

**TALL GRASS / TRASH / DEBRIS
ABATEMENT RESOLUTION
Resolution 2008-013**

**A Resolution stating the Procedures of the Trustees of Elizabeth Township,
Miami County, Ohio to enact Section 505.86, 505.87, and 5579.05 of the Ohio Revised Code.**

Whereas, The Board of Trustees of Elizabeth Township, Miami County are permitted through Section 505.86, 505.87, and 5579.05 of the Ohio Revised Code to regulate the growing of noxious, nuisance vegetation, garbage, refuse, and other debris on property throughout the Township, and

Whereas, The Board of Trustees of Elizabeth Township, Miami County adopted Resolution 2008-013 on October 1, 2008 stating the procedures be used in the enactment of the above referenced sections of the Ohio revised Code, and

Whereas, it has been determined by The Board of Trustees of Elizabeth Township, Miami County that the procedures for the enactment of such sections of the Ohio Revised Code need to be discussed in detail, therefore,

Be it resolved by The Board of Trustees of Elizabeth Township, Miami County that the Board of Trustees of Elizabeth Township, Miami County hereby will enforce sections 505.86, 505.87 and sections 5579.05 of the Ohio Revised Code by adopting the following procedures for properties less than twenty (20) acres.

- Section 1. The Board of Trustees of Elizabeth Township, Miami County adopt a Resolution, under Section 505.86 and 505.87 of the Ohio Revised Code requiring a property owner to cut brush, briars, thistles, or other noxious weeds, as defined in Section 971.33 of the Ohio Revised Code, as may be amended.

- Section 2. The Board of Trustees of Elizabeth Township, Miami County may adopt a Resolution giving an order to the owner of the property to remove noxious weeds, including, but not limited to, wild parsnip, wild carrot, oxeye daisy, wild mustard or other noxious weeds.
 - A. The Board of Trustees of Elizabeth Township, Miami County may pass a Resolution providing notice to the property owner to remove the noxious weeds, including, but not limited to, wild parsnip, wild carrot, oxeye daisy, wild mustard, and other noxious weeds within five days of the adoption of the Resolution.
 - B. A copy of the resolution stating such notice shall be mailed to the owner of record of the property via Certified Mail Return Receipt Requested. If the property owner's address is unknown, proper notice shall be published in a newspaper of general circulation in Miami County, Ohio.
 - C. The Board of Trustees of Elizabeth Township, Miami County reserves the right to enact a Resolution to cause the abatement of nuisances to properties, if the property owner does not act upon the notice provided in this Resolution.
 - D. An adoption of a Resolution does not abridge, amend or change the procedures to be used to abate certain nuisances on properties as outlined in this section.

- Section 3. If The Board of Trustees of Elizabeth Township after adopting a Resolution by authority of Section 505.87 of the Ohio Revised Code, finds it necessary to perform the work of controlling the offending nuisance, shall charge the following to recoup the expenses incurred for services rendered.
 - A. Total labor costs
 - B. Administration fees
 - C. Any and all materials or equipment needed to perform the service.
 - D. In the event that contractors are used, the actual cost incurred by the Township shall be assessed against the property owner, including rental fees, dumping fees, disposal fees, and any other fees that may be assessed.

- Section 4. The Board of Trustees shall cause the cost of abating the nuisance to be filed on the Tax Duplicate of the property on file with the Auditor of Miami County, Ohio. The report to be filed with the Auditor of Miami County shall include a statement of all expenses incurred providing for the abatement, control, or removal of any vegetation, garbage, refuse or debris, including the Boards charge for its services, notification, the amount paid for labor, materials, and equipment, and a proper description of the premises. The expenses incurred shall be entered upon the Tax Duplicate, as a lien upon the property.

JUNK MOTOR VEHICLE RESOLUTION

Resolution 2008-012

A Resolution Enacting Section 505.173, 505.85, 505.87, and 505.871 of The Ohio Revised Code For the Control and Abatement of Junk Motor Vehicles

Whereas, The Board of Trustees of Elizabeth Township, Miami County finds that junk motor vehicles on Public or Private property within Elizabeth Township, Miami County are unsafe and unsightly, and are detrimental to property values, and are injurious to the health, safety, welfare, and morals of the community, and

Whereas, Section 505.173 of The Ohio Revised Code authorizes Boards of Township Trustees to adopt such Resolutions as deemed necessary to regulate the storage of junk vehicles on private or public property within the unincorporated areas of their Townships, and

Whereas, The Board of Trustees of Elizabeth Township, Miami County hereby determines that it is necessary to adopt a Resolution pursuant to section 505.173 of the Ohio revised Code to regulate the storage of junk motor vehicles on private and public property within the unincorporated area of Elizabeth Township, Miami County, to protect property values, and preserve the health, safety, welfare, and morals of the community.

Now, therefore, be it resolved by the Board of Trustees of Elizabeth Township, Miami County, that:

- Section 1. As used in this resolution, "Junk Motor Vehicle" means a motor vehicle, including a Collector's Vehicle that meets any or all of the following criteria:
 - A. Three model years old or older
 - B. Apparently Inoperable
 - C. Extensively damaged, including, but not limited to, any of the following. Missing wheels, tires, engine and transmission.

- Section 2. The Board of Trustees of Elizabeth Township, Miami County may cause a notice to be sent by Certified Mail Return Receipt Requested to the person or persons who have the Right of Possession of Real Property within Elizabeth Township, Miami County, that such persons may not store a junk motor vehicle on said property except within an enclosed garage.

- Section 3. No person having the Right of Possession of Real Property within the unincorporated area of Elizabeth Township, Miami County shall willfully leave a Junk Motor Vehicle on such real property outside of an enclosed garage for more than fourteen (14) days after receipt of a notice. The fact that a Junk Motor Vehicle is so left is prima-facie evidence of a willful failure to comply with the notice.

- Section 4.
 - A. The Board of Trustees of Elizabeth Township, Miami County, Ohio may provide under 505.871 of the Ohio Revised Code, by resolution, for the removal of any vehicle in the unincorporated territory of Elizabeth Township that the Board determines is a Junk Motor Vehicle, as defined in section 505.173 of the Ohio Revised Code.
 - B. If a Junk Motor Vehicle is located public property, the Board of Trustees of Elizabeth Township may provide in the resolution for the immediate removal of the vehicle.
 - C. If the Junk Motor Vehicle is located on private property, the Board of Trustees of Elizabeth Township may provide in the resolution for the removal of the vehicle not sooner than fourteen (14) days after the Board serves written notice of its intention to remove or cause the removal of the vehicle on the owner of the land and any holders of liens of record on the land.
 - D. The notice provided shall generally describe the vehicle to be removed and indicate all of the following:
 - 1. The Board of Trustees of Elizabeth Township has determined that the vehicle is a Junk Motor Vehicle.
 - 2. If the owner of the land fails to remove the vehicle within fourteen (14) days after service of the notice, the Board may remove or cause the removal of the vehicle.
 - 3. Any expensed the Board incurs in removing or causing the removal of the vehicle may be entered upon the tax duplicate and become a lien upon the land from the date of entry.

- Section 5. The Board of Trustees of Elizabeth Township shall serve notice under this division by sending it by certified mail return receipt requested to the owner of the land if the owner resides in the unincorporated territory of the township. If the owner's address is not known, The Board of Trustees may authorize an employee of the Board of Trustees to publish a copy of the Resolution in a newspaper of general circulation in Miami County, Ohio.
- A. A notice sent by certified mail shall be deemed to be served for the purposes of this section on the date it was received as indicated by the date on a signed return receipt.
 - B. A notice given by publication shall be deemed to be served for purposes of this section on the date of the newspaper publication.
- Section 6. The Board of Trustees of Elizabeth Township may cause the removal, or may employ the labor, materials, and equipment necessary to remove a Junk Motor Vehicle under this section. All expenses incurred in removing or causing the removal of a Junk Motor Vehicle, when approved by the Board, shall be paid out of the township general fund from moneys not otherwise appropriated, expect that if the expenses exceed five hundred (500) dollars, the board may borrow moneys from a financial institution to pay expenses in whole or in part.
- Section 7. The Board of Trustees of Elizabeth Township may utilize any lawful means to collect the expenses incurred in removing or causing the removal of a Junk Motor Vehicle under this section including any fees or interest paid to borrow moneys under this section. The Board may direct the Township Fiscal Officer to certify the expenses and a description of the land to the county auditor, who shall place the expenses upon the tax duplicate as a lien upon the land to be collected as other taxes and returned to the Elizabeth Township general fund.
- A. Notwithstanding section 4513.65 of the Ohio Revised Code any collector's vehicle that meets the definition of a Junk Motor Vehicle is subject to removal under this section.
 - B. Nothing in this section affects the authority of the Board of Trustees of Elizabeth Township to adopt and enforce resolution under section 505.173 of the Ohio Revised Code to regulate the storage of Junk Motor Vehicles on private or public property in the unincorporated territory of Elizabeth Township.
 - C. A resolution adopted under this section is subject to the same restrictions specified in section 505.173 of the Ohio Revised Code for resolutions adopted under that section.
- Section 8. Nothing herein shall restrict the operation of a Scrap Metal Processing Facility under the Authority of Sections 4737.05 to 4734.12 of the Ohio Revised Code, the operation as a Motor Vehicle Salvage Dealer, Salvage Motor Vehicle Auction or Salvage Motor Vehicle Pool of a person licenses under Chapter 4738 of the Ohio Revised Code; or the provisions of Towing and Recovery services conducted under Sections 4513.60 to 4513.63 of the Ohio Revised Code, including the storage and disposal of Junk Motor Vehicles removed from Public or Private property in accordance with those Sections.
- Section 9. Any fees incurred by Elizabeth Township, which were not paid in full by the Person who has the Right of Possession of Real Property, will be Abated. The Board of Elizabeth Township Trustees shall make a written report to the Miami County Auditor of the Boards action under this section. The Board shall include in the report a proper description of the premises and a statement of all expenses incurred for its servers, cost of providing notices, and the amount paid for any labor, materials, and equipment. The expenses incurred, when allowed, shall be entered upon the Tax Duplicate, is a lien upon the land from the date of the entry, shall be collected as other taxes, and shall be returned to the Elizabeth Township and placed in the Townships General Fund.
- Section 10. The Board of Trustees of Elizabeth Township may contract with a motor vehicle salvage dealer, as defined under section 4738.01 of the Ohio Revised Code, or a scrap metal processing facility, as defined in section 4737.05 of the Ohio Revised Code, for the removal or disposal of motor vehicles pursuant to sections 505.173, 505.871, 4513.60 to 4513.64 of the Ohio Revised Code. Any, and all, fees incurred by towing and storage of the Junk Motor Vehicle will be paid by the owner of the land.

Adopted October 1, 2008

WIND TURBINES
Resolution #2008-018
(11-19-2008)

Section 520.11 Purpose:

The purpose of this Resolution is to establish general guidelines for the location of wind turbine generators (WTG) and anemometer towers in Elizabeth Township, Miami County, Ohio. This Resolution recognizes that in some instances, under carefully controlled circumstances, it may be in the public interest to permit the placement of (WTG) in certain areas of Elizabeth Township in Miami County. The Township also recognizes the need to protect the scenic beauty of Elizabeth Township from unnecessary and unreasonable visual interference, noise radiation, and that (WTG) may have negative health, safety, welfare, and aesthetic impacts upon adjoining and neighboring uses. As such this Resolution seeks to:

1. Protect residential and agricultural areas from potential adverse impact of wind turbine generators.
2. Permit (WTG) in selected areas by on-site residential, commercial, or industrial users; Subject to the terms, conditions, and provisions hereof.
3. Ensure the public health, welfare, and safety of the Elizabeth Township residents in connection with (WTG).
4. Avoid potential damage to real and personal property from the (WTG) or anemometer Towers or the failure of such structures and related operations.

Section 520.12 Procedure:

Any proposed construction, erection, or siting of a (WTG) or anemometer shall be permitted only by issuance of a Conditional Use Permit in accordance with Section 1002 of this resolution, as amended hereof unless said (WTG) meets the requirements of Section 520.14.

Section 520.13 Definitions:

Definitions for the purposes of the regulation of residential, commercial, and industrial use of (WTG).

Accessory Structure: Structures such as sheds, storage sheds, pool houses, unattached garages, and barns.

Anemometer: An instrument that measures the force and direction of the wind.

Clear Fall Zone: An area surrounding the wind turbine unit into which the turbine and/or turbine components might fall due to inclement weather, poor maintenance, faulty construction methods, or any other condition causing the turbine failure that shall remain unobstructed and confined within the property lines of the primary parcel where the turbine is located. The purpose being that if the turbine should fall or otherwise become damaged, the falling structure will be confined to the primary parcel and will not fall onto dwellings or accessory buildings, or otherwise intrude onto a neighboring property.

Cowling: A streamlined removable metal that covers the turbine nacelle.

Nacelle: A separate streamlined metal enclosure that covers the essential mechanical components of the turbine.

Primary Structure: For each property, the structure that one or more persons occupy the majority of the time on that property for either business or personal reasons. Primary structures include structures such as residences, commercial buildings, hospitals, and day care facilities. Primary structures exclude structures such as hunting sheds, storage sheds, pool houses, unattached garages, and barns.

Professional Engineer: A qualified individual who is licensed as a Professional Engineer in the State of Ohio.

Wind Power Turbine Owner: The person or persons who own the wind turbine structure.

Wind Power Turbine Tower: The support structure to which the turbine and rotor are attached.

Wind Power Turbine Height: The distance from the rotor blade at its highest point to the top surface of the Wind Power Generating Facility (WPGF) foundation.

Section 520.14 Residential Wind Turbines

Elizabeth Township recognizes the importance of clean, sustainable and renewable energy sources. To that end, Elizabeth Township, Miami County, Ohio permits the use of residential wind turbines under the following regulations to ensure that the safety and welfare of all Elizabeth Township residents is met.

1. Wind turbines shall be a *permitted use* under the following conditions.
 - A. The maximum height of the turbine shall be 100 feet. For purposes of this particular zoning item, maximum height shall be considered the total height of the turbine system including the tower, and the maximum vertical height of the turbine blades. Maximum height therefore shall be calculated measuring the length of prop at the maximum vertical rotation to the base of the tower.
 - B. Setbacks: The following shall apply in regards to setbacks. Any turbine erected on a parcel of land will need to establish a "clear fall zone" from all neighboring property lines and structures, as well as any structures on the parcel intended for the turbine. A turbine will need to be erected and placed in such a manner that if it were to fall, whatever direction the fall occurs, would be contained solely on the property where the turbine is located, and would not strike any structure including the primary dwelling, and any accessory buildings or uses.
 - C. Aesthetics: The turbine, including the prop blades turbine, cowling, and tower shall be painted white, gray, or sky blue. Logos or other identification markers other than those of the manufacturer and model type shall not be permitted anywhere on the turbine or tower.
 - D. Maintenance: Wind turbines must be maintained in good working order. Turbines that become inoperable for more than six (6) months must be removed by the owner within thirty (30) days of the issuance of zoning violations. Removal includes all apparatuses, supports, and other hardware associated with the existing wind turbine.

520.15 Permits:

- A. A permit shall be required before construction can commence on an individual wind turbine system.
- B. As part of the permit process, the applicant shall inquire with the Miami County Planning and Zoning Department as to whether or not additional height restrictions are applicable due to the units location in relation to the Dayton International Airport.
- C. Applicant shall then provide the Elizabeth Township Zoning Inspector the following items and/or information when applying for a permit:
 1. Location of all public and private airports in relation to the location of the turbine, as well as any applicable FAA restrictions that may be applicable to the turbine.
 2. An engineering report that shows:
 - A. The total size and height of the unit.
 - B. The total size and depth of the units mounting pad.
 - C. An average decibel rating for the particular model.
 - D. A list and/or depiction of all safety measures that will be on the unit including anti-climb devices, and lighting protection.
 - E. Data specifying the kilowatt size and generating power of the unit.
 - F. Evidence of "Clear fall zone" with the manufacturer recommendations.
 3. A site drawing showing the location of the unit in relation to existing structures on the Property, roads and other public right-of-ways, and neighboring properties.
 4. Color of the unit as well as location and size of the manufacturers identifying logos shall be include in the plan.
 5. A maintenance schedule as well as a dismantling plan that outlines how the unit will be dismantled if necessary will be part of the permit.

Adopted 11-19-2008

ARTICLE I GENERAL PROVISIONS

SECTION 100 AUTHORITY AND TITLE

100.01 Authority. The provisions of this zoning resolution are adopted under authority granted to the Elizabeth Township Board of Trustees by the Legislature of the State of Ohio in Chapter 519.02 of the Ohio Revised Code.

100.02 Title. This zoning resolution and all provisions contained herein, including the Official Zoning District Map made a part hereof, shall be known as the “Elizabeth Township Zoning Resolution” and may be cited as such, or as “this zoning resolution”.

SECTION 100 PURPOSE

101.01 Purpose. In their interpretation and application, the provisions of this zoning resolution shall be held to be minimum requirements. Where this zoning resolution imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards than are imposed or required by other provisions of law, rules, regulations, covenants, or agreements, the provisions of this zoning resolution shall control, but nothing shall herein interfere with, abrogate, or annul any easements, deed restrictions, or agreements between parties which impose restrictions greater than those imposed by this zoning resolution. Where the requirements of this zoning resolution are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, resolutions, or private deed restrictions or private covenant, the most restrictive, or that imposing the higher standards shall govern.

SECTION 102 JURISDICTION OF THE ZONING RESOLUTION

102.01 Unincorporated Areas. Territorial jurisdiction of this zoning resolution shall apply to all land within the unincorporated territory of Elizabeth Township, Miami County, Ohio.

102.02 Incorporated Areas. Territorial jurisdiction of this zoning resolution shall not apply to any land within the incorporated territory of Elizabeth Township, Miami County, Ohio except as permitted under Section 519.18 of the Ohio Revised Code for newly incorporated or annexed land.

SECTION 103 SEPARABILITY

103.01 Separability. Should any section, paragraph, clause, sentence, item, phrase, or provision of this zoning resolution be declared by a Court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this zoning resolution as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 104 INTERPRETATION OF STANDARDS

104.01 Interpretation. In their interpretation and application, the provisions of this zoning resolution shall be held to be minimum requirements. Where this zoning resolution imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards than are imposed or required by other provisions of law, rules, regulations, covenants, or agreements, the provisions of this zoning resolution shall control, but nothing shall herein interfere with, abrogate, or annul any easements, deed restrictions, or agreements between parties which impose restrictions greater than those imposed by this zoning resolution. Where the requirements of this zoning resolution are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, resolutions, or private deed restrictions or private covenant, the most restrictive, or that imposing the higher standards shall govern.

SECTION 105 APPLICATION OF ZONING RESOLUTION

- 105.01 Application of Regulations.** The location, erection, construction, reconstruction, enlargement, change, maintenance, or use of any building or structure, or the use or change of use of any land shall comply with the provisions of this zoning resolution, unless specifically exempted by this zoning resolution and/or the Ohio Revised Code.
- 105.02 Agriculture.** Nothing within this zoning resolution shall be construed to prohibit the use of any land for agricultural purposes, or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, including buildings or structures that are used primarily for venting and selling wine and that are located on land any part of which is used for viticulture; and no zoning certificate shall be required for any such building or structure. Such prohibitions against regulation of agricultural uses shall not, however, limit or in any manner attenuate provisions contained in Article 5, Section 504 - Agricultural Restrictions in Platted Territory and to Article 5, Section 508 - Farm Markets.
- 105.03 Public Utilities.** This Zoning Resolution shall have no application to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of any public utility, whether publicly or privately owned, or the use of land by any public utility for the operation of its business. This limitation does not apply to any tower that is owned or used by a public utility, used in the provision of cellular phone service, and is proposed to be located within an area zoned for residential use and/or is proposed to be located within one hundred (100) feet of a residential dwelling within any zoning district.
- 105.04 Railroads.** This Zoning Resolution shall have no application with respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of any railroad, whether publicly or privately owned, or the use of land by any railroad for the operation of its business.
- 105.05 Sale or Use of Alcoholic Beverages.** This Zoning Resolution shall have no application with respect to the prohibition of the sale or use of alcoholic beverages in areas where the establishment and operation of any retail business, hotel, lunchroom, or restaurant is permitted.
- 105.06 Oil or Natural Gas Well Drilling or Production.** This Zoning Resolution shall have no application with respect to the prohibition of the use of any land owned or leased by an industrial firm for the conduct of oil or natural gas well drilling or production activities or the location of associated facilities or equipment when such oil or natural gas obtained by the industrial firm is used for the operation of its own plants.

ARTICLE II ESTABLISHMENT OF ZONING DISTRICTS AND MAP

SECTION 200 ESTABLISHMENT OF ZONING DISTRICTS

200.01 Establishment of Zoning Districts. In order to carry out the purposes and provisions of this zoning resolution, Elizabeth Township is hereby divided into the following zoning districts:

| | |
|------|--|
| A-1 | Agricultural District |
| R-1 | Rural Residential District |
| R-2 | Rural Residential District |
| B-1 | Township Business District |
| I-1 | Limited Industrial District |
| FP | Flood Plain Overlay District |
| R-PD | Residential Planned Development District |

SECTION 201 OFFICIAL ZONING DISTRICT MAP

201.01 Incorporation Into Zoning Resolution. All land in Elizabeth Township under the jurisdiction of this zoning resolution is placed into zoning districts as shown on the Official Zoning District Map of Elizabeth Township, Miami County, Ohio. The Official Zoning District Map, together with all explanatory data and changes, is hereby adopted and declared to be a part of this zoning resolution.

201.02 Identification of the Zoning District Map. The Zoning District Map, with any amendments made thereon, shall be identified by the signature of the Chair of the Elizabeth Township Board of Trustees, attested by the Township Clerk, and shall bear the seal of Elizabeth Township.

201.03 Final Authority. The Official Zoning District Map, as amended from time to time, shall be the final authority for the current zoning district status of land under jurisdiction of this zoning resolution.

SECTION 203 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

203.01 Location of Zoning District Boundaries. When zoning district boundaries approximate municipal corporation lines, property lines, the center lines of streets and alleys, easements, or watercourses, or appear to lie parallel thereto or extensions thereof, such lines, or center lines of said watercourses and right-of-ways shall prevail or the distance noted shall establish said parallel or extended line thereto.

203.02 Conflict Regarding Boundaries. Whenever a conflict arises concerning the zoning district boundaries shown on the Zoning District Map, the Board of Zoning Appeals shall interpret the district boundaries.

203.03 Flood Plain Boundary. Initial interpretations of the location of the FP Flood Plain Overlay District shall be made by the Zoning Inspector based upon the Official Zoning District Map. Should a dispute arise concerning the location and/or elevation of the flood plain, the Board of Zoning Appeals shall make the necessary determination using information provided in the Flood Insurance Study For the Unincorporated Areas of Miami County, Ohio, as initially prepared by the Federal Emergency Management Agency and subsequently amended. The person questioning or contesting the location and/or elevation of the flood plain shall be given a reasonable opportunity to present his/her case to the Board of Zoning Appeals and to submit such technical evidence as the Board of Zoning Appeals requests.

203.04 Land Not Otherwise Designated. All land under the jurisdiction of this zoning resolution and not designated or otherwise included within another zoning district on the Zoning District Map shall be interpreted as being included within the A-1 Agricultural District.

ARTICLE III STANDARD ZONING DISTRICT REGULATIONS

SECTION 300 ADOPTION OF STANDARD ZONING DISTRICT REGULATIONS

- 300.01 Adoption of Standard Zoning District Regulations.** Regulations for the use and development of land and structures, and the physical development thereof within each of the zoning districts adopted as a standard zoning district in Article 2, and as shown on the Official Zoning District Map, are hereby established and adopted by the Board of Trustees of Elizabeth Township, Miami County, Ohio.

SECTION 301 RULES OF APPLICATION FOR STANDARD ZONING DISTRICT REGULATIONS

- 301.01 Identification of Uses.** Listed uses are to be defined by their customary name or identification, except where they are specifically defined or limited within this zoning resolution.
- 301.02 Permitted Principal Uses.** Only a use designated as a permitted principal use shall be allowed as a matter of right in a zoning district. A use which is not specifically mentioned as a permitted principal use within a zoning district shall not be permitted as a principal use upon any property by the Zoning Inspector until such use is added to the list of permitted principal uses through amendment of this zoning resolution.
- 301.03 Accessory Uses.** Only uses designated as accessory uses shall be allowed as a matter of right in a zoning district. Any accessory use not designated shall be allowed only upon appeal and after determination by the Board of Zoning Appeals that such use is customarily incidental and subordinate to the principal permitted use of the property.
- 301.04 Conditional Uses.** Uses designated as conditional uses shall be permitted within a zoning district only upon issuance of a conditional use permit by the Board of Zoning Appeals in accordance with the provisions of Article 10, Section 1002.
- 301.05 Development Standards.** The development standards set forth for each zoning district shall be the minimum standards allowed for development within such zoning district. If such development standards are in conflict with any other lawfully adopted rules or regulations, the more restrictive shall govern.

SECTION 302 A-1 AGRICULTURAL DISTRICT REGULATIONS

- 302.01 Purpose of District.** The purpose of the A-1 Agricultural District is to recognize and accommodate the physical, social, and economic needs of the agricultural community within Elizabeth Township, Miami County, Ohio. Since agricultural pursuits provide a substantial economic base for Elizabeth Township, and a majority of its area still possesses an existing agricultural character and prime soils, it is the intent of this district to maintain and protect such areas. Only those land uses which perform necessary functions within the agricultural community will be encouraged to locate within the A-1 Agricultural District. Owners, residents, and other users of property within this district may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations. Including, but not limited to: noise, odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, the application of fertilizers, herbicides, and pesticides. Owners, residents, and users of property within this district should, therefore, be prepared to accept these conditions, and are hereby placed on official notice that "right to farm" provisions within the Ohio Revised Code may bar them from obtaining a legal judgement against such normal agricultural operations. Rural farm dwellings are permitted to locate within the A-1 Agricultural District on lots with a minimum size of ten (10) acres. Unnecessary encroachment by non-agricultural land uses which limits agricultural effectiveness either through encroachment of land resources or through incompatibility of land uses, specifically including unrelated residential use, is emphatically discouraged.
- 302.02 Permitted Principal Uses.** The following uses shall be permitted within the Agricultural District, provided they meet the development standards set forth for this district and any supplementary regulations applicable to such use in this zoning resolution.
- A. Agriculture, including farming, dairying, pasturage, agronomy, horticulture, floriculture, viticulture, and animal and poultry husbandry.
 - B. One (1) single-family dwelling.

- C. Public building and/or use which is supported in whole or in part by taxes or special public assessments, the location of which has been fixed by studies. Such uses include, but are not limited to: parks, playgrounds, libraries, schools, fire stations, and community centers. No outside storage or stockpiling of materials shall be permitted.
- D. Wireless Telecommunication Facilities as regulated in Article 5, Section 520.

302.03 Permitted Accessory Uses. The following uses shall be permitted as uses accessory to a principal permitted use existing upon the property, provided they meet the development standards set forth for this district and any supplementary regulations applicable to such use in this zoning resolution.

- A. Accessory buildings and structures in accordance with Article 5, Section 502.
- B. Accessory off-street parking and loading areas as regulated in Article 6.
- C. Accessory signs as regulated in Article 7.
- D. Farm market in accordance with Article 5, Section 508.
- E. Fences, walls, and hedges in accordance with Article 4, Section 407.
- F. Home occupation operated in accordance with Article 5, Section 501.
- G. Sleeping rooms.
- H. Wireless Telecommunication Facilities as regulated in Article 5, Section 520 .

302.04 Conditional Uses. The following uses shall be permitted only after approval by the Board of Zoning Appeals in accordance with Article 10, Section 1002 .

- A. Additional single-family dwelling as regulated in Article 5, Section 506 .
- B. Agribusiness as regulated in Article 5, Section 507.
- C. Animal hospital, kennel, or veterinarian as regulated in Article 5, Section 518.
- C. Bed and Breakfast Homes and Inns as regulated in Article 5, Section 510.
- D. Billboard as regulated in Article 5, Section 517.
- E. Child care nursery as regulated in Article 5, Section 516.
- F. Churches or other places of worship on lots with a minimum area of five (5) acres.
- G. Existing farm dwellings on small lots as regulated in Article 5, Section 505.
- H. Indoor commercial storage of recreational vehicles as regulated in Article 5, Section 524.
- I. Mineral extraction as regulated in Article 5, Section 522.
- J. Private landing strip as regulated in Article 5, Section 511.
- K. Private cemetery as regulated in Article 5, Section 512.
- L. Private recreation facilities as regulated in Article 5, Section 513.
- M. Private sanitary landfills as regulated in Article 5, Section 515.
- N. Private schools on lots with a minimum area of five (5) acres.
- O. Rooming house as regulated in Article 5, Section 523.
- P. Temporary mobile home as regulated in Article 5, Section 509.
- Q. Two-family dwellings as regulated in Article 4, Section 408.
- R. Wireless Telecommunication Facilities as regulated in Article 5, Section 520.

302.05 Development Standards.

- A. Lot Area. No parcel of land shall be less than ten (10) acres in area, except for parcels owned by public utilities or where specifically stated otherwise for conditional uses within the zoning district.
- B. Lot Width. No parcel of land shall have a width less than three hundred (300) feet measured at its road frontage and at its narrowest dimension.
- C. Reserved For Future Use.
- D. Front Yard Setback. The minimum front yard setback shall be fifty (50) feet from any established street right-of-way line. In the event there is no established right-of-way line, the minimum shall be ninety-five (95) feet from center line along a state highway or eighty (80) feet from center line along a county or township road.
- E. Side Yard Setback. The minimum side yard setback shall fifteen (15) feet. The total of both side yards shall not be less than thirty (30) feet.
- F. Rear Yard Setback. The minimum rear yard setback shall be forty (40) feet.
- G. Lot Coverage. The total ground area covered by all structures on the parcel shall not exceed twenty (20) percent of the total ground area of the parcel.
- H. Maximum Height. Thirty-five (35) feet.

SECTION 303 R-1 RURAL RESIDENTIAL DISTRICT REGULATIONS

303.01 Purpose of District. The purpose of the R-1 Rural Residential District is to recognize the existence of and the demand for residential lots of a relatively spacious nature. The density of residential development within this district should be limited to a maximum of one (1) dwelling unit per five (5) acres due to the lack of availability of central water supply and/or wastewater disposal systems. This district should only be applied to areas suggested as appropriate by the Miami County Comprehensive Plan. It is also intended for areas where the existing average parcel size already exists at such density and large-scale farming operations are no longer prevalent, areas with road access adequate to handle the proposed development, and areas where specific physical land characteristics are not conducive for large-scale agricultural pursuits. This zoning district shall not be applied in such a manner as to be detrimental to existing agricultural operations that are expected to remain viable in the future. Agricultural activities should be limited to accessory uses within this zoning district. This zoning district should not be drawn or expanded in such a manner as to create strip residential development along the street network.

303.02 Permitted Principal Uses. The following uses shall be permitted within the Rural Residential District, provided they meet the development standards set forth for this district and any supplementary regulations applicable to such use in this zoning resolution.

- A. Church or similar place of worship.
- B. One (1) single-family dwelling.
- C. Public building and/or use which is supported in whole or in part by taxes or special public assessments, the location of which has been fixed by studies. Such uses include, but are not limited to: parks, playgrounds, libraries, schools, fire stations, and community centers. No outside storage or stockpiling of materials shall be permitted.

303.03 Permitted Accessory Uses. The following uses shall be permitted as uses accessory to a principal permitted use existing upon the property, provided they meet the development standards set forth for this district and any supplementary regulations applicable to such use in this zoning resolution.

- A. Accessory buildings and structures in accordance with Article 5, Section 502.
- B. Accessory off-street parking and loading areas as regulated in Article 6.
- C. Accessory signs as regulated in Article 7.
- D. Farm market as regulated in Article 5, Section 508.
- E. Home occupation operated in accordance with Article 5, Section 501.
- F. Wireless Telecommunication Facilities as regulated in Article 5, Section 520.

303.04 Conditional Uses. The following uses shall be permitted only after approval by the Board of Zoning Appeals in accordance with Article 10, Section 1002.

- A. Agriculture in accordance with Article 5, Section 504.
- B. Child care nursery as regulated in Article 5, Section 516.
- C. Indoor commercial storage of recreational vehicles as regulated in Article 5, Section 524.
- D. Private recreation facility as regulated in Article 5, Section 513.
- E. Private schools on lots with a minimum area of five (5) acres.
- F. Temporary mobile home as regulated in Article 5, Section 509.
- G. Wireless Telecommunication Facilities as regulated in Article 5, Section 520.

303.05 Development Standards.

- A. Lot Area. No parcel of land shall be less than five (5) acres, except for parcels owned by public utilities or where specifically stated otherwise for conditional uses within the zoning district.
- B. Lot Width. No parcel of land shall have a lot width less than one third (1/3) the lot depth.

- C. Lot Depth. No parcel of land shall be less than three hundred (300) feet in depth. Any parcel five (5) acres or more in area shall have a depth equal to or less than three (3) times its width.
- D. Front Yard Setback. The minimum front yard setback shall be fifty (50) feet from any established street right-of-way line. In the event there is no established right-of-way line, the minimum shall be ninety-five (95) feet from center line along a state highway or eighty (80) feet from center line along a county or township road.
- E. Side Yard Setback. The minimum side yard setback shall be fifteen (15) feet. The total of both side yards shall not be less than thirty (30) feet.
- F. Rear Yard Setback. The minimum rear yard setback shall be forty (40) feet.
- G. Lot Coverage. The total ground area covered by all structures on the parcel shall not exceed thirty (30) percent of the total ground area of the parcel.
- H. Maximum Height. Thirty-five (35) feet.

SECTION 304 R-2 RURAL RESIDENTIAL DISTRICT REGULATIONS

304.01 Purpose of District. The purpose of the R-1 Rural Residential District is to recognize the existence of and the demand for residential lots of a relatively spacious nature. The density of residential development within this district should be limited to a maximum of one (1) dwelling unit per one and one-half (1.5) acre due to the lack of availability of central water supply and/or wastewater disposal systems. This district should only be applied to areas suggested as appropriate by the Miami County Comprehensive Plan, and areas lacking prime agricultural soils, areas with road access adequate to handle the proposed development, and areas where specific physical land characteristics are not conducive for normal agricultural pursuits. This zoning district shall not be applied in such a manner as to be detrimental to existing agricultural operations which are expected to remain viable in the future. Agricultural activities should be limited to accessory uses within this zoning district. This zoning district should not be drawn or expanded in such a manner as to create strip residential development along the township street network.

304.02 Permitted Principal Uses. The following uses shall be permitted within the Rural Residential District, provided they meet the development standards set forth for this district and any supplementary regulations applicable to such use in this zoning resolution.

- A. Church or similar place of worship.
- B. One (1) single-family dwelling.
- C. Public building and/or use which is supported in whole or in part by taxes or special public assessments, the location of which has been fixed by studies. Such uses include, but are not limited to: parks, playgrounds, libraries, schools, tire stations, and community centers. No outside storage or stockpiling of materials shall be permitted.

304.03 Permitted Accessory Uses. The following uses shall be permitted as uses accessory to a principal permitted use existing upon the property, provided they meet the development standards set forth for this district and any supplementary regulations applicable to such use in this zoning resolution.

- A. Accessory buildings and structures in accordance with Article 5, Section 502.
- B. Accessory off-street parking and loading areas as regulated in Article 6.
- C. Accessory signs as regulated in Article 7.
- D. Farm market as regulated in Article 5, Section 508.
- E. Home occupation operated in accordance with Article 5, Section 501.
- F. Wireless Telecommunication Facilities as regulated in Article 5, Section 520.

304.04 Conditional Uses. The following uses shall be permitted only after approval by the Board of Zoning Appeals in accordance with Article 10, Section 1002.

- A. Agriculture in accordance with Article 5, Section 504.
- B. Child care nursery as regulated in Article 5, Section 516.
- C. Indoor commercial storage of recreational vehicles as regulated in Article 5, Section 524.
- D. Private recreation facility as regulated in Article 5, Section 513.
- E. Private schools on lots with a minimum area of five (5) acres.
- F. Temporary mobile home as regulated in Article 5, Section 509.
- G. Wireless Telecommunication Facilities as regulated in Article 5, Section 520.

304.05 Development Standards.

- A. Lot Area. No parcel of land shall be less than one and one-half (1.5) acre in net lot area, exclusive of road right-of-way, except for parcels owned by public utilities or where specifically stated otherwise for conditional uses within the zoning district.
- B. Lot Width. No parcel of land shall have a lot width less than that required by the following table:

| <u>Lot Size</u> | <u>Lot Width</u> |
|--------------------------|-------------------------------|
| 1.5 acre to 2.999 acres | 200 feet |
| 3.0 acres to 4.999 acres | 250 feet |
| 5.0+ acres | One third (1/3) the lot depth |

- C. Lot Depth. No parcel of land shall be less than three hundred (300) feet in depth. Any parcel five (5) acres or more in area shall have a depth equal to or less than three (3) times its width.
- D. Front Yard Setback. The minimum front yard setback shall be fifty (50) feet from any established street right-of-way line. In the event there is no established right-of-way line, the minimum shall be ninety-five (95) feet from center line along a state highway or eighty (80) feet from center line along a county or township road.
- E. Side Yard Setback. The minimum side yard setback shall be fifteen (15) feet. The total of both side yards shall not be less than thirty (30) feet.
- F. Rear Yard Setback. The minimum rear yard setback shall be forty (40) feet.
- G. Lot Coverage. The total ground area covered by all structures on the parcel shall not exceed thirty (30) percent of the total ground area of the parcel.
- H. Maximum Height. Thirty-five (35) feet.
- I. Improvements on Existing Small and Narrow Lots. When the above stated development standards cannot be met on small and narrow lots within the R-2 Rural Residential Zoning District, the Zoning Inspector may approve modifications to such standards subject to the provisions of Section 412.

SECTION 305 B-1 TOWNSHIP BUSINESS DISTRICT REGULATIONS

305.01 Purpose of District. The purpose of the B-1 Township Business District is to provide for the establishment of areas devoted for the use of those retail and personal service businesses that are appropriate to Elizabeth Township's location within the region. Uses in this district are intended to be located on major roads at strategic access points to surrounding areas minimizing the potential adverse effects on surrounding property. It is the intent of this zoning district to encourage clustering of businesses in order to discourage "strip" development and provide for a minimum of traffic interference. This district shall only be applied to areas having access to roads capable of accommodating the traffic demands of uses permitted within this zoning district.

305.02 Permitted Principal Uses. The following uses shall be permitted within the B-1 Township Business District, provided they meet the development standards set forth for this district and any supplementary regulations applicable to such use in this zoning resolution.

- A. Eating and drinking establishments.
- B. Farm equipment sales.
- C. Offices.
- D. Public building and/or use which is supported in whole or in part by taxes or special public assessments, the location of which has been fixed by studies. Such uses include but are not limited to: libraries, schools, community centers, fire stations, police stations, parks, and public maintenance facilities.
- E. Retail store, provided such business is conducted entirely within an enclosed building.

305.03 Permitted Accessory Uses. The following uses shall be permitted as uses accessory to a principal permitted use existing upon the property, provided they meet the development standards set forth for this district and any supplementary regulations applicable to such use in this zoning resolution.

- A. Off-street parking, loading, and waiting spaces as regulated in Article 6.
- B. Signs as regulated in Article 7.
- C. Storage within an enclosed building of supplies or merchandise which are normally carried in stock in connection with a permitted use.
- D. Wireless Telecommunication Facilities as regulated in Article 5, Section 520.

305.04 Conditional Uses. The following uses shall be permitted only after approval by the Board of Zoning Appeals in accordance with Article 10, Section 1002.

- A. Accessory residential structure for on-site security watchperson.
- B. Auto or farm equipment repair facility.
- C. Auto, farm equipment, or recreational vehicle sales.
- D. Agribusiness as regulated in Article 5, Section 507.
- E. Billboard as regulated in Article 5, Section 517.
- F. Convenience retail store with gasoline dispensing pumps.
- G. Drive-in theaters, bowling alleys, or other commercial recreation operations.
- H. Indoor commercial storage of recreational vehicles as regulated in Article 5, Section 524.
- I. Research facilities.
- J. Temporary outdoor retail sales.
- K. Wholesaling operations.
- L. Truck hauling contractor.
- M. Wireless Telecommunication Facilities as regulated in Article 5, Section 520.

305.05 Development Standards.

- A. Lot Area. No parcel of land shall be less than one and one-half (1.5) acre in area, exclusive of any road right-of-way, except for parcels owned by public utilities or where specifically stated otherwise for conditional uses within the zoning district.
- B. Lot Width. No parcel of land shall be less than two hundred (200) feet in width.
- C. Lot Depth. No parcel of land shall be less than two hundred (200) feet in depth, nor shall the depth be more than three (3) times its width.
- D. Front Yard Setback. The minimum front yard setback shall be fifty (50) feet from any established street right-of-way line. In the event there is no established right-of-way line, the minimum shall be ninety-five (95) feet from center line along a state highway or eighty (80) feet from center line along a county or township road.
- E. Side Yard Setback. The minimum side yard setback shall fifteen (15) feet or the height of the structure, whichever is more. The total of both side yards shall not be less than thirty (30) feet. The minimum side yard setback along the side of a lot that abuts an agricultural or residential zoning district shall be fifty (50) feet.
- F. Rear Yard Setback. The minimum rear yard setback shall be forty (40) feet. The minimum rear yard setback along the rear of a lot that abuts an agricultural or residential zoning district shall be fifty (50) feet.

- G. Lot Coverage. The total ground area covered by all structures on the parcel shall not exceed thirty-five (35) percent of the total ground area of the parcel.
- H. Maximum Height. Thirty-five (35) feet.

SECTION 306 I-1 LIMITED INDUSTRIAL DISTRICT REGULATIONS

- 306.01 Purpose of District.** The purpose of the I-1 Limited Industrial District is to provide space for those industrial, wholesale and warehouse uses which operate in a clean and quiet manner. This district is not intended for the use of industries which deal with hazardous elements, generate undue traffic, or emit noise, glare, dust, odor, smoke, or those which possess other offensive characteristics detrimental to surrounding land uses. The intent of this zoning district is to create and protect efficient limited industrial areas by insuring careful design, placement, and grouping of industries which will promote the protection of any adjacent residential or business activities. Land to be placed in this district is intended to have level topography, adequate utility services and major transportation facilities readily available.
- 306.02 Permitted Principal Uses.** The following uses shall be permitted within the I-1 Limited Industrial District, provided they meet the development standards set forth for this district and any supplementary regulations applicable to such use in this zoning resolution.
- A. Public building and/or use which is supported in whole or in part by taxes or special public assessments, the location of which has been fixed by studies. Such uses include but are not limited to: wastewater pumping, and storage facilities, sanitary landfills as regulated in Article 5, Section 515; fire stations, police stations, parks, and public maintenance facilities.
- 306.03 Permitted Accessory Uses.** The following uses shall be permitted as uses accessory to a principal permitted use existing upon the property, provided they meet the development standards set forth for this district and any supplementary regulations applicable to such use in this zoning resolution.
- A. Off-street parking, loading, and waiting spaces as regulated in Article 6.
 - B. Signs as regulated in Article 7.
 - C. Storage within an enclosed building of supplies or merchandise which are normally carried in stock in connection with a permitted use.
 - D. Wireless Telecommunication Facilities as regulated in Article 5, Section 520.
- 306.04 Conditional Uses.** The following uses shall be permitted only after approval by the Board of Zoning Appeals in accordance with Article 10, Section 1002.
- A. Accessory residential structure for on-site security watchperson.
 - B. Adult entertainment facility, as regulated in Article 5, Section 521.
 - C. Agribusiness, excluding feed lots and livestock auctions.
 - D. Automobile repair and painting facility.
 - E. Billboard as regulated in Article 5, Section 517.
 - F. Cold storage and frozen food locker.
 - G. Fabrication, processing, packaging and/or assembly of articles or merchandise from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, textiles, tobacco, wax, wood, and yarn.
 - H. Fabrication, processing, packaging and/or manufacture of food products and condiments, specifically excluding, however, the rendering and refining of fats, oils, fish, vinegar, yeast, and sauerkraut.
 - I. Grain elevator.
 - J. Indoor commercial storage of recreational vehicles as regulated in Article 5, Section 524.
 - K. Junk yard as regulated in Article 5, Section 514.
 - L. Lumber yard, including incidental millwork, coal, brick, and stone.

- M. Machine shop or tool and die shop.
- N. Manufacturing, assembling or repairing of electrical and electronic products components, and equipment.
- O. Mineral extraction operation as regulated in Article 5, Section 522.
- P. Private sanitary landfill as regulated in Article 5, Section 515.
- Q. Publishing and printing.
- R. Radio and/or television station.
- S. Radio, television, or other transmission tower or mast, provided that such tower or mast is located a distance equal to or greater than the height of the tower or mast from any existing dwelling.
- T. Recycling center collection point, provided materials are kept in an enclosed building.
- U. Research and engineering laboratory.
- V. Slaughter house.
- W. Warehouse or warehouse distribution center.
- X. Wireless Telecommunication Facilities as regulated in Article 5, Section 520.
- Y. Other use, provided the Board of Zoning Appeals determines it to be similar in impact to the above-mentioned uses.

306.05 Development Standards.

- A. Lot Area. No parcel of land shall be less than one and one-half (1.5) acre in area, exclusive of any road right-of-way, except for parcels owned by public utilities or where specifically stated otherwise for conditional uses within the zoning district.
- B. Lot Width. No parcel of land shall be less than two hundred (200) feet in width.
- C. Lot Depth. No parcel of land shall be less than two hundred (200) feet in depth, nor shall its depth be more than three (3) times its width.
- D. Front Yard Setback. The minimum front yard setback shall be fifty (50) feet from any established street right-of-way line. In the event there is no established right-of-way line, the minimum shall be ninety-five (95) feet from center line along a state highway or eighty (80) feet from center line along a county or township road.
- E. Side Yard Setback. The minimum side yard setback shall fifteen (15) feet or the height of the structure, whichever is more. The total of both side yards shall not be less than thirty (30) feet. The minimum side yard setback along the side of a lot that abuts an agricultural or residential zoning district shall be one hundred (100) feet.
- F. Rear Yard Setback. The minimum rear yard setback shall be forty (40) feet. The minimum rear yard setback along the rear of a lot that abuts an agricultural or residential zoning district shall be one hundred (100) feet.
- G. Lot Coverage. The total ground area covered by all structures on the parcel shall not exceed thirty-five (35) percent of the total ground area of the parcel.
- H. Maximum Height. Thirty-five (35) feet.

SECTION 307 FP FLOOD PLAIN OVERLAY DISTRICT

307.01 Findings of Fact. Certain areas of Elizabeth Township, Miami County, Ohio are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These flood losses are caused by the cumulative effect of obstructions in flood hazard areas which increase flood heights and velocities and, when inadequately anchored, damage to uses in other areas.

Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

307.02 Purpose. The purpose of the Flood Plain Overlay District is to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health.
- B. Minimize expenditure of public money for costly flood control projects.
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. Minimize prolonged business interruptions.
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets and bridges located in areas of special flood hazard.
- F. Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to minimize future flood blight areas.
- G. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

307.03 Methods of Reducing Flood Losses. In order to accomplish its purpose, the Flood Plain Overlay District includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or result in damaging increases in flood heights or velocities.
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers which help accommodate or channel flood waters.
- D. Controlling filling, grading, dredging, and other development which may increase flood damage.
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

307.04 Boundaries of Flood Plain Overlay District. The Flood Plain Overlay District shall apply to all areas under the jurisdiction of the Elizabeth Township Zoning Resolution that are areas of special flood hazard as identified by the Flood Insurance Study, Miami County, Ohio, Unincorporated Areas dated January 15, 1982 as initially prepared and subsequently amended by the Federal Emergency Management Agency. This study, with accompanying maps and revisions thereto, is hereby adopted by reference and declared to be a part of the Elizabeth Township Zoning Resolution. Where detailed studies of the flood way and flood way fringe are not a part of the aforementioned flood insurance study, the following sources of data may be used to determine the necessary elevations for the purposes of this zoning resolution:

- A. Corps of Engineers-Flood Plain Information Reports.
- B. U.S. Geological Survey-Flood Prone Quadrangles.
- C. U.S.D.A., Soil Conservation Service-Flood Hazard Analysis Studies and County Soil Surveys (Alluvial Soils).
- D. Ohio Department of Natural Resources-Flood Hazard Reports and Flood Profile Charts.

- E. Known high-water marks from past floods.
- F. Other sources acceptable to the Board of Zoning Appeals.

307.05 Relationship Between Flood Plain Overlay District and Other Zoning Districts. The provisions of the Flood Plain Overlay District shall be applicable to all areas located within its boundaries and shall be supplemental to those of any underlying zoning district. Uses requiring structures or fill shall be permitted only after procedures and standards for conditional uses under Article 10, Section 1002 have also been met.

307.06 Warning and Disclaimer of Liability. The degree of flood protection sought by the provisions of the Flood Plain Overlay District is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes such as ice jams and bridge openings restricted by debris. This overlay does not imply that areas outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. The creation of the Flood Plain Overlay District shall not create liability on the part of Elizabeth Township, Miami County, Ohio, or any officer or employee thereof, or the Federal Emergency Management Agency for any flood damage that results from reliance on this zoning resolution or any administrative decision lawfully made thereunder.

307.07 Required Development Standards In All Flood Hazard Areas. The following development standards shall be required in all flood hazard areas:

- A. No Floodway Encroachment. New construction, substantial improvement to existing structures, and fill shall only be permitted by the Board of Zoning Appeals when it is demonstrated by the applicant that, when combined with all other existing and anticipated development, the proposal shall not increase the water surface elevation of the base flood at all in flood ways designated on the Flood Insurance Study maps, nor more than one (1) foot at any other location within the area inundated by the base flood as shown on the Flood Insurance Study maps.
- B. Anchoring. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring mobile homes may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- C. Construction Materials and Methods. All new construction and substantial improvements shall be constructed with materials resistant to flood damage, using methods and practices that minimize flood damage. Electrical, heating, ventilation, plumbing, and air conditioning equipment or other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- D. Utilities. All uses utilizing new and replacement water supply systems, sanitary sewerage systems, and/or on-site waste disposal systems shall be designed to minimize or eliminate infiltration of flood waters into such systems in accordance with the Miami County Health Department and/or Ohio EPA, as applicable. All on-site waste disposal systems shall be designed to minimize or eliminate discharge into flood waters and impairment or contamination to them during flooding.

307.08 Required Development Standards In Areas Of Special Flood Hazard Without Base Flood Elevation. In all areas of special flood hazard identified as “Zone A” on the Flood Insurance Rate Map where base flood elevation data are not available from any source, all new construction and all substantial improvement of any residential, commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated to at least two (2) feet above the highest adjacent natural grade.

307.09 Required Development Standards In Areas Of Special Flood Hazard With Base Flood Elevation. In all areas of special flood hazard where base flood elevation data are available from the Flood Insurance Study or from other federal, state, or local sources, all new construction and substantial improvement shall meet the following standards:

- A. Residential Structures. All new residential structures and substantial improvement of any existing residential structure, including mobile homes, shall have the lowest floor, including basement, elevated to at least one (1) foot above the base flood elevation.
- B. Nonresidential Structures. All new nonresidential structures and substantial improvement of any existing nonresidential structure shall have the lowest floor, including basement, elevated to at least one (1) foot above the base flood elevation. In lieu of the elevation requirement, such structure, together with attendant utility and sanitary facilities, shall be required to have flood-proofing measures designed consistent with the regional flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces and other factors associated with the regulatory flood. The Board of Zoning Appeals shall require that the applicant submit a plan or document certified by a registered professional engineer that the proposed flood proofing measures adequately protect the proposed structure or substantial improvement and are consistent with the base flood elevation and associated flood factors for the particular area.
 - 1. Waterproofing. The structure shall be watertight to the level of the base flood elevation with walls substantially impermeable to the passage of water. Such waterproofing may be accomplished by the use of watertight doors, bulkheads, and shutters, or similar methods of construction and the use of paints, membranes, or mortars to reduce seepage of water.
 - 2. Structural Features. The structure shall have components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such features may include, but not be limited to the following:
 - a. Reinforcement of walls to resist water pressures.
 - b. Anchorage to resist flotation and lateral movement.
 - c. Addition of mass or weight to structures to resist flotation.
 - 3. Mechanical and Systems. The structure shall have its mechanical systems adequately protected from flood hazards and complementary mechanical systems necessary to reduce the flood hazard. Such systems may include, but not be limited to the following:
 - a. Pumping facilities or comparable practices for sub-surface drainage systems for buildings to relieve external foundation wall and basement flood pressures
 - b. Installation of pumps to lower water levels in structures
 - c. Location of all electrical equipment, circuits, and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation.
- C. Storage Facilities. All storage facilities for chemicals, explosives, flammable liquids or toxic materials which could be hazardous to public health, safety, and welfare shall be stored in a manner which will assure that the facilities are situated at least one (1) foot above the base flood elevation. Non-toxic materials, materials that are buoyant, or items likely to be carried off-site by the base flood shall be stored in a manner to prevent flotation of the materials and/or their containers and escape of such materials off-site.

307.10 Required Development Standards For Accessory Structures. Relief to the elevation or flood-proofing requirements in Sections 307.08 and 307.09 may be granted by the Board of Zoning Appeals for accessory structures containing five hundred seventy-six (576) square feet or less gross floor area. Such structures shall not encroach upon any designated floodway and shall meet the following additional standards:

- A. They shall not be used for human habitation.
- B. They shall be designed to have low flood damage potential.

- C. They shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.
- D. They shall be firmly anchored to prevent flotation.
- E. Service facilities such as electrical and heating equipment shall be elevated or flood-proofing.

308.11 County Approval Also Required. Any township approval for development within the flood plain shall be conditioned upon obtaining a Flood Plain Development Permit from Miami County.

SECTION 308 R-PD PLANNED RESIDENTIAL DISTRICT REGULATIONS

- 308.01 Purpose of District.** The planned residential district is intended to provide flexibility in the arrangement and design of residential neighborhoods, based upon a unified development plan conceived and carried out for an entire area. Within this district, appropriate and reasonable population is maintained while a variety of dwelling unit types is encouraged. Natural features such as topography, trees, and drainageways are encouraged to remain in their natural state to the degree possible. Such developments are generally characterized by a significant proportion of usable open space and a unified design concept with particular attention devoted to the periphery of the development, the overall objective being the compatibility of the development with its surroundings.
- 308.02 Minimum Project Area.** The minimum land area required for a residential planned development shall be ten (10) acres.
- 308.03 Density.** Every preliminary plan application for a residential planned unit development shall designate the number of dwelling units and/or mobile homes proposed for the total acreage and the types of residential uses for each segment of the site in which residential land uses are to be located. Although the lot design requirements may be waived, the overall gross density approved under the final plan must be maintained.
- 308.04 Permitted Uses.** Only those uses which are specified as permitted, accessory, or conditional uses within the designated residential district or districts designated on the preliminary plan may be included within the planned development.
- 308.05 Minimum Development Standards.** The minimum lot area, minimum lot frontage, and yard and maximum lot coverage requirements may be varied to allow for greater creativity in site design and structural design within the residential planned development. However, all spacing between principal structures shall be subject to the approval of the Zoning Commission upon consultations with the Fire Chief.
- 308.06 Height Requirements.** The height of any structure within a residential planned development shall be subject to approval by the Zoning Commission upon consultation with the Fire Chief.
- 308.07 Required Off-Street Parking, Loading, and Drive-Through Spaces.** All accessory off-street parking, loading, and drive-through waiting spaces shall be provided in accordance with Article 6 unless otherwise approved in the plan.
- 308.08 Signs.** All signs within the residential planned unit development shall be in accordance with Article 7 unless otherwise approved in the plan.
- 308.09 Underground Utilities Required.** Underground utilities, including telephone and electrical systems, are required within the limits of all planned developments. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if the Zoning Commission finds that such exemption will not violate the intent or character of the proposed planned unit development.
- 308.10 Required Open Space.** Each residential planned development shall have acreage devoted to common open space which shall be designed for the leisure and recreational use of all residents or users within the planned development and may be designed for the leisure and recreational use of the general public. All common open space shall be in accordance with the following:

- A. The location, shape, size and character of common open space shall be suitable for the planned development in relation to the location, number, and types of dwelling units it is intended to serve. In any case, it shall be highly accessible to all residents or users of the planned development.
- B. The common open space shall be used for amenity and/or recreational purposes. Any uses and/or buildings authorized for the common open space must be appropriate to the scale and character of the planned unit development in relation to its size, density, expected population, topography, and the type of dwellings.
- C. The common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space with regard to its topography and unimproved condition.
- D. The proposed common open space may be conveyed to a public authority which will agree to maintain the common open space and any buildings, structures or improvements which have been placed on it. All land dedicated to the public must meet the requirements of the appropriate authority as to size, shape, and location. Public utility or other similar easements and right-of-way for water courses or other similar channels are not acceptable for common open space dedication unless such land or right-of-way is usable as a trail or other similar purpose and approved by the authority to which the land is dedicated.
- E. The proposed common open space may be conveyed to the trustees of a Homeowners Association or similar organization formed for the maintenance of the planned development. The common open space may be conveyed by covenants under such an arrangement subject to approval by the Zoning Commission. Such covenants shall restrict the common open space to the uses specified on the final development plan and provide for the maintenance of common open space in a manner which assures its continuing use for its intended purpose.

308.11 Conflict With Other Sections. Because of the special characteristics of planned developments, special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this section and those of the other articles of this zoning resolution, the provisions of this section shall prevail. Subjects not covered by this section shall be governed by the respective provisions found elsewhere in this zoning resolution.

308.12 Ownership and Divisions of Land. No tract of land may be considered for or approved as a planned development unless such tract is under single ownership or evidence of unified control of the entire site is submitted with the application. The landowner of an approved planned development shall not divide and/or transfer parts of such development unless any successor in title has been bound to complete, use, and maintain each such unit in strict conformance with the adopted final master development plan.

308.13 Relationship to the Miami County Subdivision Regulations. The uniqueness of each proposal for a planned development may require that there be modification from the specifications established in the Subdivisions Regulations of Miami County, Ohio. Modifications may be incorporated only with the approval of the Miami County Planning Commission.

308.14 Criteria for Approval of Planned Developments. Before the approval of any Planned Unit Development is granted, the Zoning Commission and Township Trustees shall find that the facts submitted with the application meet the following criteria:

- A. The Planned Development shall be consistent in all respects with the Miami County Comprehensive Plan.

- B. The Planned Development shall provide a more desirable and more diverse environment than would be possible under strict application of the standard minimum design requirements of other districts provided within this zoning resolution.
- C. The Planned Development shall provide a development pattern which preserves and utilizes the natural topography, geologic features, scenic vistas, natural vegetation, and natural drainage patterns of the site.
- D. The Planned Development shall provide an environment of stable character which promotes a harmonious relationship between land uses within the site and a harmonious relationship with surrounding development.
- E. The Planned Development shall promote greater efficiency in the use of land, but shall not impose an undue burden on public services and facilities such as fire and police protection, schools, water supply, and wastewater disposal due to excessive population densities.
- F. The Planned Development shall be accessible from public thoroughfares adequate to accommodate the traffic which will be imposed on them by the proposed development, and the proposed streets and parking areas within the site shall be adequate to serve the proposed arrangement of land uses.
- G. The Planned Development shall provide a more spacious and useful pattern of open space and recreation areas than would normally be required under the strict application of existing zoning and subdivision requirements.
- H. The Planned Development shall be designed in such a way that each individual section of the development, as well as the total development, can exist as an independent section capable of creating an environment of sustained desirability and stability, or that adequate assurance has been provided that such an objective will be attained.
- I. If governmental ownership is planned for common open space or recreational facilities within the Planned Development, its acceptance shall be approved with or prior to the rezoning action. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted.

ARTICLE IV SUPPLEMENTARY DISTRICT REGULATIONS

SECTION 400 GENERAL PROVISIONS

400.01 Applicability of Supplementary District Regulations. The supplementary district regulations of this article are applicable to all zoning districts within Elizabeth Township unless otherwise modified by the requirements of a specific zoning district.

SECTION 401 PUBLIC STREET FRONTAGE REQUIRED

401.01 Public Street Frontage Required. No new lot shall be created nor shall any building be erected upon a lot which does not possess that minimum frontage upon a public street which is required for the district in which such lot is located.

SECTION 402 PRINCIPAL BUILDINGS PER LOT

402.01 Principal Buildings Per Lot. No more than one (1) principal building or structure may be constructed upon any one (1) lot for the purposes of this zoning resolution. The construction of more than one (1) principal building or structure upon any one (1) lot shall require either the approval of a variance from the Board of Zoning Appeals or an approved Planned Development.

SECTION 403 REDUCTION OF REQUIRED AREA OR SPACE

403.01 Reduction of Required Area or Space Prohibited. No lot, yard, court, parking area, or other required space shall be reduced in area or dimension, thus making said area or dimension less than the minimum required by this zoning resolution and, if said area or dimension is already less than the minimum required by this zoning resolution, it shall not be further reduced.

SECTION 404 ARCHITECTURAL PROJECTIONS INTO REQUIRED YARDS

404.01 Projections Into Any Yard. Chimneys, flues, sills, pilasters, cornices, eaves, gutters, and other similar architectural features may project into any required yard a maximum of twenty-four (24) inches.

404.02 Unroofed Porches and Steps. Unroofed porches and steps may extend from the dwelling into the required front yard a maximum of fifteen (15) feet and up to within ten (10) feet of the property line within side or rear yards.

404.03 Open Structures. Attached open structures such as roofed porches, canopies, balconies, decks, platforms, and carports, shall be considered parts of the building to which attached and shall not project into any required yard.

404.04 Improvements Required By Americans With Disabilities Act. Decisions of the Board of Zoning Appeals regarding architectural projections required for persons with disabilities that necessitate encroachment into any required front, side, or rear yard shall be based upon the Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities (36 CFR Part 1191), as amended.

SECTION 405 MAXIMUM HEIGHT REGULATIONS FOR NON-HABITABLE STRUCTURES

405.01 Non-Habitable Structures May Exceed Maximum Height Requirement. Spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other similar appurtenances usually required to be placed above the roof level and not intended for human occupancy may exceed the maximum height requirement for the district in which the property is located, subject to the following provisions;

- A. **Maximum Height Permitted.** The maximum height of such structure shall not exceed fifty (50) feet in total height within any residential district and shall not exceed ninety (90) feet in total

height within any other type of district. Any greater overall height than those stated above shall be considered a conditional use and shall require approval by the Board of Zoning Appeals after public hearing.

- B. **Required Setback From Residential Lots.** Structures and/or appurtenances granted an exception shall be set back a distance equal to or greater than their height from any boundary of a residential lot within a residential district.
- C. **Aircraft Hazard Prohibited.** Structures and/or appurtenances shall not be granted an exception to the maximum height regulations where it is determined that a hazard will be created for the safe landing and takeoff of aircraft at an established airport or landing strip, as determined by applicable Federal, State, and local agencies.

SECTION 406 SETBACK REQUIREMENTS FOR CORNER LOTS OR THROUGH LOTS

- 406.01 Setback From Streets.** On a corner lot or through lot, the principal building and all accessory structures shall be required to have the same setback distance from all street right-of-way lines as required for the front yard in the district in which such structures are located.
- 406.02 Rear Yard Required For Corner Lot.** On a corner lot, the principal structure shall be located a distance equal to or greater than the required rear yard setback from at least one (1) lot line not located along a street.
- 406.03 Rear Yard Required For Through Lot.** On a through lot, the principal structure shall be located a distance equal to or greater than the required rear yard setback from at least one (1) lot line located along a street.

SECTION 407 FENCES, WALLS, AND VEGETATION

- 407.01 Front Yard Height Restrictions.** No fence, wall, hedge, or structure shall be permitted within any required front yard above the height of thirty-six (36) inches.
- 407.02 Height Restrictions At Intersections.** No fence, wall, hedge, fill, or structure shall be located, nor shall any vegetation be allowed to grow on any corner lot so as to create a line-of-sight impediment above a height of thirty (30) inches within the street right-of-way.
- 407.03 Side and Rear Yard Height Restrictions.** No fence or wall shall be permitted within any side or rear yard above the height of seventy-two (72) inches.
- 407.04 Removal of Sight Obstructions.** The Zoning Inspector is hereby empowered to cause removal of all sight obstructions within the front yard related to driveways and intersections in the interest of public safety.

SECTION 408 MINIMUM RESIDENTIAL FLOOR AREA

- 408.01 Single-Family Dwellings.** The minimum residential floor area per dwelling unit for a single-family dwelling within Elizabeth Township shall be one thousand six hundred (1600) square feet, exclusive of porches and garages. These requirements shall be applicable to all zoning districts.
- 408.02 Two-Family Dwellings.** The minimum residential floor area per dwelling unit for two-family dwellings within Elizabeth Township shall be in accordance with the following table. These requirements shall be applicable to all zoning districts.

| | |
|------------------|---|
| 1 Bedroom | 660 sq. ft. |
| 2 Bedroom | 900 sq. ft. |
| 3+ Bedroom | 1,100 sq. ft. plus 120 sq. ft. for each additional bedroom over 3 |

SECTION 409 SCREENING REQUIREMENTS

- 409.01 When Required.** Hereafter, no buildings or structures shall be erected, altered or enlarged nor shall land be used for any non-residential use on a lot that adjoins or faces any residential district until a plan for screening has been submitted and approved by the Zoning Inspector or the Board of Zoning Appeals, as appropriate.
- 409.02 Purpose for Screening.** Screening shall be provided for one (1) or more of the following purposes:
- A. A visual barrier to partially or completely obstruct the view of structures or activities in order to minimize or prevent nuisances;
 - B. As an acoustic screen to aid in absorbing or deflecting noise; and/or
 - C. For the containment of ambient debris and litter.
- 409.03 Types of Screening Permitted.** Screening may be one (1) of the following or a combination of two (2) or more:
- A. A solid masonry wall;
 - B. A solidly constructed decorative fence;
 - C. A louvered fence;
 - D. Dense evergreen plantings; and/or
 - E. Landscaped mounding with ground cover.
- Such screening shall be of sufficient density or opaqueness to accomplish the purposes for screening previously stated in Section 409.02.
- 409.04 Location of Screening.** Whenever any non-residential use is located upon a lot that abuts a residential zoning district, a visual screening wall, fence, mounds or planting shall be erected or placed along such mutual boundary lines. Such screening shall also be required where a multiple-family building is located upon a lot abutting a single-family residential district.
- 409.05 Height of Screening.** Visual screening walls, fences, mounds and plantings shall be not less than seventy-two (72) inches high. The maximum height of screening required in front yards shall be three (3) feet, unless the Zoning Inspector determines that a sight-distance hazard would be created.
- 409.06 Mounding Specifications.** Mounding provided in lieu of or in combination with walls, fences, and/or evergreen plantings shall consist of a strip of land as wide as necessary to obtain a maximum slope of three (3) horizontal to one (1) vertical (angle of repose) for the required height. Mounding shall be planted with a ground cover suitable to prevent erosion.
- 409.07 Required Depth for Noise Screening.** Screening for the purpose of absorbing or deflecting noise shall have a depth of at least fifteen (15) feet of mounding with plantings or ground cover or be a solid masonry wall in combination with decorative plantings.
- 409.08 Protection and Maintenance of Screening.** Whenever required screening is adjacent to parking areas or driveways, such screening shall be protected by bumper blocks, posts or curbing to avoid damage by vehicles. All screening shall be trimmed and maintained in good condition and remain free of all advertising or other signs. Live vegetation used for screening shall receive regular maintenance, including trimming, mowing, and replacement of diseased plant materials.

SECTION 410 EXTERNAL EFFECTS

- 410.01 Objectionable Effects Prohibited.** No land, building, or structure within any zoning district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable effect through fire, explosive hazard, noise, brilliant light, vibration, smoke, dust, fumes, odor, air pollution, heat, cold, dampness, electrical disturbance, electronic disturbance, nuclear radiation, or any similar condition to any person or property outside of the premises on which such use, building or structure is located. Such uses, when lawfully permitted under the provisions of this zoning resolution, shall be operated in a manner so as to insure that the property rights of all other parcels of land will not be adversely affected.

410.02 Maintenance of Vegetation Required. All vegetation upon any property less than five (5) acres in size within any zoning district shall be maintained in a manner reasonable and customary within the remainder of Elizabeth Township. Bona fide farm crops and fallow cropland are exempt from this provision. Grasses on all such properties shall be maintained at a height no greater than six (6) inches. All landscaping required under this zoning resolution shall be trimmed and maintained in good condition. Live vegetation used for screening or other purposes under this zoning resolution shall be maintained in a living state and receive regular maintenance, including trimming, mowing, replacement of diseased plant materials, and otherwise kept so as to accomplish its desired effect.

410.03 TALL GRASS / TRASH / DEBRIS. See page 95

SECTION 411 OUTDOOR STORAGE

411.01 Storage of Flammables and Explosives. With the exception of tanks or drums of fuel directly connected with heating devices or appliances located on the same lot as such tanks or drums of fuel, as well as bona fide farms, no highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground outside of any I-1 Limited Industrial District. No flammables or explosives shall be stored in a manner not approved by the Elizabeth Township Fire Chief.

411.02 Enclosure of Fuel, Raw Materials, and Product Storage Areas. All outdoor storage facilities for fuel, raw materials, and products shall be enclosed by a fence, wall, or planting in such a manner to conceal such facilities from adjacent residential property.

411.03 Closed Containers Required. All materials or wastes which might cause fumes, dust, or which constitute a fire hazard or which may be edible or attractive to rodents or insects shall be stored outdoors only in closed containers constructed of impervious material.

411.04 Transfer Off Property. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by wind, flood, or natural causes or forces.

411.05 Junk Accumulation Prohibited. The accumulation of trash, junk vehicles, vehicle parts, rags, or any other debris within any zoning district shall be considered a nuisance per se, and shall be prohibited outside an enclosed building or an approved junk yard. The purpose of this provision is to promote the health, safety, and general welfare of the residents of Elizabeth Township by eliminating environments for breeding vermin, rodents, insects, and other infestations.

411.06 Junk Vehicles Prohibited. The storage of a junk or inoperable vehicle outside of a completely enclosed building is prohibited. The outdoor storage of two (2) or more junk or inoperable vehicles shall be construed to be a junk yard and is prohibited within all zoning districts without necessary and proper approval in accordance with this zoning resolution.

SECTION 412 IMPROVEMENTS ON EXISTING SMALL AND NARROW LOTS IN RESIDENTIAL ZONING DISTRICTS

412.01 Improvements Permitted on Existing Small Lots. Upon existing lots of record as of the effective date of this amendment to this zoning resolution (Effective Date: April 14, 2000) which are located in a residential zoning district and have a lot area less than one and one-half (1.5) acres and/or lot frontage less than the required minimum, a single-family dwelling and/or accessory building may be improved subject to the provisions of this section rather than the standards set forth in the residential zoning district in which such lot is located.

412.02 Site Plan Required
A plan of the proposed improvement shall accompany the required submission material. Such plan shall be drawn to a scale of no less than one (1) inch equal to twenty (20) feet and shall accurately depict:

- A. All lot dimensions.
- B. The location, size, and use of all structures upon the lot, both existing and proposed.
- C. All proposed improvements to structures upon the lot.
- D. The location and design of driveways serving off-street parking needs.
- E. The location of any existing or proposed on-site wastewater disposal system and replacement area.
- F. A description of the existing uses on lots adjacent to the proposed lot, including the distance between any structure and the common lot line dividing the adjacent property with the property in question.

412.03 Development Standards

- A. Front Yard. The front yard setback shall not be less than the average distance between the principal structures and the public right-of-way for all lots on the same side of the street located within three hundred (300) feet of the property in question. In no case shall the Zoning Inspector allow a front yard setback less than ten (10) feet.
- B. Side Yard. A minimum side yard equal to or less than one-half (.5) the height of the adjacent portion of the building shall be required. In no case shall the Zoning Inspector allow a side yard setback less than eight (8) feet for principal buildings up to one and one-half (1.5) stories in height and ten (10) feet for all other principal buildings.
- C. Rear Yard. The minimum rear yard of the zoning district shall apply.
- D. Lot Coverage. In no case shall the Zoning Inspector allow lot coverage to exceed fifty percent (50%) or the required area of the on-site leaching system and replacement area, whichever requires more open space.
- E. Accessory Buildings. In no case shall the Zoning Inspector allow any accessory building closer than five (5) feet from any side lot line or closer than ten (10) feet from any rear lot line.

ARTICLE IX ADMINISTRATIVE BODIES AND THEIR DUTIES

SECTION 901 TOWNSHIP ZONING INSPECTOR

901.01 Appointment. The Township Trustees shall appoint a Township Zoning Inspector, together with such assistants as the Trustees deem necessary, and designate him/her as the enforcing officer of this zoning resolution. Any official or employee of the Township may assist the Zoning Inspector by reporting to him/her any new construction, reconstruction, land use change, or suspected violation.

901.02 Duties. The Township Zoning Inspector shall be responsible for the following duties:

- A. **Zoning Permits.** The Zoning Inspector shall review all applications within the Township for zoning permits as outlined in Article 10, Section 1001 to insure they conform to all applicable provisions of this zoning resolution, issue such permits when appropriate, and maintain a record of all such permits.
- B. **Inspections.** The Zoning Inspector may periodically conduct on-site inspections to insure the actual construction of buildings and structures and the use of land conforms to an approved zoning permit, an approved conditional use permit, any applicable requirements of this zoning resolution, and/or the conditions and restrictions set forth for an approved appeal, variance, or planned development.
- C. **Notice of Violation.** The Zoning Inspector, upon finding that any of the provisions of this zoning resolution are being violated, shall notify, in writing, the person responsible for such violation and order the action necessary to correct such violation.
- D. **Enforcement.** The Zoning Inspector may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove any unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use within the jurisdiction of this zoning resolution.
- E. **Plat Review.** The Zoning Inspector shall review all applicable subdivision plats and lot splits within Elizabeth Township which are submitted to the Miami County Planning Commission in order to determine whether such plats or lot splits conform to all applicable provisions of this zoning resolution.

SECTION 902 TOWNSHIP ZONING COMMISSION

902.01 Establishment. The Township Trustees shall establish a Township Zoning Commission, consisting of five citizens of Elizabeth Township to be appointed by the Township Trustees. None of the members shall concurrently serve as a member of the Board of Zoning Appeals. The terms of the members shall be of such length and so arranged that the term of one (1) member will expire each year. Each member shall serve until his/her successor is appointed and qualified. Members of the Zoning Commission may be removable for nonperformance of duty, misconduct in office, or other cause by the Township Trustees, upon written charges being filed with the Township Trustees, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least ten (10) days prior to the hearing, either personally, by registered mail or by leaving such copy at his/her usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by the Township Trustees and shall be for the unexpired term.

902.02 Meetings. The Zoning Commission shall elect its own officers annually and shall adopt the rules necessary for the conduct of its affairs in keeping with the provisions of this zoning resolution. Meetings shall be held at the call of the Chair and at such other times as the Zoning Commission may determine. The Chair, or in his/her absence, the acting Chair, may administer oaths. All meetings shall be open to the public. The Zoning Commission shall keep minutes of its proceedings and shall keep records of its examinations and other official actions, all of which shall be of public record.

- 902.03 Actions.** The Zoning Commission shall act by resolution or motion. The concurring vote of three (3) members of the Zoning Commission shall be necessary to pass any motion to recommend the approval, disapproval, or modification of any proposed amendment to this zoning resolution. The results of such resolution or motion shall be forwarded to the Township Trustees for their action, except as may otherwise be provided herein.
- 902.04 Duties.** The Township Zoning Commission shall be responsible for initiating or reviewing all proposed amendments to this zoning resolution and make recommendations to the Township Trustees in accordance with Article 10, Section 1004.

SECTION 903 BOARD OF ZONING APPEALS

- 903.01 Establishment.** The Township Trustees shall appoint five (5) residents of the Township to the Board of Zoning Appeals. The terms of all members shall be so arranged that the term of one (1) member shall expire each year. Each member shall serve until his/her successor is appointed and qualified. Members of the Board of Zoning Appeals may be removable for nonperformance of duty, misconduct in office, or other cause by the Township Trustees, upon written charges being filed with the Township Trustees, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least ten (10) days prior to the hearing, either personally, by registered mail, or by leaving such copy at his/her usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by resolution of the Township Trustees and shall be for the unexpired term.
- 903.02 Meetings.** The Board of Zoning Appeals shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this zoning resolution. Meetings shall be held at the call of the Chair and at such other times as the Board of Zoning Appeals may determine. The Chairman, or in his/her absence the Acting Chair, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member upon 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 a public record and be immediately filed in the office of the Board of Zoning Appeals.
- 903.03 Actions.** In exercising its duties, the Board of Zoning Appeals may, as long as such action is in conformity with the terms of this Resolution, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the power of the Zoning Inspector from whom the appeal is taken. The concurring vote of three (3) members of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this zoning resolution.
- 903.04 Duties.** For the purpose of this zoning resolution, the Board of Zoning Appeals has the following specific responsibilities:
- A. Appeals. To hear and decide appeals in accordance with Article 10, Section 1003 where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Inspector.
 - B. Variances. Where an applicant has provided sufficient evidence to warrant the granting of a variance, to authorize such variances from the terms of this zoning resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of this zoning resolution will result in unnecessary hardship, and so that the spirit of this zoning resolution shall be observed and substantial justice done. The consideration of such variances shall be in accordance with Article 10, Section 1003.

- C. Conditional Use Permits. To grant conditional use permits as specified in Article 10, Section 1002, and such additional safeguards as will uphold the intent of the Zoning Resolution.

SECTION 904 TOWNSHIP TRUSTEES

904.01 No Interpretation Powers. It is the intent of this zoning resolution that all questions of interpretation shall be first presented to the Zoning Inspector, and that such questions shall be presented to the Board of Zoning Appeals only on appeal from the decision of the Zoning Inspector, and that recourse from the decisions of the Board of Zoning Appeals shall be to the courts as provided by law. It is further the intent of this zoning resolution that the duties of the Township Trustees in connection with this zoning resolution shall not include hearing and deciding questions of interpretation that may arise. The procedure for deciding such questions shall be as stated in Article 10, Section 1003.

904.02 Duties. The Township Trustees shall be responsible for the following duties:

- A. Appointments. To appoint a Zoning Inspector, members of the Township Zoning Commission, and members of the Board of Zoning Appeals.
- B. Establish Fee Schedule. To establish a schedule of fees for issuing zoning permits, appeals, variances, conditional use permits, processing amendments, and any other zoning actions requiring postage, legal advertising, inspections, or general process of applications.
- C. Amendments. To consider and adopt, reject or modify all proposed amendments to this zoning resolution as provided in Article 10, Section 1004.

ARTICLE V SUPPLEMENTARY USE REGULATIONS

SECTION 500 GENERAL PROVISIONS

- 500.01 Applicability of Supplementary Use Regulations.** The supplementary use regulations of this article are applicable to the specified uses and/or structures.

SECTION 501 HOME OCCUPATIONS

- 501.01 Limitation on Employees.** Not more than one (1) person shall operate a home occupation or be employed thereunder other than a resident of the premises unless approved by the Board of Zoning Appeals.
- 501.02 Relation To Dwelling Unit.** All home occupations shall be conducted entirely within the dwelling unit, and the use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. Not more than twenty-five percent (25%) of the gross floor area of any dwelling unit shall be used for a home occupation.
- 501.03 Relation To Accessory Buildings.** Home occupations shall not be permitted in any accessory building within any district other than an Agricultural District. Any home occupation located within an accessory building exceeding six hundred (600) square feet in floor area shall be subject to review and approval by the Board of Zoning Appeals to insure that the character of the neighborhood is maintained, where applicable.
- 501.04 Outside Appearance and Signage.** There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the building in which the home occupation is located. Home occupations located within an agricultural zoning district may be permitted one (1) non-illuminated freestanding sign with a maximum sign area of eight (8) square feet and set back a minimum of ten (10) feet from the street right-of-way.
- 501.05 Sale of Commodities.** There shall be no sale on the premises of commodities not produced as the result of the home occupation.
- 501.06 Traffic Limitations.** The home occupation shall not use a driveway separate than that used for the principal dwelling. Not more than one (1) vehicle nor any commercially licensed vehicle larger than a one (1) ton truck shall be used in connection with any home occupation within a residential zoning district. No traffic shall be generated by such home occupation in greater volume than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in this zoning resolution, and shall not be located in a required front yard.
- 501.07 External Effects.** Equipment or processes shall not be used in such home occupation which create noise, vibrations, glare, fumes, odors, or electrical interference detectable off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio, television receiver off the premises, or cause fluctuations in voltage off the premises.
- 501.08 Hazardous Material Prohibited.** No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials shall be used or stored on the site.
- 501.09 Hours of Operation.** In no case shall a home occupation be open to the public at times earlier than 8:00 a.m. nor later than 10:00 p.m.
- 501.10 Advertising.** No advertisement shall be placed in any media containing the address of the property for any home occupation located within a residential district.

SECTION 502 ACCESSORY BUILDINGS AND STRUCTURES

- 502.01 Mobile Homes and Tractor Trailers Prohibited As Accessory Structures.** No mobile home shall be used as an accessory structure, except as provided under Article 5, Section 509 of this zoning resolution. No tractor trailer shall be used as an accessory structure or for accessory storage within any residential zoning district.
- 502.02 Prohibited Within Front or Side Yards.** No garage or other accessory building shall be erected or located within a required side yard or front yard. All accessory buildings located less than ninety-five (95) feet from the front property line and not completely to the rear of a dwelling shall be designed as a part of the principal structure or connected thereto by a covered breezeway.
- 502.03 Required Setback.** When located at least ninety-five (95) feet from the front property line and completely to the rear of the main dwelling, an accessory building may be erected not less than ten (10) feet from the side or rear lot lines nor less than ten (10) feet from the main building.
- 502.04 Location Over Leach Area Prohibited.** No accessory building shall be located over or within ten (10) feet of any required on-site wastewater leaching area of replacement area designated by the Miami County Health Department.
- 502.05 Maximum Number and Bulk Requirements For Accessory Buildings.** Accessory buildings shall not exceed the following number and bulk requirements:

| <u>Lot Size</u> | <u>Maximum Floor Area For Any One Building</u> | <u>Maximum Total Floor Area For All Accessory Buildings</u> | <u>Maximum Number</u> |
|----------------------------|--|---|-----------------------|
| 5 acres or more | 1,520 sq. ft. (38' x 40') | No Restriction | No Restriction |
| 1.5 to 4.999 acres | 1,080 sq. ft. (30' x 36') | 1,600 sq. ft. | 2 |
| 8,000 sq. ft to 1.499acres | 624 sq. ft. (24' x 26') | 768 sq. ft. | 2 |

These requirements do not apply to any bona fide agricultural building unless such area is subject to the provisions of Section 504.

SECTION 503 PRIVATE ACCESSORY SWIMMING POOLS AND GAME COURTS

- 503.01 Location Requirements.** No private accessory swimming pool or game court shall be located closer than fifteen (15) feet to any property line, shall not encroach upon any required front yard or side yard, or encroach upon any required on-site wastewater leaching areas or replacement areas designated by the Miami County Health Department.

SECTION 504 AGRICULTURAL RESTRICTIONS WITHIN PLATTED TERRITORY

- 504.01 Required Conditions.** All agricultural use and structures within applicable platted areas shall be in accordance with the requirements of this section.
- 504.02 Relation To Other Requirements.** The provisions of this article shall be in addition to any and all other provisions contained in this zoning resolution applicable to any building, structure or land, or use thereof, regardless of the district in which such is located.
- 504.03 Applicable Platted Territory.** The provisions of this section shall apply to any platted and recorded subdivision approved under Section 711.05, 711.09, or 711.10 of the Ohio Revised Code, or in any area consisting of fifteen (15) or more lots approved under Section 711.131 of the Ohio Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road. Platted territory applicable to this section shall be designated on a map maintained by the Zoning Inspector and available for inspection at the Elizabeth Township offices.

- 504.04 Agricultural Use and/or Structures on Lots of One Acre or Less.** The use of land for agricultural purposes, or the erection, construction or alteration of any building or structure incident to the use of land for agricultural purposes, is prohibited on lots less than one (1) acre in size within platted territory covered under this section, unless approved by the Board of Zoning Appeals as a conditional use in accordance with the procedures specified in Article 10, Section 1002. In approving such conditional use, the Board of Zoning Appeals shall make a finding that the scale and type of such use is in character with the platted area and does not pose a nuisance.
- 504.05 Agricultural Buildings and Structures on Lots Greater Than One Acre but Not Greater Than Five Acres.** All buildings and structures incident to the use for agricultural purposes which are located on lots greater than one (1) acre in size but not greater than five (5) acres in size and are located within platted territory covered under this section shall be subject to the same setback, height, and size regulations otherwise applicable in the zoning district in which such building or structure is located.
- 504.06 Dairying and Animal and Poultry Husbandry Prohibited.** Within platted territory covered under this section and when at least thirty-five percent (35%) of the lots in such platted territory are developed with at least one (1) building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured homes under Section 4503.06 of the Ohio Revised Code, and when located on lots greater than one (1) acre in area but not greater than five (5) acres, dairying or animal or poultry husbandry is prohibited unless approved as a conditional use in accordance with the procedures specified in Article 10, Section 1002. In approving such conditional use, the Board of Zoning Appeals shall make a finding that the scale and type of such use is in character with the platted area and does not pose a nuisance.

SECTION 505 EXISTING FARM DWELLINGS ON SMALL LOTS

- 505.01 Transfer Permitted On Small Lots.** Within the A-1 Agricultural District, the transfer of an existing farm dwelling which is no longer useful to a farming operation may be permitted on a lot smaller than the required minimum lot size provided the requirements of this section are met.
- 505.02 Must Be Pre-Existing Dwelling.** The lot shall only be created for the transfer of a farm dwelling which was issued a building permit and/or constructed prior to the effective date of this section of the Elizabeth Township Zoning Resolution. (Effective Date: April 14,2000)
- 505.03 Health Department Approval Required.** The lot size and configuration shall be approved by the Miami County Health Department for the location of on-site water supply and wastewater disposal systems prior to approval by the Board of Zoning Appeals.
- 505.04 Required Development Standards.** The minimum lot area, lot frontage, and side and rear yard setbacks shall conform to the requirements for the R-2 Rural Residential District.
- 505.05 Accessory Buildings.** Any agricultural buildings that will no longer be used for farming purposes should be considered for inclusion within the lot split for use as accessory structures with the transferred dwelling, If they are not deemed useful for farming or as accessory buildings to the residence, the Board of Appeals may consider a condition that they be razed before the transfer is authorized.

SECTION 506 ADDITIONAL SINGLE-FAMILY DWELLING IN A-1 AGRICULTURAL DISTRICT

- 506.01 Additional Single-Family Dwelling Permitted.** Within the A-1 Agricultural District, one (1) single-family dwelling may be permitted in addition to the principal single-family dwelling when the Board of Zoning Appeals makes a finding that the requirements of this section are met.
- 506.02 Limit Per Pre-Existing Parcel of Record.** No more than one (1) additional single-family dwelling shall allowed for any original tract parcel of record existing at the effective date of this section of the Elizabeth Township Zoning Resolution. (Effective Date: April 14,2000)

- 506.03 Lot Split May Be Allowed.** The additional single-family dwelling may be split off the original tract parcel if specifically permitted by the Board of Zoning Appeals. The minimum lot area, lot frontage, and side and rear yard setbacks for both the original and the additional dwellings shall be in accordance with to the requirements for the R-2 Rural Residential District.
- 506.04 Health Department Approval Required.** The approval of the additional single-family dwelling shall be conditional, subject to approval by the Miami County Health Department. Any permitted lot split shall have its size and configuration approved by the Miami County Health Department for the location of on-site water supply and wastewater disposal systems prior to approval by the Board of Zoning Appeals.
- 506.05 Relation To Agricultural Uses.** The additional single-family dwelling site shall be located so as to cause minimal disruption to the agricultural value of the land. Such site may be limited to a portion of the farm non-utilitarian for cultivation due to shape, size, soils, tree cover, or other such factors acceptable to the Board of Zoning Appeals. In addition, the Board of Zoning Appeals may deny an additional dwelling site if it finds that it will be detrimental to surrounding agricultural uses.

SECTION 507 AGRIBUSINESS

- 507.01 Required Conditions.** No conditional use permit shall be issued for any agribusiness operation unless the conditions set forth in this section have been satisfied.
- 507.02 Relation To Surrounding Agricultural Community.** The agribusiness establishment shall be incidental and necessary to the conduct of agriculture within the agricultural district and shall not be a business which is not dependent upon the surrounding agricultural community.
- 507.03 Setback From Residential Uses.** The minimum distance permitted between the agribusiness establishment and any existing dwelling unit or existing residential district shall be established by the Board of Zoning Appeals based upon the character of the agribusiness. In no event shall storage facilities be located closer than one hundred (100) feet from a side Or rear lot line. In no event shall any processing facilities be located closer than two hundred (200) feet from a side or rear lot line.
- 507.04 On-Site Water or Wastewater Systems.** The agribusiness establishment shall have approval from the Ohio Environmental Protection Agency for any on-site water supply and/or wastewater disposal system.
- 507.05 External Effects.** The agribusiness shall not emit noise, odor, dust, or chemical residues which result in the creation of a nuisance or trespass to surrounding properties.
- 507.06 Thoroughfare Access.** The agribusiness shall be located upon a thoroughfare which the Board of Zoning Appeals determines is adequate to accommodate any traffic which is generated by the agribusiness establishment.
- 507.07 Emergency Response Plan.** The application shall include an emergency response plan for all areas potentially affected by a fire or a chemical release, if applicable.

SECTION 508 FARM MARKETS

- 508.01 Subject To Zoning District Standards.** All farm markets shall be subject to the regulations concerning structure size, building setback lines, parking area, and ingress and egress otherwise applicable in the zoning district in which the farm market is located.
- 508.02 Location In Residential District.** Farm markets within residential zoning districts shall be in accordance with accessory building requirements and such lots shall not have not more than four (4) parking spaces.
- 508.03 Distinction From Retail Store.** The use of any land for a farm market where less than fifty percent (50%) of the gross income is received from agricultural products produced on farms owned or operated by the market owner in a normal crop year shall be considered a retail store and is prohibited in all districts except the B-1 Township Business District, and shall be subject to all regulations otherwise applicable in such district.

SECTION 509 TEMPORARY MOBILE HOMES

- 509.01 Lot Must Have Existing Residential Structure.** The temporary placement of a mobile home upon a lot which already contains a residential structure may be permitted as a conditional use. A temporary mobile home permitted pursuant to this section shall be considered a conditional use within the district in which it is located and shall meet all yard and setback requirements of the zoning district in which it is located.
- 509.02 Special Circumstances Required.** A temporary mobile home may be authorized by the Board of Zoning Appeals where the Board of Zoning Appeals finds that special circumstances or conditions such as fires, windstorms, or other exceptional events have occurred which are fully described in the findings of the Board of Zoning Appeals, such that the use of a temporary residential structure is necessary in order to prevent an exceptional hardship on the applicant, provided that such a temporary structure does not represent a hazard to the health, safety, morals or welfare of the community.
- 509.03 Written Statement From Health Department Required.** The applicant must produce a written statement from the Miami County Health Department approving the water supply and wastewater disposal system of the temporary mobile home location.
- 509.04 Required Anchoring.** All mobile homes permitted under this section shall be anchored with tie-downs for securing its stability during periods of high wind velocity.
- 509.05 Required Pad.** The Board of Zoning Appeals may require any mobile home permitted under this section to be placed either on a full concrete pad, concrete runners, concrete pilaster pad, or on compacted gravel.
- 509.06 Required Skirting.** All mobile homes permitted under this section shall be completely skirted with an opaque and attractive material, entirely enclosing the bottom section, within thirty (30) days after its placement.
- 509.07 Time Restrictions on Temporary Permit.** A temporary conditional use permit shall initially be issued for a total of six (6) months. Such permit shall be reviewed every six (6) months by the Board of Zoning Appeals to determine if the conditions of approval are being complied with and such hardship still remains. Such approval and renewal may be revoked by the Board of Zoning Appeals any time the Board of Zoning Appeals finds the hardship has expired and/or the conditions of approval have been violated. The Board of Zoning Appeals may establish a longer time period for specific special circumstances.

SECTION 510 BED AND BREAKFAST HOMES AND INNS

- 510.01 Access.** The bed and breakfast operation shall have access to a public thoroughfare with a hard surface and shall not require passage of traffic through residential neighborhoods.
- 510.02 Parking.** Off-street parking for the bed and breakfast facility shall be located in a manner not detrimental to surrounding properties. Screening of the parking area may be required by the Board of Zoning Appeals.
- 510.03 External Appearance.** There shall be no change in the external appearance of the building or lot or other visible evidence of the conduct of the bed and breakfast facility, other than the permitted sign, that will indicate that the premises is used for any purpose other than a dwelling.
- 510.04 Operator Must Be Resident.** The operator of the bed and breakfast facility shall live on the premises.
- 510.05 Permitted Sign.** The bed and breakfast facility shall be permitted to have only one (1) sign. Such sign shall have a maximum sign area of six (6) square feet and shall be located a minimum of ten (10) feet from the street right-of-way.

- 510.06 No Special Gatherings.** The bed and breakfast facility shall not be rented out for special gatherings such as wedding receptions, parties, and reunions.
- 510.07 Capacity Limit.** The Board of Zoning Appeals may limit the guest capacity of the bed and breakfast facility based upon the size of the dwelling structure, size of the lot, and character of surrounding land use.

SECTION 511 PRIVATE LANDING STRIPS

- 511.01 Approval By State of Ohio.** All private landing strips shall be approved by the Ohio Department of Transportation. Division of Aviation prior to issuance of a conditional use permit.
- 511.02 Location of Private Landing Strips.** All private landing strips shall be situated upon a property such that no existing residential dwelling, school, child care nursery, and/or residential zoning district is located within a restricted area at each end of the landing strip. Each restricted area shall be defined as an area enclosed by two lines and an arc; the two lines each beginning at the end of the runway along its center line and radiating fifteen (15) degrees on either side of the extension of such center line and the arc a distance of one thousand (1,000) feet from the center line endpoint of such landing strip.

SECTION 512 CEMETERIES

- 512.01 Required Conditions.** The conditions set forth in this section shall apply to the development and construction of cemeteries within Elizabeth Township.
- 512.02 Conflict With Thoroughfare Plan Prohibited.** The site proposed for a cemetery shall not interfere with the development of a system of collector and larger streets in the vicinity of such site as designated by the Miami County Thoroughfare Plan. In addition, such site shall have direct access to a thoroughfare which the Board of Zoning Appeals determines is adequate to serve the size of facility proposed.
- 512.03 Minimum Size.** Any new cemetery shall be located on a site containing not less than forty (40) acres.
- 512.04 Required Setbacks For Buildings.** All buildings, including but not limited to mausoleums and maintenance buildings, shall respect the required yards setback of the district in which it is located.
- 512.05 Required Setbacks For Burial Sites.** All graves or burial lots shall be set back not less than twenty-five (25) feet from any street right-of-way line.
- 512.06 Required Landscaping and Maintenance Plan.** All required yards shall be landscaped and maintained in good order in accordance with state and local regulations. A plan for perpetual care of the grounds shall be required.

SECTION 513 PRIVATE RECREATION FACILITIES

- 513.01 Required Conformance.** All private recreation facilities shall be in accordance with the following provisions in addition to any conditions specified by the Board of Zoning Appeals.
- 513.02 Recreational Vehicle Parks and Campgrounds.** Recreational vehicle parks and campgrounds shall be in accordance with the provisions of this section in addition to any other conditions specified by the Board of Zoning Appeals.
 - A. Minimum Total Area. The minimum total area of the park or campground shall be five (5) acres.
 - B. Maximum Density. The maximum density of the park or campground shall be established by the Board of Zoning Appeals, but in no case shall the overall density exceed twelve (12) campsites per acre. In determining the overall density limit, the capability of the land to accommodate adequate campsites with a minimum of one thousand five hundred (1,500) square feet of nearly level and well drained area shall be considered.

- C. Thoroughfare Access. The thoroughfare upon which the park or campground is located shall be of adequate width and base to accommodate the type of traffic generated by such park or campground, as determined by the Board of Zoning Appeals. No entrance or exit from the park or campground shall require movement of traffic through a residential district.
- D. Parking Spaces. Each campsite within the park or campground shall be provided with a minimum of one (1) adequately sized parking space for the type of vehicle intended to use the site. In order to guarantee stability, the parking pad shall be composed of concrete, gravel, or other approved material.
- E. Setbacks For Campsites. All recreational vehicle sites, other camping sites, and all off-street parking spaces shall be located a minimum of twenty (20) feet from any side or rear property line, and not less than the required front yard setback from any public street. The minimum side or rear setbacks shall be fifty (50) feet when adjacent to any residential district.
- F. Screening. The Board of Zoning Appeals may require fencing, walls, landscaping, earth mounds, or other suitable efforts where it is determined that buffering or screening is necessary to minimize land use conflicts and/or protect the public safety.
- G. Internal Facilities. Management structures, recreational facilities, toilets, showers, dumping stations, or other similar uses shall be located within the park or campground in such a manner that they will not attract customers other than occupants of the park or campground.
- H. Water/Wastewater Facilities. The park or campground shall provide water supply and wastewater disposal facilities which meet the needs of the intended clientele, either independent recreational vehicles or dependent campers and primitive campsites. At a minimum, a service building with showers and toilets shall be required where not provided separately. All water supply, wastewater disposal, and refuse disposal facilities shall be located and designed subject to the approval of the Miami County Health Department.
- I. Permanent Residence Prohibited. No recreational vehicle shall be used as a permanent place of residence or business within the park or campground. Continuous occupancy for longer than any thirty (30) day period within any twelve (12) month period shall be deemed permanent occupancy.
- J. Traffic Access. All traffic into and out of the park or campground shall be through entrances and exits designed for safe and convenient movement of traffic. No entrance or exit shall require an acute angle turn for vehicles moving into or out of the park. The radii of curbs and pavements at intersections shall facilitate easy turning movements. No material impediment to visibility shall be created.

513.03 Golf Courses. Golf courses shall be in accordance with the following:

- A. Thoroughfare Access. The golf course shall be located on the major street network such that any entrance or exit shall not require movement of traffic through a residential district.
- B. Screening. The Board of Zoning Appeals may require fencing, walls, landscaping, earth mounds, or other suitable efforts where it is determined that buffering or screening is necessary to minimize land use conflicts and/or protect the public safety.
- C. On-Site Water Supply and Wastewater Disposal. All water supply and wastewater disposal systems shall be subject to approval by the Ohio Environmental Protection Agency and/or Miami County Health Department, as appropriate. Prior to approval the applicant shall provide a study illustrating the effects water usage by the golf course will have on the underground water supply in the vicinity.

513.04 Other External Effects. All private recreation facilities shall be in accordance with the following:

- A. Noise. Loudspeakers, juke boxes, public address systems, and electric amplifiers shall be permitted insofar as they do not create a nuisance within any district.
- B. Lighting. Exterior lighting shall be shaded wherever necessary in order to avoid casting direct light upon any other property or a public street.
- C. Firing Lines. Firing lines used by gun clubs shall be located a minimum of five hundred (500) feet from the nearest property line. All target areas shall be protected by natural or artificial embankments approved by the Board of Zoning Appeals.
- D. Water Activities. All water activities shall be adequately protected by fences, walls, or other suitable barriers in order to prevent uncontrolled access by unauthorized persons.

SECTION 514 JUNK YARDS

514.01 Required Conditions. A conditional use permit shall not be issued for a junk yard unless the conditions set forth in this section have been satisfied.

514.02 County License Required. The operator of the junk yard shall possess a license from the Miami County Auditor.

514.03 Pest Control Plan Required. The junk yard operation shall provide a plan for the control of insects, rodents, and other disease vectors. All vehicles stored or kept in such yards shall be so kept that they will not catch or hold water in which mosquitoes may breed, and so that they will not constitute a place or places in which mice or other vermin may be harbored, reared, or propagated.

514.04 Access Control Required. The area of the site used for the storage of junk shall be completely enclosed by a fence or other suitable enclosure to attempt to prevent any uncontrolled access by unauthorized persons.

514.05 Required Screening. The site shall contain mounding, fence screening, or natural vegetation adequate to obscure the view of junk from an abutting public street or surrounding property, as determined by the Board of Zoning Appeals. Any fence required for screening purposes shall be in accordance with the following requirements:

- A. It shall be neatly constructed of opaque material.
- B. It shall not be less than six (6) feet in height.
- C. It shall be maintained in a condition so as to insure its opaqueness.
- D. It shall contain no advertising.

514.06 Setback from Dwellings and Residential Districts. All junk yards shall be located at least five hundred (500) feet from any residential district and/or any existing residential dwelling.

SECTION 515 SANITARY LANDFILLS

515.01 Required Conditions. Sanitary landfills may be permitted as a conditional use upon submission of satisfactory proof that such operations will not be detrimental to surrounding properties or to the environment. Compliance with the requirements contained in Sections 515.04 through 515.14 inclusive shall be guaranteed by the applicant prior to the issuance of a conditional use permit.

515.02 Application Requirements. All conditional use permit applications for sanitary landfills within Elizabeth Township shall be accompanied by the following information, at a minimum:

- A. Vicinity maps, drawn at a scale of one (1) inch equal to one thousand (1,000) feet, illustrating the proposed site in relation to surrounding existing and proposed land uses, existing and proposed roads, surrounding zoning districts, and the Miami County Comprehensive Plan.

- B. Topographic maps, drawn at a scale no greater than one (1) inch equal to two hundred (200) feet with five (5) foot contour intervals, showing the existing and the proposed final physiographic layout of the site.
- C. A hydrogeologic and surface drainage study of the site conducted by a qualified professional engineer registered in the State of Ohio, illustrating the various depths, thickness', and hydrologic characteristics of underlying geologic deposits and the depth, direction of now, and potential for contamination of the underground water supply.
- D. A plan for monitoring underground water contamination.
- E. A transportation plan for the site illustrating any proposed external routes or access to the landfill site and any proposed internal circulation routes within the landfill site.
- F. Proposed methods of control for insects, rodents and other disease vectors.
- G. Proposed methods of controlling odor, dust, and/or blowing debris such as paper.
- H. Proposed methods for screening.
- I. Proposed hours of operation.
- J. The location and size of proposed shelters for landfill personnel and equipment.
- K. A proposed plan for future use of the site.

- 515.03 Permit To Install Required.** All proposed sanitary landfill operations shall be required to secure a "Permit to Install" from the Ohio Environmental Protection Agency prior to the conditional use permit becoming effective.
- 515.04 Screening.** The site shall contain mounding or screening adequate to obscure the view of the landfilling operation from any public street, existing dwelling unit, or any residentially zoned property.
- 515.05 Water Pollution.** The site shall be limited to areas where surface or underground water pollution will not occur.
- 515.06 Access From Residential Areas.** The site shall not be accessible from any established residential area.
- 515.07 Odor Control.** The site shall be so located and operated as to minimize the effects of winds carrying objectionable odors to urbanized or urbanizing areas.
- 515.08 Attendant Required.** An attendant shall be on duty during the time the sanitary landfill site is open to supervise the unloading of refuse.
- 515.09 Control Of Blowing Debris.** Blowing paper shall be controlled by providing a portable fence near the working area. The fence and area shall be policed daily.
- 515.10 Open Storage/Burning Prohibited.** There shall be no open storage or burning of refuse or garbage.
- 515.11 Vector Control.** Conditions unfavorable for the production of insects, rodents, and other disease vectors shall be maintained by carrying out routine landfill operations promptly in a systematic manner.
- 515.12 Domestic Animals Excluded.** Domestic animals shall be excluded from the site.

- 515.13 Cover Layer Required Daily.** A compacted layer of at least six (6) inches of suitable cover material shall be placed on all exposed refuse by the end of each working day.
- 515.14 Other Required Conditions.** Other conditions which the Board of Zoning Appeals deems necessary to insure that the sanitary landfill operation will not be detrimental to surrounding properties or to the environment.
- 515.15 Hazardous Waste Restriction.** No hazardous waste, defined under Ohio Revised Code Section 3724.01 (J) (1) and (2), and the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806-2812, 42 U.S.C. 6921 to 6931 shall be deposited in or stored on any site designated as a sanitary landfill under Section 515 of this zoning resolution without application for and receipt of a hazardous waste storage-burial conditional use permit from the Board of Appeals and submission of an operating plan by the proposed site operator to include the following information and assurance:
- A. The full legal and corporate name of the site operator to include any other names used by said site operator within the past five (5) years, and the names of all the officers of the said proposed operator and include detailed resumes of same indicating prior experience or expertise in the operation of a hazardous waste storage-burial facility.
 - B. A detailed listing of the specific types of hazardous waste to be stored on site to include chemical and generic designation and known effects on flora and fauna of same.
 - C. A complete fire and population evacuation plan for all areas within five (5) miles of the site center.
 - D. A complete geologic and hydrologic study of the site showing site barrier control sufficient to prevent all off-site leachate transmission and insure protection of all water supplies.
 - E. Operator shall submit the name of its waste transport company to include the type of vehicles to be used to transport the hazardous waste and the training of the driver-operators.
 - F. Operator shall submit a plan for the control of malodorous airborne pollutants so that no such odors are transported off-site.
 - G. Operator-applicant shall present proof to the Board of licensure for Hazardous Waste Storage under Section 3734.03 of the Ohio Revised Code prior to issuance of any conditional use permit by the Board of Zoning Appeals.
 - H. Operator-applicant shall present proof of bond or surety to the sum set by Zoning Board of Appeals subject to the approval of the Township Trustees. Proof of bond shall be required prior to the grant of a conditional use permit for Hazardous Waste Storage in Elizabeth Township.
- 515.16 Inspections and Enforcement.** The Zoning Inspector or a Miami County Health Department employee may visit the site at any time and may have cause for a cease and desist order if the owner and/or operator of a sanitary landfill is in violation of any of the above sections or any other conditions imposed by the Board of Zoning Appeals.

SECTION 516 CHILD CARE NURSERY

- 516.01 Applicability.** The standards set forth in this section shall apply to the development of child care nurseries within Elizabeth Township.
- 516.02 Thoroughfare Access.** The site shall not create excessive traffic on local residential streets.
- 516.03 Required Play Area.** An outdoor play area shall be required. The minimum size of such play area shall be no less than two-hundred (200) square feet per each child. The minimum width or depth of such play area shall be twenty (20) feet. Such play area shall also be completely enclosed by a fence or wall a minimum of forty-two (42) inches in height.

516.04 Required Screening. The required play area shall be screened along all sides which are within fifty (50) feet of a lot within a residential district. All sides of the parking lot which face any dwelling or residential district shall be screened.

516.05 Maximum Enrollment. The Board of Zoning Appeals may establish a maximum enrollment based upon neighborhood impact.

SECTION 517 BILLBOARDS

517.01 Required Conformance. All billboards within Elizabeth Township shall be in accordance with the provisions of this section.

517.02 Permitted Locations. Billboards may be erected on free-standing structures only in the A-1 Agricultural District and the I-1 Limited Industrial District. Billboards may be erected on any side or rear building wall only in the A-1 Agricultural District, B-1 Township Business District, and the I-1 Limited Industrial District.

517.03 Number of Faces. Free-standing billboards can be double-faced and each side shall be considered as facing traffic flowing in the opposite direction.

517.04 Maximum Height. The top of a free-standing billboard shall not extend more than twenty five (25) feet above the grade of the street.

517.05 Required Spacing. No billboard shall be located closer than one thousand five hundred (1,500) feet to another billboard facing traffic flowing in the same direction.

517.06 Maximum Sign Area. The maximum sign area permitted for a free-standing billboard shall not exceed two hundred fifty (250) square feet of total area. The maximum sign area for a wall billboard shall not exceed ten (10) percent of the wall area or two hundred (200) square feet of total area, whichever is less.

517.07 Structural Design. Structures for free-standing billboards shall be of vertical (cantilever) construction and where the back of the sign is visible it shall be suitably painted or otherwise covered to present a neat and clean appearance.

517.08 Lighting. All lighting used in the illumination of billboards shall be adequately shielded or shaded, and properly directed so as to not cast direct light upon public streets and/or adjacent and surrounding properties.

517.09 Required Setback From Street. All free-standing billboards shall be set back from right of-way lines a minimum distance of one hundred (100) feet along all State highways designated as such on the Official Zoning District Map, and the required front yard setback along all other streets.

517.10 Setback From Residential Uses and Districts. No billboard shall be located closer than five hundred (500) feet to any residential zoning district or two hundred (200) feet from any existing residential dwelling.

SECTION 518 ANIMAL HOSPITAL/KENNEL/VETERINARIAN

518.01 Minimum Lot Area. Animal hospitals, kennels, and veterinarians shall only be located on lots with a minimum area of five (5) acres.

518.02 Required Setback. No building with windows that can be opened, pen, or other outdoor shall be located closer than two hundred (200) feet to any property line.

SECTION 519 JUNK OR INOPERABLE VEHICLES

- 519.01 Required Conformance.** No junk vehicles shall be stored or parked within Elizabeth Township except in accordance with the regulations of this section.
- 519.02 Outdoor Storage of Junk Vehicle Prohibited.** No person in charge or control of any property within Elizabeth Township, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any junk or inoperable vehicle to remain on such property outside of a completely enclosed building.
- 519.03 Business Use of Junk Vehicles.** No business shall be conducted in connection with any parked or stored junk or inoperable vehicle, except authorized junk yards, scrap metal processing facilities, and automobile repair facilities.
- 519.04 Required Screening of Junk Vehicles.** Authorized junk yards, scrap metal processing facilities, and automobile repair facilities shall be exempted from required building enclosure insofar as junk or inoperable vehicles are completely screened from public streets and adjoining property. Such screening shall consist of mounding, fence, wall, and/or vegetation. Any screening shall be in accordance with the following requirements:

 - A. Fences or walls shall be neatly constructed of opaque material and maintained to insure their opaqueness.
 - B. Vegetation and/or mounding shall be designed and grown to an opaque state and maintained as such.
 - C. It shall not be less than six (6) feet in height above grade.
 - D. It shall be maintained in a condition so as to insure its opaqueness.
 - E. It shall not contain advertising.
- 519.05 Removal of Junk Vehicles.** No junk vehicle shall remain stored or parked in violation of this section after receipt of a notice of violation.
- 519.06 Junk Motor Vehicle Resolution.** See page 96

SECTION 520 WIRELESS TELECOMMUNICATION FACILITIES

- 520.01 Conflict With State or Federal Law.** The restrictions of this section shall not apply to the extent preempted or prohibited by state or federal law or regulation.
- 520.02 Required Notice of Intent.** In the event a wireless telecommunication facility is proposed to be located within Elizabeth Township, such applicant shall provide written notice of the intent to construct such wireless telecommunication facility, such notice in accordance with the following provisions:

 - A. R-1, R-2, or R-PD Zoning Districts. Within any R-1, R-2, or R-PD zoning district, a written notice shall be sent by certified mail to each owner of property, as shown on the Miami County Auditor's current tax list, whose land is contiguous to or directly across the street from the property in question.
 - B. A-1, B-1 or I-1 Zoning Districts. Within any A-1, B-1 or I-1 zoning district, a written notice shall be sent by certified mail to each owner of property, as shown on the Miami County Auditor's current tax list, whose land contains a residential structure, which property is located within one hundred (100) feet of the proposed wireless telecommunication facility. A copy of such notice shall also be sent by certified mail to the resident of each such residential structure.

- C. Notice to Elizabeth Township. A written notice shall be sent by certified mail to the Elizabeth Township Board of Trustees.
- D. Content of Notice. The written notice of intent shall include the following:
 - 1. The intent of the applicant to construct the wireless telecommunication facility.
 - 2. A description of the property sufficient to identify the proposed location of the wireless telecommunication facility.
 - 3. Explanation that no later than fifteen (15) days after the date of mailing of such notice, any such property owner and/or resident may give written notice to the Elizabeth Township Board of Trustees requesting the provisions of this zoning resolution apply to the proposed location of the proposed wireless telecommunication facility. If the notice to a property owner is returned unclaimed or refused, the applicant shall mail the notice by regular mail. The failure of delivery of the notice does not invalidate the notice.

520.03 Applicability. In the event any of the following occurs, a proposed wireless telecommunication facility shall be subject to the provisions of this zoning resolution:

- A. A written notice has been received by the Elizabeth Township Trustees from a property owner or resident of a residential structure notified under Section 520.02 requesting that Elizabeth Township apply its zoning authority to such facility.
- B. A Elizabeth Township Trustee objects to such wireless telecommunication facility after receiving the required notice under Section 520.02.

520.04 General Requirements For All Wireless Telecommunication Facilities. The following standards shall apply to all wireless telecommunication facilities:

- A. Number of Towers Per Lot. No more than one (1) wireless telecommunication tower shall be located upon a lot, unless otherwise approved by the Board of Zoning Appeals.
- B. Construction and Design. All wireless telecommunication facilities and support structures shall be shall be subject to the following provisions:
 - 1. Tower Design. All towers shall be of a monopole design as opposed to a lattice design. However, lattice towers existing on the effective date of this provision may be rebuilt as lattice towers of the same height and volume for the purposes of increasing the structural loading capacity of the tower in order to provide for co-location of additional antennae. (Effective Date: April 14, 2000)
 - 2. Construction Standards. All wireless telecommunication facilities and support structures shall be certified by an engineer licensed in the State of Ohio to be structurally sound and, at a minimum, in conformance with the Ohio Basic Building Code.
 - 3. Setback From Edge of Roof. Any wireless telecommunication facility and its appurtenances permitted on the roof of a building shall be set back one (1) foot from the edge of the roof for each one (1) foot in height of the wireless telecommunication facility. However, this setback requirement shall not apply to antennae that are less than two (2) inches in thickness mounted to the sides of antenna support structures and do not protrude more than six (6) inches from the side of such an antenna support structure. This requirement is subject to change by the Elizabeth Township Zoning Inspector upon the review of the photo simulation provided in compliance with Section 520.10 (B).

4. Prohibited In Front Yard. No wireless telecommunication tower shall be placed between a public road and the principal building on a lot which is nearest the public right-of-way.
- C. Natural Resource Protection Standards. The location of the wireless telecommunication facility shall comply with all natural resource protection standards established either in this zoning resolution or in other applicable regulations.
 1. Flood Plain. All wireless telecommunication towers located within the FP Flood Plain Overlay District shall meet all requirements for such overlay district.
 2. Wetland. No wireless telecommunication tower shall be located within a wetland as defined by federal law.
 3. Existing Vegetation. Existing vegetation (trees, shrubs, etc.) shall be preserved to the maximum extent possible.
 - D. Historic or Architectural Standards Compliance. Any application to locate a wireless telecommunication facility on a building or structure that is listed on a federal, state, or county historic register, or is in a historic district established by Elizabeth Township, shall be subject to review by the Elizabeth Township Board of Zoning Appeals to insure architectural and design standards are maintained.
 - E. Color and Appearance Standards. All wireless telecommunication facilities shall be painted a non-contrasting gray or similar color to minimize their visibility, unless otherwise required by the Federal Communications Commission, Federal Aviation Administration, and/or by historical or architectural standards imposed by the Board of Zoning Appeals under Section 520.04 (D) of this zoning resolution. All appurtenances shall be aesthetically and architecturally compatible with the surrounding environment by the means of camouflage deemed acceptable by the Elizabeth Township Zoning Commission.
 - F. Advertising Prohibited. No advertising sign shall be permitted anywhere upon or attached to the wireless telecommunication facility.
 - G. Artificial Lighting Restricted. No wireless telecommunication facility shall be artificially lit except as required by the Federal Aviation Administration. Unless specifically prohibited by FAA requirements, identification lights on any tower issued a zoning permit shall be red.
 - H. Co-Location. All wireless telecommunication facilities shall be subject to the co-location requirements set forth in Section 520.05 of this zoning resolution.
 - I. Abandonment. All wireless telecommunication facilities shall be subject to the abandonment provisions set forth in Section 520.09 of this zoning resolution.
 - J. Security Enclosure Required. All towers and equipment shelters shall be enclosed either completely or individually, as determined by the Zoning Inspector, with a fence or wall at least six (6) feet in height. Gates shall be locked at all times when the facility is unattended by an agent of any wireless telecommunication provider using the site. No chain link fencing shall be permitted within a residential district. Elizabeth Township and co-locators shall have reasonable access. No fence shall be required on top of a building or other structure if access to the roof or top of the structure or building is secure. "No Trespassing" signs shall be posted around the wireless telecommunications facility.

- K. Emergency Contact Information. A permanent sign with an area of four (4) square feet within a residential zoning district and an area of six (6) square feet within any other zoning district shall be posted on the site. Said sign shall contain the telephone number of each provider's contact in the event of an emergency, the base elevation of the tower, the tip elevation of the tower, latitude and longitude of the tower, and elevation of each platform.
- L. Buffer Landscaping and Plantings. All wireless telecommunication facilities shall be landscaped in accordance with the following:
 - 1. Residential Districts. All wireless telecommunication facilities within a residential zoning district shall contain a landscaped buffer area not less than fifteen (15) feet in depth and placed around the perimeter of the security enclosure. Such landscaped buffer area shall contain hardy evergreen shrubbery not less than six (6) feet in height and of sufficient density to obstruct the view.
 - 2. Agricultural Districts. All wireless telecommunication facilities within an agricultural zoning district shall contain the landscaped buffer required within residential zoning districts, except such buffer shall be required only on sides facing a residential zoning district, and/or across the street from an existing residential structure, and/or facing an existing residential structure within five hundred (500) feet.
 - 3. Business and Industrial Districts. All wireless telecommunication facilities within a business or industrial zoning district shall not be required to have a landscaped buffer as required for residential zoning districts, except such buffer shall be required on all sides facing a residential zoning district, and/or across the street from an existing residential structure, and/or facing a residential structure within two hundred (200) feet.
- M. Outdoor Storage Prohibited. There shall be no outdoor storage of equipment or other items on the site except during the facility construction period and to supply temporary emergency power to the facility during a power outage.
- N. Equipment Shelters. Upon any one (1) parcel, all wireless telecommunication facility equipment shelters shall be configured to appear as one (1) building. The maximum cumulative total size of all equipment buildings accessory to a wireless telecommunication tower or antenna shall be six hundred (600) square feet and the maximum height shall be fifteen (15) feet.
- O. Access Driveway. The access driveway to the wireless telecommunication facility shall, whenever feasible, be provided along the circulation driveways of the existing use on the parcel, if any. Where use of an existing driveway is not feasible, the driveway to the site shall be a minimum of fourteen (14) feet in width. Such driveway shall be set back a minimum of twenty (20) feet from the nearest side or rear lot line within or adjacent to a residential zoning district. The driveway shall meet load limitations and standards established by the Elizabeth Township Fire Chief.

520.05 Co-Location Requirements For All Wireless Telecommunication Towers and Antennae. The shared use of pre-existing wireless telecommunication towers is preferred to the construction of new towers within Elizabeth Township. The following co-location requirements shall apply to all wireless telecommunication towers, and all wireless telecommunication antennae and equipment attached to existing structures:

- A. Co-location Design Required. No new telecommunication tower shall be constructed within Elizabeth Township unless such tower is capable of accommodating at least three (3) wireless telecommunication antenna platforms of equal loading capacity.

- B. Information on Existing Sites Required. The applicant shall submit a report by a qualified radio frequency engineer listing the location(s) of every existing wireless telecommunication facility site within a two (2) mile radius of the proposed site. Such report shall also include all towers, tall buildings, or tall structures within a reasonable proximity that could support the proposed antenna.
- C. Availability of Technically Suitable Space. Authorization for a telecommunication tower shall be issued only after the applicant has demonstrated that a technically suitable location is not reasonably available on an existing wireless telecommunication tower, or other tower, tall building, or tall structure within such area for the following reasons:
 - 1. Written Refusal. Written documentation of refusal by the owner to allow such co-location.
 - 2. Structural Capacity Exceeded. The proposed antenna/platform would exceed the structural capacity of the existing tower, tall building, or tall structure, and such tower, building, or structure cannot be reinforced, modified, or replaced to accommodate the proposed antenna/platform at a reasonable cost.
 - 3. Interference. The proposed antenna/platform would cause interference impacting the usability of other existing equipment at the tower, tall building, or tall structure as documented by a qualified RF engineer and the interference cannot be prevented at reasonable cost.
 - 4. Inadequate Height. The existing tower, tall building, or tall structure cannot accommodate the planned antenna/platform at a height necessary to function reasonably as documented by a qualified radio frequency engineer.
 - 5. Reciprocal Offer. The applicant shall demonstrate that, to facilitate co-location on an identified potential wireless telecommunication tower, an offer was made to the owner of such tower to co-locate an antenna on a tower in the area owned by the applicant, if such tower exists and that space is unavailable on such tower owned by the other party for co-location on reasonably reciprocal terms and the offer was not accepted. If such co-location offer has not been attempted by the applicant, then such other tower is presumed to be reasonably available.
 - 6. Violation of Regulations. Co-location would violate federal, state, or county regulations.
- D. Potential Public Sites. In order to encourage the co-location of wireless telecommunication facilities on publicly-owned property, Elizabeth Township shall undertake an identification study of publicly-owned properties that Elizabeth Township determines are suitable for such use. Elizabeth Township shall regularly update such identification study and make the results of such identification study available to the public.
- E. Exemption From Existing Sites Requirement. Persons locating a wireless telecommunication facility upon a publicly-owned property identified in the study mentioned in Section 520.05 (D) above shall be exempted from the requirements set forth in Section 520.05 (C) regarding presentation of proof that co-location is not available. However, persons locating any wireless telecommunication tower on publicly-owned property shall continue to be subject to the co-location design requirements contained in Section 520.05 (A).

- F. Exemption From District Requirements. Persons locating a wireless telecommunication facility on a publicly-owned property identified by Elizabeth Township to be suitable for such purposes shall be exempt from the district requirements for such facilities set forth in Section 520.06, Section 520.07, and Section 520.08.

520.06 Wireless Telecommunication Facilities as Permitted Principal Uses. The erection, construction, or replacement of a wireless telecommunication facility shall be a permitted principal use only in accordance with the following provisions:

- A. A-1 Agricultural District. The following wireless telecommunication facilities shall be permitted principal uses within the A-1 Agricultural District.
 - 1. Towers. The erection, construction, or replacement of a wireless telecommunication tower, along with the necessary telecommunication equipment shelter, shall be a permitted principal use within the A-1 Agricultural District only if it is in accordance with the following:
 - a. Maximum Height. Such wireless telecommunication tower shall be less than two hundred (200) feet in height.
 - b. Setback. Such wireless telecommunication tower shall be located at least five hundred (500) feet from any existing residential structure and all other zoning district setbacks are maintained.
 - c. Other Requirements. Such wireless telecommunication tower shall be in accordance with all the requirements of Section 520.04.
- B. R-1 and R-2 Rural Residential Districts. A wireless telecommunication tower shall not be a permitted principal use within the R-1 or R-2 Rural Residential Districts.
- C. B-1 Township Business District. A wireless telecommunication tower shall not be a permitted principal use within the B-1 Township Business District.
- D. I-1 Limited Industrial District. A wireless telecommunication tower shall not be a permitted principal use within the I-1 Limited Industrial District.

520.07 Wireless Telecommunication Facilities as Permitted Accessory Uses. The erection, construction, or replacement of a wireless telecommunication facility shall be a permitted accessory use only in accordance with the following provisions:

- A. A-1 Agricultural District. The following wireless telecommunication facilities shall be permitted as accessory uses within the A-1 Agricultural District.
 - 1. Tower. The erection, construction, or replacement of a wireless telecommunication tower, along with the necessary telecommunication equipment shelter, shall be a permitted accessory use within the A-1 Agricultural District only if it is in accordance with the following:
 - a. Maximum Height. Such wireless telecommunication tower shall be less than two hundred (200) feet in height.
 - b. Setback. Such wireless telecommunication tower shall be located at least five hundred (500) feet from any existing residential structure and all other zoning district setbacks are maintained.

- c. Other Requirements. Such wireless telecommunication tower shall be in accordance with all the requirements of Section 520.04.
 - 2. Antenna. An antenna for a wireless telecommunication facility may be attached to an existing nonresidential structure, excluding residential accessory buildings, subject to the following conditions:
 - a. Maximum Height. Such antenna shall not extend more than twenty (20) feet above the roof of the existing building or top of the existing structure, subject to Section 520.04 (B)(3).
 - b. Separate Equipment Shelter. If the applicant proposes to locate the wireless telecommunication equipment in a separate shelter, not located in or attached to the building, such equipment shelter shall comply with all accessory building regulations of the zoning district.
 - c. Vehicular Access. Vehicular access to the equipment shelter shall be in accordance with Section 520.04 (O).
 - d. Failure To Meet Conditions. Upon failure to meet the above conditions, the applicant may apply for a conditional use.
- B. R-1 and R-2 Rural Residential Districts. The following wireless telecommunication facilities shall be permitted accessory uses within the R-1 and R-2 Rural Residential Districts only in accordance with the following provisions:
 - 1. Antenna. An antenna for a wireless telecommunication facility may be attached to an existing nonresidential structure, excluding residential accessory buildings, subject to the following conditions:
 - a. Maximum Height. Such antenna shall not extend more than twenty (20) feet above the roof of the existing building or top of the existing structure, subject to Section 520.04 (B)(3).
 - b. Separate Equipment Shelter. If the applicant proposes to locate the wireless telecommunication equipment in a separate shelter, not located in or attached to the building, such equipment shelter shall comply with all accessory building regulations of the zoning district.
 - c. Vehicular Access. Vehicular access to the equipment shelter shall be in accordance with Section 520.04 (O).
 - d. Failure To Meet Conditions. Upon failure to meet the above conditions, the applicant may apply for a conditional use.
- C. B-1 Township Business District. The following wireless telecommunication facilities shall be permitted accessory uses within the B-1 Township Business District only in accordance with the following provisions:
 - 1. Tower. The erection, construction, or replacement of a wireless telecommunication tower, along with the necessary telecommunication equipment shelter, shall be a permitted accessory use within the B-1 Township Business District only if it is in accordance with the following:

- a. Maximum Height. Such wireless telecommunication tower shall be less than two hundred (200) feet in height.
 - b. Setback. Such wireless telecommunication tower shall be located at least five hundred (500) feet from any existing residential structure and all other zoning district setbacks are maintained.
 - c. Other Requirements. Such wireless telecommunication tower shall be in accordance with all the requirements of Section 520.04.
 - 2. Antenna. An antenna for a wireless telecommunication facility may be attached to an existing nonresidential structure, subject to the following conditions:
 - a. Maximum Height. Such antenna shall not extend more than twenty (20) feet above the roof of the existing building or top of the existing structure, subject to Section 520.04 (B)(3).
 - b. Separate Equipment Shelter. If the applicant proposes to locate the wireless telecommunication equipment in a separate shelter, not located in or attached to the building, such equipment shelter shall comply with all accessory building regulations of the zoning district.
 - c. Vehicular Access. Vehicular access to the equipment shelter shall be in accordance with Section 520.04 (O).
 - d. Failure To Meet Conditions. Upon failure to meet the above conditions, the applicant may apply for a conditional use.
- D. I-1 Limited Industrial District. The following wireless telecommunication facilities shall be permitted accessory uses within the I-1 Limited Industrial District only in accordance with the following provisions:
- 1. Tower. The erection, construction, or replacement of a wireless telecommunication tower, along with the necessary telecommunication equipment shelter, shall be a permitted accessory use within the I-1 Limited Industrial District only if it is in accordance with the following:
 - a. Maximum Height. Such wireless telecommunication tower shall be less than two hundred (200) feet in height.
 - b. Setback. Such wireless telecommunication tower shall be located at least five hundred (500) feet from any existing residential structure and all other zoning district setbacks are maintained.
 - c. Other Requirements. Such wireless telecommunication tower shall be in accordance with all the requirements of Section 520.04.
 - 2. Antenna. An antenna for a wireless telecommunication facility may be attached to an existing nonresidential structure, subject to the following conditions:
 - a. Maximum Height. Such antenna shall not extend more than twenty (20) feet above the roof of the existing building or top of the existing structure, subject to Section 520.04 (B)(3).

- b. Separate Equipment Shelter. If the applicant proposes to locate the wireless telecommunication equipment in a separate shelter, not located in or attached to the building, such equipment shelter shall comply with all accessory building regulations of the zoning district.
- c. Vehicular Access. Vehicular access to the equipment shelter shall be in accordance with Section 520.04 (0).
- d. Failure To Meet Conditions. Upon failure to meet the above conditions, the applicant may apply for a conditional use.

520.08 Wireless Telecommunication Facilities as Conditional Uses. Unless specifically and expressly prohibited, the erection, construction, or replacement of a wireless telecommunication facility not meeting the standards set forth in Section 520.06 and Section 520.07 may be permitted as a conditional use in accordance with the provisions of this section.

- A. Minimum Parcel Size. The minimum parcel size shall comply with the parcel requirements of the zoning district.
- B. Minimum Setback. The minimum setback from the nearest lot line to the base of a wireless telecommunication tower shall be equal to or greater than the height of such tower.
- C. Equipment Shelters. Wireless telecommunication equipment shelters shall comply with the minimum setback requirements for the zoning district.
- D. Maximum Tower Height. All wireless telecommunication towers shall not have a height greater than the distance between the base of such tower and such residential district or residential structure.

520.09 Abandonment of Wireless Telecommunication Towers. All wireless telecommunication towers shall be in accordance with the following provisions:

- A. Required Notice. All providers utilizing towers shall present a report to Elizabeth Township notifying it of any tower facility located in Elizabeth Township whose use will be discontinued and the date this use will cease. Such report shall be filed with Elizabeth Township thirty (30) days prior to the cessation date. If at any time the use of the facility is discontinued for one hundred and eighty (180) days, the zoning inspector may declare the facility abandoned. The one hundred and eighty (180) day period excludes any dormancy period between construction and the initial use of the facility. The owner/operator of the facility will receive written notice from the zoning inspector and be instructed to either reactivate use of the facility within one hundred and eighty (180) days, or dismantle and remove the facility. If reactivation or dismantling does not occur, Elizabeth Township will either remove the facility or will contract to have the facility removed and assess the owner/operator the costs.
- B. Required Notice to Owner. Elizabeth Township shall provide the tower owner thirty (30) day notice and an opportunity to be heard before the Board of Zoning Appeals before initiating such action. After such notice has been provided, Elizabeth Township shall have the authority to initiate proceedings to either acquire the tower and any appurtenances attached thereto at the current fair market value at that time, or in the alternative, order the demolition of the tower and all appurtenances.
- C. Right to Public Hearing by Owner. Elizabeth Township shall provide the tower owner with the right to a public hearing before the Board of Zoning Appeals, which public hearing shall follow the thirty (30) day notice required in Section 520.09 (B). All interested parties shall be allowed an opportunity to be heard at the public hearing.

- D. Order of Abatement or Demolition. After a public hearing is held pursuant to Section 520.09 (C), Elizabeth Township may order the abatement or demolition of the tower. Elizabeth Township may require licensee to pay for all expenses necessary to acquire or demolish the tower.

520.10 Application and Review Requirements. All applications for wireless telecommunication facilities, including towers, shall include the information required under this section.

- A. Plot Plan Required. When a proposed wireless telecommunications facility or antenna support structure is to include a new tower, a plot plan at a scale of not less than one inch equals one hundred (100) feet shall be submitted. This plot plan shall indicate all building and land uses within two hundred (200) feet of the proposed facility. Aerial photos and/or renderings may augment the plot plan.
- B. Photo Simulations Required. Photo simulations of the proposed wireless telecommunication facility from affected residential properties and public rights-of-way taken at designated locations shall be provided.
- C. Proof Why Nonresidential Tower Location Not Feasible. In applying for authorization to erect a tower within any residential district, the applicant must present sufficient evidence as to why it is not technically feasible to locate such tower in a more appropriate nonresidential zone. This evidence shall be reviewed by Elizabeth Township. If Elizabeth Township refutes the evidence, then the tower is not permitted.
- D. Technical Necessity. The applicant shall demonstrate that the telecommunication tower must be located where it is proposed in order to provide adequate coverage to the applicant's service area. There shall be an explanation of why a tower and the proposed site is technically necessary.
- E. Review by Radio Frequency Engineer. The evidence submitted by the applicant shall be reviewed by a radio frequency engineer, who will support or refute the evidence.
- F. Land Owner Support and Access. Where the wireless telecommunication facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property supports the application and vehicular access is provided to the facility.
- G. Required Site and Landscaping Plan. The applicant shall present a site and landscaping plan showing the following:
 - 1. Specific placement of the wireless telecommunication facility on the site.
 - 2. The location of existing structures, trees, and other significant site features.
 - 3. Type and locations of plant materials used to screen the facilities.
 - 4. The proposed color of the facilities.
- H. Co-location and Removal Agreement. The applicant shall present signed statements indicating that:
 - 1. The applicant agrees to allow for the potential co-location of additional wireless telecommunication facilities by other providers on the applicant's structure or within the same site location; and
 - 2. The applicant agrees to remove the facility within one hundred eighty (180) days after its use is discontinued.

- I. Denial by Jurisdiction. Any decision to deny a request to place, construct or modify a wireless telecommunication facility and/or tower shall be in writing and supported by evidence contained in a written record.
- J. **Wind Turbine Resolution.** See page 98

SECTION 521 ADULT ENTERTAINMENT FACILITIES

- 521.01 Required Compliance.** No adult entertainment facility shall be permitted by the Board of Zoning Appeals unless all of the required conditions of this section have been met.
- 521.02 Required Separation From Residential District.** No adult entertainment facility shall be established within five hundred (500) feet of any area zoned for residential use.
- 521.03 Required Separation From Schools, Libraries, and Teaching Facilities.** No adult entertainment facility shall be established within a radius of one thousand (1,000) feet of any school, library, child care center, or teaching facility, whether public or private, governmental or commercial, which school, library, child care center, or teaching facility is attended by persons under eighteen (18) years of age.
- 521.04 Required Separation From Park and Recreation Facilities.** No adult entertainment facility shall be established within a radius of one thousand (1,000) feet of any park or recreational facility attended by persons under eighteen (18) years of age.
- 521.05 Required Separation From Religious Institutions.** No adult entertainment facility shall be established within a radius of one thousand (1,000) feet of any church, synagogue, or permanently established place of religious services which is attended by persons under eighteen (18) years of age.
- 521.06 Required Separation From Other Specified Uses.** No adult entertainment facility shall be established within a radius of one thousand (1,000) feet of any other adult entertainment facility or within a radius of two thousand (2,000) feet of any two (2) of the following establishments:
 - A. Cabarets, clubs, or other establishments which feature topless or bottomless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.
 - B. Establishments for the sale of beer or intoxicating liquor for consumption on the premises.
 - C. Pawn shops.
 - D. Pool or billiard halls.
 - E. Pinball palaces, halls, or arcades.
 - F. Dance halls or discotheques.
 - G. Massage Parlors.
- 521.07 Required Screening of Promotional Materials.** No advertisements, displays, or other promotional materials shall be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other public areas, semi-public areas, or quasi-public areas.
- 521.08 Required Screening From Public View.** All building openings, entries, windows, etc. for adult uses shall be located, covered, or serviced in such a manner as to prevent a view into the interior from any public areas, semi-public areas, quasi-public areas, any sidewalk, or any street. For new construction, the building shall be oriented so as to minimize any possibility of viewing the interior from any public areas, semi-public areas, quasi-public areas, any sidewalk, or any street.
- 521.09 Visual and Audio Screening Required.** No screens, speakers, or sound equipment shall be used for adult motion picture theaters (enclosed or drive-in) that can be seen or discerned by the public from any public areas, semi-public areas, quasi-public areas, any sidewalk, or any street.
- 521.10 Off-Street Parking.** Off-street parking shall be provided in accordance with this zoning resolution for similar uses.

521.11 Specified Waiver. Sections 521.02 through 521.06, inclusive, may be waived by the Board of Zoning Appeals provided that the applicant provides affidavits of fifty-one (51) percent of the property Owners and resident freeholders within the above described radii, giving their consent to the establishment of an adult entertainment facility, and if the Board of Zoning Appeals determines:

- A. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed.
- B. That the proposed use will not enlarge or encourage the development of a skid row or similar depressed area.
- C. That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal, residential or commercial reinvestment, or renovation of a historical area.
- D. That all applicable regulations of this section will be observed.

SECTION 522 MINERAL EXTRACTION

522.01 Required Conditions. All mineral extraction operations shall secure a conditional use permit prior to commencing excavation, except for those conducted on a farm only for use on the farm and not for sale of materials to any other person. Such permit shall not be issued unless the provisions of this section have been satisfied as well as any other conditions specified by the Board of Zoning Appeals.

522.02 State Permit Required. All proposed extraction operations which need a permit shall secure a permit for such activities from the Chief of the Division of Reclamation, Ohio Department of Natural Resources prior to the issuance of a conditional use permit.

522.03 Required Setbacks for Excavations. All excavations shall meet the following setback requirements:

- A. Excavation to a Depth of Six (6) Feet or Less. Excavations to a depth of six (6) feet or less may be located as close as one hundred (100) feet from a residential district, provided the operation is conducted over a temporary time period not to exceed twelve (12) months and operation of equipment is limited to the extraction process.
- B. Excavation to a Depth Greater Than Six (6) Feet. Excavations to a depth greater than six (6) feet shall be located at least five hundred (500) feet from a residential district so zoned prior to the issuance of conditional use authorization.

522.04 Temporary Operational Roads. All temporary operational roads shall be located at least two hundred (200) feet from any residential district.

522.05 Operational Controls. The applicant shall submit a plan acceptable to the Board of Zoning Appeals which outlines procedures to minimize or prevent the creation of detrimental ground vibrations, sound, pressure, smoke, noise, odors, or dust which would injure or be a nuisance to any persons living or working in the vicinity.

522.06 Accessory Buildings or Structures. Accessory buildings or structures shall be demolished and/or removed within six (6) months of completion of extraction operations within areas served by such buildings or structures, unless a plan for their future use has been approved as part of the required reclamation plan.

522.07 Effect on Underground Water Supply. A study of the anticipated depth of excavations and the probable effect to the existing water table conducted by a hydrologist registered in the State of Ohio shall be provided to the Board of Zoning Appeals by the applicant. If the water table is to be affected, the operator shall provide proof, before permission for excavation is given, that the source of any public or private water supply shall not be adversely affected due to lowering of the water table or contamination of the supply.

- 522.08 Blasting Shall be Monitored.** The operator shall maintain complete records on a daily basis of all blasting operations including records of the time, the date, the location, and complete description of weather conditions relating to each such blast. Such records shall be available to the Zoning Inspector upon request. At the request of the Board of Zoning Appeals, the operator shall fully cooperate in any investigation by the Board of Zoning Appeals of the conditions of the operation. In the event that it is established as a matter of fact that there has been a failure to adequately comply with the provisions of this section, said operator shall take immediate steps to provide full compliance herewith.
- 522.09 Required Screening and Access Control.** All mineral extraction, storage, separation, cleaning, and/or marketing operations shall be screened where deemed necessary by the Board of Zoning Appeals. Fencing at least five (5) feet in height or other means acceptable to the Board of Zoning Appeals shall be required to provide control of unauthorized access to areas excavated to a depth of at least five (5) feet below grade of adjacent land.
- 522.10 Accessory Storage, Separation, Cleaning, Size Reduction and Marketing.** Accessory storage, separation, cleaning, and/or marketing may be included in the application for a conditional use permit. Such activities shall only be permitted if the Board of Zoning Appeals makes a specific finding that such activities have been adequately located and screened according to the following conditions:
- A. Setbacks From Existing Residential District. Permitted uses shall be located at least five hundred (500) feet from a residential district that exists at the time conditional use authorization is granted unless the Board of Zoning Appeals determines that adequate buffering can be provided or already exists.
 - B. Setbacks From Nonresidential Zoning Districts. Permitted uses shall be located at least two hundred (200) feet from any property line abutting any nonresidential zoning district existing at the time conditional use authorization is granted.
- 522.11 Runoff Control and Sediment Abatement Plan Required.** All excavation operations disturbing more than ten thousand (10,000) square feet shall submit a runoff control and sediment abatement plan approved by the Miami County Engineer prior to final approval of a conditional use permit by the Board of Zoning Appeals.
- 522.12 Reclamation Plan Required.** The applicant shall provide a reclamation plan acceptable to the Board of Zoning Appeals. The plan shall contain, at a minimum, the following:
- A. Plan Map. A map at a scale of one (1) inch equals one hundred (100) feet showing the existing contours at intervals of five (5) feet or less, any existing buildings or structures, and any public utilities or easements on the property.
 - B. Submerged and Unsubmerged Areas. All excavations shall either be: (1) made to a depth more than five (5) feet below a water-producing level, or (2) graded and/or backfilled with non-noxious and non-flammable solids, to assure that the excavated area will not collect and retain stagnant water. The graded or backfilled surface shall create an adequate finished topography to minimize erosion by wind or rain and substantially conform with the contours of the surrounding area.
 - C. Replacement of Cover and Vegetation. An estimate of the amount of soil and the number of trees and shrubs, and the type of ground cover shall be provided. The type and number per acre of trees, shrubs, ground cover, or legume to plant shall be determined in consultation with the Miami County Soil Conservation Service. Cover and vegetation shall be completed within one (1) year from the date of completion of the extraction in areas within five hundred (500) feet of a residential district or a dwelling. Such restoration shall be completed for each phase of excavation prior to approval of more than one additional excavation phase in all other areas. The depth of the proposed cover shall be at least as great as the depth of the unusable overburden which existed at the commencement of operations, or eighteen (18) inches, whichever is less.

- D. **Grading Plan Required.** A grading plan showing the proposed final topography of the area indicated by contour lines of no greater interval than two (2) feet shall be required, The angle of slope of all earthen banks shall be not greater than one (1) foot vertical to three (3) feet horizontal unless the Board of Zoning Appeals is satisfied that the angle of slope will not pose an erosion hazard and is no greater than that which existed at the commencement of excavation. Adequate vegetation to reduce erosion may be required.
- E. **Future Land Uses and Improvements.** The location of proposed land uses, and physical improvements such as roads, drives, drainage courses, utilities and other improvements shall be shown on such plan. The applicant shall consult with the Miami County Planning Commission and the Elizabeth Township Zoning Commission.

522.13 Reclamation Bond Required. To guarantee the restoration, rehabilitation, and reclamation of mined-out areas, every applicant granted permission by the Board of Zoning Appeals to conduct a mineral extraction operation as herein provided shall furnish a reclamation plan and a performance bond running to the Clerk of Elizabeth Township, Miami County, Ohio. The amount of the performance bond shall be based upon an estimate of costs to meet those of the aforementioned requirements which exceed the requirements of the State of Ohio. Such estimates shall be submitted by the applicant. The amount of the performance bond shall be established by resolution of the Township Trustees, depending upon the type and extent of restoration required over and above the requirements of the State of Ohio Department of Natural Resources, Division of Reclamation. The performance bond shall be a guarantee that such applicant, in restoring, reclaiming, and rehabilitating such land shall meet the requirements of this section within a reasonable time and to the satisfaction of the Zoning Inspector.

SECTION 523 ROOMING HOUSES

- 523.01 Maximum Number of Boarders.** Not more than two (2) roomers or boarders may be accommodated within any dwelling unless the Board of Zoning Appeals specifically finds that the size of the dwelling, the size of the lot, and character of the surrounding area are compatible with an increased number.
- 523.02 Parking.** Off-street parking shall be provided for each roomer or boarder.
- 523.03 Structural Changes Prohibited.** No structural changes shall be made to accommodate such roomers or boarders.
- 523.04 Minimum Sleeping Space Required.** At least one hundred (100) square feet of sleeping room floor area shall be provided for each roomer or boarder.

SECTION 524 INDOOR COMMERCIAL STORAGE OF RECREATIONAL VEHICLES

- 524.01 Indoor Commercial Storage of Recreational Vehicles.** The indoor commercial storage of recreational vehicles may be permitted as a conditional use. In considering such requests, the Board of Zoning Appeals shall consider the size of the lot, location, topography, screening, road condition, and surrounding land uses, and may limit the number of recreational vehicles and where they are stored.

ARTICLE VI OFF-STREET PARKING, LOADING, AND DRIVE-THROUGH REGULATIONS

SECTION 600 OFF-STREET PARKING, LOADING, AND DRIVE-THROUGH SPACES REQUIRED

- 600.01 Off-Street Parking, Loading, and Drive-Through Spaces Required.** No building or structure shall be erected, substantially altered, changed in use, or any land used or changed in use unless adequately maintained off-street parking spaces, either in garages or open parking areas, off-street loading spaces, and off-street waiting spaces have been provided for uses for which such spaces are required in accordance with the provisions of this section. The provisions of this section shall not apply to any building, structure or land use existing before the effective date of this zoning resolution or any amendment thereto unless such building, structure, or use is altered or changed. The number of off-street parking spaces, loading spaces, and drive-through waiting spaces for such existing uses shall not be reduced to an amount less than required for a new land use as specified in this section.
- 600.02 Parking Plan Required.** A parking plan shall not be required for single-family or two-family residential uses. All other land uses shall require submission of a parking plan to the Zoning Inspector as a part of the application for a zoning permit. The parking plan shall show boundaries of the property, parking spaces, loading areas, drive-through waiting spaces, circulation patterns, drainage plans, construction plans for any boundary walls or fences, a screening plan, and the location of adjacent houses or buildings.
- 600.03 Location of Required Spaces.** Required off-street parking, loading, and drive-through waiting spaces shall be provided upon the same parcel of land containing the use for which it is required unless otherwise specifically authorized within this zoning resolution.

SECTION 601 HANDICAPPED PARKING REQUIREMENTS

- 601.01 Handicapped Parking Required.** Excluding all residential uses, all off-street parking facilities shall have designated therein a minimum number of reserved spaces for parking of vehicles operated by or transporting handicapped persons as defined in Section 4511.69 of the Ohio Revised Code.
- 601.02 Number of Spaces Required.** Each parking area shall have at least one (1) parking space so designated or two percent (2%) of the parking spaces available so designated, whichever number is higher.
- 601.03 Location of Spaces.** Parking spaces designated for handicapped parking shall be located nearest to the applicable facility. Each space designated for handicapped parking shall be clearly and appropriately identified by the standard handicapped parking symbol and shall be a minimum of twelve (12) feet in width.

SECTION 602 OFF-STREET PARKING SPACE DEVELOPMENT STANDARDS

- 602.01 Off-Street Parking Development Standards.** All parking facilities, including entrances, exits, maneuvering areas, and parking spaces shall be in accordance with the provisions of this section.
- 602.02 Parking Space Dimensions.** All parking spaces shall be in accordance with the following design requirement:

| | PARKING ANGLE | 45° | 60° | 90° | Parallel |
|---|-------------------------|-------|-------|-----|----------|
| A | Width of Parking Space | 14' | 11'5" | 10' | 9' |
| B | Length of Parking Space | 21'6" | 22' | 20' | 23' |
| C | Width of Driveway Aisle | 13' | 17'6" | 25' | 12' |

- 602.03 Access.** All parking spaces, except those required for single-family or two-family uses not fronting upon an arterial or collector street, shall have access to a public street in such a manner that any vehicle leaving from or entering into the parking area from a public street shall be traveling in a forward motion. Access of driveways for parking areas shall be located in such a way that any vehicle entering or leaving such parking area shall be clearly visible for a reasonable distance by any pedestrian or motorist approaching the access or driveway from public or private street.

- 602.04 Separation From Right-of-Way.** All parking facilities located within required front or side yards shall be separated from sidewalks and streets in public right-of-ways by a strip of land which shall be at least ten (10) feet in width and which shall be reserved as open space and planted in grass.
- 602.05 Paving.** All required parking spaces, together with driveways, and other circulation areas, shall be hard-surfaced with a pavement having an asphalt or concrete binder in or adjacent to residential districts and have an all-weather surface, at a minimum, in all other areas.
- 602.06 Marking.** Where necessary due to multiple curb cuts, the entrances, exits, and the intended circulation pattern of the parking area shall be clearly marked. All parking spaces shall be marked with paint lines, curb stones, or in any other manner approved by the Board of Zoning Appeals and maintained in clearly visible condition.
- 602.07 Drainage.** All parking spaces, together with driveways, aisles, and other circulation areas shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be designed to prevent the excess drainage of surface water onto adjacent properties or walkways and damage to public streets.
- 602.08 Barriers.** Wherever a parking lot extends to a property line, fencing, wheel stops, curbs, or other suitable barriers shall be provided in order to prevent any part of a parked vehicle from extending beyond the property line.
- 602.09 Lighting.** Any parking area which is intended to be used during non-day hours shall be properly illuminated as to avoid accidents. Any light used to illuminate a parking lot shall be so arranged as to reflect the light away from any public street or adjoining property.
- 602.10 Landscaping Required.** All parts of open off-street parking areas which are unusable, either for parking or for traffic, shall be landscaped with plantings of grass, flowers, shrubs, and/or trees, which shall be continuously maintained in good condition.
- 602.11 Screening.** Screening shall be provided as required by the appropriate district regulations.
- 602.12 Maintenance.** The owner of property used for parking areas shall maintain such areas in good condition and free of all dust, trash, or other debris.

SECTION 603 USE OF PARKING AREAS

- 603.01 Other Uses Within Required Parking Areas.** No motor vehicle repair work or service of any kind, except emergency repairs, shall be permitted in or associated with any off-street parking area. Temporary display or sales of any merchandise within any parking area may be permitted only insofar as it is permitted within the zoning district and does not occupy more than twenty-five percent (25%) of the required parking area.
- 603.02 Joint Use of Facilities.** Two (2) or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap, provided that such an arrangement is provided within the deeds or other written legal documents approved by the Board of Zoning Appeals. Parking spaces authorized for joint use shall be located within two hundred (200) feet of each use for which they are intended to serve.
- 603.03 Collective Parking Areas.** Two (2) or more non-residential uses may collectively provide the required off-street parking area, provided the required number of parking spaces shall not be less than the sum of the requirements for the individual uses computed separately, unless Section 603.02 is followed.

SECTION 604 PARKING SPACE REQUIREMENTS

604.01 Parking Space Requirements. For the purposes of this zoning resolution, parking spaces shall be required as set forth in Sections 604.02 and 604.05 inclusive. The number of parking spaces required for uses not specifically mentioned shall be determined by the Board of Zoning Appeals.

604.02 Residential.

| <u>Type of Use</u> | <u>Parking Spaces Required</u> |
|--|--|
| Mobile home..... | Two which may include the driveway |
| Single-family or two-family dwelling | Two for each unit which may include the driveway |

604.03 Commercial, Service, and Institutional.

| <u>Type of Use</u> | <u>Parking Spaces Required</u> |
|---|--|
| Agribusiness establishment | One for each employee and one for each 400 square feet of floor area |
| Animal hospitals and kennels..... | One for each two animal enclosures and examination rooms and one for each two employees |
| Automobile or farm implement | One for each 800 square feet of floor area and one for each employee repair station |
| | |
| <u>Type of Use</u> | <u>Parking Spaces Required</u> |
| Automobile or farm equipment sales,.... | One for each 400 square feet of floor area, one for each five vehicles or implements, and one for each employee and similar uses |
| Automobile service stations | Two for each service stall and two for each service bay |
| Convenience retail store | One for each 200 square feet of floor area and one for each two employees, with a minimum total of eight (8) spaces |
| Child Care Nursery..... | One space for each five (5) children plus one space for each employee |
| Churches and other places of | One for each 300 square feet of floor area religious assembly |
| Farm Markets | One for each 200 square feet of floor area, with a minimum total of two (2) spaces |
| Offices | One for each 300 square feet of floor |
| Research facilities | One for each employee and one for each motor vehicle used in the business and maintained on the premises |
| Restaurants, taverns, night clubs,..... | One for each three persons capacity, and one for each three employees and similar uses |
| Retail stores | One for each 250 square feet of sales area |

604.04 Industrial.

| <u>Type of Use</u> | <u>Parking Spaces Required</u> |
|---|---|
| Manufacturing, storage uses,..... warehouse and wholesale uses, parcel delivery, freight terminals, and similar uses | Two for every three employees on the largest shift for which the building is designed and one for each motor vehicle used in the business and maintained on the premises |

604.05 Recreational.

| <u>Type of Use</u> | <u>Parking Spaces Required</u> |
|---|--|
| Bowling alleys | Six for each alley or lane plus one additional space for each 100 square feet used for restaurant, cocktail lounge, or similar use |
| Dance halls, skating rinks | One for each two person capacity |
| Golf courses open to the..... general public | Five for each hole, one for each employee, and one space for each 100 square feet of area used for restaurant, cocktail lounge, or similar purpose |
| Other private recreation facilities..... | One for each three persons capacity |

SECTION 605 LOADING SPACE REQUIREMENTS

605.01 Off-Street Loading Development Standards. A permanently maintained area for standing, loading, and unloading services shall be provided for on the same lot with every building, structure, or part thereof erected and occupied for nonresidential use requiring distribution of materials or merchandise by vehicles. These off-street loading areas shall be required in order to avoid undue interference with public use of streets and alleys. All loading facilities shall be in accordance with the specifications of this section.

605.02 Loading Space Dimensions. Each loading space shall have minimum dimensions not less than twelve (12) feet in width, fifty (50) feet in length, and a vertical clearance of not less than fifteen (15) feet.

605.03 Projection Into Required Yards. Off-street loading spaces may occupy any part of a required rear or side yard, but shall not project into any front yard.

605.04 Access. All required, off-street loading spaces shall have access to public street or alley in such a manner that any vehicle leaving or entering the premises shall be traveling in a forward motion. This requirement may be waived upon approval by the Board of Appeals.

605.05 Paving. All required loading spaces, together with driveways, aisles, and other circulation areas, shall be surfaced with an asphalt or portland cement binder pavement in order to provide a durable or dust free surface.

605.06 Drainage. All loading spaces, together with driveways, aisles, and other circulation areas, shall be designed to prevent the drainage of surface water on to adjacent properties or walkways and damage to public streets.

605.07 Screening. Screening shall be provided as required by the appropriate district regulations.

605.08 Setback From Residential Districts. No loading ramp, dock, door, or space, nor any portion thereof, shall be located closer than one hundred (100) feet from any lot zoned for any residential use unless contained completely within an enclosed building.

605.09 Required Number of Spaces. The minimum number of off-street loading spaces shall be provided in accordance with this section unless otherwise approved by the Board of Zoning Appeals. An area adequate for maneuvering, ingress and egress shall be provided in addition to the following required loading spaces:

- A. Retail operations, and all first floor non-residential uses excluding industrial and wholesale operations, including restaurant and dining facilities within hotels and office buildings:
 - 0 to 19,999 square feet..... 0 space
 - Each 20,000 square feet or fraction above 20,000 square feet..... 1 space

- B. Industrial and wholesale operations:
 - 0 to 39,999 square feet..... 1 space
 - 40,000 to 99,999 square feet..... 2 spaces
 - 100,000 to 159,999 square feet..... 3 spaces
 - 160,000 to 239,999 square feet..... 4 spaces
 - 240,000 to 319,999 square feet 5 spaces
 - 320,000 to 399,999 square feet..... 6 spaces
 - Each 90,000 square feet or fraction above 399,999 square feet..... 1 space

SECTION 606 DRIVE-THROUGH WAITING SPACE REQUIREMENTS

606.01 Location. Drive-through waiting spaces shall be provided on the same lot as the use or building they are intended to serve.

606.02 Maneuvering. An area adequate for maneuvering, ingress, and egress shall be provided in addition to the required number of drive-through waiting spaces.

606.03 Number of Waiting Spaces Required. Waiting spaces shall be provided in accordance with the requirements of this section.

- A. Uses Providing Service Within Three Minutes or Less. Establishments which normally provide service to patrons in three (3) minutes or less shall provide at least five (5) spaces per service point.
- B. Uses Not Providing Service Within Three Minutes. Establishments which do not normally provide service to patrons in three (3) minutes or less shall provide additional spaces on the basis of one (1) additional waiting space per additional minutes of waiting time.
- C. Separate Additional Ordering Point. Establishments which provide an ordering point separate from the service point shall provide the required number of waiting spaces behind the ordering point rather than the service point.

ARTICLE VII SIGN REGULATIONS

SECTION 701 INTENT AND PURPOSE

701.01 Intent and Purpose. The intent of this article is to provide a comprehensive system of sign regulation for Elizabeth Township that recognizes the necessity and desirability of communication by outdoor signs while promoting an order to signage which eliminates visual clutter and confusion within the physical environment. The purpose of this article is to protect the safety and general welfare of the public within Elizabeth Township by encouraging compatibility between the design and functional nature of the sign and its location within the physical environment, thus reducing the propensity for traffic accidents and personal hazards caused by distractions, sight obstructions, and unsafe structures.

SECTION 702 ZONING PERMIT REQUIRED

702.01 Zoning Permit Required. The erection or location of any sign within Elizabeth Township shall require a permit unless otherwise specified within this article. No permit shall be issued for a sign unless it is in conformity with the requirements of this article. Signs erected for the purpose of traffic control, civil defense, or other similar public function, signs which cannot be viewed or are not intended to be viewed from any street or other property, and signs required by any law, ordinance or governmental regulation shall be exempt from the provisions of this article. Political signs involving any issue or candidate for public elective office are also exempt from the provisions of this article.

SECTION 703 GENERAL SIGN REQUIREMENTS

703.01 Required Conformance. All signs erected or located within Elizabeth Township shall be in conformance with the requirements of this section.

703.02 Location.

- A. Signs shall not prevent free ingress to or free egress from any door, window, or fire escape.
- B. Signs shall not be erected within nor project into any public right-of-way unless otherwise specified, and shall not be posted in any manner that is destructive to public property.
- C. Signs shall not be erected or located upon any property or building without the consent of the owner(s) or an authorized representative.
- D. Wall signs shall not extend above the junction of any roof and wall.
- E. Projecting signs shall not project into any right-of-way and not more than thirty-six (36) inches over any setback line.

703.03 Traffic Hazard Minimization.

- A. Signs shall not obstruct free and clear visibility at any intersection.
- B. Signs shall not be located or designed so as to interfere with, obstruct the view of, or be confused with any authorized traffic control sign, signal, or device.
- C. Signs shall not make use of colors, rotating lights, the words "STOP", "LOOK", "DANGER", or other similar words, devices, or symbols which may mislead or confuse traffic.
- D. The bottom of all freestanding signs shall maintain a minimum clearance of eight (8) feet above any pedestrian area, twelve (12) feet above any parking area, and fourteen (14) feet above any loading area.

703.04 Illumination. Any illuminated sign which is clearly visible from any residential district shall not be illuminated between the hours of 11 P.M. and 7 A.M. unless it is accessory to a business or commercial use open for business during such hours and located upon the same lot.

All lighting, indirect or internal, shall consist of Constant illumination which is uniform in intensity except for permitted time and temperature displays. All lighting shall be properly directed so as to not create a nuisance to surrounding properties and/or traffic because of glare.

703.05 Sign Types and Materials. Streamers, spinners, banners, strings of lights, and other similar devices which do not serve the function of a sign shall not be permitted. Changeable copy shall not be permitted on any sign unless specifically permitted in this article. Moving or rotating signs shall be prohibited.

703.06 Roof Signs Prohibited. No signs shall be erected upon or attached to any roof. Religious symbols, unaccompanied by lettering, when applied to the cornice, tower, or spire of a place of worship shall be permitted.

SECTION 704 TEMPORARY SIGNS

704.01 Number of Temporary Signs Per Lot. Not more than One (1) temporary sign shall be permitted on any lot within Elizabeth Township at any time.

704.02 Temporary Real Estate Signs. One (1) temporary sign identifying a property for sale, for rent, or for lease may be placed on-site until ten (10) days after the property has been closed, sold, rented, or leased. Real estate signs shall not exceed six (6) square feet in area per side within any residential district and shall not exceed twenty (20) square feet within any other district. All such signs shall be set back off any street right-of-way. All signs greater than six (6) square feet in area shall be set back a minimum of ten (10) feet from any street right-of-way. No zoning permit shall be required for any real estate sign six (6) square feet or less in area.

704.03 Temporary Subdivision Sale Signs. One (1) temporary sign providing information on the sale of lots within an approved and recorded subdivision may be placed upon the property until such time as seventy-five percent (75%) of the lots within the subdivision are sold. All such signs shall be set back off any street right-of-way a minimum of ten (10) feet. The maximum sign area shall be twenty (20) square feet.

704.04 Temporary Construction Signs. One (1) temporary sign identifying a construction project may be temporarily erected upon the same lot as the project. Such sign shall be permitted only for the length of the construction project or for one (1) year, whichever is shorter. Any extension past the one (1) year time shall be subject to approval by the Board of Zoning Appeals. Only one (1) temporary construction sign shall be permitted on a lot per street frontage. Maximum sign area permitted shall be six (6) square feet for each single-family or two-family dwelling, or three (3) square feet per dwelling unit for multiple-family residential structures up to a maximum of twenty (20) square feet. The maximum sign area permitted for any nonresidential project shall be twenty (20) square feet. All temporary construction signs shall be set back off any street right-of-way.

704.05 Temporary Agricultural Product Signs. Signs identifying the sale of agricultural products such as vegetables, eggs, straw, hay, and seeds grown or produced upon the premises may be temporarily erected upon any lot during the season in which they are available. The maximum sign area permitted for a temporary agricultural product sign shall be six (6) square feet within any residential district and twelve (12) square feet within any nonresidential district. All temporary agricultural product signs shall be set back from the street right-of-way a minimum of ten (10) feet.

704.06 Temporary Special Event Signs. One (1) temporary sign advertising a grand opening, a seasonal event, a special sale, or any other similar temporary special event may be temporarily located upon the premises on which the event is to take place for a period not to exceed seven (7) days within any thirteen (13) week period. The maximum sign area permitted for a special event sign shall be six (6) square feet in any residential district and thirty-two (32) square feet in any other district. All temporary special event signs shall be set back from the street right-of-way a minimum of ten (10) feet. The Zoning Inspector may cause a temporary special event sign not meeting the requirements of this section to be removed in accordance with Section 708.

704.07 Temporary Political Signs. Signs involving any ballot issue or candidate for public elective office may be temporarily erected for a period not to exceed sixty (60) days before or five (5) days after an election. Political signs shall be permitted as free standing signs in all districts, and shall not be attached to any structures providing essential services or located in any manner destructive to public property. Political signs shall not be located within any public right-of-way or within twenty (20) feet of the road pavement, whichever is greater. No zoning permit fee shall be required for political signs.

SECTION 705 BILLBOARDS

All billboards shall be in conformance with the provisions of Article 5, Section 517 of the Elizabeth Township Zoning Resolution.

SECTION 706 IDENTIFICATION SIGNS

706.01 Location. Signs which identify any residential subdivision and/or any non-residential use may be erected upon the same property as such use in accordance with the provisions of this section.

706.02 Permanent Structure. Identification signs shall be considered permanent installations and shall be either freestanding or attached to the structure which houses the use or uses identified on the sign.

706.03 Subdivision Identification Signs. Recorded residential subdivisions may be permitted freestanding identification signs as a conditional use subject to the following:

- A. Such signs shall be limited to one (1) or two (2) entrances along major thoroughfares and shall not obstruct the visibility at any intersection.
- B. Such signs shall contain only the name of the subdivision which they identify, shall not exceed six (6) feet in height, and shall be landscaped.
- C. The applicant shall submit a plan for the perpetual maintenance of such signs, identifying the responsibilities of the applicant, the public, the landowner, or other parties. Such plan shall be subject to approval by the Board of Zoning Appeals.
- D. The Board of Zoning Appeals may limit the size of such signs so as to insure the scale of such signs is compatible with the residential character of the area.

706.04 Signs For Nonresidential Uses Within Residential Districts. Identification signs for non-residential uses within any residential district shall be attached to the principal structure and shall not project more than fifteen (15) inches from the principal structure. Such signs shall be non-illuminated and shall not exceed five percent (5%) of the total area of the building elevation upon which the sign is placed.

706.05 Signs For Nonresidential Uses Within Nonresidential Districts. Identification signs for non-residential uses within any non-residential district shall be in accordance with the following:

- A. Each principal structure shall be entitled to two (2) identification signs in the following combinations: one (1) freestanding sign and one (1) wall sign; one (1) projecting sign and one (1) wall sign; or two (2) wall signs. Two (2) freestanding signs, two (2) projecting signs, or both a projecting and a freestanding sign shall not be permitted upon the same property unless otherwise specified in this article.
- B. The maximum sign area for a freestanding sign or a projecting sign shall be twenty-five (25) square feet.
- C. The maximum sign area for a wall sign shall be one (1) square foot per linear foot of building frontage up to a maximum of one hundred (100) square feet.
- D. Freestanding signs shall not exceed sixteen (16) feet in height and shall be set back a minimum of ten (10) feet from any street right-of-way line.

706.06 Signs For Home Occupations. Signs for home occupations shall be in accordance with the provisions of this section.

- A. Within Residential Districts. Signs for home occupations within residential zoning districts shall not exceed two (2) square feet in area, shall not be illuminated, and shall be mounted flat against the wall of the residence housing the home occupation.
- B. Within Agricultural Districts. Signs for home occupations within agricultural zoning districts shall not exceed six (6) square feet in area, shall not be illuminated, and shall be located flat against the wall of the building housing the home occupation. In lieu of a wall sign, the home occupation sign may be a freestanding sign with a maximum area of six (6) square feet, maximum height of three (3) feet, and a minimum setback of ten (10) feet from the street right-of-way.

SECTION 707 REMOVAL OF PERMANENT SIGNS BY ZONING INSPECTOR

707.01 Public Nuisance. For the purposes of this zoning resolution any permanent sign that does not meet the requirements of this article and is not a legally nonconforming structure is considered a public nuisance. Any abandoned, dangerous, or materially, electrically, or structurally defective sign, or a sign for which no permit has been issued is also considered a public nuisance. The Zoning Inspector shall cause all such signs to be removed.

707.02 Notice Required. The Zoning Inspector shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that if the sign is not removed or the violation is not corrected within thirty (30) days, the sign shall be removed in accordance with the provisions of this zoning resolution.

707.03 Mailing of Notice. All notices mailed by the Zoning Inspector shall be sent by certified mail. Any time period provided in this section shall be deemed to commence on the date of the receipt of the certified mail. Notice shall be mailed to the owner of the property On which the sign is located as shown on the last tax assessment roll. The notice shall also be mailed to the owner of the sign and the occupant of the property, if known.

707.04 Appeal. Any person having an interest in the sign or the property may appeal the determination of the Zoning Inspector ordering removal or compliance by filing a written notice of appeal with the Board of Zoning Appeals within thirty (30) days after the date of mailing the notice, or thirty (30) days after receipt of the notice if the notice was not mailed.

SECTION 708 REMOVAL OF TEMPORARY SIGNS BY ZONING INSPECTOR

708.01 Public Nuisance. For the purposes of this zoning resolution any temporary sign that does not meet the requirements of this article and is not a legally nonconforming structure is considered a public nuisance. Any abandoned, dangerous, or materially, electrically, or structurally defective sign or any sign for which no permit has been issued or a temporary permit has expired is also considered a public nuisance. The Zoning Inspector shall cause all such signs to be removed.

708.02 Required Notice. The Zoning Inspector shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that if the sign is not removed or the violation is not corrected within forty-eight (48) hours, Elizabeth Township shall cause forfeiture of any required bond to Elizabeth Township for such sign and cause removal of such sign in accordance with the provisions of this zoning resolution.

708.03 Mailing of Notice. All notices mailed by the Zoning Inspector shall be sent by certified mail. Any time period provided in this section shall be deemed to commence on the date of the receipt of the certified mail. Notice shall be mailed to the owner of the property on which the sign is located as shown on the last tax assessment roll. The notice shall also be mailed to or delivered to the owners of the sign and the occupant of the property, if known.

708.04 Appeal. Any person having an interest in the temporary sign or the property may appeal the determination of the Zoning Inspector ordering removal or compliance by filing a written notice of appeal with the Board of Zoning Appeals within forty-eight (48) hours after receipt of notice .

ARTICLE VIII NON-CONFORMITIES

SECTION 800 EXISTING CONFORMING LOTS, STRUCTURES, OR USES

- 800.01 Existing Lots, Structures, or Uses May Be Continued.** Lots, structures, or the use of lots and/or structures which conform with the regulations of the zoning district in which they are located may be continued, and may be altered, extended, or changed in accordance with this section.
- 800.02 Lots.** A conforming lot may be changed, altered, enlarged, or reduced in dimension, except that the remaining lot and/or resulting lot(s) shall conform to the development standards for the zoning district in which the lot is located.
- 800.03 Structures.** A conforming structure may be altered, reconstructed, or extended only in such a manner as will comply with the development standards for the zoning district in which the structure is located.
- 800.04 Uses.** A conforming use may be expanded, modified, or changed only in such a manner as will comply with the use restrictions and development standards for the zoning district in which the conforming use is located.

SECTION 801 NONCONFORMING LOTS

- 801.01 Nonconforming Lots.** A lawfully existing lot which would be prohibited under this zoning resolution by reason of area, width, frontage, or otherwise shall be considered a nonconforming lot. Any change, alteration, enlargement, or reduction of a nonconforming lot of record shall be in accordance with the provisions of Sections 801.02 and 801.03. It is the intent of this section to permit such nonconforming lot to continue until it is altered to conforming status, but not to encourage its use or alteration outside of the provisions set forth in this article.
- 801.02 Nonconforming Vacant Lots of Record in Combination.** If two or more lots, or a combination of lots and portions of lots with continuous frontage in single ownership, are of record at effective date of this zoning resolution or appropriate amendment thereto, and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this zoning resolution. All such lots shall be required to be recombined, as required, to meet the current area and frontage requirements for the required use before a zoning permit may be issued. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this zoning resolution, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this zoning resolution.
- 801.03 Single Nonconforming Lots of Record.** In any zoning district in which a use is permitted, such use may be permitted on any single lot of record at the effective date of this zoning resolution or appropriate amendment thereto, notwithstanding the limitations imposed by Section 801.03. Such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district. Yard dimensions, parking requirements, and development standards of the applicable zoning district other than those applying to lot area or lot width shall conform to the regulations for the district in which such lot is located. Variance of such development standards shall be obtained only through action of the Board of Zoning Appeals.

SECTION 802 NONCONFORMING STRUCTURES

- 802.01 Continuation.** Any lawfully existing principal or accessory structure which by reason of size, type, location on the lot, or otherwise is in conflict with the applicable development standards of the zoning district in which it is located shall be considered a nonconforming structure. Any change, alteration, enlargement, or reduction of a nonconforming structure shall be in accordance with the provisions of Sections 802.02 through 802.05. It is the intent of this zoning resolution to permit such nonconforming structure to continue until it is removed, but not to encourage its use or expansion outside of the provisions set forth in this article.

- 802.02 Structural Alterations.** Structural alteration of a nonconforming structure shall be in accordance with the provisions of this section.
- A. **Must Comply With Development Standards.** Any structural alteration of a nonconforming structure shall be made only in such a manner that such alteration will comply with the development standards of the zoning district in which such nonconforming structure is located.
 - B. **No Increase In Nonconformity.** Any structural alteration of a nonconforming structure shall not create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.
 - C. **Reduction of Other Standards Prohibited.** The extension or enlargement of a nonconforming structure may not occupy ground space suitable and otherwise available for meeting the required off-street parking, loading, and drive-through waiting requirements of this zoning resolution.
 - D. **Nonresidential Structures In Residential Zoning Districts.** Any enlargement of a nonconforming nonresidential structure located within a residential zoning district shall require a public hearing using the procedures prescribed for appeals in Article 10, Section 1003. If permitted, enlargements of such nonconforming structures shall only be made on property owned in conjunction with such non-conforming structure at the effective date of this zoning resolution or appropriate amendment thereto.
 - E. **Residential Buildings In Nonresidential Zoning Districts.** Nonconforming residential buildings in a nonresidential district may be improved, modernized, or enlarged. However, no increase in the number of dwelling units shall be permitted.
- 802.03 Damage or Destruction.** In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of the current replacement cost of the entire structure, such structure shall not be restored unless it thereafter conforms to the development standards for the zoning district in which it is located. When a structure is damaged to the extent of fifty (50) percent or less of the current replacement cost, no repairs or restoration shall be made unless a zoning certificate is obtained and restoration is actually begun within one (1) year after the date of such partial destruction. Such repair or restoration shall not increase the nonconformity that existed prior to the damage.
- 802.04 Moving.** No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure thereafter conforms to the development standards of the zoning district in which it will be located after being moved.
- 802.05 Repair and Maintenance.** Work may be done on ordinary maintenance and repairs, or on repair or replacement of walls, fixtures, wiring, or plumbing; provided, however, that this paragraph shall not be deemed to authorize any violation of this article. Nothing in this zoning resolution shall be deemed to prevent the strengthening or restoring to a safe condition of a building or other structure, other than a damaged or destroyed building or other structure subject to the provisions of 802.03, in accordance with the order of a public official who is charged with protecting the public safety and who declares such building or other structure to be unsafe and orders its restoration to a safe condition.
- 802.06 Plans Approved Prior To Effective Date.** To avoid undue hardship, nothing in this zoning resolution shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or appropriate amendment of this zoning resolution and upon which actual building construction has been carried on diligently.

SECTION 803 NONCONFORMING USES

- 803.01 Continuation.** Any lawfully existing principal, accessory, or conditional use which is in conflict with the applicable use restrictions of the zoning district in which it is located shall be considered a nonconforming use. Any change, alteration, or enlargement of a nonconforming use shall be in accordance with the provisions of Sections 803.02 through 803.08. It is the intent of this zoning resolution to permit such nonconforming use to continue until it is removed, but not to encourage its continuation, expansion, or substitution outside of the provisions set forth in this article.
- 803.02 Expansion of Use Within A Structure.** A nonconforming use may be expanded throughout any part of a building or other structure that was lawfully and manifestly designed or arranged for such use on the effective date of this zoning resolution or appropriate amendment thereto.
- 803.03 Expansion Of Structure.** A building or structure housing a nonconforming use may be extended or enlarged upon the lot of record occupied by such building on the effective date of this zoning resolution or amendment thereto, provided the development standards of the zoning district are complied with. Such building or structure may be expanded on to an adjoining property, provided such property was under the same ownership as the lot in question on the effective date of this zoning resolution or amendment thereto. Such building may be enlarged or extended to an extent not exceeding twenty-five (25) percent of the gross floor area of such structure or building lawfully existing at the time of the adoption of this zoning resolution or appropriate amendment thereto.
- 803.04 Substitution of Use.** The Board of Zoning Appeals may permit the substitution of a nonconforming use within a building or structure lawfully existing at the time of the adoption of this zoning resolution, subject to the following conditions:
- A. The Board of Zoning Appeals may permit either an expansion of a nonconforming building or structure, or a substitution of a nonconforming use in such building or structure, but not both.
 - B. The substitution shall not be permitted unless the Board of Zoning Appeals finds that the proposed nonconforming use is equally or more appropriate to the district than the existing nonconforming use.
 - C. Such substitution shall only be permitted after a public hearing in accordance with the procedures prescribed for appeals in Article 10, Section 1003 of this zoning resolution.
- 803.05 Damage or Destruction to Structure.** In the event that any building or other structure that is devoted in whole or in part to a lawful non-conforming use is damaged or destroyed, by any means, to such an extent that the cost of restoration to the condition in which it was before such damage or destruction exceeds fifty (50) percent of the current replacement cost of the entire building or other structure, exclusive of foundation, such building or other structure shall not be restored unless such building or other structure and the use thereof shall thereafter conform to the regulations of the district in which it is located. Moreover, even if such damage is fifty (50) percent or less, no repair or restoration shall be made unless a building permit is obtained within one (1) year after the date of such partial destruction, and restoration is actually begun within six (6) months after that.
- 803.06 Moving of Structure.** No structure devoted in whole or in part to a nonconforming use, shall be moved to any other location on the same lot or any other lot unless the entire structure and the use thereof shall thereafter conform to the regulations of the district in which it will be located after being so moved.
- 803.07 Relocation Of Use.** No nonconforming land use shall be relocated, in whole or in part, to any other location on the same or any other lot unless such use thereafter conforms to the regulations or the district in which it is located after being moved.
- 803.08 Discontinuance of Use.** Discontinuance of any nonconforming use of land, a building, or a structure shall be in accordance with the provisions of this section.

- A. Discontinuance of a Nonconforming Use of Land. In the event that operation of a nonconforming use of land is voluntarily discontinued for a period of two (2) years, such nonconforming use shall not thereafter be reestablished and any subsequent use or occupancy of such land shall conform to the regulations of the district in which it is located.
- B. Discontinuance of a Non-conforming Use of Buildings or Structures. In the event that operation of a nonconforming use of all or part of a building or other structure is voluntarily discontinued for a period of two (2) years, such nonconforming use shall not thereafter be reestablished, and any subsequent use or occupancy of such building or other structure shall conform to the regulations of the district in which it is located.
- C. Nonconforming Accessory Uses. No nonconforming accessory use shall continue after the principal use to which it is accessory has been discontinued.

ARTICLE X ADMINISTRATIVE AND LEGISLATIVE PROCEDURES

SECTION 1001 ZONING CERTIFICATE

- 1001.01 Zoning Certificate Required.** No person shall change any use of land, locate, erect, construct, reconstruct, enlarge or structurally alter any building or structure within Elizabeth Township, Miami County, Ohio without first obtaining a zoning certificate. No zoning certificate shall be issued unless the plans for the proposed building or structure or use of land fully comply with the provisions of this zoning resolution, unless the Zoning Inspector receives a written order from the Board of Zoning Appeals deciding an appeal, a variance, or conditional use. A zoning certificate shall be required for all residential structures, all principal structures and uses, all accessory structures unless otherwise specified, all specified accessory uses, and all temporary uses. A zoning certificate shall not be required for the use of land for agricultural purposes, for buildings or structures exclusively used for agricultural purposes, or for structures required in the provision of essential services by a public utility.
- 1001.02 Application For Zoning Certificate.** A written application and site plan for a zoning certificate shall be submitted to the Zoning Inspector on forms provided by Elizabeth Township. The following information shall be required:
- A. Name, address, and phone number of applicant.
 - B. Date.
 - C. The name of the subdivision and the lot number or other information necessary to establish the location of the lot.
 - D. The actual dimensions of the lot based on actual survey, including square footage and/or acreage, the yard and other open space dimensions thereof, and the location and size of any existing structures thereon.
 - E. The location on the lot and size of any proposed structure and/or the proposed alteration of any existing structure, indicating dimensions, including building height.
 - F. The number of proposed dwelling units, and the total residential floor area and the number of bedrooms to be included in each dwelling unit.
 - G. A permit from the Miami County Health Department or Ohio Environmental Protection Agency for on-site wastewater disposal, where applicable, indicating the location of primary and secondary leaching field locations.
 - H. The proposed parking plan and number and location of proposed off-street parking or loading spaces.
 - I. A plan for screening when applicable.
 - J. A statement by the applicant attesting to the truth and exactness of all information supplied on the application.
 - K. A statement that the permit shall expire and shall be revoked if work has not been started and substantially pursued within one (1) year of its issue date.
 - L. Such other information as may be necessary to determine conformance with this zoning resolution.
 - M. A fee as established by the Township Trustees.
- 1001.03 Processing Zoning Certificate Application.** Within thirty (30) days after the receipt of an application, the Zoning Inspector shall either approve or disapprove the application in conformance with the provisions of this zoning resolution. If the application is approved, the Zoning Inspector shall issue a zoning certificate. One (1) copy of the application shall be returned to the applicant by the Zoning Inspector after he/she shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One (1) copy of the application similarly marked shall be retained by the Zoning Inspector and filed. After the Zoning Inspector issues a zoning certificate, he/she 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 zoning resolution.
- 1001.04 Required Coordination With ODOT.** In the event an application involves land within three hundred (300) feet of the center line 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 the Ohio Department of Transportation or any land within a radius of five hundred (500) feet from the point of intersection of said center line

with any public road or highway, the Zoning Inspector shall require a third application for a Zoning Permit and send it to the Director of the Ohio Department of Transportation by registered mail for review. If the Director of the Ohio Department 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 certificate. If the Director of the Ohio Department of Transportation notifies the Zoning Inspector that acquisition at such time is not in the public interest or upon the expiration of the one hundred twenty (120) day period or any extension thereof agreed upon by the Director of the Ohio Department of Transportation and the property owner, the Zoning Inspector shall, if the application is in conformance with all provisions of this zoning resolution, issue the zoning certificate.

SECTION 1002 CONDITIONAL USE PERMITS

1002.01 Conditional Use Permit Required. As applicable to any use listed as a conditional use within a zoning district, no person shall change any use of land, locate, erect, construct, reconstruct, enlarge or structurally alter any building or structure within Elizabeth Township, Miami County, Ohio without first having a conditional use permit granted by the Board of Zoning Appeals.

1002.02 Application For Conditional Use Permit. A written application and site plan for a conditional use permit shall be submitted to the Zoning Inspector on forms provided by Elizabeth Township. At a minimum, the following information shall be required:

- A. Name, address, and telephone number of applicant.
- B. Date.
- C. The lot, name, and number or legal description of the property.
- D. Description of existing zoning district.
- E. Description of the proposed conditional use.
- F. A site plan of the proposed site for the conditional use showing the scale, north arrow, location of all buildings, parking and loading areas, traffic access and traffic circulation, sidewalks, curbs, open spaces, landscaping, refuse and service areas, fire hydrants, utilities, rights-of-way, signs, yards, and such other information as the Board of Zoning Appeals may require to determine if the proposed conditional use meets the intent and requirements of this zoning resolution.
- G. A plan for screening when applicable.
- H. A narrative statement discussing the merits of the proposal.
- I. Such other information as may be required by the Board of Zoning Appeals.
- J. A fee as established by the Township Trustees.

1002.03 Processing Of Conditional Use Applications. The Board of Zoning Appeals shall hold a public hearing within twenty (20) days from the receipt of the application. Before holding the public hearing, notice of such hearing shall be given in one (1) or more newspapers of general circulation within Elizabeth 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 conditional use. Written notice of such hearing shall be mailed by the Chair of the Board of Zoning Appeals, by first class mail, at least ten (10) days before the day of the hearing to all parties in interest. The notice shall contain the same information as required of notices published in newspapers. Within thirty (30) days after the hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or disapprove the application as presented. If the application is disapproved by the Board of Zoning Appeals, the applicant may seek relief through the Court of Common Pleas.

1002.04 Approval of Conditional Uses. The burden of proof for granting a conditional use permit shall rest with the applicant. In granting any conditional use permit, the Board of Zoning Appeals may prescribe such conditions and restrictions as may be necessary to comply with the standards in this section and the intent purpose of this zoning resolution. Violation of such conditions and restrictions, when made part of the terms under which the conditional use is granted, shall be deemed a violation of this zoning resolution and punishable under Article 12 Section 1203. Under no circumstances shall the Board of Zoning Appeals authorize a conditional use to allow a use prohibited expressly or by implication within the zoning district in which the property in question is located.

- 1002.05 Conditional Use Standards.** Conditional uses may be permitted provided that such uses shall be found to comply with the following standards and all other applicable requirements as set forth in this zoning resolution:
- A. The use is so designed, located and proposed to be operated so that the public health, safety, morals and general welfare will be protected.
 - B. The use will not result in the destruction, loss or damage of a natural, scenic, or historic feature of major importance.
 - C. The use is operated in a manner that will not cause pollution of either underground water or surface water and will not have a detrimental impact to the underground water supply of the area.
 - D. The use will be designed, constructed, operated, and maintained so that it shall not cause substantial injury to the value of the property in the area or neighborhood where it is to be located.
 - E. The use shall be compatible with adjoining development and the proposed character of the zoning district where it is to be located.
 - F. The use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide any such services adequately.
 - G. The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
 - H. Adequate landscaping and screening are provided, as required.
 - I. Adequate off-street parking, loading, and/or waiting spaces are provided, and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.
 - J. The use conforms with all applicable regulations governing the district in which it is located, except as may otherwise be determined for planned unit development.
 - K. The use is compatible with the standards, objectives, and policies of the Miami County Comprehensive Plan.
 - L. The use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors, or vibrations.
 - M. Any other supplementary requirements as prescribed by the Board of Zoning Appeals.
- 1002.06 Expiration Of Conditional Use Permits.** A conditional use permit shall be deemed to authorize only one (1) particular conditional use. The conditional use permit shall automatically expire if, for any reason, the conditional use shall cease for more than six (6) months, or construction is not begun within the amount of time indicated on the conditional use permit.

SECTION 1003 APPEALS AND VARIANCES

- 1003.01 Appeals.** Appeals to the Board of Zoning Appeals concerning interpretation or administration of this zoning resolution may be taken by any person aggrieved or by any officer or bureau of Elizabeth Township affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision by filing, with the Zoning Inspector and with the Board of Zoning Appeals, 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 was taken.

- 1003.02 Stay of Proceedings.** An appeal stays all proceeding in furtherance of the action appealed from, unless the Zoning Inspector from whom the appeal is taken certifies to the Board of Zoning Appeals after the notice of appeal is filed with him, that by reason of facts stated in the application, a stay would, in his/her 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 of Zoning Appeals or by a court of record on application, on notice to the Zoning Inspector from whom the appeal is taken on due cause shown.
- 1003.03 Variances.** The Board of Zoning Appeals may authorize, upon appeal in specific cases, such variance from the terms of this zoning resolution as will not be contrary to the public interest or the intent of this zoning resolution where, owing to special conditions, a literal enforcement of the provisions of this zoning resolution would result in unnecessary hardship, or in the case of area variances only, practical difficulties. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.
- 1003.04 Application.** A variance from the terms of this zoning resolution shall not be granted by the Board of Zoning Appeals unless the applicant has provided sufficient evidence to warrant the granting of a variance, and a written application for a variance is submitted to the Zoning Inspector and the Board of Zoning Appeals containing, at a minimum, the following information:
- A. Name, address, and telephone number of applicant.
 - B. Legal description of the property.
 - C. Description of nature of variance requested.
 - D. A narrative statement demonstrating to the satisfaction of the Board of Zoning Appeals that the requested variance conforms to the standards set forth in Section 1003.05.
 - E. A fee as established by the Township Trustees.
- 1003.05 Standards For Granting Variances.** Variances may be granted provided that such uses shall be found to comply with the following standards:
- A. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of this zoning resolution were to be carried out.
 - B. The conditions upon which the application for variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property in the same zoning district.
 - C. The purpose of the variance is not based exclusively upon a desire to increase financial gain.
 - D. The alleged difficulty or hardship is caused by strict interpretation of this zoning resolution and has not been created by any persons presently having an interest in the property.
 - E. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
 - F. The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- 1003.06 Granting of Variances.** Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this zoning resolution would result in unnecessary hardship. The burden of proof for granting a variance shall rest with the applicant. In granting any appeal or variance, the Board of Zoning Appeals shall make written findings of fact and may prescribe such conditions and restrictions as may be necessary to comply with the standards in this section and the intent purpose-of this zoning resolution. Violation of such conditions and restrictions, when made part of the terms under which the appeal or variance is granted, shall be deemed a violation of this zoning resolution and punishable under Article 12, Section 1203. Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use prohibited expressly or by implication in the zoning district in which the property in question is located.

1003.07 Processing Appeals and Variances. 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.

- A. Published Notice. Before holding the required public hearing, notice of such hearing shall be given in one or more newspapers of general circulation within Elizabeth 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.
- B. Mailed Notice. Written notice of such hearing shall be mailed by the Chair of the Board of Zoning Appeals, by first class mail, at least ten (10) days before the day of the hearing to all parties in interest. The notice shall contain the same information as required of notices published in newspapers.

1003.08 Action and Effective Date. The Board of Zoning Appeals shall take action on the application within thirty (30) days after the public hearing. The order or decision of the Board of Zoning Appeals shall become effective upon the signing of it by the Chairperson and upon receipt by the applicant. Delivery may be made by certified mail, personal or residence service by the Zoning Inspector, Miami County Sheriff, or other persons designated by the Board of Zoning Appeals.

SECTION 1004 AMENDMENTS AND ZONING DISTRICT CHANGES

1004.01 Necessity of Amendments. Whenever the public necessity, convenience, general welfare, or good zoning practices require, the Township Trustees may, by resolution after receipt of recommendations from the Zoning Commission, and subject to the procedures provided by law, amend, supplement, change, or repeal this zoning resolution and district boundaries or classification of property.

1004.02 Initiation Of Amendments. Amendments to this zoning resolution may be initiated in one of the following ways:

- A. By adoption of a motion by the Zoning Commission.
- B. By adoption of a resolution by the Board of Township Trustees.
- C. By filing of an application by at least one (1) or more owners or lessees of property within the area proposed to be changed or affected by the proposed amendment.

1004.03 Application For Amendment. A written application for a text or map amendment shall be submitted to the Zoning Inspector on forms provided by Elizabeth Township. At a minimum, the following information shall be required, in triplicate:

- A. Name, address, and telephone number of applicant.
- B. Date.
- C. Legal description of the property.
- D. Present use.
- E. Present zoning district.
- F. Proposed use.
- G. Proposed zoning district.
- H. A vicinity map at a scale approved by the Zoning Commission showing property lines, streets, existing and proposed zoning, and such other items as the Zoning Commission may require.
- I. Proposed amendment to the text.
- J. A list of all property owners within two hundred (200) feet of, contiguous to, and directly across the street from the parcel(s) proposed to be rezoned, and others that may have a substantial interest in the case.
- K. A statement on how the proposed amendment relates to the Miami County Comprehensive Plan.
- L. A fee as established by the Township Trustees.

- 1004.04 Required Sign.** All applicants submitting requests for change in district boundaries on the Official Zoning District Map shall be required to post a sign upon the property in question within five (5) days after the submission of an application. Such sign shall be clearly visible from the street, or in the case of two (2) or more streets, that street with the greater average traffic flow. Such sign shall state "THIS PROPERTY IS BEING CONSIDERED FOR REZONING". "PUBLIC HEARING SCHEDULED FOR (month, date, and time)" and shall also denote the present and proposed zoning district classification for the site. No zoning permit shall be required. However, the location and size of such sign shall be subject to approval by the Zoning Inspector.
- 1004.05 Transmittal To County Planning Commission.** Within five (5) days after the adoption of a motion by the Zoning Commission, transmittal of a resolution by the Board of Township Trustees, or the filing of an application by at least one (1) owner or lessee, the Zoning Commission shall transmit a copy of such motion, resolution, or application together with the text and map pertaining to the case in question to the Miami County Planning Commission. The Miami County Planning Commission shall recommend the approval, denial, or modification to the Zoning Commission. Such recommendation shall be considered at the public hearing held by the Zoning Commission.
- 1004.06 Coordination With Other Jurisdictions.** In the event that a proposed rezoning is located adjacent to another political jurisdiction, an additional copy of the application shall be provided and forwarded to the chairman of the Planning Commission or the Zoning Commission of that jurisdiction. If the adjacent political subdivision has no zoning regulations in effect, the letter shall be forwarded to the township or municipal clerk of such jurisdiction. Any comments provided by the adjoining jurisdiction shall be considered at the public hearing of the Zoning Commission.
- 1004.07 Required Coordination With ODOT.** Before any zoning amendment is approved affecting any land within three hundred (300) feet of the center line of a proposed new highway or highway for which changes are proposed as described in the certification to local officials by the Director of the Ohio Department of Transportation, or within a radius of five hundred (500) feet from the point of intersection of said center line with any public road or highway, the Commission shall give notice, by registered or certified mail to the Director of the Ohio Department of Transportation. The Zoning Commission may proceed as required by law. If the Director of the Ohio Department 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 zoning. If the Director of the Ohio Department of Transportation notifies the Board of Township Trustees that acquisition at such time is not in the public interest or upon expiration of the one hundred twenty (120) day period or any extension thereof agreed upon by the Director of the Ohio Department of Transportation and the property owner, the Board of Township Trustees shall proceed as required by law.
- 1004.08 Zoning Commission Public Hearing.** 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 zoning amendment. Said hearing shall not be less than twenty (20) nor more than forty (40) days from the date of adoption of such motion, transmittal of such resolution, or the filing of such application.
- 1004.09 Notice Of Zoning Commission Public Hearing.** Before the required public hearing, notice shall be given by the Zoning Commission by at least one (1) publication in a newspaper of general circulation within the Township at least ten (10) days before the date of said hearing. The content of such notice shall be in accordance with Section 519.12 (C) or 519.12 (D) of the Ohio Revised Code, as applicable.
- If the proposed amendment intends to rezone or redistrict ten (10) or fewer 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 two hundred (200) feet of, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the address of such owners appearing On the County Auditor's current tax list. The failure of delivery of such notice shall not invalidate any such amendment. The content of such notice shall be in accordance with Section 519.12 (C) of the Ohio Revised Code.

- 1004.10 Recommendation Of Zoning Commission To Trustees.** Within thirty (30) days after the required public hearing, the Zoning Commission shall forward such recommendation to the Board of Township Trustees that the amendment be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment not be granted.
- 1004.11 Township Trustees Public Hearing.** Upon receipt of the recommendation from the Zoning Commission, the Board of Township Trustees shall schedule a public hearing. The date of said hearing shall be not more than thirty (30) days from the receipt of the recommendation from the Zoning Commission.
- 1004.12 Notice Of Trustees Public Hearing.** Notice of the required public hearing shall be given by the Board of Township Trustees by at least one (1) publication in a newspaper of general circulation within the Township. Said notice shall be published at least ten (10) days before the date of the required hearing. The content of such notice shall be in accordance with Section 519.12 (F) or (G) of the Ohio Revised Code, as applicable.
- 1004.13 Action By Township Trustees.** Within twenty (20) days after the required public hearing, 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 Board of Township Trustees shall be required.
- 1004.14 Effective Date.** 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 registered electors 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 a special election to be held on the day of the next primary or general election.
- 1004.15 Referendum Petition.** The content and form of such referendum petition shall be in accordance with Section 519.12 (H) of the Ohio Revised Code. The petition shall be filed, accompanied by an appropriate map of the area affected by the zoning proposal, with the Board of Township Trustees, which shall then transmit the petition within two (2) weeks of its receipt to the Board of Elections, which shall determine the sufficiency and validity of the petition. The petition shall be certified to the Board of Elections not less than seventy-five (75) days prior to the election at which the question is to be voted upon.
- 1004.16 Effect of Referendum Vote.** No amendment for which such 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 amendment has been approved by the voters, it shall take immediate effect.

SECTION 1005 PROCEDURE FOR APPROVAL OF PLANNED DEVELOPMENT DISTRICT

- 1005.01 Required Approval Procedure.** All requests for approval of a Planned Development District shall be at the election of the property owner. All applications for the approval of a planned development district shall be processed in accordance with the provisions of this section.
- 1005.02 Pre-Application Meetings.** The applicant shall meet with the Zoning Commission and the Miami County Planning Commission prior to the submission of the preliminary plan. The purpose of these meetings is to discuss, both early and informally, the relationship of the plan to this zoning resolution, the Miami County Comprehensive Plan, Miami County Subdivision Regulations, and the physiography, the thoroughfare, drainage, water, and wastewater systems of Elizabeth Township.

1005.03 Contents of Application for Approval of Preliminary Plan. An application for preliminary plan approval for the planned development shall be filed with the Chair of the Zoning Commission by at least one (1) owner of property for which the planned development is proposed. At a minimum, the application shall contain the following information filed in triplicate:

- A. Name, address, and phone numbers of the applicant and all property owners within the proposed development, evidence of unified control of the entire area of the development, and tentative agreement of all owners to proceed with development according to plan or to provide adequate sureties for completion.
- B. A map or maps indicating the relation of the proposed development to the surrounding area. As appropriate to the development proposed, such map or maps shall demonstrate access to major streets, and community facilities, and show the approximate location and sizes of existing public sewers, water lines and storm drainage systems.
- C. Name, address and phone number of registered surveyor, registered engineer and/or professional urban planner assisting in the preparation of the preliminary development plan.
- D. A legal description of the property.
- E. A description of existing uses both upon and surrounding the site.
- F. A map illustrating the existing zoning districts within and surrounding the site.
- G. A topographic data map drawn to a scale of one hundred (100) feet or less to one inch by a registered surveyor and/or engineer showing boundary lines, easements, ground elevations, and wooded areas, streams, lakes, marshes, flood plains, soil types, and other physical conditions affecting the site.
- H. A preliminary development plan and report presenting, in generalized form, the proposed residential density; the proposed circulation pattern including all public and private streets; proposed off-street parking or loading areas; a preliminary layout of lots, land uses, and the location of all principal structures; the general location of utility installations and easements; proposed parks and other community spaces; and other information which the Zoning Commission deems necessary.
- I. A proposed schedule for the development of the site.
- J. Evidence that the applicant has sufficient control over the land in question to initiate the proposed development plan within five (5) years.
- K. A written statement by the developer setting forth the reasons why in his opinion, the planned unit development would be in the public interest and would be consistent with the statement of intent and purpose of this zoning resolution and the general criteria for approval of developments.
- L. A fee as established by the Township Trustees.

1005.04 Review and Action on Preliminary Plan by Zoning Commission and Township Trustees. Within thirty (30) days after it is filed, the Zoning Commission shall review the preliminary plan to determine if it is consistent with the intent and purpose of this zoning resolution, and approve it in principle, with or without conditions, or disapprove it. The Zoning Commission shall determine if the proposed development advances the general welfare of the community and neighborhood; and whether the benefits, combination of various land uses, and the interrelationship with the land uses in the surrounding area justify the deviation from standard district regulations. In addition, the approval in principle of the preliminary plan by the Township Trustees shall be necessary before the applicant may submit a final plan. Approval in principle shall not be construed to endorse a precise location of uses, configuration of lots, or engineering feasibility.

1005.05 Final Plan. After approval in principle of the preliminary plan, the applicant may submit a final plan to the Zoning Commission. The final plan shall be in general conformance with the preliminary development plan approved in principle. Five (5) copies of the final development plan shall be submitted.

1005.06 Contents of Application for Approval of Final Plan. An application for approval of the final plan shall be filed with the Chair of the Zoning Commission by at least one (1) owner of property for which the planned unit development is proposed. Each application shall be signed by the owner, attesting to the truth and exactness of all information supplied on the application for final development plan. At a minimum, the application shall contain the following information:

- A. A survey of the proposed development site, showing the dimensions and bearings of the property lines, area in acres, topography, and existing features of the development site including soil types, major wooded areas, structures, streets, easements, utility lines, and land uses.
- B. A map or maps in the form required by the Subdivision Regulations for Miami County, Ohio for recording the final plat or subdivision; the location and proposed density of dwelling units, nonresidential buildings; and land use considered suitable for adjacent properties.
- C. A schedule for the development of units to be constructed in progression and the anticipated timing for each unit; tabulation of the number of acres in the proposed project for various uses; the number of housing units and bedrooms proposed by type of housing; estimated nonresidential population where appropriate; and standards for height, open space, building density, parking areas, population density and public improvements proposed for each unit of the development.
- D. Engineering feasibility studies and plans showing necessary water, sewer, and storm drainage installations; waste disposal facilities; street improvements, and the nature and extent of earth work required for site preparation and development.
- E. The site plan, showing buildings, various functional use areas, circulation, and their relationship.
- F. Preliminary building plans, including floor plans and exterior elevations.
- G. Landscaping plans.
- H. Deed restrictions, protective covenants, and other legal statements or devices to be used to control the use, development, and maintenance of the land, and the improvements thereon, including those areas which are to be commonly owned and maintained.

1005.07 Approval Process of Final Plan. The approval process for the final plan by both the Zoning Commission and the Township Trustees shall be in accordance with the district amendment procedure outlined in Article 10, Section 1004.

1005.08 Supplementary Conditions and Safeguards. In approving any planned development district, the Township Trustees may prescribe appropriate conditions and safeguards, in conformity with this zoning resolution. Violation of such conditions or safeguards, when made a part of the terms under which the final development plan is approved, shall be deemed a violation of this zoning resolution and punishable under Article 12, Section 1203.01, of this zoning resolution.

ARTICLE XI DEFINITIONS

SECTION 1101 CONSTRUCTION OF LANGUAGE

For the purpose of this zoning resolution, certain terms or words shall be interpreted as follows: 1) words used in the singular shall include the plural, and the plural the singular; 2) words used in the present tense shall include the future tense; 3) the word "shall" is mandatory and not discretionary; 4) the word "may" is permissive; 5) the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for"; 6) the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; and 7) the word "dwelling" includes the word "residence."

SECTION 1102 DEFINITIONS

All words used in this zoning resolution shall have their customary meanings as defined in Webster's New World Dictionary, except those specifically defined in this section.

1102.01 Definitions Beginning with the Letter "A".

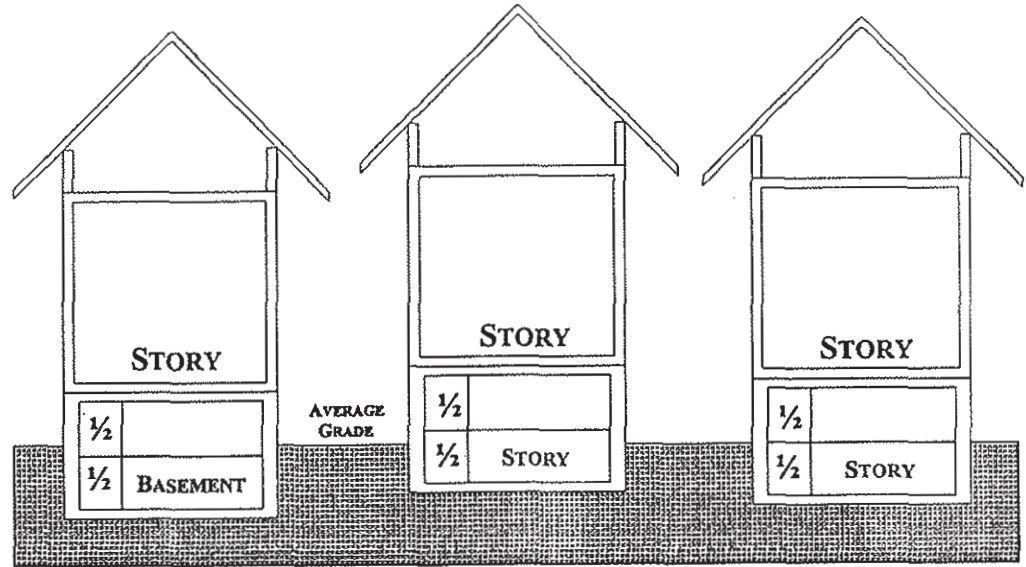
- A. Accessory Use or Structure: A use or structure incidental and subordinate to the principal use and/or structure on the lot and serving a purpose customarily incidental and subordinate to the use of the principal building.
- B. Adult Entertainment Facility: A facility having a significant portion of its function as adult entertainment which includes the following listed categories:
 - 1. Adult Book Store. An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" as herein defined or an establishment with a segment or section devoted to the sale or display of such material.
 - 2. Adult Mini-Motion Picture Theater. A facility with a capacity for less than fifty (50) persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," for observation by patrons therein.
 - 3. Adult Motion Picture Theater. A facility with a capacity of fifty (50) or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," for observation by patrons therein.
 - 4. Adult Entertainment Business. Any establishment involved in the sale of services or products characterized by the exposure or presentation of "Specified Anatomical Areas" or physical contact of live males or females, and which is characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons. Services or products included within the scope of adult entertainment business are photography, dancing, reading, massage, and similar functions which utilize activities as specified above.
 - 5. Massage Establishment. Any establishment having a fixed place of business where massages are administered for pay. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Ohio, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck, or the shoulder.

- 6. Massage. A method of treating or stimulating the external parts of the human body by rubbing, stroking, kneading, tapping, touching or vibrating with the hand or any instruments for pay.
- 7. Specified Sexual Activities.
 - (a) Human genitals in a state of sexual stimulation or arousal;
 - (b) Acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, or fellatio;
 - (c) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.
- 8. Specified Anatomical Areas.
 - (a) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breasts below a point immediately above the top of the areola;
 - (b) Human male genitals in a discernibly turgid state even if completely and opaquely covered.
- C. Agribusiness: Manufacturing, warehousing, storage, and related industrial and commercial activities that provide services for or are dependent upon agricultural activities found within the Agricultural District, and are not necessarily suited to locations within an established community. Agribusinesses include, but are not limited to the following uses: fertilizer sales, storage, and blending, sales and servicing of farm implements and related equipment, preparations and sale of feeds for animals and fowl, seed sales, poultry hatchery services, corn shelling, hay baling, and threshing services, grain elevators and bulk storage of feed grains, horticultural services, veterinary services, agricultural produce milling and processing, feed lots, livestock auctions, and retail nurseries.
- D. Agriculture: As used in this Resolution, Agriculture shall be interpreted the same as defined and used in Chapter 519 of the Ohio Revised Code; provided however, that as used in this Resolution, agriculture shall not include: (1) the keeping, caring and harboring of household pets, not exceeding a total of six (6) such pets; or, (2) the cultivating of land for a household garden, the harvest from which is to be utilized solely for the personal consumption of the residents, or immediate family thereof, of the lot or land upon which the garden is located and not otherwise sold or commercially distributed, and provided that the total area of such garden shall not exceed ten percent (10%) of the lot or parcel upon which the garden is located.
- E. Airport: Any runway, landing strip, or other facility designed or used by any person for the landing and take-off of aircraft by the public for commercial purposes, and may also include services such as fuel sales, storage, repair services, and aircraft sales.
- F. Alterations: Any change in the supporting members (bearing wall, beams, columns, girders, etc.) of a building or structure; or movement of a building or structure from one location to another.
- G. Antenna: Any panel, whip, dish, or other apparatus designed for communications through the sending and/or receiving of electromagnetic waves, excluding any support structure other than brackets.
- H. Antenna Support Structure: Any building or other structure other than a tower which can be used for location of wireless telecommunications facilities.
- I. Applicant: Any person that applies for a permit or amendment pursuant to this zoning resolution.
- J. Application: The process by which an applicant submits a request and indicates a desire to be granted a permit or amendment under the provisions of this zoning resolution. An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to Elizabeth Township concerning such a request.

- K. Automobile Repair Station: A building, lot, or both, in or upon which the business of general motor vehicle repair and service is conducted, to include engine rebuilding, rebuilding or reconditioning of motor vehicles, body repair, and painting and undercoating of automobiles, but excluding a junk yard as defined in this section.
- L. Automobile Sales or Rental: A building, lot, or both used for the display, sale, or rental of new or used motor vehicles in operable condition and where repair service is incidental.
- M. Automobile Service Station: A building, lot, or both, having pumps and underground storage tanks at which fuels, oils, or accessories for the use of motor vehicles are dispensed, sold, or offered for retail sale, and where mechanical repair service may be incidental to the dispensing of such items. The storage of junk or inoperable vehicles shall not be included in this definition.

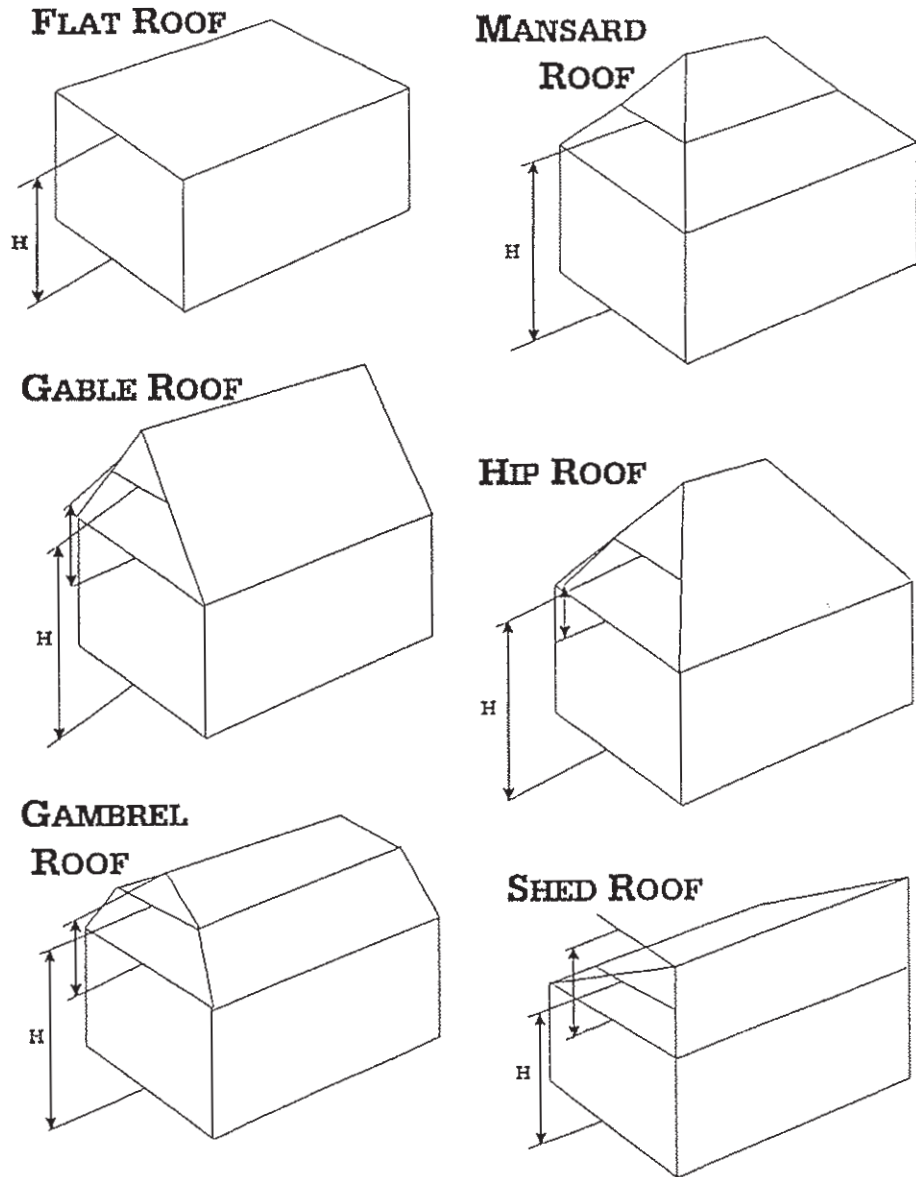
1102.02 Definitions Beginning with the Letter “B”.

- A. Barn: An accessory structure upon a lot customarily used for the housing of livestock and for the storage of crops and/or machinery used in bona-fide agricultural activities as previously defined in this section.
- B. Basement: Floor space in a building partially or wholly underground, but having more than one-half (.5) of its clear floor-to-ceiling height below the average grade of the adjoining ground. (See Illustration)



- C. Bedroom: A separate room within a dwelling unit for sleeping purposes containing a minimum of eighty (80) square feet of habitable floor area.
- D. Billboard: See Sign.
- E. Board of Zoning Appeals: The Board of Zoning Appeals of Elizabeth Township, Miami County, Ohio.
- F. Building: Any structure having a roof supported by poles, columns, or walls which is designed for the shelter, support, or enclosure of persons, animals, chattels, or property of any kind.
- G. Building Height: The vertical distance from the average elevation of the finished grade at the front of the building to (a) the highest point of a flat roof; (b) the deck line of a mansard roof;

(c) the average height between the eaves and ridge for gable, hip, and gambrel roofs; or (d) the average height between high and low points for a shed roof. (See Illustration next page.)



1102.03 Definitions Beginning with the Letter "C".

- A. Cemetery: Land used or intended to be used for the burial of animal or human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.
- B. Child Care Nursery: Any premise where child day care is provided for five (5) or more children, other than those of the owner or administrator, with or without compensation. This definition excludes the care of children in places of worship during religious services and programs operated in school buildings by either public schools or non-public schools meeting the standard of public schools.

- C. Club: A premises owned or operated by a person or persons for a civic, social, cultural, religious, literary, political, recreational, or like activity, but not primarily for profit or to render a service which is customarily carried on as a business.
- D. Co-location: The use of a wireless telecommunication facility by more than one (1) wireless telecommunication provider.
- E. Collector's Vehicle: Any motor vehicle, agricultural tractor, or traction engine of special interest that meets all the following requirements:
 - 1. It has a fair market value in excess of four hundred dollars (\$400.00).
 - 2. It is or is not operable.
 - 3. It is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment.
 - 4. It is not owner's principal means of transportation.
 - 5. It displays current and valid collector's vehicle license tags, where applicable.
- F. Commercial Recreation Facility: Any commercial activity conducted indoors or outdoors which is related to the recreation field, such as bowling alleys, skating rinks, indoor tennis courts, indoor motion picture theaters, drive-in theaters, community swimming pools, miniature golf, driving ranges, golf courses, skiing facilities, country clubs, and similar activities.
- G. Common Open Space: One or more parcels of land, together with the improvements thereon, jointly owned by the landholders of the individual building sites within a development, and for the use and enjoyment of the owners and occupants of the development.
- H. Conditional Use: A use permitted within a district other than a permitted principal use, requiring a conditional use permit and approval of the Board of Zoning Appeals. These uses are permitted only after the applicant has followed the procedures outlined in Article 10, Section 1002 of this zoning resolution.
- I. Conditional Use Permit: A permit issued by the Board of Zoning Appeals to allow certain specific developments that would not otherwise be allowed in a particular zoning district. These permits are issued only after the applicant has followed the procedures as stated in Article 10, Section 1002 of this zoning resolution. Development under a Conditional Use Permit differs from a zoning district change in that it is much more specific. The applicant submits plans and conditions exactly or reapplies for a permit before deviating from that plan.
- J. Court: An open space which mayor may not have direct street access and which is bounded on two or more sides by a single building or a group of related buildings. A court is not a yard.
- K. Corner Lot: See Lot Types.

1102.04 Definitions Beginning with the Letter "D".

- A. Density: A unit of measurement designating the number of dwelling units per acre of land as follows:
 - 1. Gross Density: The number of dwelling units per acre of the total land to be developed.
 - 2. Net Density: The number of dwelling units per acre of land when the acreage involved includes only the land devoted to individual residential lots or uses and excludes such areas as street right-of-way, common open space, and other similar nonresidential uses.
- B. District: A portion of the unincorporated area of Elizabeth Township within which certain regulations and requirements, or various combinations thereof, apply uniformly under the provisions of this zoning resolution.

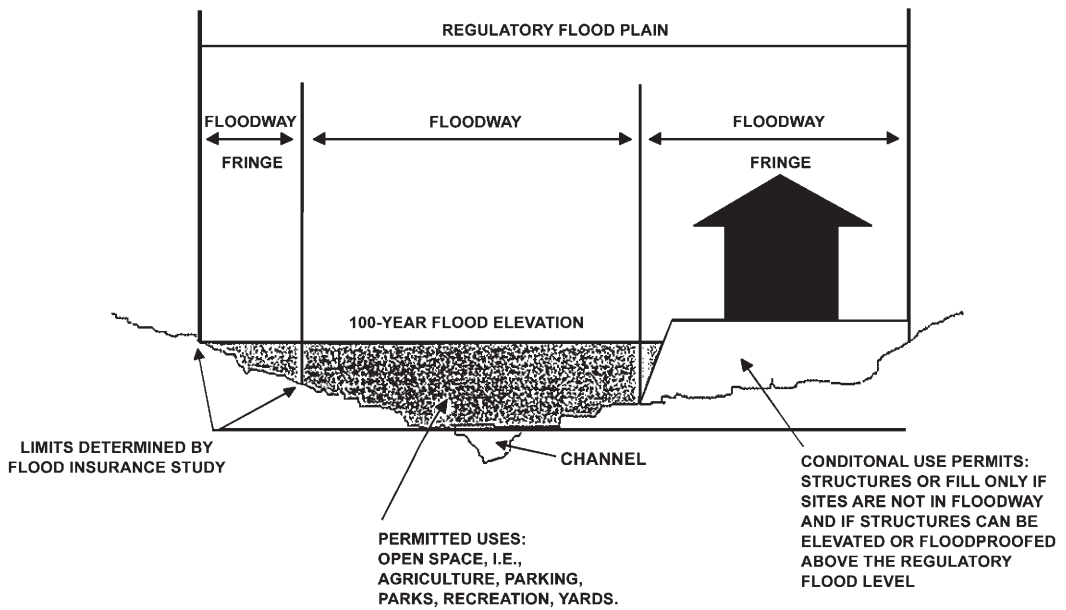
- C. Drive-Through: A business or other establishment so developed that its retail or service character is dependent on providing a driveway approach and/or waiting spaces for motor vehicles so as to serve patrons while in the motor vehicle.
- D. Dwelling: A building or structure used to provide complete housekeeping facilities for one (1) individual family with sleeping facilities, permanently installed cooking facilities, and lawfully required sanitary facilities.
- E. Dwelling Unit: One or more rooms designed for or used as a unit to provide complete housekeeping facilities for one (1) individual family with sleeping facilities, permanently installed cooking facilities, and lawfully required sanitary facilities. This definition shall include “modular homes” and “manufactured homes” as defined in this zoning resolution, but specifically excludes “mobile homes” and “recreational vehicles” as defined in this zoning resolution.
- F. Dwelling, Single-Family: A building consisting of one (1) single dwelling unit on an individual lot, separated from other dwelling units by open space.
- G. Dwelling, Two-Family: A building consisting of two (2) dwelling units, including condominiums, which may be either attached side-by side or one above the other. Each unit shall have a separate entrance.
- H. Dwelling, Multiple-Family: A building consisting of three (3) or more dwelling units, including condominiums, townhouses, quadruplexes, and garden apartments with varying arrangements of entrances and party walls.

1102.05 Definitions Beginning with the Letter “E”.

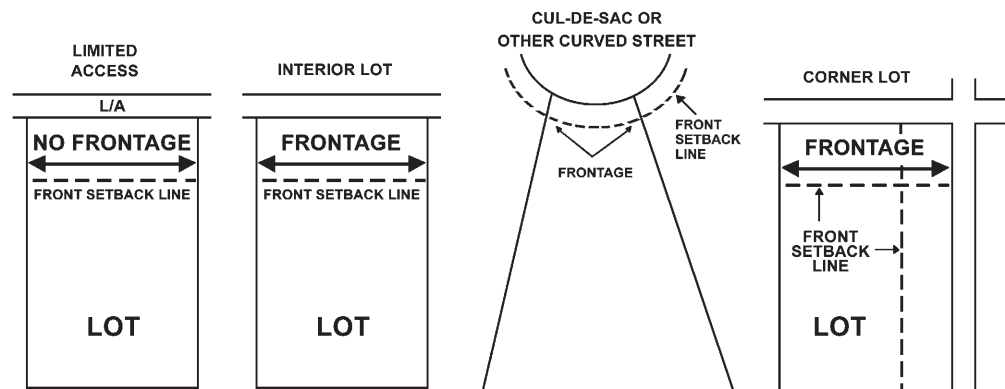
- A. Easement: Authorization by a property owner for use by another for a specified purpose, of any designated part of his property.
- B. Emergency: A reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.
- C. Engineer: Any engineer licensed by the State of Ohio.
- D. Equipment Shelter: The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.
- E. Erection: The acts of building, construction, altering, reconstructing, moving upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like shall be considered a part of erection.
- F. Essential Services: The erection, construction, reconstruction, change, alteration, maintenance, removal or use of any underground or overhead equipment including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, signals, hydrants, or other similar accessories by any public utility or governmental agency for the purpose of furnishing adequate supply, transmission, distribution, collection, or disposal of gas, electric, water, steam, or communication service to the public in order to maintain the public health, safety, and welfare.
- G. Excavation: The act of digging, hollowing out, or any other breaking of ground resulting in a total quantity of more than one hundred (100) cubic yards of material or a vertical depth of more than four (4) feet. Common household gardening and ground care, or plowing of ground for agricultural purposes, shall be excepted from this definition.

1102.06 Definitions Beginning with the Letter “F”.

- A. FAA: The Federal Aviation Administration and any legally appointed, designated or elected agent or successor.
- B. Family: An individual; two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit in a dwelling unit or a mobile home; or a group of individuals, who need not be related, living together as a single housekeeping unit in a dwelling unit or a mobile home, provided that a ratio of two (2) persons or less per bedroom within the dwelling unit or mobile home be maintained.
- C. Farm: All of the contiguous neighboring or associated land operated as a single unit by the owner-operator himself, his family, or hired employees on which bona fide agriculture is conducted as the primary use.
- D. FCC: The Federal Communications Commission and any legally appointed, designated or elected agent or successor,
- E. Feed Lot: Land used for confining and feeding of livestock not connected with general farming for mass production for marketing. For the purposes of defining the size of a feed lot, animal units are used. One thousand (1,000) animal units equal: one thousand (1,000) slaughter and feeder cattle; seven hundred (700) mature dairy cattle; two thousand five hundred (2,500) swine weighing over fifty-five (55) pounds; five hundred (500) horses; ten thousand (10,000) sheep or lambs; fifty-five thousand (55,000) turkeys; one hundred thousand (100,000) laying hens or broilers if the facility has continuous overflow watering, thirty thousand (30,000) laying hens or broilers if the facility has a liquid manure handling system; or five hundred (500) ducks.
- F. Fence: Any free-standing structure, other than part of a building, which encloses or partially encloses any premises and is of sufficient strength and dimensions to prevent straying from within or intrusion from without. Live vegetation shall not be included in this definition.
- G. Fill: Soil, rock, earth, sand, gravel, or any other material exceeding a total of one hundred (100) cubic yards and more than four (4) feet in vertical height at its deepest point which may be deposited or placed onto or into the ground.
- H. Filling: The act of depositing or dumping of any fill onto or into the ground, except common household gardening and ground care.
- I. Fire Chief: The fire chief having jurisdiction over a property in question within Elizabeth Township, Miami County, Ohio.
- J. Flood Plain: That land area of Elizabeth Township which is subject to inundation by the 100-year flood as determined by the Flood Insurance Study: Unincorporated Areas of Miami County, Ohio prepared by the Federal Emergency Management Agency. (See Illustration)



- K. Floodway: That portion of the regulatory flood plain which is required to carry and discharge the flood waters of the 100-year flood without obstruction as designated in the Flood Insurance Study: Unincorporated Areas of Miami County, Ohio. (See Illustration)
- L. Floodway Fringe: That portion of the regulatory flood plain which serves primarily as a storage area for the flood waters of the 100-year flood as designated in the Flood Insurance Study: Unincorporated Areas of Miami County, Ohio. (See Illustration)
- M. Floor Area, Non-Residential: The sum of the gross horizontal area of all the floors of a nonresidential building measured from the interior faces of the interior walls, excluding stairs, washrooms, elevator shafts, maintenance shafts, and similar areas.
- N. Floor Area, Residential: The sum of the gross horizontal area of all floors of a residential building measured from the interior faces of the exterior walls. Floor area shall not include breezeways, carports, garages, storage areas with only outside access, porches, unfinished attics or other unheated and/or unfinished areas attached to the dwelling.
- O. Frontage: The distance between the side lot lines measured along the required front setback line, except in the case of a corner lot where minimum frontage shall be measured along the shortest such front setback line. Property lines which abut limited access roads shall not be construed to be included within any calculation of frontage. (See Illustration)



1102.07 Definitions Beginning with the Letter “G”.

- A. Garage, Private: A detached accessory building or a portion of a main building, intended for the parking or storage of automobiles, recreational vehicles, or boats of the occupants of the premises.
- B. Garage, Public: A principal or accessory building other than a private garage, intended for the parking or storage of automobiles, recreational vehicles, boats, or other vehicles.
- C. Glare: Excessively bright illumination.
- D. Grade, Average: The average elevation of the finished surface of the ground at the exterior walls of a building or structure.

1102.08 Definitions Beginning with the Letter “H”.

- A. Hazardous Material: A substance given such meaning by Section 1910.1200(c) of Title 29 of the Code of Federal Regulations. Such materials normally require a Material Safety Data Sheet (MSDS) to be prepared by the manufacturer of such substance.
- B. Home Occupation: An occupation conducted by a person on the same premises as his principal place of residence and is clearly subordinate and incidental to its use for residential purposes.

1102.09 Definitions Beginning with the Letter “I”.

1102.10 Definitions Beginning with the Letter “J”.

- A. Junk or Inoperable Vehicle: A vehicle shall be deemed junk or an inoperable vehicle whenever any two (2) or more of the following occur for a period of two (2) weeks prior to the filing of a cease and desist order:
 - 1. The vehicle is without a valid, current registration and/or license plate.
 - 2. The vehicle is apparently inoperable.
 - 3. The vehicle is without fully inflated tires and/or has any type of support under it.
 - 4. The vehicle has a substantially damaged or missing window, windshield, door, motor, transmission, or other similar major part.A bona fide collector’s vehicle as defined elsewhere in this zoning resolution is not included within the definition of junk or inoperable vehicle.
- B. Junk Yard: Any use primarily involved with buying, selling, exchanging, storing, baling, packing, disassembling, or handling of waste or scrap materials, including but not limited to vehicles, machinery, and equipment not in operable condition or parts thereof, and furniture, building materials, metals, paper, rags, rubber tires, and bottles. Such operations conducted entirely within completely enclosed buildings shall not be considered a Junk Yard. Two (2) or more junk or inoperable vehicles on a lot shall be considered a Junk Yard.

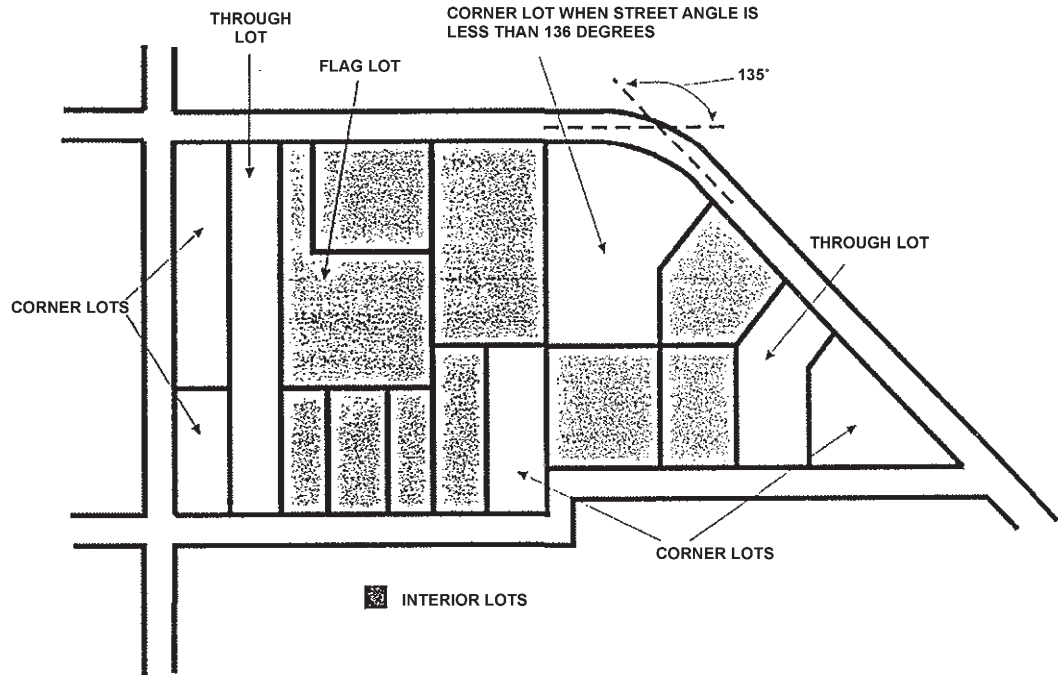
1102.11 Definitions Beginning with the Letter “K”.

- A. Kennel: Any lot or premises on which four (4) or more domesticated animals more than six (6) months of age are bred, boarded, trained, or sold.

1102.12 Definitions Beginning with the Letter “L”.

- A. Landing Strip, Private: Any runway, landing strip, or other facility designed or used by any person for the landing, take-off, and storage of aircraft on his own property principally for his own use.

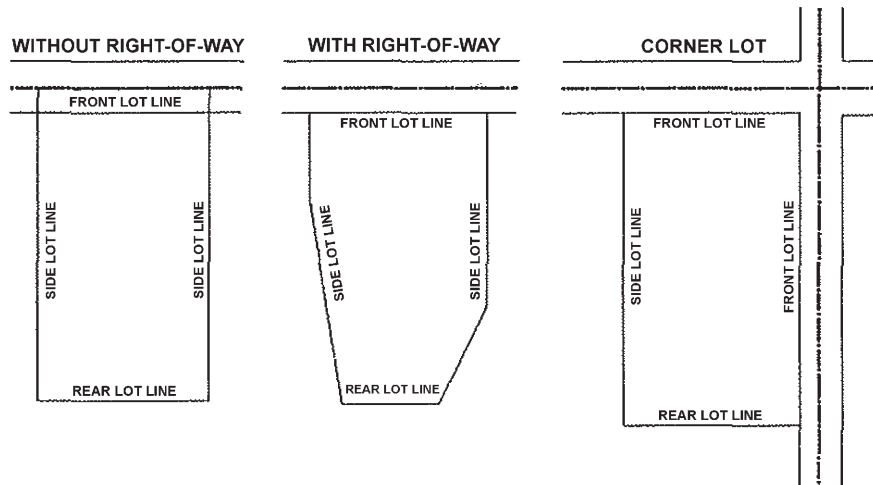
- B. Loading Space, Off-Street: A space or berth located totally outside of any street or alley right-of-way for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.
- C. Lot: A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and its accessory building and uses, including such open spaces as are required under the provisions of this zoning resolution. Every lot shall have the minimum required frontage upon a public street.



1. Corner Lot: A lot abutting upon two (2) or more streets at their intersection, or upon two (2) parts of the same street, and in either case forming an interior angle or one hundred thirty-five (135) degrees or less as measured at the center-line of the road or the interior right-of-way line, as applicable. (See Illustration above)
 2. Flag Lot: A lot with access provided to the bulk of the lot by means of a narrow corridor, such corridor usually having a width less than the normally required street frontage. A Flag Lot is an interior lot. (See Illustration)
 3. Interior Lot: A lot, other than a corner lot, with only one frontage on a public street. (See Illustration)
 4. Through Lot: A lot having frontage on two (2) non-intersecting streets or two (2) approximately perpendicular portions of the same street. (See Illustration)
- D. Lot Area: The computed area of horizontal plane within the lot bounded by vertical planes through the front, side, and rear lot lines, exclusive of any portion of the right-of-way of any public or private street.
- E. Lot Coverage: That percentage of the lot area which, when viewed directly from above, would be covered by the principal and accessory structure or structures, or any part thereof, excluding projecting roof caves of less than twenty-four (24) inches.

- F. Lot Depth: The distance between the midpoint of a straight line connecting the side lot lines along the building setback line in front with the midpoint of the rear lot line in the back.
- G. Lot Lines: Lines bounding the lot as shown in the accepted plat or survey record. (See Illustration)

1. Front Lot Line: A lot line which either falls along a street right-of-way line or falls approximately along the center of a road, forming the boundary of a lot. On a corner, lot lines along both streets shall be considered front lot lines. A lot line adjoining a limited-access right-of-way shall not be considered a front lot line for the purposes of calculating lot frontage.
2. Side Lot Line: A lot line which is neither a front lot line nor a rear lot line.
3. Rear Lot Line: The lot line that is most distant from, and most nearly parallel to, the front lot line. If a rear lot line is less than fifteen (15) feet long, or if the lot comes to a point, the rear lot line shall be a line at least fifteen (15) feet long, lying wholly within the lot, parallel to, and a maximum distance from the front lot line. In the case of a corner lot, the rear lot line shall be the lot line opposite the shortest front lot line.



- H. Lot Width: See Frontage.
- I. Lot of Record: A lot which is part of a subdivision, the plat of which has been recorded in the office of the Recorder of Miami County; or a parcel of land to which the deed or land contract was of record as of the effective date of this zoning resolution or any appropriate amendment thereto.

1102.13 Definitions Beginning with the Letter “M”.

- A. Manufactured Home: A building unit or assembly of closed construction that is fabricated in an off-site facility and meets all of the following specifications:
 1. Construction and Labeling: The unit is constructed in conformance with the federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to the Manufactured Housing Construction and Safety Standards Act of 1974, 88 Stat. 700, 42 U.S.C.A. 5401,5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards
 2. Foundation and Facilities. The unit is affixed to a permanent foundation and is connected to appropriate facilities.

3. **Size.** The unit has a width of at least twenty-two (22) feet at one point, a length of at least twenty-two (22) feet at one point, and a total living area, excluding garages, porches, or attachments, of at least nine hundred (900) square feet.
4. **Minimum Roof Pitch.** The structure has a minimum 3: 12 residential roof pitch, conventional residential siding, and a six (6) inch minimum eave overhang, including appropriate guttering.
5. **Date of Manufacture.** The structure was manufactured after January 1, 1995.
6. **Not In Mobile Home Park.** The structure is not located in a mobile home park as defined by Section 3733.01 of the Ohio Revised Code.

Any manufactured home not fully meeting this definition shall be considered a “mobile home” as defined elsewhere in this zoning resolution.

- B. **Manufacturing:** Fabrication, altering, converting, assembling, storing, testing, and similar industrial uses.
- C. **Miami County Comprehensive Plan:** A plan adopted by Miami County establishing the goals, objectives and policies for land use within the unincorporated areas of Miami County. It shows the recommended pattern of residential, commercial, industrial, recreational, and open space uses as well as agricultural protection areas.
- D. **Mineral Extraction Operation:** Any operation, including accessory buildings, roads, or structures, involving the excavation, mining, quarrying, storage, separation, cleaning and/or processing of clay, sand, gravel, limestone, shale, or other mineral resource. Such operation shall include all of the land or property that is used or owned in reserve by the person, firm, or corporation involved in such operation. Mineral extraction is an interim land use and such operations shall possess a plan for ultimate use of the property.
- E. **Mobile Home:** A manufactured relocatable residential unit providing complete, independent living facilities for one family including permanent provisions for living, sleeping, eating, cooking, and sanitation and the design and construction of which meets the standards and specifications of the United States Department of Housing and Urban Development. A mobile home is not included within the definition of “Manufactured Home”, “Modular Home”, or “Dwelling Unit” and the removal of running gear shall not exempt a mobile home from this definition.
- F. **Mobile Home Park:** Any lot upon which two (2) or more mobile homes are located for residential use, either free of charge or for revenue purposes. A mobile home park shall include any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park.
- G. **Modular Home:** A factory-fabricated transportable building consisting of two or more units designed to be assembled into a permanent structure at a building site on a permanent foundation and used for residential purposes by one family, and is built to meet the standards and specifications of the Industrial Unit Standards of the Ohio Building Code.
- H. **Monopole:** A support structure constructed to a single, self-supporting hollow metal tube securely anchored to a foundation.

1102.14 Definitions Beginning with the Letter “N”.

- A. **Non-Conforming Building or Structure:** A building or structure lawfully existing at the time of enactment of this zoning resolution or subsequent amendments, which does not conform to the regulations of the district in which it is situated or other applicable provisions of this zoning resolution.

- B. Non-Conforming Lot: A lot lawfully existing at the time of enactment of this zoning resolution or any subsequent amendments which does not conform to the lot area and frontage requirements of the district in which it is located.
- C. Non-Conforming Use: A use of land lawfully existing at the time of enactment of this zoning resolution or subsequent amendments, which does not conform to the regulations of the district in which it is situated or other applicable provisions of this zoning resolution.

1102.15 Definitions Beginning with the Letter “O”.

- A. Official Thoroughfare Plan: The Official Thoroughfare Plan for Miami County, Ohio, establishing the official right-of-way width of major streets on file in the office of the Recorder of Miami County, Ohio, and in the office of the Miami County Planning Commission, together with all amendments thereto subsequently adopted.
- B. Open Space: An area open and unobstructed to the sky which may be on the same lot with a building. The area may include natural environmental features, water areas, swimming pools, tennis courts, and other recreational facilities that the Zoning Commission, Board of Zoning Appeals, or Township Trustees, whichever is applicable, deems permissible. Streets, parking areas, structures for habitation, and the like shall not be included.
- C. Open Storage: Storing or keeping of chattel not enclosed in a building.

1102.16 Definitions Beginning with the Letter “P”.

- A. Parking Space, Off-Street: A space located totally outside of any street or alley right-of-way for the parking of an automobile or other vehicle.
- B. Person: Any natural person, firm, partnership, association, corporation, or other legal entity, private or public, whether for profit or not-for-profit.
- C. Prime Agricultural Soils: Prime agricultural soils are those soils within Elizabeth Township which display characteristics well-suited to agricultural activities such as field crops under normal or typical management practices. It has been determined through studies that the following soil types, as described in the Soil Survey of Miami County, Ohio, are prime agricultural soils:

| | |
|------|--|
| Ag | Algiers Silt Loam |
| BIA | Blount Silt Loam (0 to 2 percent slopes)* |
| BIB | Blount Silt Loam (2 to 6 percent slopes)* |
| BIB2 | Blount Silt Loam (2 to 6 percent slopes, moderately eroded)* |
| Bs | Brookston Silty Clay Loam * |
| CeA | Celina Silt Loam (0 to 2 percent slopes) |
| CeB | Celina Silt Loam (2 to 6 percent slopes) |
| CeB2 | Celina Silt Loam (2 to 6 percent slopes, moderately eroded) |
| CoA | Corwin Silt Loam (0 to 2 percent slopes) |
| CoB | Corwin Silt Loam (2 to 6 percent slopes) |
| CrA | Crosby Silt Loam (0 to 2 percent slopes)* |
| CrB | Crosby Silt Loam (2 to 6 percent slopes)* |
| Ee | Eel Silt Loam |
| EIA | Eldean Loam (0 to 2 percent slopes) |
| EIB | Eldean Loam (2 to 6 percent slopes) |
| EIB2 | Eldean Loam (2 to 6 percent slopes, moderately eroded) |
| EmA | Eldean Silt Loam (0 to 2 percent slopes) |
| EmB | Eldean Silt Loam (2 to 6 percent slopes) |

| | |
|------|--|
| ErB | Eldean-Miamian Complex (2 to 6 percent slopes) |
| GwB | Glynwood Silt Loam (2 to 6 percent slopes) |
| MaB | Martinsville and Ockley Loams (till substratum, 0 to 2 percent slopes) |
| Md | Medway Silt Loam |
| MhA | Miamian Silt Loam (0 to 2 percent slopes) |
| MhB | Miamian Silt Loam (2 to 6 percent slopes) |
| MhB2 | Miamian Silt Loam (2 to 6 percent slopes, moderately eroded) |
| MkA | Miamian Silt Loam (limestone substratum, 0 to 2 percent slopes) |
| MkB | Miamian Silt Loam (limestone substratum, 2 to 6 percent slopes) |
| MkB2 | Miamian Silt Loam (limestone substratum, 2 to 6 percent slopes, moderately eroded) |
| MnA | Millsdale Silt Loam (0 to 2 percent slopes)* |
| MnB | Millsdale Silt Loam (2 to 6 percent slopes)* |
| MoA | Millsdale Silty Clay Loam (0 to 2 percent slopes)* |
| MoB | Millsdale Silty Clay Loam (2 to 6 percent slopes)* |
| MpA | Milton Silt Loam (limestone substratum, 0 to 2 percent slopes) |
| MpB | Milton Silt Loam (limestone substratum, 2 to 6 percent slopes) |
| MpB2 | Milton Silt Loam (limestone substratum, 2 to 6 percent slopes, moderately eroded) |
| Mt | Montgomery Silty Clay Loam * |
| OcA | Ockley Silt Loam (0 to 2 percent slopes) |
| OcB | Ockley Silt Loam (2 to 6 percent slopes) |
| OdA | Odell Silt Loam (0 to 2 percent slopes)* |
| OdB | Odell Silt Loam (2 to 6 percent slopes)* |
| Pe | Pewamo Silty Clay Loam * |
| Rs | Ross Silt Loam |
| Sh | Shoals Silt Loam |
| SIA | Sleeth Silt Loam * |
| St | Stonelick Loam |
| WdA | Warsaw Silt Loam (0 to 2 percent slopes) |
| WeA | Wea Silt Loam (0 to 2 percent slopes) |
| Wt | Westland Silty Clay Loam * |

Soils marked with an asterisk (*) are considered prime farmland when drained. The physical distribution of these soils within Elizabeth Township is a guide in considering zoning district amendments, variances, appeals, conditional use permits, and other administrative actions.

- D. Principal Building: A non-agricultural building in which is conducted the main or principal use of the lot on which said building is located; ordinarily the largest building on the lot.
- E. Principal Use: The main use to which the premises are devoted and the main purpose for which the premises exist, ordinarily the use conducted on the first story of the principal building above the basement.

1102.17 Definitions Beginning with the Letter “Q”.

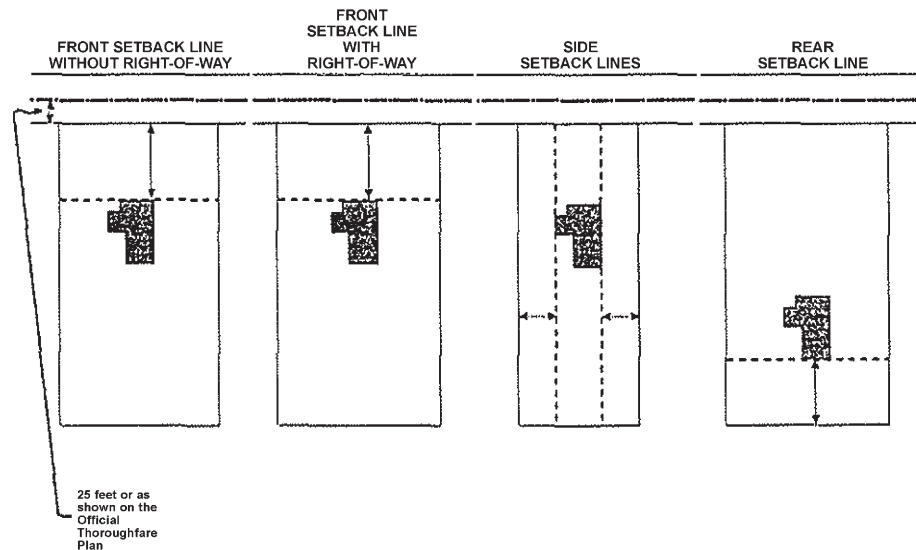
1102.18 Definitions Beginning with the Letter “R”.

- A. Recreational Vehicle: Any motor vehicle, or any other vehicle less than thirty-five (35) feet in length, designed or intended to be used primarily for short term dwelling or sleeping purposes away from the place of residence of the occupants; and not constituting the principal place of residence of the occupants.
- B. Research and Engineering Laboratory: Research, development and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation, and engineering. All research, testing, and development shall be carried on within entirely enclosed buildings, and no noise, smoke, glare, vibration, or odor shall be detected outside such building.
- C. Restaurant, Drive-In: An establishment offering food and beverages which are sold within the building, or to persons while in motor vehicles in an area designated for drive-in service, and may be consumed on or off the premises.

- D. Restaurant, Sit-Down: An establishment whose primary function is the offering of food and beverages which are sold and normally consumed within the restaurant building.
- E. Retail: Sale to the ultimate consumer for direct consumption and/or use and not for resale.
- G. Right-of-Way: A strip of land purchased or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

1102.19 Definitions Beginning with the Letter “S”.

- A. Seat: For purposes of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each twenty-four (24) lineal inches of benches, pews, or space for loose chairs.
- B. Screening: Structures, fences, or vegetation maintained for the purpose of concealing the area behind such structures or vegetation from view.
- C. Setback Line: A line parallel to a lot line, street, or right-of-way line at any story level of a building which defines the limits of a yard and represents the distance which all or any part of a building or structure is to be set back from said lot line, street, or right-of-way line.
 1. Front Setback Line: An imaginary line parallel to the front lot line extending the full width of the lot, representing the distance which all or any part of any structure or building is to be set back from the front lot line. In the event that the front lot line does not fall along a right-of-way line, then the front setback line shall be measured from a line parallel to and twenty-five (25) feet from the center line of the street. (See Illustration)
 2. Side Setback Line: An imaginary line parallel to any side lot line representing the distance which all or any part of any principal building is to be set back from the side lot line. (See Illustration)
 3. Rear Setback Line: An imaginary line parallel to any rear lot line representing the distance which all or any part of any principal buildings is to be set back from the rear lot line. (See Illustration)



- D. **Sign:** A name, identification, description, display, or illustration which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel, or lot and which directs attention to an object, product, place, activity, person, institution, organization or business.
1. **Billboard:** Any sign or advertisement used as an outdoor display by painting, posting, or affixing, on any surface, a picture, emblem, work, figure, numerals, or lettering for the purpose of directing attention to any business, service, or product, which is not conducted or sold on the lot where such sign is located.
 2. **Freestanding Sign:** Any sign which is not attached to, painted on, or supported by a building.
 3. **Projecting Sign:** Any sign which is attached perpendicular to any building or structure and extends more than twelve (12) inches beyond the surface of that portion of the building or structure.
 4. **Sign Area:** The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, or figure of similar character together with any frame or material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which the sign is placed. Sign area shall be computed from measurements of the maximum silhouette of the largest sign face or combination of faces as viewed from a single point.
 5. **Temporary Sign:** Any sign which announces or refers to an event such as construction, sale or lease of property, or a temporary special event such as a grand opening, special sale, or a temporary sale of seasonal products on the property on which such sign is located, and is designed or intended to be displayed for a limited period of time.
 6. **Wall Sign:** Any sign attached to or painted on the wall of a building or structure with the face in a plane parallel to such wall, and not extending more than twelve (12) inches from the face of such wall.
- E. **Street:** See Thoroughfare.
- F. **Structure:** Anything constructed or erected, the use of which requires location on the ground or attachment to the ground. Among other things, structures include buildings, mobile homes, walls, fences, swimming pools, tennis courts, signs, and billboards.
- G. **Swimming Pool:** Any artificially constructed pool which contains a depth of water of at least one and one-half (1.5) feet at any point used or intended to be used for swimming or bathing, including any accessory recreational structures.
- H. **Swimming Pool, Community:** Any swimming pool, other than a private pool, which is the principal use upon a lot and operated with or without a charge for admission.
- I. **Swimming Pool, Private:** A swimming pool located on the same lot as the principal use and used or intended to be used without compensation by the residents and guests of a single-family residence, a two-family residence, or a motel.

1102.20 Definitions Beginning with the Letter “T”.

- A. **Temporary Use or Structure:** A transient, nonpermanent use or structure permitted to exist for a designated period of time during periods of construction of the principal use or structure, or for special events. A temporary structure shall not be intended to be permanently affixed to the ground.

- B. Thoroughfare, Street or Road: The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for access to a property by vehicular traffic and designated as follows:
1. Alley: A minor street used primarily for vehicular service access to the back or side of properties abutting on another street.
 2. Arterial Street: A general term denoting a highway primarily for through traffic, carrying heavy loads and large volumes of traffic, usually on a continuous route.
 3. Collector Street: A thoroughfare, whether within a residential, industrial, commercial, or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
 4. Cul-de-Sac: A local street of relatively short length with one end open to traffic and the other end permanently terminating in a vehicular turn around.
 5. Dead-End Street: A street temporarily having only one outlet for vehicular traffic and intended to be extended or continued in the future.
 6. Local Street: A street primarily for providing access to residential, commercial, or other abutting property.
 7. Loop Street: A type of local street, each end of which terminates at an intersection with the same arterial or collector street and whose principal radius points of the one hundred and eighty (180) degree system of turns are not more than one-thousand (1,000) feet from said arterial or collector street and are not normally more than six hundred (600) feet from each other.
 8. Marginal Access Street: A local or collector street, parallel to and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets. (Also called Frontage Street.)
- C. Tower: A self-supporting lattice, guyed, or monopole structure constructed from grade which supports wireless telecommunication facilities. The term tower shall not include amateur radio operator's equipment, as licensed by the FCC.
- D. Township Trustees: The Board of Township Trustees of Elizabeth Township, Miami County, Ohio.

1102.21 Definitions Beginning with the Letter "U".

- A. Use: The specific purpose for which land, a structure, or a building is designed, arranged, intended, occupied, or maintained.

1102.22 Definitions Beginning with the Letter "V".

- A. Variance: A variance is a modification of the strict terms of this zoning resolution where such modifications will not be contrary to the public interest and, where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this zoning resolution would result in unnecessary hardship, or in the case of area variances only, practical difficulties. Variances are granted only after the applicant has followed the procedures as stated in Article 10, Section 1003 of this zoning resolution.

- B. Veterinary Animal Hospital or Clinic: A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention. Such use may include overnight accommodations on the premises for treatment, observation, and/or recuperation.
- C. Vicinity Map: A drawing which sets forth by dimensions or other means the relationship of a property or use to other nearby developments of landmarks and community facilities and services within Elizabeth Township in order to better locate and orient the area in question.

1102.23 Definitions Beginning with the Letter “W”.

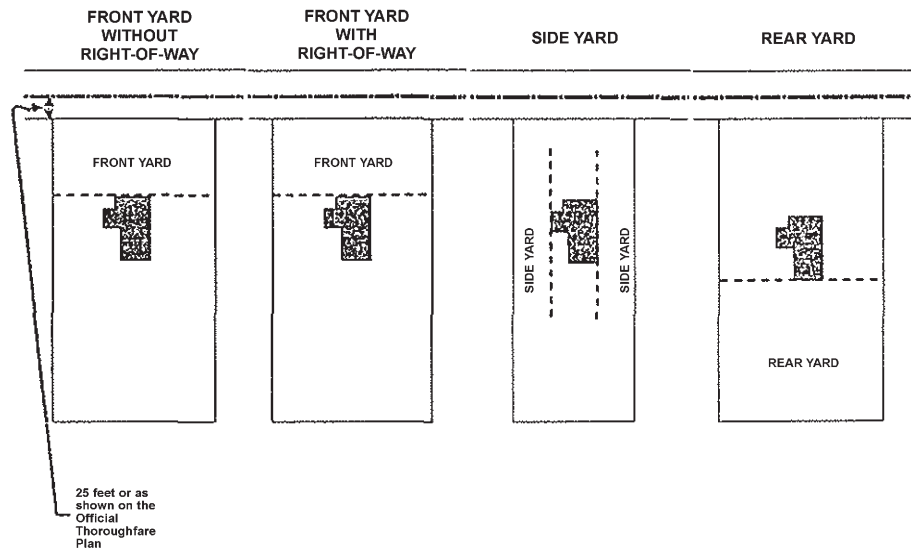
- A. Wastewater Disposal System, Central: A wastewater treatment system approved by the appropriate County, State, and/or Federal agencies which provides a collection network and a central wastewater treatment facility for a single development, a community, or a region.
- B. Wastewater Disposal System, On-Site: A septic tank or similar installation on an individual lot which utilizes an aerobic or anaerobic bacteriological process or equally satisfactory process for the treatment of sewage and provides for the proper and safe disposal of the effluent.
- C. Water System, Central: A water supply system approved by the appropriate County, State, and/or Federal agencies which provides a water supply to a single development, a community, or a region.
- D. Water System, On-Site: A well or other similar installation on an individual lot which provides a water supply to any structures or uses upon the lot, subject to the approval of health and sanitation officials having jurisdiction.
- E. Wireless Telecommunication Facility: Any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications as authorized by the FCC which a person seeks to locate or have installed upon a tower antenna support structure. However, the term wireless telecommunication facility shall not include:
 1. Any satellite earth station antenna two (2) meters or less in diameter which is located in a business or industrial zoning district.
 2. Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning district.
 3. Antennas used by amateur radio operators.

1102.24 Definitions Beginning with the Letter “X”.

1102.25 Definitions Beginning with the Letter “Y”.

- A. Yard: An open or unoccupied space other than a court on the same lot with a principal building and unobstructed by buildings or structures from ground to sky except by trees or shrubbery or as otherwise provided herein. The minimum depth of a yard shall be determined by the setback lines as defined in this zoning resolution. No part of a yard provided for any building or structure shall be included as a part of any yard required for any other building or structure unless specifically permitted herein.
 1. Front Yard: An open space extending the full width of the lot between a building or structure and the front lot line or a street, unoccupied and unobstructed from the ground upward except as hereinafter specified. Minimum depth shall be measured from the front lot line, existing right-of-way line, or proposed right-of-way line established on the Official Thoroughfare Plan or by any other method specified elsewhere in this zoning resolution, as appropriate. (See Illustration)

2. Side Yard: An open space extending from the front yard to the rear yard between a building or structure and the nearest side lot line unoccupied and unobstructed from the ground upward except as hereinafter specified. (See Illustration)
3. Rear Yard: An open space extending the full width of the lot between a building or structure and the rear lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified. (See Illustration)



1102.26 Definitions Beginning with the Letter "Z".

- A. Zoning Certificate: A document issued by the Zoning Inspector certifying that the use of a lot, a structure, or a building, and the location of a structure, a building, or a use upon a lot is in conformance with this zoning resolution.
- B. Zoning Commission: The Zoning Commission of Elizabeth Township, Miami County, Ohio.
- C. Zoning District: See District.
- D. Zoning Inspector: The Zoning Inspector or his/her authorized representative, appointed by the Township Trustees of Elizabeth Township, Miami County, Ohio.
- E. Zoning Map: The Official Zoning District Map of Elizabeth Township, or portion thereof, together with all amendments thereof subsequently adopted.

ARTICLE XII VIOLATIONS, ENFORCEMENT, AND PENALTIES

SECTION 1200 VIOLATIONS

1200.01 Prohibition Against Violations. Violation of the provisions of this zoning resolution or failure to comply with any of its requirements, including violations of conditions and restrictions established in various sections of this zoning resolution, and including those established by the Board of Zoning Appeals for conditional uses, variances, and appeal rulings, are hereby declared to be a nuisance per se and are prohibited. Each day such violation continues after receipt of a notice of violation shall be considered a separate offense. The owner or lessee of any building, structure, premises, or part thereof, and any architect, building, 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.

SECTION 1201 ENFORCEMENT

1201.01 Action To Remedy Violations. The Board of Township Trustees of Elizabeth Township, the Elizabeth Township Zoning Inspector, the Prosecuting Attorney of Miami County, or any adjacent or neighboring property owner who would be especially damaged by a violation of any provision of this zoning resolution may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such violation. The Elizabeth Township Board of Trustees may employ special counsel to represent it in any proceeding or to prosecute any actions brought under this section and under Section 519.24 of the Ohio Revised Code. Nothing herein contained shall prevent Elizabeth Township from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 1203 PENALTIES

1203.01 Penalties. Any person who violates this zoning resolution or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than One Hundred Dollars (\$100.00) and in addition shall pay all costs and expenses incurred by Elizabeth Township in the case.

ARTICLE XIII ENACTMENT AND EFFECTIVE DATE

SECTION 1300 ENACTMENT CLAUSE

WHEREAS, there has existed a comprehensive plan and resolution for zoning within Elizabeth Township, Miami County, Ohio June 1960; and WHEREAS, such zoning resolution was amended, effective June 19, 1975; and

WHEREAS, pursuant to Section 519.12 of the Ohio Revised Code, the Township Zoning Commission of Elizabeth Township has submitted to the Board of Township Trustees of Elizabeth Township, Miami County, Ohio, a comprehensive revision amending the pre-existing Zoning Resolution of Elizabeth Township; and

WHEREAS, all legal requirements of notice and hearing for the adoption of such proposed amendments have been complied with;

NOW, THEREFORE BE IT RESOLVED by the Board of Trustees of Elizabeth Township, Miami County, Ohio, that the zoning map and text contained herein as a comprehensive and complete revision and modification of the Zoning Resolution of Elizabeth Township be hereby adopted.

RECOMMENDED FOR ADOPTION BY ELIZABETH TOWNSHIP ZONING COMMISSION:

Date: February 17, 2000

ADOPTED BY THE BOARD OF TRUSTEES OF ELIZABETH TOWNSHIP:

Date: March 15,2000

SECTION 1301 EFFECTIVE DATE

This amended zoning resolution shall become effective at the earliest time permitted by law; being thirty (30) days after the date of adoption identified in Section 1300, subject to the referendum provisions of Section 519.12 of the Ohio Revised Code.

EFFECTIVE DATE: April 14,2000

**BOARD OF TRUSTEES, ELIZABETH TOWNSHIP
MIAMI COUNTY, OHIO**

**A RESOLUTION PROHIBITING THE LOCATION OF MEDICAL MARIJUANA
CULTIVATORS, PROCESSORS AND RETAIL DISPENSARIES LICENSED UNDER
OHIO REVISED CODE CHAPTER 3796 WITHIN THE UNINCORPORATED
TERRITORY OF ELIZABETH TOWNSHIP, MIAMI COUNTY, OHIO**

The Board of Township Trustees of Elizabeth Township, Miami County met in Regular Session on February 15th, 2017, at the offices of the Elizabeth Township Trustees with the following Trustees present were Greg D. Dilts, John Ryman and William D. Sutherly.

Resolution No -2017-002

Trustee Dilts moved the adoption of the following Resolution:

WHEREAS, Ohio Revised Code Chapter 3796, which permits the licensed cultivation, processing, sale and use of medical marijuana within the State of Ohio, became effective on September 8, 2016; and

WHEREAS, Ohio Revised Code section 3796.29 authorizes the Board of Trustees to pass a resolution prohibiting the location of medical marijuana cultivators, processors and retail dispensaries licensed under Ohio Revised Code Chapter 3796 within the unincorporated territory of Elizabeth Township, Miami County, Ohio; and

WHEREAS, the Board of Trustees desires to prohibit the location of licensed medical marijuana cultivators, processors and retail dispensaries within the unincorporated territory of Elizabeth Township, Miami County, Ohio.

NOW, THEREFORE BE IT RESOLVED that effective on the date of the adoption of this Resolution, the Board of Trustees of Elizabeth Township, Miami County, Ohio, hereby prohibits medical marijuana cultivators, processors, and retail dispensaries licensed under Ohio Revised Code Chapter 3796 from being located within the unincorporated territory of Elizabeth Township, Miami County, Ohio; and

BE IT FURTHER RESOLVED that this Resolution shall continue in effect indefinitely unless it is terminated by action of the Board of Trustees of Elizabeth Township, Miami County, Ohio.

Mr. John R. Ryman, Seconded the motion, and the roll being called upon its adoption, the vote resulted as follows:

| | |
|-------------------------|---------------------------------------|
| Mr. Greg D. Dilts | <u>yes</u> <i>Greg D. Dilts</i> |
| Mr. John Ryman | <u>yes</u> <i>John R. Ryman</i> |
| Mr. William D. Sutherly | <u>yes</u> <i>William D. Sutherly</i> |

ADOPTED ON THE 15th DAY OF FEBRUARY, 2017

ATTEST: *Mary Ann Mumford*
Mary Ann Mumford, Fiscal Officer
Elizabeth Township