagogue, mosque, temple, or building, which is used primarily for religious worship, religious services, and related religious activities.

**Harmful to Juveniles:** Means any material or performance if it is offensive to revailing

standards in the adult community with respect to what is suitable for juveniles, and if any of the following apply:

1. It tends to appeal to prurient interest of juveniles;
  - a. It contains a display, description, or representation of sexual activity, masturbation, sexual excitement, or nudity.
  - b. It contains a display, description, or representation of bestiality, or bizarre violence, cruelty, or brutality.
  - c. It contains a display, description, or representation of human bodily functions of elimination.
  - d. It makes repeated use of foul language.
  - e. It contains a display, description, or representation of lurid detail or the violent torture, dismemberment, destruction of death of a human being;
  - f. It contains a display, description, or representation of criminal activity that tends to glorify or glamorize the activity, and that, with respect to juveniles, has a dominant tendency to corrupt.

**Massage:** Means 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.

**Message Establishment:** Means any fixed place of business where a person offers massages, either in exchange for something of value, or in connection with providing another legitimate service.

**Masseur or Masseuse:** Means any person who performs massages at a massage establishment.

**Material:** Means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, video, phonographic record, or tape, or other thing capable of arousing interest through sight, sound, or touch.

**Nudity:** Means the showing, representation, or depiction of any of the following:

- a. The human male or female genitals, pubic area, or buttocks with less than a fully opaque covering.
- b. The female breast with less than a fully opaque covering on any part of the areola and nipple.
- c. The covered male genitals in a discernible turgid state.

**Obscene:** Means any material or performance, when considered as a whole, and judged with reference to ordinary adults or, if it is designated for sexual deviates or other especially susceptible group, judged with reference to that group, if any of the following apply:

- a. It tends to appeal to the prurient interest.
- b. Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement, or nudity in a way that tends to represent human

- beings as mere object of sexual appetite.
- c. Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality;
  - d. Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral or artistic purpose;
  - e. It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions or elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.

**Public Park:** Means public land which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian or bicycle paths, baseball diamond, open space, wilderness areas, or similar public land within the township which is under the control, operation, or management of the Township, County or State.

**Residential District:** Means those areas defined in the Montgomery Township Zoning Regulations and as designated on the Zoning Map as a residential district.

**Secretary:** Means the Secretary of the Montgomery Township Board of Zoning Appeals.

**School:** Means any public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschool, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

**Sexual Activity:** Means sexual conduct or sexual contact, or both.

**Sexual Conduct:** Means vaginal intercourse between a male and female, anal intercourse, fellatio, and cunnilingus between persons regardless of gender, and the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

**Sexual Excitement:** Means the condition of the human male and female genitals, when in a state of sexual stimulation or arousal.

**Topless:** Means the showing of a female breast with less than a full opaque covering of any

portion thereof below the top of the areola.

### **Zoning Certificate Required**

1. No person shall operate or engage in the operation of an Adult Oriented Business in or on a premises owned or controlled by the person, without a valid, current Zoning Certificate issued pursuant to these Regulations.
2. A separate Zoning Certificate shall be required for each location where an Adult Oriented Business is operated.

### **Application for Zoning Certificate**

1. Application for an original or renewal Zoning Certificate shall be in writing, as required by these regulations.
2. In addition to the normal requirements, applicants seeking a Zoning Certificate for an Adult Oriented Business shall provide:
  - a. A statement that the applicant and, to the applicant's knowledge, the persons named in the application have never been convicted of or pleaded guilty to any offense other than a misdemeanor traffic offense, or a statement listing the offenses other than a misdemeanor traffic offense, or a statement listing the offenses other than misdemeanor traffic offenses of which the applicant or any person named in the application has been convicted, including the offense, date of conviction, and the name and location of the court.
  - b. A statement by the applicant for a permit to operate an adult cabaret that the Ohio Liquor control commission has never, pursuant to Ohio Revised code section 4301.25, revoked a permit held by the applicant or any person or entity named in the application.
  - c. Authorization for an investigation into the background, including any criminal record, of the applicant and any person or entity named in the application, including authorization to conduct subsequent investigations to supplement or update the information.
  - d. The applicant's agreement to abide by these Regulations and the laws of Ohio, and any amendments, additions, or reenactments thereof.
  - e. Two clear, color photographs of the applicant, taken not more than 30 days prior to the date of filing the application.
3. The Zoning Certificate for an Adult Oriented Business shall be valid for 1 year from the date of approval of application. An application for a renewal Zoning Certificate shall be filed not later than 30 days prior to expiration of the Zoning Certificate to be renewed. The requirements for applying for a renewal of the certificate shall be the same as for applying for the initial certificate.

4. Any applicant for a Zoning Certificate under these regulations shall have a continuing duty to promptly supplement the application information required by this section in the event that such information changes in any way from what is represented on the application. The failure to comply with such continuing duty within 30 days from the date of such change, by supplementing the application file with the Township, shall be grounds for suspension or revocation of the Zoning Certificate.

### **Inspection And Investigation Upon Application**

1. Upon receipt of an application for a Zoning Certificate or renewal Zoning Certificate to operate an Adult Oriented Business, the Secretary shall notify the state or local authorities designated by the Board to conduct health and safety inspections of the specified premises, and to determine compliance or noncompliance with applicable health and safety codes. Written reports of inspection shall be prepared by the inspectors and filed with the Secretary, and shall become part of the application for a permit.
2. Upon receipt of an application for a Zoning Certificate or renewal Zoning Certificate to operate an Adult Oriented Business, the Secretary shall refer the applicant to the Ashland County Sheriff's Department to be fingerprinted, and shall notify the Sheriff to conduct an investigation into the background of the applicant and other persons or entities named in the application. A written report of the results of the investigation shall be prepared by the investigating officer or agency and filed with the Secretary and shall become part of the application for a permit.

### **Action on Application**

1. The Board shall act on the application according to the requirements of these regulations.
2. The application shall be denied if:
  - a. The application is incomplete, contains any false information, or fails to comply with these Regulations.
  - b. The applicant is a limited partnership, corporation, or other entity that is not in good standing in the jurisdiction where organized or is not authorized to do business in Ohio.
  - c. The operation of an Adult Oriented Business at the specified premises would violate existing zoning restrictions.
  - d. The report of the health and safety inspections conducted pursuant to these regulations reveal any unsanitary, unsafe, or hazardous condition on the premises subject to the Zoning Certificate or renewal Zoning Certificate or any violation of applicable health or safety codes.
  - e. The applicant for a Zoning Certificate or renewal Zoning Certificate to operate an Adult Oriented Business has failed to cooperate with any

- required health or safety inspection or background investigation.
- f. The applicant or any person named in the application for a Zoning Certificate or renewal Zoning Certificate to operate an Adult Oriented Business is under age eighteen.
  - g. The applicant or any person named in the application for an initial or renewal Zoning Certificate to operate an Adult Oriented Business within the past five years has been convicted of or pleaded guilty to an offense under Ohio Revised Code Chapter 2907 or a substantially equivalent offense under a municipal ordinance in Ohio, or under the laws of another state or territory or of the United States, or under a municipal ordinance in any such jurisdiction.
  - h. The applicant or any person named in the application for an initial or renewal Zoning Certificate to operate an Adult Oriented Business has been convicted of or pleaded guilty to a violation of Ohio Revised Code section 503.53.
  - i. The applicant has violated these regulations, or aided and abetted any violation of these Regulations.
  - j. The Liquor Control Commission has revoked, under Ohio Revised Code Section 4301.25, a Zoning Certificate held by any one of the persons named on the application.
  - k. If the location of the Adult Oriented Business is on a parcel of real estate within 1,000 feet from the boundaries of another parcel of real estate having situated on it a school, church, cemetery, library, public park, tavern, bar, or another Adult Oriented Business.
  - l. If location of the Adult Oriented Business is on a parcel of real estate within 1,000 feet from the boundaries of another parcel of real estate having situated on it a residence, single or multi-family dwelling.
    - (a) For the purposes of these regulations distances shall be measured in a straight line, without regard to intervening structures, from property line to property line, using the closest property lines of the parcels of land involved.
  - m. If the building, structure, or portion thereof already contains another Adult Oriented Business.

### **Display Of Zoning Certificate**

The Zoning Certificate to operate an Adult Oriented Business shall be prominently displayed in an area of the premises open to the public.

### **Inspections, Investigations and Physical Examinations**

- 1. Health and safety inspections of the premises shall be conducted at intervals of six months after issuance or renewal of the Zoning Certificate, to insure continued

compliance with health and safety codes. In addition, the Board may order health and safety inspections at any time there is reasonable cause to believe that an unsanitary, unsafe, or hazardous condition exists on premises. The Secretary shall notify the appropriate authorities or agencies to make such inspections at the designated times. Written reports of inspections shall be filed with the Secretary.

2. Township personnel or agents may at all reasonable times inspect Zoning Certificate premises to insure continued compliance with the laws of Ohio and these Regulations.
3. At any time there is reasonable cause to do so, the Board of Zoning Appeals may order a background investigation, including the criminal record, if any, of any permittee, person named in the application for a Zoning Certificate, employee of a permittee, or a licensee. Written reports of investigation shall be filed with the Secretary.

### **Rules Governing Operation of Adult Oriented Businesses**

1. Adult Oriented Businesses shall be closed and shall not be operated between the hours of 10:00 p.m. and 10:00 a.m. or not later than the closing time required under its permit to sell alcoholic beverages, whichever is later.
2. All parts of the establishments shall at all times be maintained in a neat, clean, sanitary, and safe condition.
3. The owner, operator, or person in charge of the establishment shall allow state or local authorities, including law enforcement officers, access to any and all parts of the premises for the purpose of making any health or safety inspection pursuant to these Regulations, and shall cooperate in any background investigation.
4. No person under age 18 shall be employed by or in an Adult Oriented Business in any capacity, whether full-time or part-time, and with or without remuneration or compensation in any form.
5. The permittee shall file a list of employees with the Secretary of the Board of Zoning Appeals, and shall file an amended list at any time there is a change in personnel. The list shall state the name, address, date of birth, and position of each employee.
6. No Adult Oriented Business shall be established or operated on a parcel of real estate within 1,000 feet of the boundaries of any parcel of real estate having situated on it any of the following:
  - a. school
  - b. church
  - c. cemetery
  - d. library
  - e. public park
  - f. campground, public or private
7. No Adult Oriented Business shall be operated or maintained on a parcel of land located within 1,000 feet of any other parcel of land having situated on it a residence, single or multi-family dwelling.
8. No Adult Oriented Business shall be operated or maintained on a parcel of land

located within 1,000 feet of any parcel of land on which any other existing Adult Oriented Business, tavern or bar is located.

9. For the purposes of these regulations, distances shall be measured in a straight line, without regard to intervening structures, from property line to property line, using the closest property lines of the parcels of land involved.
10. No person under 18 years of age shall be admitted to or allowed to remain on the premises of an Adult Oriented Business unless accompanied by the person's parent or legal guardian.
11. No person under 18 years of age shall be sold goods or services at an Adult Oriented Business without the specific consent of the person's parent or legal guardian.
12. If the interior of an Adult Oriented Business is visible from outside the premises such that any matter that is harmful to minors could be visible from outside the premises, the owner or manager of the premises shall install opaque covering over all windows through which minors could view any harmful matter and install privacy curtains at all entrances of the premises through which minors could view any harmful matter.

### **Rules Governing Employee Conduct**

1. A person under age 18 shall not accept or continue employment by or in an Adult Oriented Business, in any capacity, whether full-time or part-time, and with or without remuneration or compensation in any form.
2. No person shall accept or continue employment by any Adult Oriented Business that does not have a valid, current Zoning Certificate issued pursuant to these Regulations.
3. No employee of an Adult Oriented Business in the performance of the employee's duties, shall do any of the following.
  - a. Knowingly touch or fondle, or offer or agree to touch or fondle, the genitalia, pubic area, rectal area, or perineum of any person, or the breast of any female person, whether such touching or fondling is with part of the actor's body or with a mechanical or electrical apparatus or appliance.
  - b. Knowingly engage, or offer or agree to engage, in sexual conduct or sexual contact as defined in Ohio Revised Code section 2907.01, whether such sexual conduct or sexual contact is with part of the actor's body or with a mechanical or electrical apparatus or appliance.
  - c. Commit, or offer or agree to commit any offense under Ohio Revised Code Chapter 2907.
  - d. When providing massage, knowingly allow the pubic or genital area or buttocks of the client, or the breasts of a female client, to be uncovered.
  - e. Go unclothed, or wear clothing which is transparent or translucent, or wear clothing in such a way as to reveal or display the pubic or genital area or buttocks or, if the person is a female, the breast.
  - f. Wear unclean clothing, or fail to wash the hands or bathe when reasonably



necessary, or otherwise fail to observe reasonable standards of personal cleanliness and hygiene.

4. No employee of an Adult Oriented Business in the performance of the employees' duties, shall do any of the following:
  - a. Place his/her hand upon, touch with any part of his/her body, fondle in any manner, or massage the genitals, pubic area, or buttocks of any other person or the breasts of any female or, if the employee is a female, or any other female.
  - b. Perform, offer, or agree to perform any act that would require the touching of the genitals, pubic area, or buttocks of any other person or the breasts of any female or, if the employee is a female, or any other female.
  - c. Uncover the genitals, pubic area, or buttocks of any other person or the breasts of any female or, if the employee is a female, of any other female.
  
5. Any employee appearing on the premises of and Adult Cabaret in a state of nudity must be on a stage that is:
  - a. At least 24 inches above floor level.
  - b. Removed at least 6 feet from the nearest other employee and/or customer.

### **Violations**

The Township Zoning Inspector shall be responsible for enforcing the requirements of these regulations and the conditions of the Zoning Certificate. The owner or operator of an Adult Oriented Business shall be notified in writing of any violations per the requirements of these regulations and shall be given the opportunity to correct any such violations. Noncompliance with the requirements of these regulations shall result in the matter being referred to the Ashland County Prosecutor's Office for appropriate legal action.

### **Records**

The Secretary of the Board of Zoning Appeals shall keep a complete record of all documents and proceedings under these regulations, including without limitation applications, reports, copies of Zoning Certificates and licenses issued, notices, correspondence, permittee employee lists, Board proceedings, Resolutions and orders, and petitions. All documents shall be endorsed by the Secretary with the date of filing.

#### **521. Communications Facilities Standards:**

1. Any communications facilities operators shall maintain such property and all structures in good condition, maintain landscaping and keep the site free from trash, outdoor storage, weeds and other debris.
  
2. The communications facilities owner's shall demonstrate that the proposed facility

or communications tower and antennas are safe and that the surrounding properties will not be negatively affected by tower failure or radio frequency interference. All towers shall be fitted with anti-climbing devices as approved by the manufacturers.

3. The tower shall be painted a neutral gray or similar color minimizing its visibility, unless otherwise required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
4. The communications facility including guy-wires shall be enclosed by a security fence at least eight (8) feet high.
5. No tower less than 150 feet shall be artificially lighted except to assure safety or as required by the Federal Aviation Administration. Towers shall be lighted with incandescent lighting and not strobe-type lighting except as required by the Federal Aviation Administration. Security lighting of the fenced-in area is permitted.
6. "No Trespassing" signs shall be posted around the facility with a name, address and a telephone number of who to contact in the event of an emergency.
7. No commercial advertising shall be allowed on the communications facilities.
8. The minimum distance between the base of any tower or tower guy-wire anchors and any off-site residence or previously platted residential lot line shall be a minimum of one hundred feet.
9. All providers utilizing towers shall present notification to the Township Trustees of any tower or facility located in the township whose use will be discontinued and the date this use will cease. If at any time the use of the facility is discontinued for 180 days, the Township Trustees may declare the facility abandoned. The facilities owner will receive written notice from the Township to either reactivate the facility within 180 days or dismantle and remove the facility. If the tower or facility is not reactivated, dismantled or removed within 180 days, the Township may remove the tower or contract to have the tower removed and the owner will indemnify the Township for all costs.

## ARTICLE VI ENFORCEMENT

### 600 Zoning Permit Required

No building or other structure shall be erected, moved, added to, structurally altered, nor shall any building, structure or land use be established or changed in use without a permit therefor, issued by the Zoning Inspector. Zoning permits shall be issued only in conformity with the provisions of this Resolution unless the Zoning Inspector receives a written order from the Board of Zoning Appeals deciding an appeal, conditional use or variance.

### 601 Application for Zoning Permit

The application for a zoning permit shall be made on forms supplied by the owner or applicant attesting to the fact that all information contained in the application is true and accurate. The application, together with a fee established by the Board of Township Trustees, shall be submitted to the Zoning Inspector for review and action.

### 602 Approval of a Zoning Permit

Within thirty (30) days of the receipt of an application, the Zoning Inspector shall either approve or disapprove the application in conformance with the provisions of this Resolution. All zoning permits shall, however, be conditional upon the commencement of work within one (1) year. The Zoning Inspector shall return one copy of the plans to the applicant, after the Zoning Inspector shall have marked such copy either as approved or disapproved and attested to the same by his signature on such copy. The Zoning Inspector shall retain one copy of said plans, similarly marked. The Zoning Inspector shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this Resolution.

### 603 Submission to the Director of Transportation

Before any zoning permit is issued affecting any land within three hundred (300) feet of the centerline of a proposed new highway or a highway for which changes are proposed as described in the certification to local officials by the Director of Transportation or any land within a radius of five hundred (500) feet from the point of intersection of said centerline with any public road or highway, the Zoning Inspector shall give notice, by registered mail to the Director of Transportation that he shall not issue a zoning permit for one hundred and twenty (120) days from the date the notice is received by the Director of Transportation. If the Director of Transportation notifies the Zoning Inspector that he shall proceed to acquire the land needed, then the Zoning Inspector shall refuse to issue the zoning permit. If the Director of Transportation notifies the Zoning Inspector that acquisition at this time is not in the public interest or upon the expiration of the one hundred and twenty (120) day period or any extension thereof agreed upon by the Director of Transportation and the property owner, the Zoning Inspector shall, if the application is in conformance with all provisions of this Resolution, issue a zoning permit.

### 604 Expiration of a Zoning Permit

If the work described in any zoning permit has not begun within one (1) year from the date of

issuance thereof, said permit shall expire; it shall be revoked by the Zoning Inspector; and written notice thereof shall be given to the person, affected. If the work described in any zoning permit has not been substantially completed within two and one half (2 1/2) years of the date of issuance thereof, said permit shall expire and be revoked by the Zoning Inspector, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new zoning permit has been obtained or an extension granted.

**605 Record of Zoning Permits**

The Zoning Inspector shall maintain a record of all zoning permits, these records shall be open for review by the public upon request.

**606 Failure to Obtain a Zoning Permit**

Failure to obtain a zoning permit shall be a violation of this Resolution and punishable under Section 611 of this Resolution.

**607 Construction and Use to be as provided in Application, Plans or Permits**

Zoning permits issued on the basis of plans and applications approved by the Zoning Inspector authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto, and no other use, arrangement or construction. Use, arrangement or construction contrary to that authorized shall be deemed a violation of this Resolution, and punishable as provided in Section 611 of this Resolution.

**608 Complaints Regarding Violations**

Whenever a violation of this Resolution occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Inspector. The Zoning Inspector shall record properly such complaint, immediately investigate, and take action thereon as provided by this Resolution.

**609 Penalties for Violation**

Violation of the provisions of this Resolution or failure to comply with any of its requirements, including violations of conditions and safeguards, as established in various sections of this Resolution, shall constitute a misdemeanor. Any person who violates this Resolution or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred (500) dollars and in addition shall pay all costs and expenses involved in the case. Each day such violation continues after receipt of a violation notice, shall be considered a separate offense. The owner or tenant of any building structure, premises, or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the Township from taking such other lawful action as is necessary to prevent or remedy any violation.

**610** Schedule of Fee, Charges and Expenses

The Board of Township Trustees shall by Resolution establish a schedule of fees, charges and expenses and a collection procedure for zoning permits, amendments, appeals, variances, conditional use permits, plan approvals and other matters pertaining to the administration and enforcement of this Resolution requiring investigations, inspections, legal advertising, postage and other expenses. The schedule of fees shall be posted in the office of the Zoning Inspector, and may be altered or amended only by the Board of Township Trustees. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

## ARTICLE VII ADMINISTRATION

### 700 Office of the Zoning Inspector Created

A Zoning Inspector appointed by the Board of Township Trustees shall administer and enforce this Resolution.

He may be provided with the assistance of such other persons as the Board of Township Trustees may direct.

The Township Zoning Inspector, before entering upon his duties, shall give bond as specified in Section 519.161 of the Ohio Revised Code.

### 701 Duties of the Zoning Inspector

For the purposes of this Resolution, the Zoning Inspector shall have the following duties:

1. Upon finding that any of the provisions of this Resolution are being violated, he shall notify, in writing, the person responsible for such violation (s). ordering the action necessary to correct such violation (5).
2. Order discontinuance of illegal uses of land, buildings or structures.
3. Order discontinuance of illegal buildings, structures, illegal additions or structural alterations.
4. Order discontinuance of any illegal work being done.
5. Take any other action authorized by this Resolution to ensure compliance with or to prevent violation (5) of this Resolution. This may include the issuance of and action on zoning and certificates of occupancy permits and such similar administrative duties as are permissible under the law.

### 702 Proceeding of the Zoning Commission

The Zoning Commission, herein after called the Commission, shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Resolution.

1. The Zoning Commission shall be appointed by the board of Township Trustees and shall consist of five (5) members (none of whom shall be con-currently appointed as a member of the Township Board of Zoning Appeals) who are residents of the unincorporated area of the Township.
2. The members of the Commission shall serve the same length of terms, and appointments should be staggered in the same manner as provided for the Township Zoning Board of

Appeals in Article VII. The Board of Township Trustees may remove a member for cause, after a public hearing in accordance with the provisions of Section 519.04 of the Ohio Revised Code. Vacancies shall be filled for the unexpired term of any member whose place becomes vacant.

3. The Board of Township Trustees may appoint one alternate member to the Zoning Commission for a term to be decided by the Board of Township Trustees. The Alternate shall meet the same appointment criteria as a regular member, and shall take the place of an absent or abstaining member and may vote in place of the absent or abstaining member.

**703** Duties of the Zoning Commission

For the purposes of this Resolution, the Commission shall have the following duties:

1. Initiate proposed amendments to this Resolution.
2. Review all proposed amendments to this Resolution and make amendments to the Board of Township Trustees as specified in Article 8.

**704** Board of Zoning Appeals Created

1. The Board of Zoning Appeals, hereinafter called the Board, shall be appointed by the Board of Township Trustees and shall consist of five (5) members (none whom shall be con-currently appointed as a member of the Township Zoning Commission) who are residents of the unincorporated area of the Township.
2. The members of the Board shall serve the same length of terms, and appointments should be staggered in the same manner as provided for the Township Zoning Commission in Article VII. The Board of Township Trustees may remove a member for cause, after a public hearing in accordance with the provisions of Section 519.04 of the Ohio Revised Code. Vacancies shall be filled for the unexpired term of any member whose place becomes vacant.
3. The Board of Township Trustees may appoint one alternate member to the Board of Zoning Appeals for a term to be decided by the Board of Township Trustees. The alternate shall meet the same appointment criteria as a regular member. The alternate shall take the place of an absent member and may vote in place of the absent or abstaining member.

**705** Rules of the Board and Commission.

1. The Board and Commission shall by majority vote of its members elect a Chairman and a Vice-Chairman who shall occupy such offices until their successors are duly elected at the next organizational meeting of the Board.
2. If any member of the Board or Commission is absent for four (4) consecutive meetings, he

may be considered, at the option of the Chairman, to have resigned, and the Chairman may request the Board of Township Trustees to appoint a replacement.

3. All meetings of the Board and Commission shall be open to the public.
4. Meetings of the Board and Commission shall be at the call of the Chairman and at such times as the Board and Commission may determine. The Board and Commission shall keep minutes of all meetings showing the proceedings, the vote of each member upon each question, or if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Board Office and be a public record.
5. The Board of Zoning Appeals ("Board") shall require a quorum consisting of at least three (3) members at all of its meetings. The Zoning Commission ("Commission") shall require a quorum consisting of at least three (3) members at all of its meetings. A majority vote shall be required to affect any decision of the Board or Commission. A majority of a quorum has authority to act on behalf of the Board or Commission.
6. The Board may, within the limits of the moneys appropriated by the Board of Township Trustees for the purpose, employ such executives, professional, technical, and other assistants as it deems necessary.

#### **706 Powers and Duties of the Zoning Board of Appeals**

1. Appeals: To hear and decide appeals where it is alleged there is an error in any interpretation, order, requirement, decision or determination by the enforcement of the provisions of this Zoning Resolution.
2. Variances: To authorize upon appeal, where, by reason of exceptional narrowness, shallowness or shape or exceptional topographical conditions or other extraordinary situations or conditional of a lot, the strict application of the terms of this Zoning Resolution would result in peculiar and exceptional difficulties or undue hardship upon the owner thereof, to authorize a variance from such strict application to relieve such difficulties or hardships, providing such relief may be granted without substantially impairing the intent of this Resolution, and provided that no variance shall be granted unless the Board finds that all of the following conditions exist.
  - a. The strict application of the provisions of the Resolution would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and the intent of this Resolution.
  - b. There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other



properties or uses in the same zoning district or neighborhood.

- c. The granting of such variance will not be of substantial detriment to the public interest or to the property or improvements in the district in which the variance is sought, and will not materially impair the purpose of this Resolution.

In granting a variance the Board of Zoning Appeals may impose such conditions, as it may deem necessary to protect the public health and safety and to further the purpose and intent of this Zoning Resolution. These conditions shall be made a part of and be attached to the Zoning Permit, which is required for a variance.

3. **Conditional Uses:** To hear and decide all Conditional Uses that are specifically listed within the various Districts; and to grant Conditional Use Zoning Certificates for the use of land, buildings or other structures as provided for in this Resolution. Conditional Uses, although often desirable, will more intensely affect the surrounding area in which they are located than the permitted Uses of such Districts. Since this is the case, the Board shall approve an application for a Conditional Use only when the following conditions are met:

- a. The Conditional Use is specifically listed or interpreted as listed in the District in question.
- b. The Conditional Use is in general accord with the Ashland County Optimum Land Use Plan.
- c. The proposed development will be in keeping with the existing land use character and physical development potential of the area and will not have undesirable effects on the surrounding area.

In granting a Conditional Use the Board may impose such conditions as it may deem necessary to protect the public health and safety and to further the propose and intent of this Resolution.

4. **Exception:** The Board of Zoning Appeals shall have the authority to grant exceptions. An exception is a use permitted only after review of an application by the Board of Zoning Appeals, such review being necessary because of the provisions of this Zoning Resolution covering conditions, precedent or subsequent, are not precise enough to cover all applications without the Board of Zoning Appeals' interpretation. Request for an exception may be requested by the applicant or by the Zoning Inspector.

5. **Fees:** Fees as established by the Board of Trustees shall be paid upon the filing of any request for a variance, conditional use or exception. Said fees shall be paid to the Board of Trustees and shall not be refunded unless the applicant removes such request prior to any advertising. In addition, the fee shall not be refunded if the request is denied. If the request is approved, the fee shall cover the fee of the Zoning Permits required for a variance or conditional use.

## 707 Procedures of the Zoning Board of Appeals

1. Meetings of the Board shall be at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence the Acting Chairman, may administer oaths, and the Board meetings shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, and of each member's absence or failure to every amendment or repeal thereof, and every order, requirement, decision or determination of the Board and said records shall be filed in the Office of the Board of Township Trustees and shall be a public record.
2. **Appeals:** Appeals to the Board of Zoning Appeals may be made by any person aggrieved or by any officer of the Township affected by any decision of the administrative officer. Such appeal shall be made within twenty (20) days after the decision by filing with the administrative officer and with the Board, a notice of such appeal specifying the grounds on forms approved by the Board. The administrative officer shall transmit to the Board all the paper constituting the record upon which the action appealed was taken.
3. **Variances, Exceptions and Conditional Uses:** All applications for variances, conditional uses and exceptions shall be made to the Board of Zoning Appeals in writing and on forms prescribed.
4. **Public Hearing and Decision:** When a notice of appeal, variance, conditional use, or exception has been filed in proper form with the Board of Zoning Appeals, the Board shall fix a reasonable time for the public hearing for same, give at least ten (10) day's written notice to the parties in interest and to any person, firm or corporation owning premises located within five hundred (500) feet of the land to which such appeal, variance, conditional use, or exception is related; advertise notice of hearing by one (1) publication in one (1) or more newspapers of general circulation in the Township at least ten (10) days before the date of said hearing. Upon the hearing, any person may appear in person or by attorney. The Board may recess such hearings from time to time, and if the time and place of the continued hearing were publicly announced at the time of adjournment, no further notice shall be required. The Board must decide the appeal, variance, conditional use, or exception within a reasonable time after it is properly submitted.

5. Refusal of the Appeal: The refusal of an applicant's request by the Board of Zoning Appeals can only be appealed to the Court of Common Pleas of Ashland County.

**708** Duties of the Zoning Inspector, Board of Zoning Appeals, Legislative Authority and Courts on Matters of Appeal

It is the intent of this Resolution that all questions of interpretation and enforcement shall be first presented to the Zoning Inspector, and that such questions shall be first presented to the Zoning Inspector, and that recourse from the decisions of the Board shall be to the courts as provided by law. It is further the intent of this Resolution that the duties of the Board of Township Trustees in connection with this Resolution shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this Resolution. Under this Resolution, the Board of Township Trustees shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this Resolution as provided by law, and of establishing a schedule of fees and charges as stated in Article VI Section 612 of this Resolution. Nothing in this Resolution shall be interpreted to prevent any official of Montgomery Township from appealing a decision of the Board to the courts as provided in Chapter 2505 and 2506 of the Ohio Revised Code. Any such appeal shall be made within ten (10) days of the Boards written decision.

**709** Procedure and Requirements for Appeals and Variances

Appeals and Variances shall conform to the procedures and requirements of Sections 709 - 717 inclusive of this Resolution. As specified in Section 706 the Board of Zoning Appeals has appellate jurisdiction relative to appeals and variances.

**710** Appeals

Appeals to the Board concerning interpretation or administration of this Resolution may be taken by any person aggrieved or by any officer or bureau of the legislative authority of the Township affected by the 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 upon which the appeal is being taken. The Zoning Inspector shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

**711 Stay of Proceedings**

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Inspector from whom the appeal is taken, certifies to the Board after the notice of appeal is filed with him, that by reason of facts stated in the application a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the Zoning Inspector from whom the appeal is taken on due cause shown.

**712 The Board of Zoning Appeals**

The Board of Zoning Appeals may authorize upon appeal in specific cases, such variances from the terms of this Resolution as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Resolution would result in unnecessary hardship. No nonconforming use of neighboring land, structures or buildings in the same district and no permitted or nonconforming use of land, structures or buildings in other districts shall be granted on the grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this Resolution would result in unnecessary hardship.

**713 Application and Standards for Variances**

A variance from the terms of this Resolution shall not be granted by the Board unless and until a written application for a variance is submitted to the Zoning Inspector and the Board of Zoning Appeals. Such application shall be made on forms provided by the Zoning Inspector or the Board. A variance shall not be granted unless the Board makes specific findings of fact based directly on the particular evidence presented to it, which support conclusions that the applicant has met the standards and conditions imposed in Section 711 of this Resolution.

**714 Supplementary Conditions and Safeguards**

Under no circumstances shall the Board grant an appeal or variance to allow a use not permissible under the terms of this Resolution in the District involved, or in any use expressly or by implication prohibited by the terms of this Resolution in said District. In granting any appeal or variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Resolution. Violation of such conditions and safeguards, when made a part of the terms under which the appeals or variance is granted shall be deemed a violation of this Resolution and punishable under Section

611 of this Resolution.

**715 Public Hearing by the Board of Zoning Appeals**

The Board of Zoning Appeals shall hold a public hearing within twenty (20) days after the receipt of an application for an appeal or variance from the Zoning Inspector or an applicant.

**716 Notice of Public Hearing in Newspaper**

Before holding the public hearing required in Section 715, notice of such hearing shall be given in one or more newspapers of general circulation of the Township at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed appeal or variance.

**717 Notice to Parties of Interest**

Before holding the public hearing required in Section 715, written notice of said hearing shall be mailed by first class mail, at least ten (10) days before the date of the hearing to all parties of interest. The notice shall contain the same information as required of notices published in newspapers as specified in Section 716.

**718 Action by the Board of Zoning Appeals**

Within thirty (30) days after the public hearing required in Section 715, the Board shall approve, approve with supplementary conditions as specified in Section 714 or disapprove the request for appeal or variance. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building or structure. Appeals from the Board's decisions shall be made in the manner specified in Section 708.

**719 Procedure and Requirements for Approval of a Conditional Use Permit**

Conditional Uses shall conform to the procedures and requirements of Sections 720-724 inclusive.

**720 General**

It is recognized that an increasing number of new kinds of uses are appearing daily, and that many of these and some other more conventional uses possess characteristics of such unique and special nature relative to location, design, size, method of operation, circulation and public facilities that each specific use must be considered individually. These specific uses as they are conditionally permitted under the provisions of Article IV, shall follow the procedures set forth in Section 721-724

inclusive.

**721 Application for Conditional Use Permit**

At least one owner or lessee of property for which such conditional use is proposed shall file an application for a conditional use permit with the Board of Zoning Appeals. Said application shall be made on forms supplied by the Board and shall include any additional information deemed necessary by the Board.

**722 Supplementary Conditions and Safeguards**

In granting any conditional use, the Board may prescribe appropriate conditions and safeguards in conformity with his Resolution. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Resolution and punishable under Section 611 of this Resolution.

**723 Procedure for Hearing and Notice**

Upon receipt of the application for a conditional use permit specified in Section 515, the Board shall hold a public hearing, publish notice in a newspaper, and give written notice to all parties of interest according to the procedures specified in Section 716 of this Resolution.

**724 Action by the Board of Zoning Appeals**

Within thirty (30) days after the public hearing required in Section 722, the Board shall approve, approve with supplementary conditions as specified in Section 721, or disapprove the application as presented. If the application is approved or disapproved the application as presented. If the application is approved or approved with modifications, the Board shall direct the Zoning Inspector to issue a conditional use permit listing the specific conditions specified by the Board of approval. If the application is disapproved by the Board the applicant may seek relief through the Court of Common Pleas, Ashland County. Appeals from the Boards decision shall be made in the manner specified in Section 707.

**725 Expiration of a Conditional Use Permit**

A conditional use permit shall be deemed to authorize only one particular conditional use and said permit shall automatically expire if, for any reason, the conditional use shall cease for more than two (2) years.

## ARTICLE VIII AMENDMENT

### **800** General

Wherever the public necessity, convenience, general welfare or good zoning practices require, the Board of Township Trustees may by Resolution after receipt of recommendation thereon from the Zoning Commission, and subject to the procedures provided by law, amend, supplement, change or repeal the regulations, restrictions and boundaries or classification of property.

### **801** Initiation of Zoning Amendments

Amendments to this Resolution may be initiated in one of the following ways:

1. By adoption of a motion by the Zoning Commission;
2. By adoption of a Resolution by the Township Trustees;
3. By the filing of an application by at least one (1) owner or leasee of property within the area proposed to be changed or effected by said amendment.

### **802** Application for Amendment

Applications to amend the Official Zoning Map of Montgomery Township or any part of this Resolution shall be submitted to the Zoning Inspector by the owner or leasee of the property for which a change is sought or by one or more individuals seeking a change in this Resolution. Said application shall be made on forms supplied by the Zoning Inspector and shall include any additional information deemed necessary. Applications for amendments sought by the Zoning Commission or by the Board of Township Trustees shall be made by Resolution by one of these bodies.

### **803** Transmittal to the Zoning Commission

Immediately after the adoption of a resolution by the Board of Township Trustees or the filing of an application by at least one (1) owner or leasee of property, said Resolution or application shall be transmitted to the Commission.

### **804** Submission to the Regional Planning Commission

Within five (5) days after the adoption of a motion by the Commission or transmittal of a Resolution by the Board of Township Trustees, or the filing of an application by at least one (1) owner or leasee, the Zoning Commission shall transmit a copy of such motion, resolution or application together with the text map pertaining to the case in question to the Regional Planning Commission. The Regional Planning Commission

shall recommend the approval or denial of the proposed amendment or the approval with some modification thereof and shall submit such recommendation of the Zoning Commission. Such recommendations shall be considered at the Public Hearing held by the Zoning commission.

**805** Submission to the Director of Transportation

Before any zoning amendment is approved affecting any land within three hundred (300) feet of the centerline of a proposed new highway or a highway for which changes are proposed as described in the certification to local officials by the Director of Transportation or within a radius of five hundred (500) feet from the point of intersection of said centerline with any public road or highway, the Commission shall give notice, by registered or certified mail to the Director of Transportation. The Zoning Commission may proceed as required by law, however, the Board of Township Trustees shall not approve the amendment for one hundred and twenty (120) days from the date the notice is received by the Director of Transportation. If the Director of Transportation notifies the Board of Township Trustees that he shall proceed to acquire any land needed, then the Board of Township Trustees shall refuse to approve the rezoning. If the Director of Transportation notifies the Board of Township Trustees that acquisition at this time is not in the public interest or upon the expiration of the one hundred and twenty (120) day period or any extension thereof agreed to by the Director of Transportation and the property owner, the Board of Township trustees shall proceed as required by law.

**806** Public Hearing by the Zoning Commission

The Zoning Commission shall schedule a public hearing after the adoption of their motion, transmittal of a resolution from the Board of Township Trustees or the filing of an application for a zoning amendment. Said hearing shall be between twenty (20) and forty (40) days from the date of adoption of such motion, transmittal of such resolution, or the filing of such application.

**807** Notice of Public Hearing in Newspaper

Before holding the public hearing as required in Section 806, notice of such hearing shall be given by the Zoning Commission by at least one (1) publication in one (1) newspaper of general circulation of the Township at least ten (10) days before the date of said hearing. This notice shall set forth the time and place of the public hearing, and the nature of the proposed amendment and a statement that after the conclusion of such public hearing the matter will be referred to the Board of Township Trustees for further determination.

**808** Notice to Property Owners by the Zoning Commission

If the proposed amendment intends to rezone or redistrict the (10) 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, contiguous to and directly across the thoroughfare from such areas proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax lists that may be specified by the Board of Township Trustees. The failure to deliver the notice, as provided in this section, shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in the newspapers as specified in Section 807.

**809 Recommendation by the Zoning Commission**

Within thirty (30) days after the public hearing required in Section 806, the Zoning Commission shall recommend to the Board of Township Trustees that the amendment be granted as requested, or they may recommend a modification of the amendment requested, or it may recommend that the amendment be denied.

**810 Public Hearing by the Board of Township Trustees**

Within thirty (30) days from the receipt of the recommendation of the Zoning Commission, the Board of Township Trustees shall hold a public hearing. The Board of Township Trustees as specified in Section 807 shall give notice of such public hearing in a newspaper.

**811 Action by the Board of Township Trustees**

Within twenty (20) days after the public hearing required by Section 810, the Board of Township Trustees shall either adopt or deny the recommendation of the Zoning Commission or adopt some modification thereof. In the event the Board of Township Trustees denies or modifies the recommendation of the Commission, the unanimous vote of the Township Trustees is required.

**812 Effective Date and Referendum**

Such amendment adopted by the Board of Township Trustees shall become effective thirty (30) days after the date of such adoption unless within thirty (30) days after the adoption of the amendment there is presented to the Board of Township Trustees a petition, signed by a number of qualified voters residing in the unincorporated area of the Township or part thereof included in the Zoning plan equal to not less than eight (8) percent of the total vote cast for all candidates for Governor in such area at the last preceding general election at which a Governor was elected, requesting the Board of Township Trustees to submit the amendment to the electors of such area, for approval or rejection, at the next primary or general election. No amendment for which referendum vote has been requested shall be put into effect unless a majority of the votes cast on the issue is in favor of the amendment. Upon certification by the Board

of Elections that the voters have approved the amendment, it shall take immediate effect.

**ARTICLE IX INTERPRETATION, SEPARABILITY AND REPEAL OF CONFLICTING  
RESOLUTION, EFFECTIVE DATE**

**900 Provisions of this Resolution Declared to be Minimum Requirements**

In their interpretation and application, the provisions of this Resolution shall be held to be minimum requirements, adopted for the promotion of the public health, safety and the general welfare. Whenever the requirements of this Resolution conflict with the requirements of any other lawfully adopted rules, regulations, ordinances or resolutions, the most restrictive, or that imposing the higher standards shall govern.

**901 Separability Clause**

Should any section or provision of this Resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

**902 Repeal of Conflicting Resolution**

All resolutions, or parts of resolutions in conflict with this Zoning Resolution or inconsistent with the provisions of this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

**903 Effective Date**

This Resolution shall become effective from and after the date of its approval and adoption, as provided by law.

