

# Butler Township Zoning Resolution

Butler Township, Montgomery County, Ohio



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**BUTLER TOWNSHIP ZONING RESOLUTION  
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**ARTICLE 1  
GENERAL REGULATIONS**

**SECTION 101    SHORT TITLE AND BASIS FOR ESTABLISHMENT**

- A. This resolution shall be known and may be cited formally as the “Butler Township, Montgomery County, Ohio, Zoning Resolution,” or may be referred to in context as the “Zoning Resolution.” This Zoning Resolution is enacted for the purpose of promoting public health, safety, and general welfare as permitted by provisions of Sections 519.02 et seq. of the Ohio Revised Code (“ORC”).
- B. The administration of this Zoning Resolution is vested in the Board of Butler Township Trustees, the Butler Township Zoning Commission, the Butler Township Board of Zoning Appeals, and the Butler Township Zoning Administrator.

**SECTION 102    GENERAL PROVISIONS**

- A. Except as hereinafter provided:
  - 1) The provisions specified in this Zoning Resolution shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare.
  - 2) No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building be moved onto a zoning lot or within the same zoning lot, nor shall any parcel of land described by metes and bounds or any lot hereafter be created, which does not conform and meet the requirements of this Zoning Resolution, except as explicitly provided by administrative provisions hereunder.
  - 3) No accessory structure shall be erected upon or moved onto any zoning lot without meeting terms of this Zoning Resolution, and without there first being a principal structure in place which conforms to terms of this Zoning Resolution. Unless explicitly allowed by other provisions of this Zoning Resolution, all accessory structures shall be located in rear yard areas.
  - 4) No land or structure shall be used except for a purpose explicitly permitted in the zoning district in which it is located.
  - 5) No part of a yard, landscaped area, open space area, off-street parking lot or loading space required for the purpose of complying with this Zoning Resolution shall be included as part of a yard, landscaped area, open space area, or off-street parking lot or loading space similarly required for another principal or accessory structure.
  - 6) No land or structure shall be used for agricultural or animal husbandry purposes on lots less than five (5) acres in size, with the exception that:
    - a) On lots between one (1) and five (5) acres in size, lying apart from a platted subdivision, agricultural uses may be permitted provided any buildings housing animals are located at least one hundred (100) feet from any property boundary or dwelling, other than a farm dwelling; or
    - b) The raising of chickens is for non-commercial purposes subject to section 3015, Animal Husbandry.
  - 7) No land or structure shall be used for purposes contrary to provisions of the Butler Township Exterior Property Maintenance Code.
  - 8) In the interpretation and application of the provisions of this Zoning Resolution, such provisions shall be held to be minimum requirements. Where this Zoning Resolution imposes a greater restriction than is imposed or required by other provisions of law, the provisions of this Zoning Resolution shall control.

**SECTION 103 CONFORMANCE WITH ADOPTED COUNTY PLANS**

- A. Right of way dedication and improvements shall be required whenever an existing or proposed lot of record fails to abut existing right of way meeting the higher standard of either fifty (50) feet of width or standards established by the most current, adopted Montgomery County thoroughfare plan. A plat of subdivision shall be approved by the Montgomery County Planning Commission, and recorded in the office of the County Recorder, indicating the area that is dedicated for use as public right of way.

**SECTION 104 ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING DISTRICTS MAP**

- A. For purposes of this Zoning Resolution, all Butler Township land lying outside the boundaries of an incorporated state of Ohio political subdivision is hereby divided into seventeen (17) zoning districts designated as follows:

RR	Rural Residential District
R-1	Single Family Residential District
R-2	Single Family Residential District
R-3	Single Family Residential District
R-4	Single- and Two-family Residential District
R-5	Single- and Multi-family Residential District
LC/S-1	Local Commercial / Service 1 District
LC/S-2	Local Commercial / Service 2 District
RC/S-1	Regional Commercial / Service 1 District
OIS	Office and Industrial Sales / Service District
I-1	Light Industrial District
PD-1	Residential Planned Development
PD-2	Commercial Planned Development
PD-3	Mixed-Use Planned Development
PD-4	Industrial Planned Development
CM	Cemetery District
RFP	Regional Flood Plain District

**SECTION 105 OFFICIAL ZONING DISTRICTS MAP**

- A. The Zoning Administrator shall maintain a map of Butler Township on which are shown boundaries of the areas covered by the districts listed in Section 104, Establishment of Zoning Districts and Official Zoning Districts Map, above.

**SECTION 106 MINIMUM ZONING DISTRICT SIZE REQUIREMENTS**

- A. This Zoning Resolution has, as one objective, avoidance of small district designations, or “spot” zoning. The Zoning Commission and Board of Butler Township Trustees, after the effective date of this Zoning Resolution, shall be strongly disinclined to honor requests for zoning changes unless the resulting districts conform to the following minimum sizes after change or establishment:

District	Description	Min. Size
R-R	Rural Residential District	5 acres
R-1	Single Family Residential District	3 acres
R-2	Single Family Residential District	3 acres
R-3	Single Family Residential District	3 acres
R-4	Single- and Two-Family Residential District	3 acres
R-5	Single- and Multi-Family Residential District	3 acres
CM	Cemetery District	10 acres
LC/S-1	Local Commercial / Service 1 District	2 acres
LC/S-2	Local Commercial / Service 2 District	3 acres
RC/S-1	Regional Commercial / Service 1 District	5 acres
OIS	Office and Industrial Sales / Service District	2 acres
I-1	Light Industrial District	10 acres
PD	Planned Development District	2 acres
RFP	Regional Flood Plain District	No minimum

- B. Any zoning district which is smaller than the minimum designated size above may be granted enlargement, for sufficient reason, to more closely approximate the minimum sizes shown.

**SECTION 107 RULES FOR TEXT INTERPRETATION**

- A. The following rules of interpretation are to be observed and applied, except when the context clearly indicates otherwise. The following rules of construction apply to the text:
- 1) The word “shall” is mandatory and not discretionary. The word “may” is permissive.
  - 2) Words used in the present tense include the future, and words used in the singular number include the plural, and the plural the singular, unless the context clearly indicates the contrary.
  - 3) The particular shall control the general.

**SECTION 108 PENALTIES**

- A. Whoever violates any section of this Zoning Resolution shall be guilty of a misdemeanor of the fourth degree, punishable as identified in Title 29 of the Ohio Revised Code.
- B. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION 109 SEPARABILITY**

- A. Should any section or provision of this Zoning Resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Zoning Resolution as a whole, nor any part thereof other than the part so declared to be unconstitutional or invalid.

## **ARTICLE 2 DEFINITIONS**

### **SECTION 201 TEXT INTERPRETATIONS AND PREMISES**

Unless the context requires otherwise, the following interpretations shall be applied to the text and definitions contained within this Zoning Resolution. Words used in the present tense include the future; the singular number shall include the plural, and the plural number shall include the singular. The word “building” shall include the word “structure.” The word “shall” is mandatory. Unless otherwise specified, all distances shall be measured horizontally, in any direction.

### **SECTION 202 DEFINITIONS**

**ACCESSORY STRUCTURE OR USE** includes any purpose for which a structure or tract of land may be designed, arranged, intended, maintained, or occupied, and which is located on the same zoning lot and is customarily incidental or subordinate in area, extent or purpose to the principal structure or use extant and being served. Accessory structures include storage sheds, pool houses, detached garages, and barns.

**ADULT USE** shall include any establishment, building or portion of a building that excludes minors by virtue of age, and/or has more than five (5) percent of its stock in trade, books, magazines, films, and/or other materials that are characterized by their principal emphasis on matters depicting, describing, or relating to nudity, “specified sexual activities” or “specified anatomical areas” (as described in Article 4), such materials being available for viewing on the premises or for sale or rent. Such adult uses may include bookstores, motion picture theaters (indoor or outdoor), cabarets, massage parlors, health facilities, and the like. Further definitions can be found under “adult uses” within Article 4.

**AGRICULTURE** means the use of land or structures for pasturage; farming, including the production nursery stock, ornamental shrubs and trees, flowers, sod, and mushrooms; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of poultry and the production of poultry products, livestock, equine, and fur-bearing animals; and the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, animal husbandry or agricultural production.

**ALLEY** means a public or private way, twenty (20) feet or less in width, which is used primarily for vehicular access to the back or side of properties otherwise abutting streets.

**ANIMAL HOSPITAL** means a place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

**AUTOMATED TELLER MACHINE** means a drive through or walk-up structure, affiliated with a bank or credit union, which dispenses money or permits monetary deposits without interaction with a human.

**AUTOMOBILE SERVICE STATION** means a structure, along with surrounding land and appurtenant equipment, where petroleum or other fuel is offered for sale to the public, directly into passenger motor vehicles. When combined with fuel sales, the definition may include on-site greasing and oiling, tire changing and replacement, and installation of minor parts and accessories. The term does not include major repair work such as engine removal or replacement, body and fender repair, spray painting, upholstery work, auto glasswork, welding, tire recapping, auto dismantling or major mechanical repair.

**BASEMENT** means that portion of a building located partly underground, but having more than one-half (1/2) of its clear floor-to-ceiling height below the average grade of the adjoining ground.

**BOARD OF ZONING APPEALS** means the Butler Township Board of Zoning Appeals, as appointed by the Butler Township Board of Trustees.

**BUILDING** means any structure having a roof supported by columns or rigid walls for the housing or enclosure of persons, animals or chattels. When any portion thereof is completely separated from every other portion thereof by a division wall without openings, then each such portion shall be deemed to be a separate building. "Building" does not include portable or temporary structures, including those constructed of non-standard building materials such as metal, canvas, fiberglass or the like.

**BUILDING FRONTAGE** means the width of a building plane parallel, or nearly parallel, with one thoroughfare abutting the zoning lot. The extent of the building plane is established by the extent of the foundation underlying usable indoor space. Balconies, eaves, bay windows and other open or cantilevered building elements shall not be used in the computation of building frontage. Building frontage normally will be computed on that façade fronting the largest or busiest street.

**BUILDING HEIGHT** means the vertical distance measured from the adjoining street centerline grade at a point opposite the center of the principal frontage of the building to the highest point of the ceiling of the top story in the case of a flat roof, to the deck line of a mansard roof, and to the mean height level between the eaves and ridges of a gable, hip or gambrel roof. Where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.

**BUILDING LINE** means the line nearest the front and across a lot establishing the minimum open space to be provided between the front line of the building foundation and the front lot line. "Building line" also means the front line of the foundation of enclosed porches or vestibules if it is nearer the front line than the main foundations.

**BUILDING, PRINCIPAL** means a building on a zoning lot in which is conducted the main or principal use of the lot where the building is situated. "Principal building" includes attached areas, such as garages, carports and storage areas. Principal buildings can be distinguished from accessory buildings by use and by the fact that they are larger than accessory buildings.

**BUSINESS** means an occupation, enterprise, undertaking or employment which engages in the purchase, sale, barter or exchange of goods, wares, merchandise or services or where there is the maintenance or operation of an office or offices for the exhibition, sale or offering of merchandise or services.

**CELLAR** means a story which is more than one-half of its story height below the average contact ground level at the exterior walls of the building. A cellar shall be counted as a story for the purpose of height regulations only if used for dwelling purposes.

**CEMETERY** means a property used for interring the dead.

**CERTIFICATE OF ZONING COMPLIANCE** means the document issued by the Zoning Administrator that confirms to what extent specified land or structures may be legally occupied and utilized under terms of this Zoning Resolution.

**CHURCH** means a building or structure used for communal gathering for purposes of worship, meditation, spiritual pursuits or the exchange of ideas. Incidental uses include classrooms and facilities for the caring of minor children whose guardians are occupied elsewhere on the premises. Any adjunct use of church premises for residential, educational, entertainment, personal care or business purposes, whether for remuneration or not, shall be subject to such Zoning Resolution provisions as would apply to each such adjunct use were it proposed to exist independently within the zoning district in which the church is located.

**CLEAR FALL ZONE** means an area surrounding any ground-mounted antenna, aerial, similar receiving or transmitting array, or wind turbine unit into which the antenna, aerial, turbine and/or turbine components might fall due to inclement weather, poor maintenance, faulty construction methods, or any other condition causing structural failure. Such clear fall zone shall remain unobstructed and confined within the property lines of the primary parcel where the ground-mounted tower is located.

**COLLEGE OR UNIVERSITY** means an educational institution authorized by the state to award baccalaureate or higher degrees.

**COMMERCIAL AND BUSINESS SUPPORT SERVICES** means a use providing other businesses with services including maintenance, repair and service, testing, equipment rental, processing, photocopying, etc.

**COMMERCIAL SALES**, see "Retail Sales".

**COMMERCIAL VEHICLE, MAJOR** includes any vehicle with more than six wheels; any vehicle with more than four wheels and a cargo area for the transport of paying passengers; any vehicle weighing more than 8,000 pounds or longer than 22 feet; any vehicle or trailer having a total height, inclusive of racks, signs or attached equipment, exceeding eight feet; any vehicle having attached signage projecting more than one inch past any external surface to which it is attached; any vehicle with a dump bed; or any trailer not meeting the definition of "minor commercial vehicle".

**COMMERCIAL VEHICLE, MINOR** have been used, or have the potential to be used in the conduct of business, and include pick-up trucks rated at three-quarter ton capacity or less and with either an open, non-dump bed or a cover no higher than two feet above the driver's cab. Minor commercial vehicles also shall include any of the following which are not greater than ten feet in length nor six feet in height, whether self-propelled or not, which are or could be used in the conduct of business: (i) tractors and mowers, (ii) trailers (open or enclosed) having one axle and weighing less than 1,000 pounds, and (iii) similar wheeled equipment.

**COMMUNITY CENTER** means a building used for recreational, social, educational and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

**COMPREHENSIVE PLAN** and “Butler Township Comprehensive Land Use Plan” mean a plan, or any portion thereof, adopted by the Board of Township Trustees showing the general location and extent of present and proposed land uses and transportation facilities, including housing, industrial and commercial uses, highways and roads, parks, schools and other community facilities. This Plan establishes the goals, objectives and policies of the Township.

**CONDITIONAL USE** means a use permitted within a district other than a principal permitted use, requiring a Conditional Use Permit and approval of the Board of Zoning Appeals that all the prior conditions for approval have been met.

**CONDOMINIUM** including “multi-family dwelling,” means a residential structure where each family owns its own dwelling unit, but where the common areas of the building and site are owned and maintained jointly by the occupants.

**CONVENIENCE FOOD STORE** means a retail business establishment having between 800 and 7,000 square feet of floor area, which establishment is designed and oriented to serve short-term shoppers who must exit their vehicles and enter the establishment to purchase food, beverages and other sundry items for consumption and use off the premises. Such establishments do not have more than twenty percent (20%) of their gross area for retailing devoted to on-premises food service or consumption.

**DAY CARE CENTER, ADULT** means a facility providing care for elderly and/or functionally impaired adults in a protective setting for the minor portion of a 24-hour day.

**DAY CARE CENTER, CHILD** means any place in which child care or publicly funded child care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care or publicly funded child care is provided for seven to twelve children at one time. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted.

**DISTRICT** means the same as “zoning district”.

**DRIVE-THROUGH BUSINESSES** means commercial enterprises which serve customers in their vehicles as those vehicles pull into and then through the building offering products or services.

**DRIVE-UP WINDOWS** means those openings in business buildings serving the needs of some customers, in their vehicles, as those customers pull alongside those business buildings.

**DWELLING** means a structure or building, or portion thereof, used exclusively for residential occupancy, including one-family and multi-family dwellings, but not including hotels, lodging or boarding houses, or tourist homes.

**DWELLING, SINGLE-FAMILY,** means a building designed for or used for residence purposes by one family or housekeeping unit.

**DWELLING, TWO-FAMILY,** means a building designed for or used by two families or housekeeping units.

**DWELLING, MULTIPLE-FAMILY,** means a building or portion thereof designed for or used by three or more families or housekeeping units living independently of one another, with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING, DETACHED,** means a building having no party wall in common with another building.

**DWELLING, SEMI-DETACHED,** means a building having one party wall common with an adjacent building.

**DWELLING, ROW,** means a dwelling having a party wall on each side in common with an adjoining dwelling, unless it is situated as the outermost dwelling. In the latter case, it will have a party wall on one side only. A row dwelling shall be considered to be a multi-family dwelling.

**DWELLING UNIT** means a one-family dwelling or a portion of a two-family, multi-purpose or row dwelling used by one family for cooking, living and sleeping purposes.

**EDUCATIONAL FACILITY, PUBLIC OR PRIVATE,** means any building or part thereof which is designed, constructed or used for primary or secondary education.

**ESTABLISHMENT** means a building or structure used for commercial or industrial purposes, including stores, shops, plants, factories, warehouses, wholesale houses and the like.

**EXOTIC ANIMAL** means a rare or unusual animal pet that is not indigenous to North America, or a non-domesticated animal kept within human households which is generally thought of as a wild species not typically kept as a pet.

**FAMILY** means one person, two or more related persons, or up to four unrelated persons, occupying a dwelling unit.

**FAMILY DAY-CARE HOME, TYPE A** and **TYPE A HOME** mean a permanent residence of the administrator in which child care or publicly funded child care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child care is provided for four to twelve children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the Type A home shall be counted. "Type A family day-care home" and "Type A home" do not include any child day camp.

**FAMILY DAY-CARE HOME, TYPE B** and **TYPE B HOME** mean a permanent residence of the provider in which child care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family day-care home" and "type B home" do not include any child day camp.

**FARM** means acreage which is devoted to agricultural activities (see "Agriculture"), which usually contains a dwelling and where the farmer earns at least eighty percent (80%) of his/her total annual income from agricultural activities.



**FARM MARKET** means a retail establishment deriving fifty percent (50%) or more of its gross income from produce raised on farms owned or operated by the market operator in a normal crop year.

**FENCE** means an enclosure or barrier whose purpose is to physically and/or visually contain certain uses and activities which are carried out on a particular zoning lot.

**FLOOD PLAIN** means the areas adjoining any river, creek or stream whose surface elevation is lower than the high water elevation of the regional flood.

**FLOOR AREA** means the total horizontal area of all floors finished as usable area. Measurements of floor area shall be taken to the outside of the exterior walls.

**FOOD TRUCK** means a licensed, motorized vehicle which is temporarily stored on a privately owned lot where food items are prepared and sold to the general public.

**FUNERAL HOME** means a building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

**GARAGE, PRIVATE** means a detached accessory building or a portion of the principal building used only for the storage of vehicles and incidental personal property.

**GARDEN CENTER** means land and related buildings for the sale of plant materials, fertilizer and mulch.

**GROSS DENSITY** means the population density of a particular area measured by the number of residents divided by the total number of areas, including street rights-of-way as well as residential land.

**GROUP HOME, ADULT** means any residential facility designed to allow not more than eight (8) persons, all such persons being eighteen (18) years of age or older, needing specialized care, counseling, ongoing medical treatment or supervision, to live in the same building or complex of buildings and engage in some congregate activity in a non-institutional environment.

**GROUP HOME, JUVENILE** means any residential facility designed to allow not more than eight (8) persons, all such persons being less than eighteen (18) years of age, needing specialized care, counseling, ongoing medical treatment or supervision, to live in the same building or complex of buildings and engage in some congregate activity in a non-institutional environment.

**HEDGE** means a dense growth of shrubbery, usually planted to function as a fence or boundary.

**HEIGHT** of structures not referenced in **Section 202.12** shall be measured as elevation above average grade of the lot immediately surrounding the structure and the highest point of extension of any part of the structure, even if such extension is intermittent. Thus, maximum height of a wind turbine shall be considered the total height of the supporting tower along with the maximum vertical height of the turbine blades.

**HOME OCCUPATION** means an occupation conducted in a dwelling unit by a resident, provided that the use of the dwelling unit for the home occupation is clearly incidental and subordinate to its use for residential purposes by its occupants. Additional characteristics of a home occupation are specified in Section 3012.

**HOSPITAL** an institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, training facilities, medical offices and staff residences.

**HOTEL** means a facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, bars, meeting rooms, entertainment and recreation facilities. This term also covers “motel”.

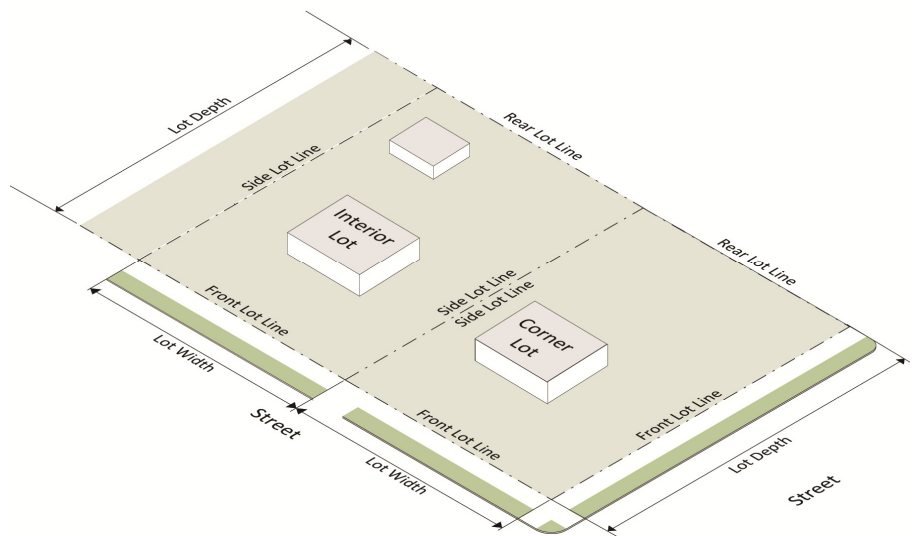
**KENNEL** is defined by operative legislation found within the ORC.

**KINDERGARTEN** has the same meaning as “day nursery” as set forth in definitions above, except that the care is not provided in a dwelling unit.

**LOADING SPACE** means a space within the same zoning lot providing space for the standing, loading or unloading of trucks.

**LOT** means a parcel of land defined by metes and bounds or boundary lines in a recorded deed or on a recorded plat, either fronting on a legally dedicated public thoroughfare or existing as part of a planned or condominium project approved by the Planning Commission. In determining lot area, no part thereof within the limits of the proposed thoroughfare right-of-way shall be included.

- A. **LOT, CORNER**, means a lot at the juncture of and fronting on two or more intersecting streets.
- B. **LOT DEPTH** means the average horizontal distance between the front and the rear lot lines.
- C. **LOT, INTERIOR**, means a lot other than a corner lot, with only one frontage on a street.
- D. **LOT LINES** means the property lines bounding a lot.
- E. **LOT LINE, FRONT**, means the line separating a lot from a street.
- F. **LOT LINE, REAR**, means the lot line opposite and most distant from the front lot line.
- G. **LOT LINE, SIDE**, means any lot line other than the front or rear lot line.
- H. **LOT WIDTH** means the width of the lot measured at the building set-back line.



**LOUNGE** means an establishment principally operated for the sale of alcoholic beverages to be served on the premises, and includes bars, taverns, beer parlors, night clubs and similar places.

**MANUFACTURED HOME** means a factory built, single family dwelling, that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) code.

**MANUFACTURING AND ASSEMBLY** means the altering, converting, fabricating, finishing, processing or treatment of a product utilizing a relatively clean and quiet process which does not include or generate hazardous elements and which is operating and storing products and materials in a completely enclosed structure.

**MEDICAL CLINIC** means a facility associated with a hospital or the medical field dedicated to the provision of special medical services primarily for out-patients.

**MOBILE HOME** means a structure built on a permanent chassis, transportable in one or more sections, which, in the traveling mode, is eight (8) body-feet or more in width or thirty (30) body-feet or more in length, and which is designed to be used as a dwelling, with or without a permanent foundation, when connected to required utilities. "Mobile home" includes "manufactured home."

**NONCONFORMING** means a legally existing use, structure or land tract which fails to comply with the standards set forth in these zoning regulations applicable to the district in which it is located.

**OFFICE, ADMINISTRATIVE,** means the use of spaces for the administrative services ancillary to the principal use of a building or facility.

**OFFICE OR SERVICE, PROFESSIONAL,** means the use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, engineers, accountants, insurance agents and real estate agents, where the business activity is conducted at the office and not separated from the principal business function or the office is not secondary to the principal business use.

**OFFICIAL THOROUGHFARE PLAN** means the Official Thoroughfare Plan of, and as adopted by Montgomery County, Ohio, establishing the location and official right-of-way widths of principal highways and streets in the Township.

**OUTDOOR SALES** means the display and sale of products and services primarily outside of a building or structure.

**OUTDOOR STORAGE** means the keeping, in an unenclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours.

**PARK** means a tract of land designated and used for passive and active recreation.

**PARKING AREA** includes:

- A. **Private parking area** means an open area for the same use as a private garage.
- B. **Public parking area** means an open area other than a street or other public way, used for the parking of automobiles and available to the public, whether for a fee, free or as an

accommodation for clients or customers.

- C. **Parking Space** means an off-street space available for the parking of one motor vehicle and having an area of not less than 200 square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto and having direct access to a street or alley.

**PATIO** means a structure, without a roof, attached or immediately adjacent to a principal or accessory building, provided that no part of such patio area is over two (2) feet in height (exclusive of railing or banister). "Patio" includes paved areas and decks.

**PAVED AREA** means areas hard-surfaced by asphalt, concrete, paving blocks and the like, set aside for vehicular parking or use.

**PERSON** means a corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.

**PERSONAL SERVICE** means an enterprise conducted for gain which primarily offers services to the general public, such as shoe repair, watch repair, barber shops, beauty parlors and similar activities.

**PERSONAL WIRELESS SERVICE FACILITY** means a mount which elevates a wireless communication antenna, along with such antenna, which mount might be either freestanding or associated with a principal structure on a zoning lot, and which mount and antenna in combination might also be associated with accessory transmission and receiving equipment located on the same zoning lot.

**PLANNED DEVELOPMENT DISTRICT** means an area of land in which a variety of housing types or mixed land uses are accommodated in a pre-planned environment under more flexible zoning standards, such as lot sizes and setbacks, than those restrictions that would normally apply under this Zoning Resolution.

**PORCH** means a space immediately adjacent to a building, open on a least three (3) sides except for screening or railings and covered by a roof.

**PORTABLE STORAGE UNIT** means any portable structure intended to be used on a temporary basis for the loading of materials from a location within Butler Township to then be moved to another location by a contracted third party, or the unloading of materials into a location within Butler Township in which the portable structure is brought to the location by a third party.

**PRINCIPAL USE** means the primary or predominant use of a lot.

**PRIVATE CLUB** means an association organized and operated not for profit for persons who are bona fide members paying annual dues, which organization owns, hires or leases the premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a Board of Directors, an Executive Committee or a similar body chosen by the members at their annual meeting. Food, meals and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all applicable Federal, State, County and Local laws.

**PROFESSIONAL SERVICE** means the use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, engineers, accountants, insurance agents and real estate agents, where the business activity is conducted at the office and not separated from the principal business function or the office is not secondary to the principal business use.

**RECREATIONAL VEHICLE**, means and includes vehicles and equipment more than six feet in overall height and/or having more than one axle and/or having more than four wheels and/or being greater in length than 15 feet, said vehicles and equipment being towed, self-propelled, or attached to another vehicle, and designed or used for temporary dwelling, recreational or sporting purposes. Such term shall include, but shall not be limited to, boats and other flotation equipment, with or without trailers; class A, B, or C motor homes; folding trailers and “pop-ups”, tent campers, fifth-wheel and travel trailers, bus conversions, and truck campers.

**RESIDENTIAL CARE FACILITY** means a residential facility licensed under sections 5119.34 and 5123.19 of the Ohio Revised Code that provides accommodations, supervision, and personal care services for children or adults.

**RESTAURANTS** include:

- A. **Restaurant, sit-down**, means an establishment principally operated for the sale of food and non-alcoholic beverages to be served on the premises which alcoholic beverages are determined to be a supplement of less than forty percent (40%) of the use of the area and equipment on the premises. Calculations to be made in such determination shall measure service equipment, seating, service area and staff. Service facilities are judged on their principal use and may not be designated as having a multiple use.
- B. **Restaurant, carry-out**, means a retail business operation to which at least three out of the four following conditions apply:
  - 1) The use is contained in a building having 5,000 or less square feet of gross floor area;
  - 2) The operation is self-service with no waitresses or waiters.
  - 3) Products are serviced in disposable containers for consumption on or off the premises.
  - 4) The majority of menu items are pre-prepared for immediate service.
- C. **Restaurant, drive-in**, means an establishment offering food and non-alcoholic beverages served directly to persons while in motor vehicles or dispensed at the counter for consumption on or off the premises.

**RETAIL SALES** means establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Retail sales include the following types:

- A. **Convenience Retail Sales** means retail establishments less than 2,500 square feet in size which offers a product mix which typically includes dairy, bakery, snack foods, beverages, tobacco, grocery, health and beauty aids, confectionery, newspapers and magazines, prepared foods to go, and limited produce items for sale to the general public.
- B. **Local Retail Sales** means retail establishments generally between 2,500 and 20,000 square feet selling a goods or merchandise to the general public for personal or household consumption. This category typically includes drug stores, book stores, office supply stores and specialty stores and grocery stores.
- C. **Regional Retail Sales** means retail establishments greater than 20,000 square feet selling a goods or merchandise to the general public for personal or household consumption. This category

includes discount and department stores, specialty stores, grocery stores, home improvement centers, outlet stores and warehouse clubs.

**SET-BACK LINE** means the closest point at which a building may be constructed in relation to the lot line.

**SEWER, CENTRAL OR PUBLIC,** means a public sewage disposal system and central sewage treatment facility approved for a single development, community or region.

**SEWER, ON-SITE,** means a septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of effluent, subject to the approval of the Montgomery County Combined Health District.

**STORY** means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, and any portion of a building used for human occupancy between the highest floor and the roof. A basement shall not be counted as a story, unless more than one-half (½) of the basement height is above grade level at the front of the building.

**STRUCTURE** means anything constructed, erected or placed which requires location on the ground or attachment to something having a location on the ground. Devices used for the support of wires and appurtenances supplying public utility services shall not be construed as structures under this Zoning Resolution.

**STRUCTURAL ALTERATION** means any change in the supporting members of a building, such as walls, floors, columns, beams or girders.

**TAVERN** means an establishment used primarily for the serving of alcoholic beverages by the drink to the general public and where food or packaged beverages may be served or sold only as accessory to the primary use. This term also covers “bar”, “lounge” and “night club”.

**TEEN CENTER** means an establishment operated for persons under the age of twenty-one (21), providing either live entertainment orchestrated by an emcee or disc jockey, in which the sale of alcoholic beverages is prohibited, and in which areas may be set aside for dancing.

**TEMPORARY BUSINESS** means a business which sells seasonal, import or specialty items from an open, tent-covered or mobile unit which is not permanently affixed to a zoning lot.

**TEMPORARY STRUCTURE** means a structure of a temporary nature erected for a period not to exceed twelve (12) months for such uses as construction offices or storage buildings at a construction site.

**THEATER** means a building or part of a building devoted to showing motion pictures or for dramatic, dance, musical or other live performances.

**TOWER, RADIO, TELEVISION OR OTHER RECEIVING/TRANSMITTING** means a structure that is intended to send and/or receive radio, television or cellular communications.

**TRAILER.** See “commercial vehicle.”

**TRAINING CENTER** means a facility primarily teaching usable skills that prepare students for jobs in a trade.

**USE** means the employment or occupation of a building, structure or land for a person’s service, benefit or enjoyment.

**USE-BY-RIGHT** means a principal permitted use in a particular zoning district which is permitted in that district as a legal right under the provisions of these Zoning Regulations.

**UTILITY, PUBLIC**, means an agency that, under public franchise or ownership or governmental control, provides essential services such as electricity, natural gas, heat, steam, communications, transportation, water sewage collection or other similar service to the general public.

**VARIANCE** means a variation from a strict interpretation of the provisions of these Zoning Regulations, owing to peculiar conditions or circumstances which apply principally to the property in question and to no other. As used in these Zoning Regulations, a variance is authorized only for height, area, yard or set-back requirements.

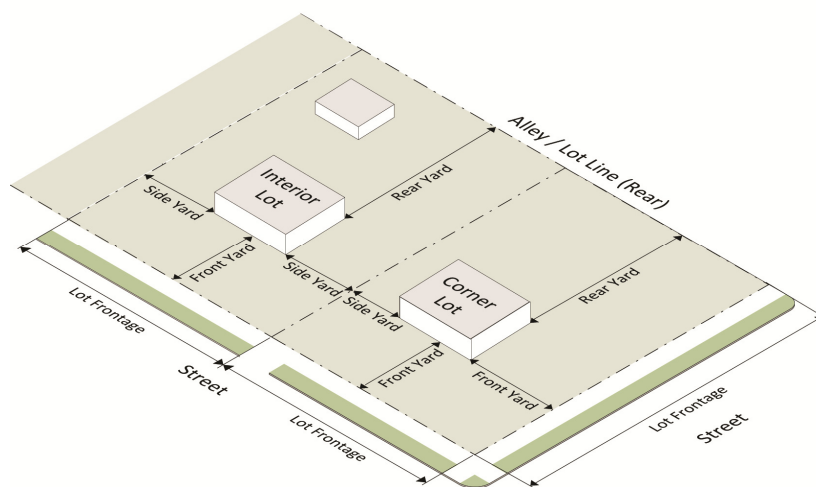
**WALL** means a boundary enclosure or separating barrier which is usually opaque.

**WAREHOUSE** means a building, or group of buildings, serving the storage needs of predominantly one company per zoning lot. This use can be distinguished from personal storage facilities which serve the dead storage needs of private individuals through the provision of compartmentalized and controlled-access stalls or lockers. Mini-warehouses and truck terminals are also different inasmuch as multiple customers are thereby served by a single facility, or cluster of facilities, on a given zoning lot.

**WHOLESALE ESTABLISHMENT** means an establishment that engages in the sale of goods, merchandise and commodities for resale by the purchaser.

**YARD** means a space on the same lot with a principal building, open, unoccupied and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in these Zoning Regulations.

- A. **Yard, Front**, means a yard extending across the full width of the lot, the depth of which shall be the least distance between the front lot line and the front of the main building.
- B. **Yard, Rear**, means a yard extending the full width of the lot between the rearmost main building and the rear lot line, the depth of which shall be the least distance between the rear lot line and the rear of such main building. Where a lot abuts upon an alley, one-half ( $\frac{1}{2}$ ) of the alley width may be considered as part of the required rear yard.
- C. **Yard, Side**, means a yard between the main building and the side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally and perpendicularly from the nearest point of the side lot line toward the nearest part of the main building.





**ZONING ADMINISTRATOR** means that person designated with such title by resolution of the Butler Township Board of Trustees, and in addition, includes such assistant zoning administrators as also have been named by resolution of the Butler Township Board of Trustees.

**ZONING RESOLUTION**, including **ZONING REGULATIONS**, means resolutions by the Butler Township Board of Trustees, Montgomery County, adopting sections of these Zoning Regulations, and amendments thereto.

**ZONING DISTRICT** means a portion of Butler Township, Montgomery County, Ohio, for which certain uniform regulations governing the use, height, area and intensity of use for buildings, land, and the open spaces about buildings, are herein established.

**ZONING ENFORCEMENT OFFICER** or “Code Enforcement Officer” means that person or persons designated by the Township Administrator or Board of Township Trustees to administer and enforce these Zoning Regulations.

**ZONING LOT** means a single tract of land which, at the time of the filing for a Certificate of Zoning Compliance, is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership or control. Therefore, a “zoning lot” may or may not coincide with a lot of record. The zoning lot shall have adequate frontage on an improved public roadway of adequate width, or upon a private roadway approved as part of an approved Planned Development.

### ARTICLE 3 ADMINISTRATION

#### SECTION 301 GENERAL PROVISIONS

- A. The administration and enforcement of this Zoning Resolution is hereby vested in the following offices of Butler Township:
- 1) Board of Butler Township Trustees;
  - 2) Butler Township Zoning Commission;
  - 3) Butler Township Board of Zoning Appeals;
  - 4) Butler Township Zoning Administrator; and
  - 5) Butler Township Resolution Enforcement officers.

#### SECTION 302 BOARD OF BUTLER TOWNSHIP TRUSTEES

- A. **General Authority.** The Board of Butler Township Trustees (“Trustees”) is authorized to enact this Zoning Resolution and amendments hereto as provided for by Sections 519.02 *et seq.* (see Appendix A) of the ORC. The Trustees shall appoint members of the Butler Township Zoning Commission and the Butler Township Board of Zoning Appeals. The Trustees may appoint a Township Administrator who shall also serve as Zoning Administrator. In addition, the responsibilities and authority for zoning administration may also be delegated to such other Assistant Zoning Administrators as deemed appropriate by the Trustees. If the position of Township Administrator is vacant, Trustees shall designate a Zoning Administrator, who may also serve as a Trustee. The Trustees shall establish and update fees deemed appropriate to the administration of this Zoning Resolution.
- B. **Amendments.** Amendments to this Zoning Resolution and changes in zoning district boundaries may be initiated by the Board of Butler Township Trustees.
- 1) Such amendments and changes may only be adopted after review and recommendation by the Montgomery County Planning Commission and the Butler Township Zoning Commission, and after notices of public hearings thereon are published in a local newspaper of general circulation.
  - 2) After a recommendation for a Zoning Resolution amendment or district boundary change is received from the Zoning Commission, Trustees shall set the time of a public hearing thereon within thirty (30) days of receipt of said Zoning Commission recommendation, with notice of a public hearing published in a local newspaper of general circulation at least ten (10) days in advance. Publication requirements are specified by ORC section 519.12 (see Appendix A).
  - 3) Following a public hearing by the Trustees regarding amendments to this Zoning Resolution or changes in zoning district boundaries, the Trustees shall have twenty (20) days to either adopt or deny the recommendations of the township Zoning Commission or adopt some modification of them, with any changes effective after thirty (30) days of said decision. Denial or modification of Zoning Commission recommendations requires a majority vote of the Trustees.

**SECTION 303 BUTLER TOWNSHIP ZONING COMMISSION**

- A. **General Authority.** The Butler Township Zoning Commission shall receive, and may initiate, applications for Zoning Resolution text amendments and changes in zoning district boundaries, including applications for Planned Development zoning districts. The Zoning Commission shall carry on a continuous review of the effectiveness and appropriateness of this Zoning Resolution, and shall recommend to the Butler Township Board of Trustees such changes or amendments as are deemed in the public interest.
- B. **Limits of Authority.** When considering detailed Planned Development District zoning standards, the Zoning Commission shall not have authority to vary by more than ten (10) percent any standard established by the Butler Township Board of Trustees for approved development features. An appeal by the Zoning Administrator to the Board of Trustees is authorized whenever any Zoning Commission sanctioned departure from planned development district standards exceeds ten percent, and the Trustees shall be the final arbiters of the extent to which approved standards may be varied. Such review by the Trustees shall follow notification procedures established for review of minor Planned Development zoning district changes by otherwise authorized bodies.
- C. **Organization.** The Zoning Commission shall be composed of five members, residing within the unincorporated area of the Township, appointed by the Board of Township Trustees for five (5) year staggered terms such that the tenure of one member shall expire each year. Vacancies shall be filled for the unexpired term only. The presence of three members shall constitute a quorum. Additionally, the Board of Township Trustees may appoint two alternates to the Zoning Commission for specified terms. Such appointees may not serve as alternates on the Board of Zoning Appeals.
- D. **Proceedings.**
- 1) Written applications pertaining to proposed text amendments, changes in zoning district boundaries, and the designation of Planned Development zoning districts shall be made on forms prescribed by the Zoning Commission and filed with the Zoning Administrator, who shall transmit the same to the Zoning Commission, together with all drawings, plans, specifications and other papers pertaining to the application.
  - 2) The Zoning Commission 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 chairperson, and at such other times as the Zoning Commission may determine. All meetings shall be open to the public, and there shall be no "executive sessions" or private deliberations. The Zoning Commission shall keep minutes of its proceedings, showing the votes of members on cases being heard, and shall keep records of its case reviews and other official actions, all of which shall be a public record.
  - 3) Upon adoption of a Zoning Commission motion, the certification of a Board of Township Trustees resolution, or receipt of an application for matters under the purview of the Zoning Commission, as enumerated in subsection 303.01 above, the date of public hearings thereon shall be announced by a newspaper of general circulation at least ten (10) days in advance of said public hearings. Such public hearing shall not be less than twenty (20) nor more than forty (40) days from the date of resolution certification, motion adoption, or application filing.
  - 4) Notification procedures for proposed rezoning amendments involving either less than or more than ten (10) parcels are to be found in Section 519.12 of the ORC.

**SECTION 304 BUTLER TOWNSHIP BOARD OF ZONING APPEALS**

- A. **General Authority.** Powers exercised by the Board of Zoning Appeals (BZA) shall be in strict accordance with State law and the provisions of this Zoning Resolution. The BZA has specific powers, as outlined below, to make decisions on variances, conditional uses, special exceptions, and appeals of administrative decisions. The BZA may reverse; affirm, wholly or in part; or modify an administrative decision or zoning requirement, and to that end the BZA shall have all powers of the Zoning Administrator from whom the appeal is taken. The BZA may impose conditions regarding location, use, character, or other features of a proposed lot or building. Appeals from the decision of the Board can be heard only by a court of appropriate jurisdiction.
- B. **Limits of Authority.** The BZA shall not permit in any zoning district a land or building use which is neither an explicitly permitted use nor a closely related use. Whenever the BZA indicates, by formal or informal vote, that consideration is being given to a variance exceeding Zoning Regulations standards by more than twenty (20) percent, the Zoning Administrator may indicate to the BZA that advice will be sought from the Zoning Commission as to whether current Zoning Regulations should be modified to better reflect the standards embodied by the proposed variance.
- C. **Organization.** The Board of Zoning Appeals shall be composed of five members, residing within the unincorporated area of the Township, appointed by the Board of Township Trustees for five (5) year staggered terms such that the tenure of one member shall expire each year. Vacancies shall be filled for the unexpired term only. The presence of three members shall constitute a quorum.
- D. **Proceedings.** The Board of Zoning Appeals (BZA) 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 chairperson, and at such other times as the BZA may determine. All meetings shall be open to the public. The BZA shall keep minutes of its proceedings, showing the votes of members on cases being heard, and shall keep records of its case reviews and other official actions, all of which shall be a public record. With respect to variance applications, the record of proceedings shall set forth the reasons for decisions.
- E. **Filing Procedures.** Written application for a variance, conditional use permit or special exception shall be made on forms prescribed by the BZA and filed with the Zoning Administrator, who shall transmit the same to the BZA, together with all drawings, plans, specifications and other papers pertaining to the application. Written application for an administrative appeal shall be made directly to the BZA as well as to the Zoning Administrator. All applications to the BZA regarding variances, conditional use permits, special exceptions and administrative appeals shall be in writing and shall be filed with the Zoning Administrator at least twenty-one days prior to the meeting at which they are to be heard. Each application shall refer to the specific provisions of this Zoning Resolution, and shall set forth a clear exact description of the site involved, the interpretation that is claimed, and, as the case may be, details of the variance proposed to be granted, the use for which a conditional use permit is sought, or the reasons justifying the special exception. Application fees shall be established and updated periodically by the Butler Township Board of Trustees.
- F. **Decisions by the BZA.** Decisions on all applications and appeals shall be rendered within sixty days after completion of the hearing thereon. Such decision shall be binding upon the Zoning Administrator. Terms and conditions of a decision authorized by the BZA shall be incorporated into any certificate of zoning compliance. A concurring vote of three BZA members shall be necessary to reverse an order, requirement, decision or determination of the Zoning Administrator, or to grant a variance from the requirements of this Zoning Resolution. Every special exception, variance or conditional use permit allowed or granted by the BZA shall expire

and be of no force or effect after the expiration of twelve months from the date thereof, unless the beneficiary of such variance, conditional use permit or special exception has actually, within such period, put the subject property to the purpose for which such variance, conditional use permit or special variance was granted or allowed.

- G. **Administrative Appeals.** The BZA shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Zoning Resolution. Any person claiming to be aggrieved by any order, requirement or decision made by the Zoning Administrator may appeal to the BZA, within twenty (20) days of the date of such decision, by filing a notice of appeal specifying the grounds thereof. The Zoning Administrator shall transmit to the BZA all of the papers constituting the record upon which the action appealed from is taken. Normally, such BZA review is limited to alleged errors in interpretation of this Zoning Resolution. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the BZA, after the notice of appeal is filed, that by reason of the facts stated in the application, a stay would 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 a court of record.
- H. **Conditional Uses.** The purpose behind a conditional use permit is consideration by the BZA of proper integration into the community of uses which may be suitable only in specific locations within certain zoning districts, or may be suitable only if such uses are designed or laid out in a particular manner on a site. A conditional use permit shall be required for all uses listed by district regulations as conditional uses. A specific, existing, or lawful use, which is listed by this Zoning Resolution as a conditional use, and which is located in a district in which such conditional use may be permitted, shall be considered a conforming use.

Applications for a conditional use permit shall be accompanied by maps and drawings necessary to demonstrate that conditions set forth by Article 4 will be fulfilled. In considering an application for a conditional use, the Board must make affirmative findings that:

- 1) The proposed conditional use is to be located in a district where the Zoning Resolution indicates such use may be permitted. If the nature of a proposed use is closely related to a listed conditional use, an applicant may apply for a conditional use permit for said use provided that all related requirements are met.
  - 2) All conditions for approval of a conditional use, as set forth in Article 4, have been met.
  - 3) The proposed conditional use meets all the requirements specified for the zoning district in which it is located.
  - 4) In addition to the above findings, the BZA shall give due regard to the nature and condition of all adjacent uses and structures, and the BZA may impose such requirements and conditions with respect to location, design, siting, maintenance and operation of the use, in addition to those expressly provided in Article 4, as may be necessary for the protection of adjacent properties, and as may be in the public interest. Before issuing a conditional use permit, the BZA shall determine that the establishment, maintenance and operation of a proposed conditional use is generally consistent with the provisions of the adopted Butler Township land use plan and the Montgomery County thoroughfare plan, and will not be detrimental to the health, safety, peace, comfort or general welfare of persons or property in the township.
- I. **Special Exceptions.** Application to the BZA for a special exception shall be made by the owner or agent of the property involved, at least twenty-one days prior to the scheduled BZA meeting date. A special exception may be granted to address the following situations:
- 1) To permit extension of a zoning district where its boundary line divides a lot held in single ownership on the effective date of this Zoning Resolution;

- 2) To permit the erection and use of a building, or the use of premises, for public utility purposes;
  - 3) To permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, extreme act of fate, or the public enemy, to the extent of more than sixty percent of its reasonable value, where the BZA finds some compelling public necessity requiring a continuance of the nonconforming use, and the primary purpose of continuing the nonconforming use is not to continue a monopoly;
  - 4) To permit the one-time enlargement of existing nonconforming buildings upon the same lot occupied by such building, or upon an adjoining lot, provided that such lot(s) was under the same ownership as the lot on which such nonconforming building existed at the time such buildings became nonconforming, and provided that such enlargement is necessary and incidental to the existing use of such building, and further provided that such enlargement conforms to the height, yard and area requirements of the zoning district in which it is located, where such enlargements are not detrimental to present and potential surrounding uses and will be in harmony with the general welfare of the residents of Butler Township;
  - 5) To vary parking, loading and unloading regulations whenever the character or use of a building is such as to make unnecessary the full provision of parking and loading and unloading facilities, or when such regulations would impose an unreasonable hardship upon the use of the lot as contrasted with merely granting an advantage or a convenience;
  - 6) To permit the substitution of one nonconforming use for another, where the BZA finds evidence that the proposed use will be less detrimental to the neighborhood than the existing use, and where there is substantial evidence that the structure to house the proposed substitution is ill-suited by architectural and physical design to either a permitted or conditional use in a given zoning district; and
  - 7) To allow more than one principal structure on a single zoning lot if:
    - a) The various buildings to be constructed or altered bear a close functional relationship to each other, i.e. dissimilar land uses are not involved, and future ownership by only one entity is virtually assured;
    - b) It would be an extreme physical planning hardship to put each structure on a separate zoning lot and still approach allowable zoning densities.
    - c) Similar uses elsewhere are customarily developed with more than one principal structure.
- J. **VariANCES.** The BZA shall have the power to authorize, upon appeal in specific cases and filed in accord with this Zoning Resolution, such variances from the provisions or requirements of this Zoning Resolution as will not be contrary to the public interest, but only in the case of peculiar conditions, involving irregular, abnormally narrow, shallow or steep lots or other unusual conditions, whereby strict and literal application of such provisions or requirements would result in practical difficulty and unnecessary hardship that would deprive the owner of the reasonable use of the land or buildings involved. Financial hardships are not a valid reason for requesting a variance. No variance from the strict application of any provision of this Zoning Resolution shall be granted by the Board, unless it finds that all of the following facts and conditions exist:
- 1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to any other land, building or structure within the same zoning district.
  - 2) Literal interpretation of the provisions of this Zoning Resolution would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Resolution.
  - 3) Special conditions and circumstances are not the result of actions of the applicant, including acquisition of the property with the same zoning restrictions in place at the time of purchase.
  - 4) Granting the variance requested will provide the minimum necessary relief to the applicant.

- 5) Granting of the variance will be in harmony with the general purpose and intent of this Zoning Resolution, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- 6) The proposed variance will not constitute a change of zoning district on the Official Zoning District Map.

In no case shall the Board approve a variance for a use which is not listed for a zoning district unless it finds the conditions above are met, and unless there is clear evidence the property cannot be put to any economically feasible purpose under any permitted use.

- K. **Appeals.** Appeals from BZA decisions on administrative errors, variances, conditional uses, special exceptions and related matters shall be to the Court of Common Pleas of Montgomery County.
- L. **Public Hearing.** Public hearings shall be held by the BZA pursuant to provisions of the ORC. Written notice thereof shall be mailed to all owners of property, as shown on the current internet-listed county tax roll, within one hundred fifty (150) feet of the parcel involved, such mailing to be at least ten (10) days prior to the scheduled public hearing. Notice of a public hearing shall be published in a newspaper of general circulation not less than ten (10) days prior to said public hearing. Notice may also be given by such other means as the Board deems appropriate. Failure of any person, other than the applicant, to receive notice of any public hearing shall in no way affect the validity of action taken.

### **SECTION 305 BUTLER TOWNSHIP ZONING ADMINISTRATOR**

- A. The Butler Township Zoning Administrator and/or duly appointed Assistant Zoning Administrator(s) shall administer and enforce this Zoning Resolution by actions including, but not limited to:
  - 1) Interpreting the provisions of accompanying text and map;
  - 2) Receiving and processing applications for Certificates of Zoning Compliance;
  - 3) Administering requirements related to the processing of applications for variances, conditional uses, special exceptions, Planned Developments, and administrative appeals, including the production of related staff reports;
  - 4) Conducting inspections of structures and property, and uses thereof, to determine compliance with this Zoning Resolution;
  - 5) Maintaining the Official Zoning Districts Map;
  - 6) Maintaining permanent and current records necessitated by proper administration of this Zoning Resolution, including Certificate of Zoning Compliance, and all official actions and records pertaining to variances, conditional uses, text amendments, and changes of zoning district boundaries, reclassifications of property, special exceptions and administrative appeals.
- B. **Certificates of Zoning Compliance.**
  - 1) Where no new construction is to be carried out or where new construction has just been completed, prior to the occupancy or use of a newly erected or constructed building or structure, or part thereof, and prerequisite to the continued occupancy of a newly altered, reconstructed, enlarged or relocated building or structure, or prerequisite to the continued occupancy of a reoccupied commercial building, a certificate of zoning compliance shall be secured from the Zoning Administrator by the owner or his or her agent. The certificate of zoning compliance shall state that the completed improvement, relocation or reoccupation has been inspected by the Zoning Administrator and has been found to be in compliance with

this Zoning Resolution. In the case of existing buildings and structures, the need for a new certificate of zoning compliance shall exist whenever space is occupied that was not previously occupied, whenever the use made of a given space changes with reference to a major category of zoning activity listed by this Zoning Resolution, or whenever nonresidential activity ceases and is later re-established.

- 2) Upon written request from the owner or tenant, the Zoning Administrator shall issue a certificate of zoning compliance for any building or premises existing on the effective date of this Zoning Resolution, certifying after inspection the extent and kind of use made of the building or premises and whether such use conforms to the provisions of this Zoning Resolution.
- 3) Prior to the reoccupation or re-use of any lot, building or structure in a previously established use, when such reoccupation or re-use is of a different character or type than that of the previously established use, a certificate of zoning compliance shall be secured from the Zoning Administrator by the owner or his or her agent. The certificate of zoning compliance shall state that the extent and kind of use proposed to be made of the lot, building or structure conforms to the provisions of this Zoning Resolution.



## ARTICLE 4 CONDITIONAL USES

### SECTION 401 GENERAL PROVISIONS

- A. Before any conditional use is established or begun, issuance of a conditional use certificate by the Zoning Administrator is required, following approval of a proper application filed in support thereof with the Butler Township Board of Zoning Appeals. Land uses have been designated as conditionally acceptable in various zoning districts because said land uses may be suitable only in specific locations, or if such uses are designed or laid out in a particular manner on a site.
- B. In addition to provisions of this article, general application requirements and procedures are specified in Article 3.
- C. Certain agricultural uses and energy generating devices, such as wind turbines and solar panels, shall be allowed in all zoning districts. **Section 102 (A.6)** details agricultural use expectations. Wind turbine and solar panel allowances are detailed by **Sections 422 and 423** of this Article.

### SECTION 402 REQUIREMENTS PERTAINING TO ALL CONDITIONAL USES

- A. Ten (10) copies of a development plan, drawn to scale, shall be submitted with all conditional use applications. Such development plan shall include all structures, paving, utility connections, easements and other elements pertaining to site improvements and modifications.
- B. A plan of landscape, drawn to scale, shall be submitted with all conditional use applications. Such landscape plan shall include quantities, sizes, and varieties of landscaping.
- C. The conditional use application shall state the name of the person(s) or corporations owning, leasing and managing both the zoning lot and the proposed conditional use.
- D. A written statement shall be provided detailing all aspects of proposed business activities, including specific activities to be conducted and hours of operation.
- E. All parking areas and access drives shall be hard surfaced and dust free.
- F. Outdoors artificial lighting shall be subject to approval by the Board of Zoning Appeals.
- G. Service by public facilities and the disposal of liquid and other wastes shall meet the approval of pertinent health and other inspection authorities.
- H. Where relevant, evidence shall be presented and approved by the Township that adequate covenants, deed restrictions, homeowners' association documentation, and the like are in place sufficient to perpetuate maintenance and/or guarantee future improvements.
- I. There shall be no storage, visible from streets or other areas used or accessed by the public of discarded materials, trash, or materials in the process of fabrication or disposal.

### SECTION 403 PUBLIC HEARING

- A. The Board of Zoning Appeals shall schedule a public hearing to consider facts pertinent to a conditional use application. Notification of such a public hearing shall be mailed to current property owners of record lying within 300 feet of the zoning lot on which is proposed a conditionally permitted use. Additional notification requirements can be found on the application for a Conditional Use provided by the Township.

**SECTION 404 FINDINGS OF FACT BY THE BOARD OF ZONING APPEALS**

- A. Land uses listed as conditionally permitted by this Zoning Resolution have been judged to be potentially more burdensome to surrounding development, to the public interest, or to the attainment of planning goals and objectives adopted by the Butler Township Trustees as a part of community planning. Before approving any conditional use, the Board of Zoning Appeals (BZA) shall make affirmative findings of fact that:
- 1) A proposed conditional use is to be located in a district where such use may be permitted.
  - 2) All specific conditional use requirements, as are specified in this Article and elsewhere in the Zoning Resolution, have been or can be reasonably met by the applicant.
  - 2) Due regard has been given the nature and condition of all adjacent land uses and structures. The BZA may impose such requirements and conditions with respect to location, design, siting, maintenance and operation of a proposed use, in addition to requirements expressly provided by this Zoning Resolution for a particular use, as may be necessary for the protection of adjacent properties and the public interest.
  - 3) Nearby or abutting thoroughfares will have adequate capacity to serve the demands posed by the proposed use, and on-site traffic circulation can be safely accommodated.
  - 4) The establishment, operation, and maintenance of a proposed conditional use are consistent with provisions of Butler Township adopted plans and regulations, including zoning and signage regulations, and a proposed conditional use will not be detrimental to the health, safety, peace, comfort or general welfare of persons or property in the Township.

**SECTION 405 ADULT USES**

- A. **Definitions.** Adult Uses are defined generally in Article 2. In addition, when used in this subsection, the following words, terms and phrases will be defined as follows:
- 1) **“Adult bookstore”** means an establishment, building or portion of a building that excludes minors by reason of age, and/or has, as a significant portion of its stock in trade, books, magazines, films, and/or other materials that are distinguished or characterized by their principal emphasis on matters depicting, describing, or relating to nudity, “specified sexual activities,” or “specified anatomical areas,” for sale rent or viewing on the premises, or an establishment with any segment or section devoted to the sale or display of such material.
  - 2) **“Adult cabaret”** means an establishment, building, or portion of a building used for providing any live exhibition, performance, dancing, or other live entertainment, if such entertainment excludes minors by reason of age, and/or if such live exhibition, performance, dancing, or other live entertainment is distinguished or characterized by its principal emphasis on matters depicting, describing, or relating to nudity, “specified sexual activities,” or “specified anatomical areas.”
  - 3) **“Adult drive-in theater”** means an establishment, building, or portion of a building with a screen suitable for viewing movies, still pictures, or any other images from a patron’s vehicle if the theater excludes minors by reason of age, and/or if such material is distinguished or characterized by its principal emphasis on matters depicting, describing, or relating to nudity, “specified sexual activities,” or “specified anatomical areas.”
  - 4) **“Adult health facility”** means a health facility that excludes minors by reason of age, and/or if such health facility is distinguished or characterized by its principal emphasis on matters depicting, describing, or relating to nudity, “specified sexual activities,” or “specified anatomical areas.”

- 5) **“Adult massage parlor”** means a massage establishment or parlor that excludes minors by reason of age, and/or provides the service of massage, if such service is distinguished or characterized by its principal emphasis on matters depicting, describing, or relating to nudity, “specified sexual activities,” or “specified anatomical areas.”
  - 6) **“Adult mini-motion picture theater”** means an establishment, building, or portion of a building, with a capacity of fewer than fifty persons, with a screen suitable for viewing movies, still pictures, or any other images, if said theater excludes minors by reason of age, and/or if such images or material are distinguished or characterized by a principal emphasis on matters depicting, describing, or relating to nudity, “specified sexual activities,” or “specified anatomical areas.”
  - 7) **“Adult motion picture theater”** means an establishment, building, or portion of a building, with a capacity of fifty or more persons, with a screen suitable for viewing movies, still pictures, or any other images, if said theater excludes minors by reason of age, and/or if such images or material are distinguished or characterized by a principal emphasis on matters depicting, describing, or relating to nudity, “specified sexual activities,” or “specified anatomical areas.”
  - 8) **“Conversation/rap parlor”** means an establishment, building, or portion of a building that excludes minors by reason of age, and/or that provides the service of engaging in or listening to conversation, talk or discussion if such service is distinguished or characterized by a principal emphasis on matters depicting, describing, or relating to nudity, “specified sexual activities,” or “specified anatomical areas.”
  - 9) **“Nudity”** shall mean the showing of human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering over the top of the areola and below, or the depiction of covered or uncovered male genitals in a turgid state.
  - 10) **“Specified anatomical areas”** shall include less than completely and opaquely covered: (i) human genitals; (ii) pubic regions or pubic hair; (iii) buttocks; (iv) female breasts below a point immediately above the top of the areola; and (v) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
  - 11) **“Specified sexual activities”** shall include any of the following:
    - a) Any act of sexual intercourse, actual or simulated, including genital to genital, anal to genital, or oral to genital intercourse, whether between human beings or animals;
    - b) Sadoomasochistic abuse, meaning flagellation or torture, actual or simulated, by or upon a person who is nude or clad in undergarments or in a revealing costume, or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed;
    - c) Masturbation or lewd exhibition of the genitals;
    - d) Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of a female, whether alone or between members of the same or opposite sex, or between humans and animals in an act of apparent sexual stimulation or gratification;
    - e) Fondling or other erotic touching of human genitals, pubic regions, buttocks, female breasts, or any other areas defined as “specified anatomical areas.”
- B. Development Standards For Adult Uses** The following development standards apply to adult uses:
- 1) No adult use shall be located within six hundred (600) feet of any residential zoning district or use, church, public or private school, public or private teaching facility, public or private library, park, recreational facility or playground, or other area where large numbers of minors regularly travel or congregate, where such church, school, teaching facility, library, park,

recreational facility, or playground is attended by persons under eighteen (18) years of age. The 600 foot distance shall be measured from the edge of the property accommodating the adult use to the nearest property line accommodating a residential district or use, church, school, teaching facility, library, park or playground, or area where large numbers of minors regularly travel or congregate.

- 2) No adult use shall be located within six hundred (600) feet of any other adult use or within 600 feet of any establishment selling alcoholic beverages. The 600 foot distance shall be measured from the edge of the property accommodating the adult use to the nearest property line accommodating another adult use or establishment selling alcoholic beverages.
- 3) No advertisements, displays, or other promotional materials displaying specified sexual activities or specified anatomical areas shall be shown or exhibited so as to be visible to the public from pedestrian sidewalks, walkways, streets, or other public or semi-public areas;
- 4) All building openings, entries, windows, et cetera for adult uses shall be located, covered, or screened in such a manner as to prevent a view into the interior from any sidewalk, street, or other public or semi-public area. All new construction for adult uses shall be constructed in a manner so as to minimize any possibility of viewing the interior from public or semi-public areas.
- 5) No loudspeaker or sound equipment shall be used for adult uses that can be heard or discerned by the public from public or semi-public areas.
- 6) Adult uses establishments shall not be permitted to sell beer, wine, liquor, or other spirituous beverages at any time.
- 7) Adult use establishments shall not be open for operation between the hours of 2:00 a.m. and 9:00 a.m.

**C. Violations, Penalties, and Savings Clause**

- 1) Violation of the provisions of this subsection or failure to comply with its requirements shall constitute a first-degree misdemeanor. Any person who violates this subsection or fails to comply with any of its requirements shall, upon conviction, be fined not more than five hundred dollars (\$500), or shall be imprisoned for not more than six months, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues, after receipt of a violation notice, shall be considered a separate offense.
- 2) In addition to the penalties identified in subsection C.1 above, the Township shall have the right to close the offending adult use enterprise or related venture until such time as compliance with the provisions of this Zoning Resolution is completely secured.
- 3) If any provision of this subsection, or its application to any person or circumstance, is held to be void, voidable, or invalid to any extent, then the remainder of this subsection, or the application of such provision to persons or circumstances other than those as to which it is held void, voidable or invalid, shall not be affected, and each remaining provision of this subsection shall be valid and enforceable to the fullest extent permitted by law. Further, to the extent that any provision of this subsection, or its application to any person or circumstance, is held to be void, voidable or invalid, such provision shall be reformed by the court of law interpreting such provision to the fullest extent permitted by law.

**SECTION 406 AUTOMATED TELLER MACHINES (ATMs)**

- A. Automated teller machines are conditionally permitted in all LC/S and RC/S zoning districts, either in combination with another principally permitted use on the same zoning lot, or on an individual zoning lot, provided:
- 1) The building associated therewith meets the same setback requirements from adjacent public rights of way as principally permitted uses in the same zoning district.
  - 2) There is sufficient on-site parking for waiting patrons to accommodate six (6) vehicles, and such parking will not subtract from or otherwise interfere with parking designed for other uses on the same zoning lot.
  - 3) Drive aisles and parking associated with an ATM meet the same setback requirements as would apply to on-site parking allowed for a principally permitted use.

**SECTION 407 AUTOMOBILE SERVICE STATIONS**

- A. Automobile service stations are conditionally permitted in all LC/S-2 and RC/S-1 zoning districts provided:
- 1) Evidence is provided by the applicant demonstrating, to the satisfaction of the Board of Zoning Appeals, the probability of a reasonable public need for the proposed station. The presence of one abandoned or inoperative automobile service station within a one-half (1/2) mile radius, or two such abandoned or inoperative stations within a one-mile radius of the proposed site, whether or not within Township boundaries, is sufficient to establish a prima facie presumption that there is no probability of such a reasonable public need. For purposes of this Zoning Resolution, the words “abandoned or inoperative automobile service station” shall be deemed to mean a station which has not been open for business or normal operation for the most recently completely six (6) consecutive months.
  - 2) There shall be a minimum lot width at the front property line of 140 feet, and a minimum lot area size of 14,000 square feet.
  - 3) No automobile service station shall have an entrance or exit for vehicles within two hundred (200) feet, along the same side of a street, of any school, public playground, church, hospital, public library, or institution for dependents or for children, except where such properties are in another block or on another street which the subject zoning lot does not abut.
  - 4) Driveways shall be neither closer than ten feet from any property lines, nor closer than fifty feet from either an adjacent residential zoning district or corner property lines extended from right of way lines established by the Montgomery County Official Thoroughfare Plan.
  - 5) Fuel pumps shall be a minimum distance of fifteen (15) feet from a property line. The automobile service station building shall be set back a minimum distance of forty (40) feet from the front property line and fifteen (15) feet from any other property line.
  - 6) Pump island areas may be covered by a canopy provided the area beneath the canopy is open except for supporting columns. Supporting columns may not be nearer to a right of way than the pump island being covered, and the canopy can be no closer than ten (10) feet to a right of way or property line, as if vertically extended. Canopies shall not exceed twenty (20) feet in height as measured from the driving surface to the top of the canopy structure.
  - 7) Canopy lighting shall be recessed or fully shielded to prevent light glare on adjacent public rights-of-way.
  - 8) All hydraulic hoists, oil pits, lubricants and greasing areas, and automobile cleaning and repair equipment shall be enclosed entirely within a building.

**SECTION 408 AUTOMOBILE WASHING ESTABLISHMENTS**

- A. Automobile washing establishments are conditionally permitted in all LC/S and RC/S zoning districts provided:
- 1) All washing facilities shall be in an enclosed building, except for entrance and exit doors which may remain open during hours of operation.
  - 2) For fully automated washing facilities, minimum site size shall be one-half (1/2) acre, with one hundred (100) feet of zoning lot frontage. For self-service washing facilities, minimum site size shall be one (1) acre, with one hundred fifty (150) feet of zoning lot frontage.
  - 3) Water and residue from the washing process shall not be allowed to drain from the zoning lot.
  - 4) The greater of either one (1) parking space or one (1) parking space for each regular employee on the highest shift shall be provided on the zoning lot.
  - 5) For customer parking, a minimum of six (6) off-street waiting spaces shall be provided for every bay with a self-service washing facility, and a minimum of ten (10) off-street waiting spaces shall be provided for every automated washing facility where patrons are not directly involved in the car washing process.
  - 6) An area of at least five hundred (500) square feet shall be provided beyond the exit end of each washing line to allow for the hand finishing and drying of vehicles.
  - 7) The entrance to washing and other service facility bays shall not be toward the street fronting the zoning lot.

**SECTION 409 COFFEE/FOOD STAND CONCESSIONS/FOOD TRUCKS**

- A. Temporary coffee and/or food stand concessions, associated with a principally permitted use on the same zoning lot, are conditionally permitted in an LC/S-1, LC/S-2, RC/S-1, OIS or I-1 zoning districts provided the following conditions can be met:
- 1) Locations must be on zoning lots that include parking areas designed to accommodate one hundred (100) or more cars.
  - 2) Temporary coffee/food stand concessions are limited to one (1) per zoning lot.
  - 3) Coffee/food stands shall be no higher than twelve (12) feet and encompass an area no larger than one hundred twenty (120) square feet.
  - 4) Outside storage shall be limited to ten (10) square feet in area and five (5) feet in height, and shall be fully enclosed by opaque fencing, of a design approved by the BZA, extending one foot above stored items but no higher than six (6) feet.
  - 5) Menus shall be limited to coffee and espresso drinks, juices, soft drinks, prepackaged ice cream and frozen yogurt, baked goods complementing drink offerings, and/or such other items as are approved by Montgomery County health officials.
  - 6) Customer service must be oriented to drive-up, vehicular traffic, and no encouragement of on-site consumption can be offered by way of inside seating, a deck, outside chairs, benches, tables, umbrellas or the like.
  - 7) Structures, operations and food offerings must be approved by Montgomery County building and health officials, and applicable permits shall be kept current.
  - 8) Operators/employees of the coffee/food stand must have contractually guaranteed convenient, full-time access to restrooms on the same zoning lot.
  - 9) Coffee/food stands must be located at least thirty (30) feet from the nearest road right of way, automobile stacking must accommodate at least three (3) cars for each serving window, and traffic patterns are subject to approval of the Township's traffic consultant.

- 10) Signage must be located on walls of the structure, and not above any point that defines any part of the roof.
  - 11) Signage shall be limited to one (1) per façade on which the sign is displayed, and sign display area shall be limited to one (1) square foot for each lineal foot of wall width on which the sign will be mounted.
- B. Food Trucks may only be located on a lot with a principally permitted use on the same zoning lot, and are conditionally permitted in an LC/S-1, LC/S-2, RC/S-1, OIS or I-1 zoning districts provided the following conditions can be met:
- 1) Food truck sales may not conduct sales when parked on a public street unless approved for a Township sponsored event.
  - 2) The food truck must be licensed by the Montgomery County Health Department and have a valid business license for food truck operations.
  - 3) A minimum one-half acre lot is required.
    - a) A maximum of 2 food trucks on lots a one-half acre to one acre in size.
    - b) A maximum of 4 food trucks on lots greater than one acre.
  - 4) Temporary outdoor seating is only permitted on lots one acre or greater.
  - 5) Food trucks shall not block any ingress/egress or vehicular circulation in a parking lot. Loading/unloading area or building entrance.
  - 6) Food trucks shall not block any fire hydrant or fire lane.
  - 7) Food truck operations shall be limited from 7am to 9pm.
  - 8) Food truck operations shall be located a minimum of 100 feet from a residential dwelling.
  - 9) No audio speakers or on-site/off-site freestanding signage shall be permitted.
  - 10) Grease, liquid waste and garbage shall not be disposed of on-site.
  - 11) Food trucks shall be subject to the Township noise ordinance.

#### **SECTION 410 DAYCARE AND KINDERGARTEN FACILITIES**

- A. Daycare and kindergarten facilities, open to the general public and independent of a principal permitted use on the same zoning lot, are conditionally permitted in all RC/S-1, LC/S-2, and OIS zoning districts provided:
- 1) Minimum site size is one-half acre, with frontage of one hundred (100) feet;
  - 2) Minimum side yards are twenty-five (25) feet, and the minimum rear yard is forty (40) feet;
  - 3) A front-yard storage area for cars waiting outside the building must accommodate at least one car for each five hundred (500) square feet of building area;
  - 4) Parking areas are separated from abutting residential uses by at least twenty-five (25) feet;
  - 5) A six (6) foot high opaque, wooden, screening fence separates outside play areas from abutting residential properties;
  - 6) Play area for children is located in a rear yard, and outdoor play space per child, at maximum rated building capacity, is equal to standards promulgated by the state of Ohio for licensed day care facilities.

**SECTION 411 DRIVE-IN RESTAURANTS AND DRIVE-THROUGH BUSINESSES**

- A. Drive-in restaurants and drive-through businesses are conditionally permitted in LC/S-2 and RC/S-1 zoning districts, provided:
- 1) Minimum site size is one-half acre, with frontage of one hundred (100) feet;
  - 2) Drive-through automobile storage lanes meet the greater requirement of: 1) the same yard requirements as are imposed on principal structures, or 2) thirty-five (35) feet from the nearest existing or potential dwelling unit;
  - 3) A six (6) foot high screening fence separates the subject zoning lot from abutting residential properties;
  - 4) Only one business is served by a drive-through window, drive storage lane;
  - 5) The storage area for waiting cars is at least one-half the gross square footage of the business to be served;
  - 6) There is an acceptable relationship to the abutting thoroughfare and an adequate on-site circulation pattern.

**SECTION 412 EQUIPMENT RENTAL ESTABLISHMENTS**

- A. Equipment rental establishments may be conditionally permitted in I-1 zoning districts provided:
- 1) Outside storage of items for rent is subordinate in area to inside storage, and all items of a size that, individually, would fit into a one-car residential garage are stored inside a fully enclosed building;
  - 2) The storage area for items to be rented is subject to the same yard setbacks as apply elsewhere in an I-1 zoning district;
  - 3) There is no retail selling;
  - 4) The outside storage area of items to be rented is paved to the same standard as would be a parking lot for automobiles or trucks;
  - 5) Fuel tanks are stored at those paved lot locations as far removed as practicable from abutting land uses;
  - 6) Fencing style and color is approved by the Board of Zoning Appeals.

**SECTION 413 JUVENILE AND ADULT GROUP HOMES**

- A. Juvenile and adult group homes are conditionally permitted in R-3, R-4, and R-5 zoning districts upon submission of the following, and upon subsequent approval by the Board of Zoning Appeals:
- 1) Floor plans, to scale, of all existing and proposed structures;
  - 2) Elevations of proposed structures, and elevations of existing structures, if any exterior alterations are planned;
  - 3) A written statement establishing whether the type of facility is oriented toward juvenile or adult care, and the type of care, counseling or medical treatment needed for residents of the proposed facility;
  - 4) An appropriate operator's license from the applicable governmental or other oversight unit, or a description of what licensing is required. Prior to issuance of a certificate of zoning compliance, the operator or agency responsible for a group home shall provide evidence that a valid license has been issued.
  - 5) A detailed plan for services and programs approved in writing by all appropriate social service planning or review bodies, and a list of such bodies;



- 6) A vicinity map showing the location of homes of similar function existing within a one mile radius of the proposed group home;
  - 7) Documentation indicating the supervisory responsibility of the sponsoring agency and the residential home operator(s);
  - 8) A written statement, or other evidence, as available, that the group home will meet all applicable local, state, and federal building codes and fire safety standards;
  - 9) A written statement, or other evidence, as available, that the group home will meet the staffing requirements of the Montgomery County Developmental Disabilities Services Department and any other agency having oversight responsibilities, and will have at least one qualified house parent or supervisor on duty whenever the home is occupied by the developmentally disabled.
- B. The Board of Zoning Appeals (BZA) may issue a temporary conditional use permit for a group home for a period of one year. Upon completion of one year of operation, such temporary conditional use permit will be reconsidered by the BZA. The BZA may, based upon evidence of operational problems or successes, extend the temporary conditional use, grant a permanent conditional use, or deny the continued conditional use.

#### **SECTION 414 MINERAL EXTRACTION**

- A. An application for a permit for mineral extraction activities shall include:
- 1) The type of resources or materials to be removed;
  - 2) The name of the owner or owners of land from which removal is to be made;
  - 3) The name of the applicant making the request for such a permit;
  - 4) The name of the person or corporation conducting the actual mining operations;
  - 5) The location and description of the area from which extraction is proposed, along with a map of the entire tract with a depiction thereon of extraction area boundaries;
  - 6) The location of the processing plant to be used and any accessory or kindred operations that may be utilized in connection with the operation of the processing plant by the mining processor or any other entity. The processing plant shall be located so as to minimize problems of dust, dirt and noise.
  - 7) The proposed method of removal, whether blasting will be required, and a general description of the equipment to be used;
  - 8) The method of rehabilitation and reclamation of the extraction area, including a grading plan showing existing contours in the area to be excavated and the proposed future contours showing the topography of the area after rehabilitation. Such plan shall include the surrounding area within five hundred (500) feet of the property boundary line, drawn to an appropriate scale with contour lines at intervals of five (5) feet or less.
- B. Mineral extraction standards shall include the following:
- 1) No mining of sand and gravel shall be carried on, or any stock pile established, closer than fifty (50) feet to any property line, or within one hundred fifty (150) feet of a public right of way, or such greater distance as specified by the BZA, where such is deemed necessary for the protection of adjacent property.
  - 2) Fencing, earth mounding, or other suitable barriers, including approved plantings, shall be erected and maintained around the entire site or portions thereof where, in the opinion of the BZA, such fencing or barriers, of a type specified by the BZA, would be necessary for the protection of the public safety.

- 3) All equipment and machinery shall be operated and maintained in such manner as to minimize dust, noise and vibration. Access roads shall be maintained in a dust free condition by surfacing, wetting, or other treatment as may be specified by the BZA.
  - 4) Quarrying shall not be carried out closer than three (300) feet to any adjoining property line unless the written consent of such adjoining property owner has first been obtained.
- C. All mineral extraction areas shall, within a reasonable length of time, be reclaimed and rehabilitated. The BZA, at its discretion, may fix a bond in a reasonable amount to assure that such rehabilitation and reclamation will be carried out. The BZA shall be guided by the following standards with respect to rehabilitation and reclamation of mineral extraction areas:
- 1) All excavated areas shall be graded or backfilled with clean, non-noxious, noncombustible and nonflammable solids, such that:
    - a) The excavated area shall not collect or retain stagnant water, and
    - b) The surface of any area which is not permanently submerged as part of an approved water retention area is graded or back-filled as necessary to reduce peaks and depressions resulting in a gently rolling surface that will minimize rainfall erosion and which will be in substantial conformity to adjoining land areas.
  - 2) The banks of all sand and gravel excavations in a water producing excavation, and pit bottoms in a dry operation, shall be graded to a slope not less than three (3) horizontal feet to one foot vertical, and said banks shall be restored with approved vegetation.
  - 3) Vegetation shall be restored by the spreading of sufficient soil and by appropriate seeding of grasses or planting of shrubs and trees in all parts of said mining area where the same is not submerged under water.
  - 4) Site drainage shall be provided as [per an approved drainage plan.
  - 5) All equipment and structures shall be removed from a mineral extraction area within six (6) months of termination of extraction activities.
  - 6) The BZA may impose such other reasonable conditions and restrictions as are deemed necessary for the protection of the public safety and general welfare.

#### **SECTION 415 PERSONAL WIRELESS SERVICE FACILITIES**

- A. Personal wireless service (PWS) facilities are permitted in R/R, I-1, LC/S, OIS and RC/S zoning districts. To receive conditional approval for personal wireless service facilities, the Board of Zoning Appeals (BZA) shall find:
- 1) Such structures, if freestanding and not solely for use by occupants of the zoning lot where they are located, must be of monopole construction, with a smooth and uniform exterior, without supporting guy wires or supporting ancillary apparatus.
  - 2) Mounts, antennas and associated equipment structures shall be painted a uniform color approved by the BZA. Only the minimum display of lighting, flashing or otherwise, required by regulatory authorities will be allowed.
  - 3) Associated equipment buildings shall have facades constructed of brick or acceptable masonry materials.
  - 4) PWS facilities shall be limited to one per zoning lot, and associated, unoccupied equipment buildings shall be limited in height to fifteen (15) feet and to one such building per service provider co-locating antennas on such facility.
  - 5) PWS facilities shall be located at least one-half mile away from any other commercial PWS facilities.

- 6) When the principal use on a given zoning lot, such zoning lot shall be at least one-half acre in size, with a minimum front-yard setback of one hundred (100) feet and all other property line setbacks of at least fifty (50) feet. When an accessory use, minimum property line offsets shall be fifty (50) feet.
- 7) When allowed as an accessory use, PWS facilities will not be counted against the limiting number of accessory structures permitted on a given piece of property.
- 8) Setback requirements shall be in one of two categories:
  - a) If located within 650 feet of an interstate highway, PWS facilities may be located in side or rear yards, outside existing easement areas, at least fifty (50) feet from the nearest property line, provided that the distance of such facilities from either the nearest non-interstate roadway or from the nearest existing or potential dwelling unit, by reference to existing lots of record or proposed plats, shall be equal to at least the height of the mount and antennas in combination.
  - b) If not located within 650 feet of an interstate highway, PWS facilities shall have no parts or associated apparatus closer to "R" or residential "PD" zoning districts than one hundred (100) feet.
- 9) Specified setback requirements may be waived in whole or in part by the BZA for those facilities that utilize existing conforming structures as their base or that has their appearance disguised in an approved manner.
- 10) Such PWS communications mounts as are approved and built shall be capable of structurally supporting the antennas of the applicant, as well as two other service providers. The applicant shall agree to permit use of the PWS facilities mount by other communication service providers on reasonable terms.
- 11) Unless parking space is available within fifty (50) feet on the same zoning lot where PWS facilities are located, such facilities shall have a paved access drive leading thereto, with a paved parking area sufficient for at least one service vehicle.
- 12) There shall be no advertising, emblems, markings or other indications of company or organization affiliation or announcement, whether related to service providers using the mount and/or antennas or related to other interests of any kind.
- 13) The owner(s) of a PWS facility shall, upon request by the Township Administrator, file a declaration with the office of the township administrator as to the continuing operation of every facility installed that is subject to these standards and provisions, and said owner(s) shall remove an obsolete facility within twelve (12) months of ceasing its use.
- 14) Permits for a PWS facility shall automatically expire if a report is not filed with the office of the Township Administrator within thirty (30) days of being requested by the Township Administrator, said report attesting to the structural integrity of said PWS facility. Such report may be required as often as every ten (10) years or upon suspicion of structural damage.

#### **SECTION 416 PUBLIC UTILITY SUBSTATIONS**

- A. Public utility substations are permitted in all zoning districts provided:
  - 1) Unless an off-street, paved parking space is available within fifty (50) feet on the same zoning lot where a public utility substation is located, there shall be a paved access drive leading thereto, with a paved parking area sufficient for at least one service vehicle.
  - 2) There shall be no advertising, and any signage shall be limited to a four (4) square-foot display mounted against a wall of the substation.

**SECTION 417 RECYCLING CENTERS AND COLLECTION STATIONS**

- A. Recycling centers and collection stations for charitable donations are conditionally permitted in OIS, I-1, and RC/S-1 zoning districts provided:
- 1) They are a use subordinate on a zoning lot to a conforming, principally permitted use.
  - 2) They are located with written permission of the property owner.
  - 3) They are located at least fifty (50) feet from the nearest public right of way.
  - 4) Signage is limited to displays attached to the collecting station (trailer), such displays to extend no further than the height or width of the station, and to be approved by the BZA.
  - 5) Such collecting stations are kept painted and clean in appearance.
  - 6) There is an acceptable plan to have someone responsible for items left outside normal collection hours, and to have someone responsible for trash or debris attendant to the location or the nature of the operation of the center.

**SECTION 418 TAVERNS, BARS AND LOUNGES**

- A. Taverns, Bars and lounges are conditionally permitted in LC/S-2, OIS and RC/S-1 zoning districts provided:
- 1) The Board of Zoning Appeals (BZA) reviews and approves all exterior business activity.
  - 2) The sale of alcoholic beverages shall be licensed by the State of Ohio in accordance with ORC Title 43. In order to determine if an objection may be made pursuant to Title 43, the BZA shall review such establishments in relation to their decency, sobriety, safety, place, and good order in the neighborhood. Additionally, the BZA may investigate and report its findings regarding the character of the applicant.
  - 3) Establishments including dancing, live entertainment, or musical entertainment shall present a sound control plan to keep discernible noise at property lines or at the nearest place of business below sixty (60) DbA.

**SECTION 419 TEMPORARY SEASONAL SALES**

- A. Temporary sales of garden supplies, plants and trees shall be permitted in LC/S and RC/S zoning districts, after approval by the Board of Zoning Appeals (BZA), if:
- 1) Such sales are for seasonal, non-manufactured items, typically sold out-of-doors, and the sales period is limited to sixty (60) days.
  - 2) A Certificate of Zoning Compliance is obtained for each successive year and occurrence after BZA approval.
  - 3) The use approved by the BZA remains unchanged and is not determined later to be noisome or potentially noisome. A change in any aspect of business activity or a concern about a nuisance deriving from an approved use shall require a re-hearing by the BZA.
  - 4) Adequate public safeguards, such as sufficient parking, setbacks, circulation patterns and the like, are determined to exist by the BZA.

**SECTION 420 OUTDOOR LANDSCAPING MATERIALS**

- A. Landscaping materials may be stored and displayed for sale outdoors in OIS or I-1 zoning districts, after approval by the Board of Zoning Appeals (BZA), provided:
- 1) There is no processing of same involving shredding or other transformation of raw materials other than transporting from one on-site location to another.
  - 2) Bulk landscaping materials, not including live plants and materials bagged in one hundred (100) pound or smaller containers, shall be stored no closer to any property used for residential purposes than one hundred (100) feet, nor stored closer to a public right of way than thirty-five (35) feet.
  - 3) Landscaping materials shall be stored no closer to any property line in a non-residential zoning district than the greater of either ten (10) feet, or to standards established by subsection (F) below.
  - 4) Landscaping materials shall be stored no closer to any enclosed building than fifteen (15) feet, nor in such a way as to block egress from structures, nor in contravention of standards contained within the Southwest Ohio Fire Safety Council Unified Fire Code or adopted successor regulations.
  - 5) Such materials, excepting trees and bushes, shall be stored on impervious surfaces, paved with either asphalt or concrete to a depth and on a base sufficient to accommodate trucks and other handling equipment, and these surfaces shall be sloped such that runoff is detained within one or more defined areas.
  - 6) Paved yard areas shall meet the internal landscaping requirements specified by Article 32, Landscaping, of the Zoning Resolution.
  - 7) Storm water detention areas shall receive engineering approval from Montgomery County, and shall receive effluent storage and/or discharge approvals, as required, by Ohio EPA or authorities having similar oversight responsibilities.
  - 8) Materials stored to a height exceeding three (3) feet must be enclosed within approved masonry structures, which structures: a) may be open at the top; b) shall be accessed only by openings facing away from front or side property lines; c) shall be no larger than two thousand (2000) square feet each; d) shall have walls no higher than eight (8) feet if open at the top; e) shall meet the greater of either the standard established by subsection A.2 above, or exceed all required OIS yard setbacks by at least fifty (50) percent; and f) shall have access openings abutting a fire lane at least twenty (20) feet wide.
  - 9) Materials, with the exception of trees and bushes, b/b, may not be stored to a height exceeding ten (10) feet above grade.
  - 10) Sale materials may be displayed in a required front yard, for advertising purposes, provided such display area: a) is limited to one; b) does not exceed 100 square feet in size; c) is underlain by an impervious surface; d) does not extend more than eighteen (18) inches above grade; and e) is located at least ten (10) feet from a public right of way and thirty-five (35) feet from a side property line.

**SECTION 421 WIND TURBINES**

- A. Wind turbines shall be conditionally permitted in all zoning districts under the following conditions:
- 1) The maximum height of any turbine shall be one hundred (100) feet.
  - 2) A sign-off by authorities representing the Dayton International Airport will be required on all plans submitted for consideration by the BZA.

- 3) Any turbine erected on a parcel of land shall be offset from property lines by the distances associated with a clear fall zone.
- 4) An engineering report shall be submitted detailing:
  - a) Total size and height of the unit;
  - b) Average decibel rating for the model proposed;
  - c) A list and depiction of all safety measures on the unit, including anti-climb devices and lightning protection;
  - d) Data specifying kilowatt size and generating capacity.
- 5) All parts of a wind turbine, including the tower and blades, shall be painted or coated in either a white, gray, or sky blue color. Logos or other identifying markers larger than two (2) square feet in area, shall not be permitted anywhere on the turbine.
- 6) Turbines that become inoperable for more than twelve (12) months shall be removed by the owner within thirty (30) days of issuance of a zoning violation by Butler Township. Removal shall include all apparatus, supports, or other associated hardware.

#### **SECTION 422 SOLAR PANELS**

- A. Solar panels are permitted as a conditional use in all districts. Butler Township recognizes the importance of clean, sustainable and renewable energy resources. The intent of these regulations is to establish general guidelines for the location of solar panels and solar collection systems. It is recognized that in some specific instances, under carefully controlled circumstances, it may be appropriate to permit the placement of solar panels or solar collection systems in certain areas of the Township. Butler Township also recognizes the need to protect the safety, health and welfare of adjacent properties from unnecessary and unreasonable visual interference, light glare and heat that the incorrect placement of solar panels or solar collection systems may create such that they may have a negative effect on surrounding property values. As such, this Section seeks to:
- 1) Permit property owners to enjoy the benefits of sustainable and renewable energies.
  - 2) Protect public and private property from the potential adverse impacts of solar panels or solar collection systems.
  - 3) Permit solar panels or solar collection systems on residential, commercial, industrial or agricultural property and review such systems, if warranted.
  - 4) Ensure the public health, welfare and safety of Township residents in connection with solar panel or solar collection systems.
  - 5) Avoid potential damage to real and personal property from solar panels or solar collection systems from the failure of such structures and related operations.
- B. Applicability
- No solar panel or solar collection system shall be constructed, erected, installed or located within the Township limits until proper approval has been obtained pursuant to this Zoning Resolution as follows:
- 1) Solar panels or solar collection systems mounted flat on the roof of a building shall be permitted as an accessory use, as governed in this Section, in all zoning districts.
  - 2) Solar panels or solar collection systems which are freestanding, mounted on poles or other structures excluding the roof of a building, shall be conditionally permitted pursuant to Article 4, Conditional Uses, in all zoning districts.

**C. Requirements and Regulations**

Solar panels or solar collection systems shall conform to or be evaluated for compliance with the following standards:

- 1) The proposed system is no larger than necessary to provide 120 percent of the electrical energy requirements of the structure to which it is accessory to as determined by a contractor licensed to install solar and photovoltaic energy systems.
- 2) If roof mounted, the solar or photovoltaic system shall:
  - a) Be flush mounted on the roof unless good cause is shown by the applicant during application review that the solar panel is not at an appropriate angle to obtain maximum sun exposure if mounted flush to the roof.
  - b) Be located in the most inconspicuous location on the roof so as not to be seen from the street, if possible, and still be able to function as designed.
  - c) Not extend higher than the peak of a sloped roof or higher than 5 feet from the top of a flat roof.
- 3) If freestanding, the solar or photovoltaic system shall:
  - a) Not extend more than 10 feet above the existing grade in residential districts. In all other districts, the maximum height of a solar or photovoltaic system will be determined on a case by case basis upon plan review under Article 4, Conditional Uses.
  - b) Not be located in the front yard.
  - c) Not be located in any required side or rear yard setback areas for accessory uses.
  - d) Not be positioned so as to reflect sunlight onto neighboring property, public streets or sidewalks, including on any neighboring structures.
  - e) Be landscaped at the base and the back of the panel structure if structure is visible from neighboring property.
- 4) All signs, both temporary and permanent, are prohibited on solar panel or solar collection systems, except as follows:
  - a) Manufacturer's or installer's identification information on the system.
  - b) Appropriate warning signs and placards.
- 5) Solar panel or solar collection systems shall comply with all applicable sections of the Ohio Building Code and applicable industry standards such as the American National Standards Institute (ANSI), Underwriters Laboratories (UL) or an equivalent third party.
- 6) All electrical wires and connections on freestanding solar or photovoltaic collection system shall be located underground.

**D. Utility Connection**

Solar panels or solar collection systems proposed to be connected to the local utility power grid through net metering shall adhere to Ohio Revised Code Section 4928.67 or any future corresponding statutory provision.

**F. Maintenance:**

All solar panel or solar collection systems shall be maintained in good working order.

**G. Procedure for Review**

If required in Section 423 B, Applicability, the following procedure shall be utilized for the review and approval of solar panels.

- 1) In accordance with Article 4, Conditional Uses, a solar panel or solar collection system shall be subject to receiving a conditional use permit prior to installation or modification thereof. The issuance of a conditional use permit shall comply with the following requirements:
  - a) **Site Plan Review**

A site plan shall be submitted for review for freestanding solar panel or solar collection systems. The following items shall be the minimum requirements to be considered a complete application and shall include the following:

    1. Property lines and physical dimensions of the applicant's property.
    2. Location, dimensions and types of existing structures on the subject property and on properties directly contiguous to the subject property.
    3. Location of the proposed solar panel or solar collection system, and associated equipment.
  - b) System specifications, including manufacturer, model, kilowatt size.
  - c) Documentation shall be provided regarding the notification of the intent with the utility regarding the applicant's installation if the system will be connected to the power grid.
  - d) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code (typically provided by the manufacturer).
  - e) Compliance with all development standards as outlined in Section 1155.06 D., Requirements and Regulations.
- 2) **Zoning Compliance**

A Certificate of Zoning Compliance must be obtained in accordance with this Zoning Resolution.
- 3) **Building Permit**

A Building Permit must be obtained from the appropriate approving agency, as directed by the Zoning Administrator.



## **ARTICLE 5 NONCONFORMITIES**

### **SECTION 501 GENERAL PROVISIONS**

- A. **Intent.** Within districts established by this Zoning Resolution or subsequent to later amendments, there will exist buildings, structures, uses of land, and lots of record which were lawful before Zoning Resolution passage or amendment, but which would be prohibited, regulated or restricted under subsequent provisions of this Zoning Resolution. It is the intent of this Zoning Resolution to permit these nonconformities to continue until they are removed, but not to encourage their survival. Nonconforming uses are deemed to substantially and adversely affect the orderly development, maintenance, use, and taxable value of conforming property in a given zoning district, and to be incompatible with permitted uses in the districts involved. A nonconforming use of structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this Zoning Resolution.
- B. **Preexisting Construction.** To avoid undue hardship, nothing in this Zoning Resolution shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction has been lawfully begun prior to the effective date of this Zoning Resolution, and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work is carried out diligently.

### **SECTION 502 NONCONFORMING USES OF BUILDINGS AND STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION**

- A. If a lawful use involving individual structures, or involving structures and premises in combination, with a replacement cost of one thousand dollars (\$1,000) or more, exists on the effective date of adoption of this Zoning Resolution, and such structures or premises would not be allowed in the zoning district where located under provisions of this Zoning Resolution, as adopted or amended, the lawful use may be continued so long as it remains lawful, subject to the following:
- 1) A nonconforming use of a building or structure lawfully existing upon the effective date of applicable sections of this Zoning Resolution regarding such use may be maintained and may be repaired. Any nonconforming building or structure may be altered to decrease its nonconforming status.
  - 2) A structure nonconforming as to use, height, yard requirements or lot area shall not be added to or enlarged in any manner, unless such structure, including such addition or enlargement, is made to conform to the use, height, yard and area requirements of the zoning district in which it is located.
  - 3) Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zoning district where located, and the nonconforming use may not thereafter be resumed.
  - 4) No nonconforming building or structure shall be moved in whole or in part to any other location on a lot unless every portion of such building or structure is made to conform to all the regulations of the zoning district in which it is located.

- 5) Whenever a nonconforming use of a building or structure, or part thereof, has been discontinued for a period of twelve (12) consecutive months in a twenty-four (24) month period, such use shall not be re-established after being discontinued or abandoned, and the use of the premises thereafter shall be in conformity with the regulations of the zoning district where located.
- 6) Any nonagricultural building or structure containing a nonconforming use, other than as a one-family dwelling, which is damaged by explosion, fire, flood, wind or other calamity, to the extent of sixty percent or more of its replacement value immediately prior to damage, shall not be repaired or reconstructed except as provided for in this Zoning Resolution. In the event that the Zoning Administrator's estimate of the extent of damage or replacement value is not acceptable to the applicant, an appeal may be made to the Board of Zoning Appeals.
- 7) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt, except in conformity with the regulations of the zoning district in which it is located.

### **SECTION 503 EXTENSION AND ENLARGEMENT**

- A. The Board of Zoning Appeals may permit the one-time enlargement of existing nonconforming buildings upon the same lot occupied by such buildings or upon an adjoining lot, provided such adjoining lot was under the same ownership as the lot on which a nonconforming building existed at the time such building became nonconforming, and provided:
  - 1) Such enlargement is necessary and incidental to the existing use of such building;
  - 2) Such enlargement conforms to the height, yard and area requirements of the zoning district in which it is located;
  - 3) Such enlargement represents no more than a fifty (50) percent increase in building volume or ground coverage;
  - 4) Such enlargements are judged not to be detrimental to present and potential surrounding uses, and are found to be in harmony with the general welfare of the residents of Butler Township.

### **SECTION 504 NONCONFORMING USES OF LAND OR LAND WITH MINOR STRUCTURES ONLY**

- A. Where lawful use of land exists which would not be permitted by the regulations imposed by this Zoning Resolution, and where such use involves no individual structure with a replacement cost exceeding one thousand dollars (\$1,000), the use may be continued so long as it remains otherwise lawful, provided that:
  - 1) No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than was occupied on the effective date of sections of this Zoning Resolution disallowing such use.
  - 2) If any such nonconforming use of land ceases for any reason for a period of more than ninety days in a twelve-month period, any subsequent use of such land shall conform to the requirements specified in this Zoning Resolution for the zoning district in which such land is located.
  - 3) No additional structure shall be erected in connection with such nonconforming use of land which does not conform to the requirements of this Zoning Resolution.

**SECTION 505 NONCONFORMING LOTS OF RECORD**

- A. In any zoning district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record, notwithstanding limitations imposed by other provisions of this Zoning Resolution, provided each such lot is in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such a lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. A variance of yard requirements shall be obtained only through action of the Board.
- B. **Contiguous Nonconforming Lots in Common Ownership.** Where two or more contiguous nonconforming lots of record are in common ownership and are of such size to constitute at least one conforming zoning lot, such lots or portions thereof shall be so joined, developed and used for the purpose of forming an effective and conforming lot or lots. Such contiguous nonconforming lots in common ownership shall be considered as being maintained in common ownership for zoning purposes after the effective date of this Zoning Resolution.
- C. **Conditionally Permitted Uses Are Not Nonconforming Uses.** Any use of specific property which is permitted as a conditional use in a zoning district under the provisions of this Zoning Resolution shall not be classified a nonconforming use in such zoning district, but shall, without further action, be considered a conforming use on that particular zoning lot.

**ARTICLE 6**  
**RR RURAL RESIDENTIAL DISTRICT**

**SECTION 600 PURPOSE**

The Rural Residential (RR) zoning district provides for agricultural activities, single-family residences, and other low-intensity uses on relatively large tracts of land.

**SECTION 601 PRINCIPAL PERMITTED USES**

- A. The following uses are principally permitted in a RR zoning district:
- 1) Agriculture and associated buildings and structures on lots greater than five (5) acres in size.
  - 2) Churches located on zoning lots greater than three (3) acres in size and having ingress/egress from a collector street or higher order thoroughfare;
  - 3) Funeral homes;
  - 4) Government buildings and other publicly owned and operated facilities;
  - 5) Home occupations meeting conditions listed in Section 3012;
  - 6) Public and private educational facility on zoning lots greater than three acres in size and having ingress/egress from a collector street or higher order thoroughfare;
  - 7) Single family dwellings.

**SECTION 602 CONDITIONAL PERMITTED USES**

- A. The following uses are conditionally permitted in a RR zoning district:
- 1) Agriculture and associated buildings and structures, on lots between one (1) and five (5) acres in size.
  - 2) Colleges and universities on parcels greater than five (5) acres in size;
  - 3) Campgrounds, playfields, golf courses (not including driving ranges or miniature golf courses), swimming pools, and tennis courts;
  - 4) Kennels and animal hospitals for the raising, breeding, treatment, and boarding of dogs and small animals, provided all outside runs be at least one hundred (100) feet from any zoning lot used or platted for residential use;
  - 5) Radio, television and other receiving/transmitting towers and masts;
  - 6) Training centers located on zoning lots greater than three acres in size and having ingress/egress from a collector street or higher order thoroughfare;
  - 7) Solar panels.

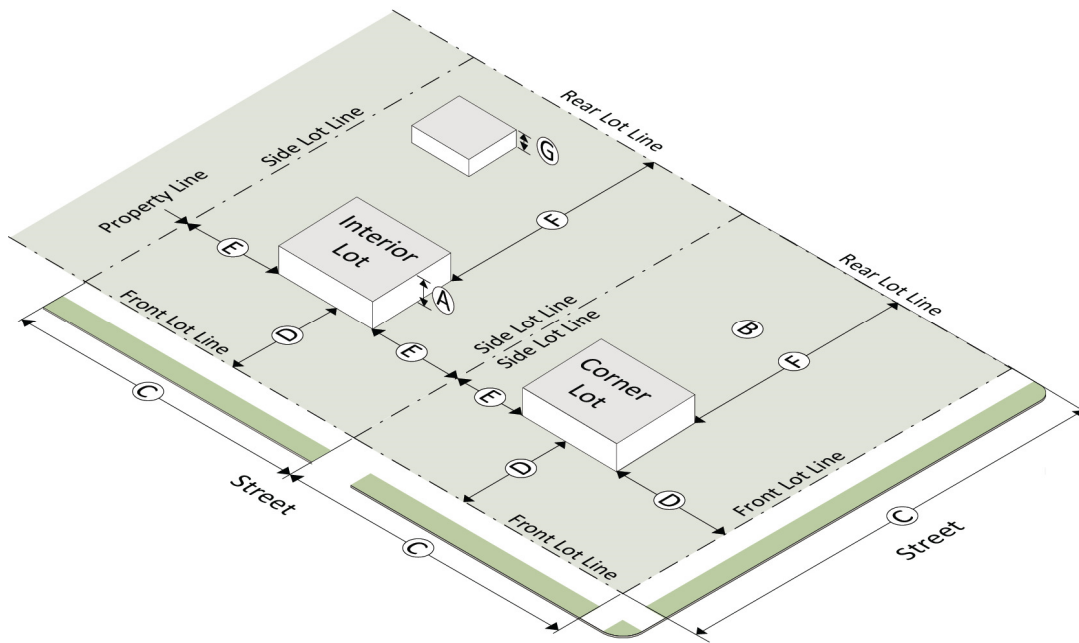
**SECTION 603 REQUIRED CONDITIONS**

- A. Agriculture and associated buildings and structures, on lots between one (1) and five (5) acres in size, not located in or adjacent to platted subdivisions, may be permitted provided that any building housing animals shall be located at least one hundred (100) feet from any zoning lot line or dwelling, other than a farm dwelling,
- B. Conditional permitted uses referenced by Section 602(A) (2-6) above shall be considered by the Board of Zoning Appeals, and may be approved for conditional use certificate issuance, upon proper application to and approval from the Board of Zoning Appeals in accordance with Article 4.

**SECTION 604 DEVELOPMENT STANDARDS**

- A. The gross square footage of any freestanding structure housing one or more permitted uses shall equal at least fifteen hundred (1,500) square feet.
- B. Buildings housing animals, on lots greater than one (1) acre but less than five (5) acres, shall be located a minimum of one-hundred feet away from the nearest lot line.
- C. The following development standards shall apply to uses in a RR zoning district:

<b>A</b>	Principal Building Height	• 40 foot maximum
<b>B</b>	Lot Area	• 40,000 square foot minimum
<b>C</b>	Lot Frontage	• 200 foot minimum
<b>D</b>	Front Yard Depth	• 50 foot minimum for structures and off-street parking
<b>E</b>	Side Yard Depth	• 20 foot minimum, each side
<b>F</b>	Rear Yard Depth	• 50 foot minimum
<b>G</b>	Accessory Building Height	• 15 foot maximum
	Maximum Lot Coverage	• 40 percent



**ARTICLE 7**  
**R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT**

**SECTION 700    PURPOSE**

The R-1 zoning district principally provides for single-family residences on tracts of land with a minimum of 20,000 net square feet of lot area. Certain compatible uses on half-acre or larger lots are also permitted.

**SECTION 701    PRINCIPAL PERMITTED USES**

- A. The following uses are principally permitted in an R-1 zoning district:
- 1) Agriculture and associated buildings and structures on lots greater than five acres in size.
  - 2) Government buildings and other publicly owned and operated facilities;
  - 3) Home occupations meeting conditions listed in Section 3012;
  - 4) Parks and community centers;
  - 5) Public and private educational facility on zoning lots greater than three acres in size and having ingress/egress from a collector street or higher order thoroughfare;
  - 6) Single-family detached dwellings.

**SECTION 702    CONDITIONAL PERMITTED USES**

- A. The following uses are conditionally permitted in an R-1 zoning district:
- 1) Agriculture and associated buildings and structures on lots between one (1) and five (5) acres in size.
  - 2) Churches, on zoning lots greater than three acres in size and having ingress/egress from a collector street or higher order thoroughfare;
  - 3) Colleges and universities on parcels greater than five acres in size;
  - 4) Campgrounds, playfields, golf courses (not including driving ranges or miniature golf courses), swimming pools, and tennis courts;
  - 5) Solar panel.

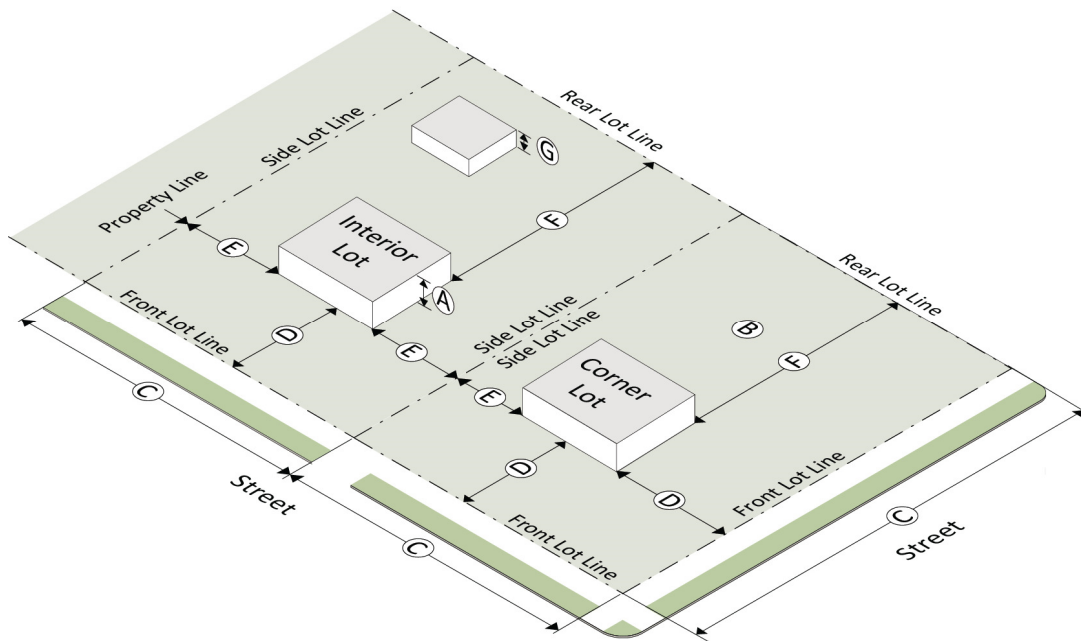
**SECTION 703    REQUIRED CONDITIONS**

- A. Agriculture and associated buildings and structures, on lots between one (1) and five (5) acres in size and not located in or adjacent to platted subdivisions, may be permitted provided that any building housing animals shall be located at least one hundred (100) feet from any zoning lot line or dwelling, other than a farm dwelling.
- B. Conditional permitted uses referenced by Section 702(A)(2-4) above shall be considered by the Board of Zoning Appeals, and may be approved for conditional use certificate issuance, upon proper application to and approval from the Board of Zoning Appeals in accordance with Article 4.

**SECTION 704 DEVELOPMENT STANDARDS**

- A. The gross square footage of any freestanding structure housing one or more permitted uses shall equal at least fifteen hundred (1,500) square feet.
- B. Buildings housing animals, on lots greater than one acre but less than five acres, shall be located a minimum of one-hundred feet away from the nearest lot line.
- C. The following development standards shall apply to uses in a R-1 zoning district:

<b>A</b>	Principal Building Height	• 40 foot maximum
<b>B</b>	Lot Area	• 20,000 square foot minimum
<b>C</b>	Lot Frontage	• 100 foot minimum
<b>D</b>	Front Yard Depth	• 40 foot minimum for structures and off-street parking
<b>E</b>	Side Yard Depth	• 15 foot minimum, each side
<b>F</b>	Rear Yard Depth	• 40 foot minimum
<b>G</b>	Accessory Building Height	• 15 foot maximum
	Maximum Lot Coverage	• 40 percent



**ARTICLE 8**  
**R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT**

**SECTION 800    PURPOSE**

The R-2 zoning district principally provides for single-family residences on tracts of land with a minimum of 15,000 net square feet of lot area. Certain compatible uses on appropriately sized lots are also permitted.

**SECTION 801    PRINCIPAL PERMITTED USES**

- A. The following uses are principally permitted in a R-2 zoning district:
- 1) Agriculture and associated buildings and structures on lots greater than five (5) acres in size.
  - 2) Government buildings and other publicly owned and operated facilities;
  - 3) Home occupations meeting conditions listed in Section 3012;
  - 4) Parks and community centers;
  - 5) Public and private educational facility on zoning lots greater than three acres in size and having ingress/egress from a collector street or higher order thoroughfare;
  - 6) Single-family detached dwellings.

**SECTION 802    CONDITIONAL PERMITTED USES**

- A. The following uses are conditionally permitted in a R-2 zoning district:
- 1) Agriculture and associated buildings and structures on lots between one (1) and five (5) acres in size.
  - 2) Campgrounds;
  - 3) Playfields;
  - 4) Golf courses (including driving ranges or miniature golf courses only if incidental to at least an 18-hole, par-three golf course);
  - 5) Swimming pools;
  - 6) Solar panel;
  - 7) Tennis courts.

**SECTION 803    REQUIRED CONDITIONS**

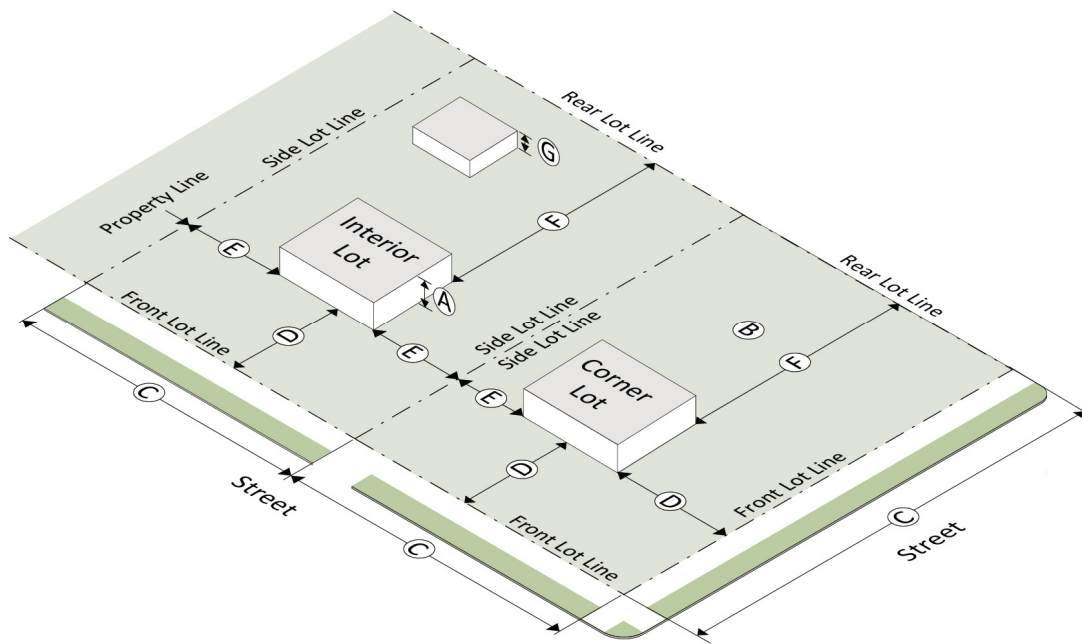
- A. Agriculture and associated buildings and structures, on lots between one (1) and five (5) acres in size, not located in or adjacent to platted subdivisions, may be permitted provided that any building housing animals shall be located at least one hundred (100) feet from any zoning lot line or dwelling, other than a farm dwelling.
- B. Conditional permitted uses referenced by Section 802 (A)(2-6) above shall be considered by the Board of Zoning Appeals, and may be approved for conditional use certificate issuance, upon proper application to, and approval from, the Board of Zoning Appeals in accordance with Article 4.



**SECTION 804 DEVELOPMENT STANDARDS**

- A. The gross square footage of any freestanding structure housing one or more permitted uses shall equal at least fifteen hundred (1,500) square feet.
- B. Buildings housing animals, on lots greater than one acre but less than five acres, shall be located a minimum of one-hundred feet away from the nearest lot line.
- C. The following development standards shall apply to uses in a R-2 zoning district:

<b>A</b>	Principal Building Height	• 40 foot maximum
<b>B</b>	Lot Area	• 15,000 square foot minimum
<b>C</b>	Lot Frontage	• 90 foot minimum
<b>D</b>	Front Yard Depth	• 35 foot minimum for structures and off-street parking
<b>E</b>	Side Yard Depth	• 13 foot minimum, each side
<b>F</b>	Rear Yard Depth	• 40 foot minimum
<b>G</b>	Accessory Building Height	• 15 foot maximum
	Maximum Lot Coverage	• 40 percent



**ARTICLE 9**  
**R-3 SINGLE-FAMILY RESIDENTIAL DISTRICT**

**SECTION 900    PURPOSE**

The R-3 zoning district principally provides for single-family residences on tracts of land with a minimum of 12,500 net square feet of lot area.

**SECTION 901    PRINCIPAL PERMITTED USES**

- A. The following uses are principally permitted in a R-3 zoning district:
  - 1) Agriculture and associated buildings and structures on lots greater than five acres in size.
  - 2) Government buildings and other publicly owned and operated facilities;
  - 3) Home occupations meeting conditions listed in Section 3012;
  - 4) Parks and community centers;
  - 5) Public and private educational facility on zoning lots greater than three acres in size and having ingress/egress from a collector street or higher order thoroughfare;
  - 6) Single-family detached dwellings.

**SECTION 902    CONDITIONAL PERMITTED USES**

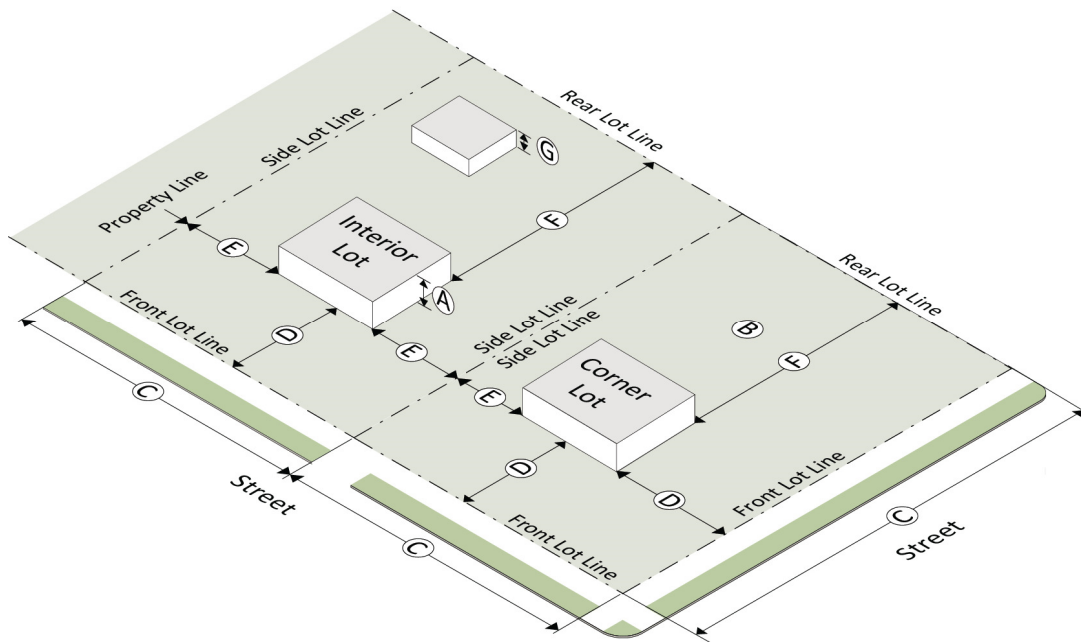
- A. Agriculture and associated buildings and structures, on lots between one (1) and five (5) acres in size, not located in or adjacent to platted subdivisions, may be permitted provided that any building housing animals shall be located at least one hundred (100) feet from any zoning lot line or dwelling, other than a farm dwelling.
- B. Residential care facility, juvenile or adult.
- C. Solar panel.

**SECTION 903    DEVELOPMENT STANDARDS**

- A. The gross square footage of any freestanding structure housing one or more permitted uses shall equal at least thirteen hundred (1,300) square feet.
- B. Buildings housing animals, on lots greater than one acre but less than five acres, shall be located a minimum of one-hundred feet away from the nearest lot line.

C. The following development standards shall apply to uses in a R-3 zoning district:

<b>A</b>	Principal Building Height	• 40 foot maximum
<b>B</b>	Lot Area	• 12,500 square foot minimum
<b>C</b>	Lot Frontage	• 80 foot minimum
<b>D</b>	Front Yard Depth	• 30 foot minimum for structures and off-street parking
<b>E</b>	Side Yard Depth	• 10 foot minimum, each side
<b>F</b>	Rear Yard Depth	• 40 foot minimum
<b>G</b>	Accessory Building Height	• 15 foot maximum
	Maximum Lot Coverage	• 40 percent



**ARTICLE 10**  
**R-4 SINGLE- AND TWO-FAMILY RESIDENTIAL DISTRICT**

**SECTION 1000 PURPOSE**

The R-4 zoning district principally provides for single- and two-family residences on tracts of land with a minimum of 12,500 net square feet of lot area.

**SECTION 1001 PRINCIPAL PERMITTED USES**

- A. The following uses are principally permitted in a R-4 zoning district:
- 1) Agriculture and associated buildings and structures on lots greater than five acres in size.
  - 2) Government buildings and other publicly owned and operated facilities;
  - 3) Home occupations meeting conditions listed in Section 3012;
  - 4) Parks and community centers;
  - 5) Single-family detached dwellings;
  - 6) Two-family dwellings.

**SECTION 1002 CONDITIONAL PERMITTED USES**

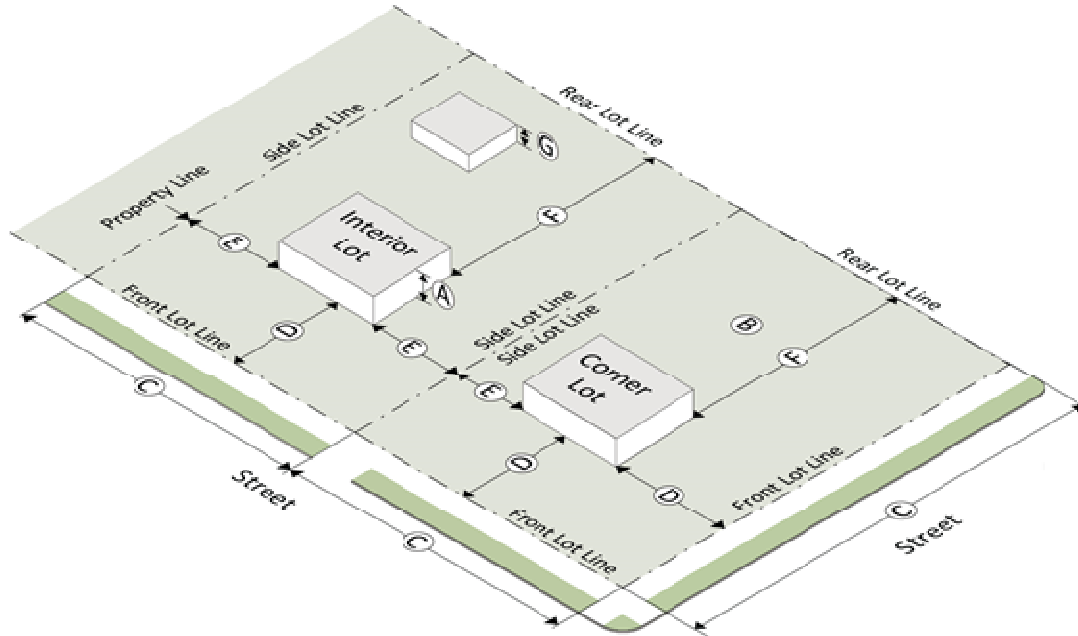
- A. The following uses are conditionally permitted in a R-4 zoning district:
- 1) Residential care facility - Juvenile and adult;
  - 2) Solar panel.

**SECTION 1003 DEVELOPMENT STANDARDS**

- A. The gross square footage of any freestanding structure housing a single-family, detached residence shall equal at least thirteen hundred (1,300) square feet.
- B. The gross square footage of any dwelling within a two-family structure shall equal at least twelve hundred (1,200) square feet.

C. The following development standards shall apply to uses in a R-4 zoning district:

<b>A</b>	Principal Building Height	• 40 foot maximum
<b>B</b>	Lot Area	• 12,500 square foot minimum
<b>C</b>	Lot Frontage	• 80 foot minimum
<b>D</b>	Front Yard Depth	• 30 foot minimum for structures and off-street parking
<b>E</b>	Side Yard Depth	• 10 foot minimum, each side
<b>F</b>	Rear Yard Depth	• 40 foot minimum
<b>G</b>	Accessory Building Height	• 15 foot maximum
	Maximum Lot Coverage	• 40 percent



**ARTICLE 11**  
**R-5 SINGLE- AND MULTI-FAMILY RESIDENTIAL DISTRICT**

**SECTION 1100 PURPOSE**

The R-5 zoning district principally provides for single- and multiple-family residences on tracts of land with a minimum of 12,500 net square feet of lot area for single-family uses and 20,000 net square feet of lot area for other permitted uses.

**SECTION 1101 PRINCIPAL PERMITTED USES**

- A. The following uses are principally permitted in an R-5 zoning district:
- 1) Agriculture and associated buildings and structures on lots greater than five acres in size.
  - 2) Government buildings and other publicly owned and operated facilities;
  - 3) Multiple-family dwellings;
  - 4) Retirement home, independent living facility or senior housing
  - 5) Single-family attached and detached dwellings;
  - 6) Two-family dwellings.

**SECTION 1102 CONDITIONAL PERMITTED USES**

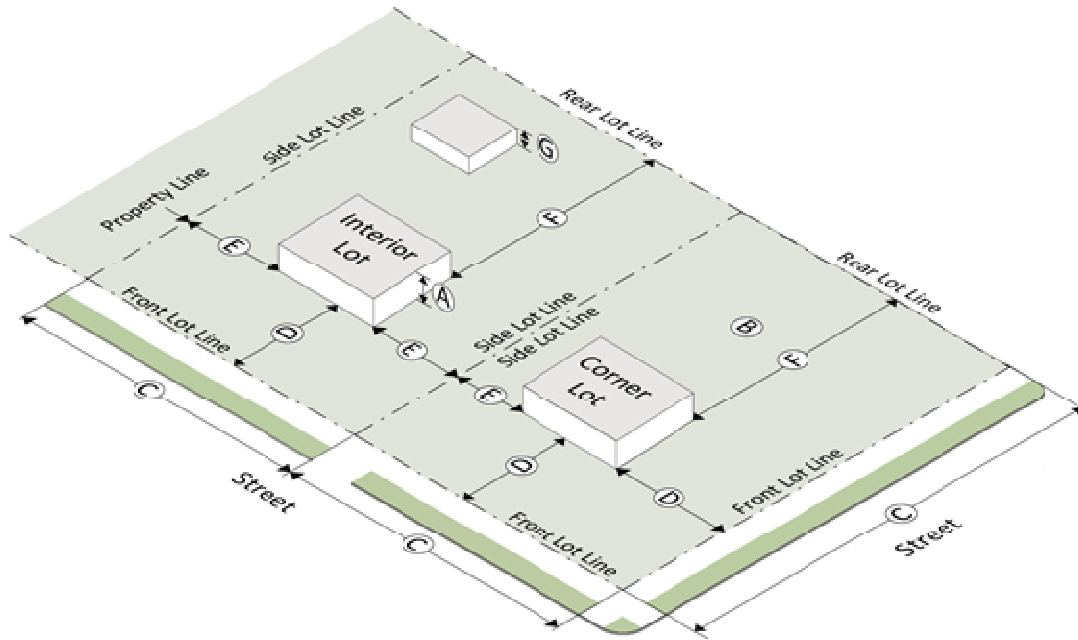
- A. The following uses are conditionally permitted in a R-4 zoning district:
- 1) Residential care facility, juvenile or adult.

**SECTION 1103 DEVELOPMENT STANDARDS**

- A. The gross square footage of any freestanding structure housing a single-family, detached residence shall equal at least thirteen hundred (1,300) square feet.
- B. The gross square footage of any dwelling within a two-family structure shall equal at least twelve hundred (1,200) square feet.
- C. Multi-family dwellings shall provide a minimum gross floor area of 600 square feet for efficiency units, 700 square feet for one-bedroom units, plus 120 square feet for each additional bedroom.

D. The following development standards shall apply to uses in an R-5 zoning district:

<b>A</b>	Principal Building Height	<ul style="list-style-type: none"> <li>• 40 foot maximum single family residential</li> <li>• 50 foot maximum all other uses</li> </ul>
<b>B</b>	Lot Area	<ul style="list-style-type: none"> <li>• 12,500 square foot minimum + 3,000 square feet for each additional dwelling unit over 2</li> <li>• Minimum 20,000 square feet net required for two or more dwelling units</li> </ul>
<b>C</b>	Lot Frontage	<ul style="list-style-type: none"> <li>• 80 foot minimum single family</li> <li>• 100 foot minimum for all other uses</li> </ul>
<b>D</b>	Front Yard Depth	<ul style="list-style-type: none"> <li>• 30 foot minimum for structures and off-street parking</li> </ul>
<b>E</b>	Side Yard Depth	<ul style="list-style-type: none"> <li>• 10 foot minimum, each side</li> </ul>
<b>F</b>	Rear Yard Depth	<ul style="list-style-type: none"> <li>• 40 foot minimum</li> </ul>
<b>G</b>	Accessory Building Height	<ul style="list-style-type: none"> <li>• 15 foot maximum</li> </ul>
	Maximum Lot Coverage	<ul style="list-style-type: none"> <li>• 40% single family</li> <li>• 70% all other uses</li> </ul>



**ARTICLE 12  
CM CEMETERY DISTRICT**

**SECTION 1200 PURPOSE**

The Cemetery (CM) zoning district provides for existing and proposed cemeteries and related uses.

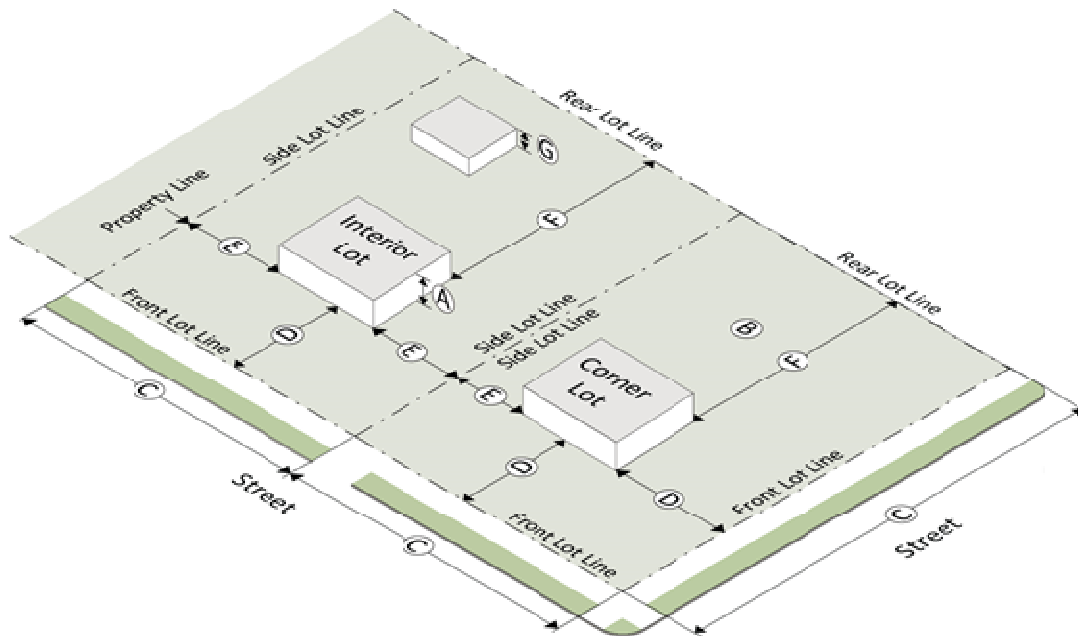
**SECTION 1201 PRINCIPAL PERMITTED USES**

- A. The following uses are principally permitted in a CM zoning district:
- 1) Cemeteries;
  - 2) Mausoleums;
  - 3) Crematoriums.

**SECTION 1202 DEVELOPMENT STANDARDS**

- A. The following development standards shall apply to uses in a CM zoning district:

<b>A</b>	Principal Building Height	• 40 foot maximum
<b>B</b>	Lot Area	• 20 acres
<b>C</b>	Lot Frontage	• 500 foot minimum
<b>D</b>	Front Yard Depth	• 50 foot minimum for structures and off-street parking • 25 foot minimum all other purposes
<b>E</b>	Side Yard Depth	• 15 foot minimum grave • 40 foot minimum mausoleum • 100 foot minimum crematorium
<b>F</b>	Rear Yard Depth	• 15 foot minimum grave • 40 foot minimum mausoleum • 100 foot minimum crematorium
<b>G</b>	Accessory Building Height	• 20 foot maximum
	Maximum Lot Coverage	• 25 percent





**ARTICLE 13**  
**LC/S-1 NEIGHBORHOOD COMMERCIAL/SERVICE DISTRICT**

**SECTION 1300 PURPOSE**

The Neighborhood Commercial/Service zoning district designates areas for convenience goods and personal service establishments, and related or complementary land uses. The size of establishments in this zoning district is limited to five thousand (5,000) square feet to minimize impacts on surrounding neighborhoods. The service area for LC/S-1 zoning districts generally encompasses neighborhoods within a one mile radius.

**SECTION 1301 PRINCIPAL PERMITTED USES**

- A. The following uses are principally permitted in a LC/S-1 zoning district:
- 1) Convenience retail sales (under 5,000 square feet);
  - 2) Church;
  - 3) Dwelling unit for owner/operator in same building
  - 4) Financial institution;
  - 5) Personal service;
  - 6) Professional office or service

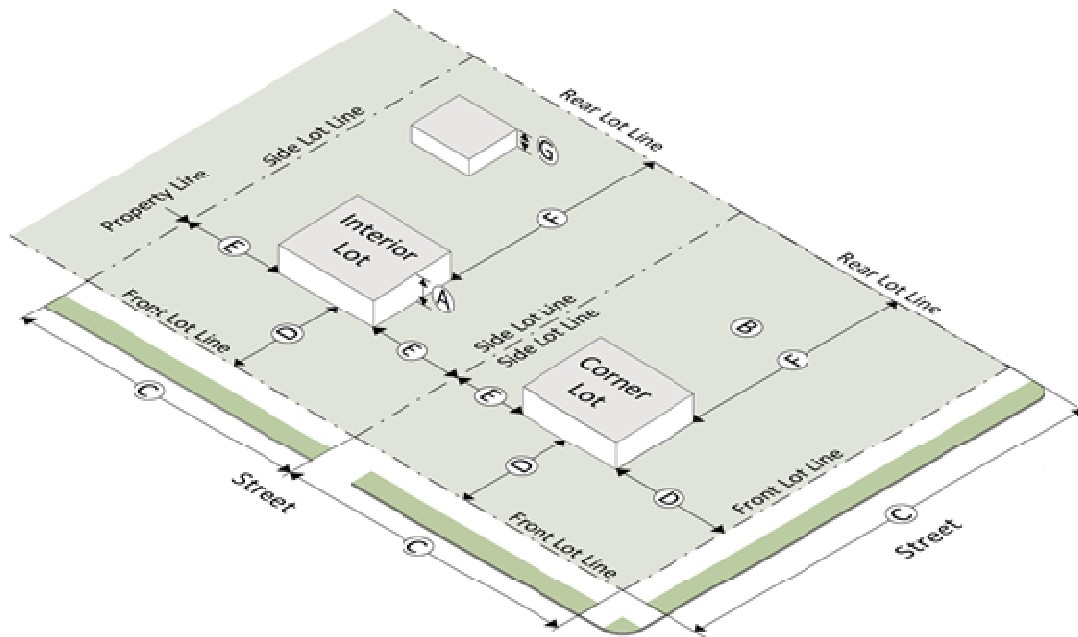
**SECTION 1302 CONDITIONAL PERMITTED USES**

- A. The following conditional permitted uses shall be considered for approval by the Board of Zoning Appeals, upon the filing of a proper application in accordance with Article 4:
- 1) Automated teller machines (ATMs);
  - 2) Automobile service stations;
  - 3) Coffee/Food stand/Food truck
  - 4) Personal wireless service facilities;
  - 5) Public utility substations;
  - 6) Public and private educational facility;
  - 7) Retirement home, independent living facility or senior housing;
  - 8) Solar panel.

**SECTION 1303 DEVELOPMENT STANDARDS**

A. The following development standards shall apply to uses in a LC/S-1 zoning district:

<b>A</b>	Principal Building Height	<ul style="list-style-type: none"> <li>• 35 foot maximum</li> </ul>
<b>B</b>	Lot Area	<ul style="list-style-type: none"> <li>• 15,000 square foot minimum</li> </ul>
<b>C</b>	Lot Frontage	<ul style="list-style-type: none"> <li>• 75 foot minimum single family</li> </ul>
<b>D</b>	Front Yard Depth	<ul style="list-style-type: none"> <li>• 25 foot minimum for structures</li> <li>• 10 foot minimum for off-street parking and drives</li> </ul>
<b>E</b>	Side Yard Depth	<ul style="list-style-type: none"> <li>• 0 foot minimum with party wall</li> <li>• 10 foot minimum each side if adjacent to non-residential district</li> <li>• 15 foot minimum each side if adjacent to residential district</li> </ul>
<b>F</b>	Rear Yard Depth	<ul style="list-style-type: none"> <li>• 10 foot minimum for off-street parking and drives</li> <li>• 25 foot minimum for structures</li> <li>• 35 foot minimum for structures if adjacent to residential district</li> </ul>
<b>G</b>	Accessory Building Height	<ul style="list-style-type: none"> <li>• 20 foot maximum</li> </ul>
	Maximum Lot Coverage	<ul style="list-style-type: none"> <li>• 90 percent</li> </ul>



**ARTICLE 14**  
**LC/S-2 LOCAL COMMERCIAL/SERVICE DISTRICT**

**SECTION 1400 PURPOSE**

The Local Commercial/Service - 2 zoning district designates certain areas for small retail and personal service establishments, and offices, the size of which establishments is limited, and the service area for which generally encompasses residential neighborhoods within a two mile radius. Additionally, certain research, development, and light manufacturing uses are allowed where negative impacts on neighborhoods and the environment are judged likely to be minimal.

North Dixie Drive, lying between Benchwood Road and Interstate 70, has been determined by special Butler Township planning studies to have regional significance as a “community gateway corridor.” Certain architectural standards for development within this corridor can be found in Article 30, General Provisions.

**SECTION 1401 PRINCIPAL PERMITTED USES**

- A. The following uses are principally permitted in a LC/S-2 zoning district:
- 1) Convenience retail sales (under 5,000 square feet);
  - 2) Financial institution;
  - 3) Government building and public facilities;
  - 4) Local retail sales (not exceeding 20,000 square feet);
  - 5) Personal service;
  - 6) Professional office or service;
  - 7) Medical clinic;
  - 8) Restaurant, sit down;
  - 9) Similar uses as determined by the BZA in accordance with Article 3, Administration, Section 304 I.7)c).

**SECTION 1402 CONDITIONAL PERMITTED USES**

- A. The following conditional permitted uses shall be considered for approval by the Board of Zoning Appeals, upon the filing of a proper application in accordance with Article 4:
- 1) Automated teller machines (ATMs);
  - 2) Automobile service station;
  - 3) Automobile washing facilities;
  - 4) Churches;
  - 5) Coffee/Food stand/Food truck;
  - 6) Daycare and nursery facilities;
  - 7) Drive-in restaurants;
  - 8) Drive-through businesses;
  - 9) Drive-through windows ancillary to principally or conditionally permitted uses;
  - 10) Hospitals;
  - 11) Light industry, provided all such uses are carried out within a completely enclosed structure and comply with minimum performance standards contained within this Zoning Resolution;
  - 12) Personal wireless service facilities;
  - 13) Public and private educational facility;
  - 14) Public utility substations;
  - 15) Research and development facilities;

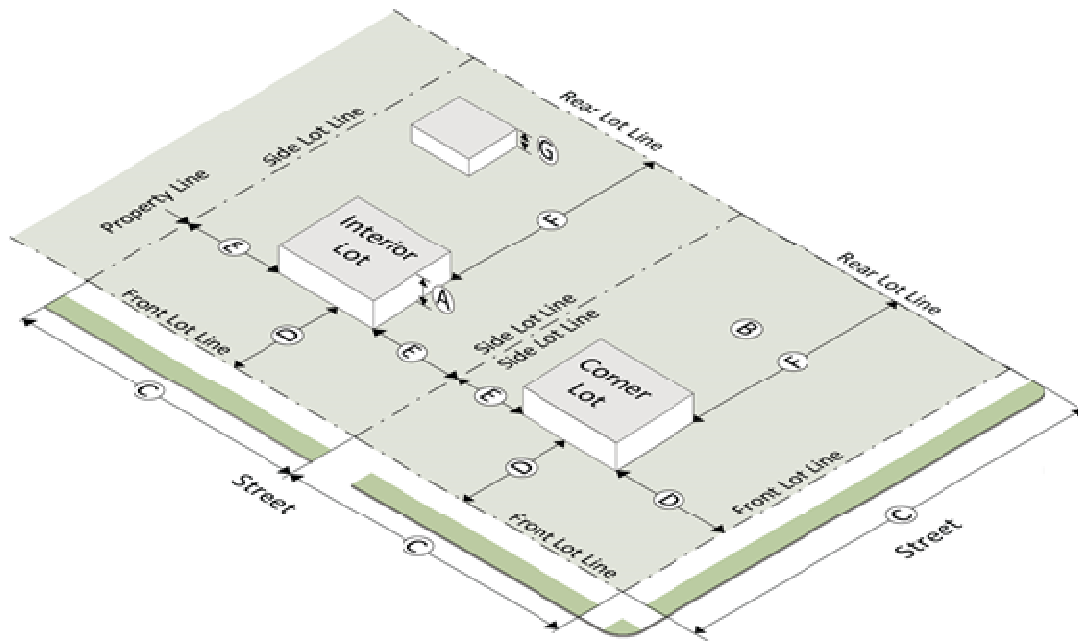
- 16) Residential uses, with separate access entrances, above and independent of first-floor conforming commercial uses, provided there is also independent parking for such dwelling units;
- 17) Restaurant, fast food/carry -out
- 18) Schools, both public and private;
- 19) Small tool rental establishments;
- 20) Solar panel;
- 21) Tavern, Bars and Lounges; excluding adult entertainment.

### **SECTION 1403 DEVELOPMENT STANDARDS**

A. The following development standards shall apply to uses in a LC/S-2 zoning district:

- 1) **Floor Area** – All retail sales establishments, or businesses where retail sales comprise more than ten (10) percent of the floor area of a given establishment, must be contained within seven thousand (7,000) or fewer gross square feet of building area. Such establishments may be linked together, as in a shopping center, if otherwise separated completely by walls, without an internal cross-connection open to the public.
- 2) **Automobile Service Station** – Gasoline pumps and service islands shall be a minimum distance of fifteen (15) feet from a property line. Any building accommodating an attendant, if larger than two hundred (200) square feet, shall meet applicable yard regulations established by Section 3004. Pump island areas may be covered by a canopy, provided the area beneath is entirely open except for canopy supporting members. Canopy supports may not be closer to a property line or right of way than gasoline pumps, and the plane of a canopy face may be no closer to a right of way or property line than ten (10) feet.
- 3) **Right of Way Dedication and Improvements** - Right of way dedication and improvements shall be required whenever an existing or proposed lot of record abuts existing right of way failing to meet width and design standards established by the most currently adopted Montgomery County thoroughfare plan. Under such circumstances, a plat of subdivision shall be submitted to and approved by the Montgomery County Planning Commission, and subsequently recorded in the office of the County Recorder, indicating the area that is dedicated for use as public right of way.

<b>A</b>	Principal Building Height	<ul style="list-style-type: none"> <li>• 40 foot maximum</li> </ul>
<b>B</b>	Lot Area	<ul style="list-style-type: none"> <li>• 10,000 square foot minimum</li> </ul>
<b>C</b>	Lot Frontage	<ul style="list-style-type: none"> <li>• 80 foot minimum single family</li> </ul>
<b>D</b>	Front Yard Depth	<ul style="list-style-type: none"> <li>• 15 foot minimum for structures and off-street parking on North Dixie</li> <li>• 25 foot minimum for structures and 10 foot for off-street parking all other</li> </ul>
<b>E</b>	Side Yard Depth	<ul style="list-style-type: none"> <li>• 0 foot minimum party wall</li> <li>• 10 foot minimum each side if adjacent to non-residential district</li> <li>• Greater than ¼ sum of building height and depth minimum each side if adjacent to residential or planned district</li> </ul>
<b>F</b>	Rear Yard Depth	<ul style="list-style-type: none"> <li>• 6 foot minimum</li> <li>• Greater than ¼ sum of building height and depth minimum each side if adjacent to residential or planned district but in no case less than 20 feet or greater than 30 feet</li> <li>• 30 foot minimum if rear loading and unloading and adjacent to residential district</li> <li>• 10 foot for off-street parking and drive areas</li> </ul>
<b>G</b>	Accessory Building Height	<ul style="list-style-type: none"> <li>• 20 foot maximum</li> </ul>
	Maximum Lot Coverage	<ul style="list-style-type: none"> <li>• 90 percent</li> </ul>



**ARTICLE 15**  
**RC/S-1 REGIONAL COMMERCIAL/SERVICE DISTRICT**

**SECTION 1500 PURPOSE**

The Regional Commercial/Service zoning district designates areas for retail sales, personal service establishments, public accommodations, entertainment, and related or complementary land uses, the service areas for which may encompass a regional market. Additionally, certain research, development, and light manufacturing uses are allowed where negative impacts on neighborhoods and the environment are judged to be minimal.

Benchwood Road, Miller Lane, and North Dixie Drive, between Benchwood Road and Maxton Road, have been determined by special Butler Township planning studies to have regional significance as “community gateway corridors.” Certain architectural standards for development within these corridors, and the area bounded by these corridors, with Interstate 70 forming the northernmost boundary, can be found in Article 30, General Provisions.

**SECTION 1501 PRINCIPAL PERMITTED USES**

- A. The following land uses, including selected retail sales, personal service establishments, public accommodations, entertainment businesses, and professional and office uses, such as those enumerated below, fulfilling all requirements of other sections of this Article, shall be principally permitted in a RC/S-1 zoning district:
- 1) Banquet and conference centers;
  - 2) Financial institution, drive up windows pursuant to Section 41 A and Automated Teller Machines (ATMs) pursuant to Section 406;
  - 3) Garden centers;
  - 4) Government buildings and public facilities;
  - 5) Hotels;
  - 6) Medical clinic;
  - 7) Personal Service;
  - 8) Professional offices and services;
  - 9) Restaurants, sit-down, drive-in, fast food and carry-out, with drive-up windows pursuant to Section 411;
  - 10) Retail Sales, convenience, local and regional;
  - 11) Similar uses as determined by the BZA in accordance with Article 3, Administration, Section 304 I.7)c).

**SECTION 1502 CONDITIONAL PERMITTED USES**

- A. The following land uses, fulfilling all requirements of other sections of this Article, shall be conditionally permitted in a RC/S-1 zoning district:
- 1) Automobile service stations, in combination with either a mini-market or fast-food restaurant;
  - 2) Automobile washing facilities, provided such facilities are fully automated, limited to two bays, and are accessory to another principal or conditional use allowed in this zoning district;
  - 3) Coffee /Food stand/Food truck;
  - 4) Commercial and business support services, including printing, compounding, assembly, treatment or fabricating establishments which may be characterized as light industry, provided all such uses are carried out within a completely enclosed structure and comply with minimum performance standards specified by Article 30, General Provisions;
  - 5) Daycare and nursery facilities;
  - 6) Drive-through windows associated with a conditional use, meeting standards within Article 4;
  - 7) Hospitals;
  - 8) Taverns, bars and lounges, but excluding adult entertainment;
  - 9) Personal wireless service facilities;
  - 10) Public and private educational facilities;
  - 11) Public utility substations;
  - 12) Research and development facilities;
  - 13) Residential uses above and independent of first-floor conforming commercial uses, provided there is also independent parking for such dwelling units;
  - 14) Solar panels as an accessory use;
  - 15) Theaters, excluding drive-ins;
  - 16) Warehousing and distribution, provided such is an adjunct, complementary function of compounding, assembly, treatment or fabricating activities taking place on the premises.

**SECTION 1503 REQUIRED CONDITIONS**

- A. Conditional permitted uses referenced by Section 1502 above shall be considered by the Board of Zoning Appeals, and may be approved for conditional use certificate issuance, upon proper application to and approval from the Board of Zoning Appeals, in accordance with Article 4.

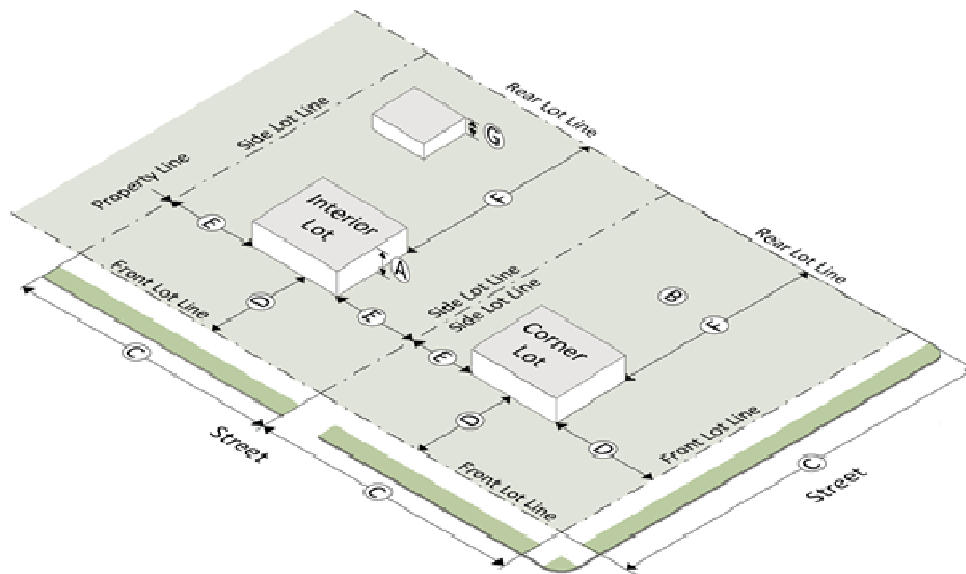
**SECTION 1504 DEVELOPMENT STANDARDS**

- A. Principal permitted uses, including all retail sales, personal service establishments, and professional offices are to be contained either: *i*) within a single building; or *ii*) as part of a larger building, such as in a shopping center or office complex.
- B. The gross square footage of any freestanding structure housing one or more permitted uses shall equal at least two-thousand (2,000) square feet.

C. The following development standards shall apply within an RC/S-1 zoning district:

- 1) **Automobile Service Station** – Gasoline pumps and service islands shall be a minimum distance of fifteen (15) feet from a property line. Any building accommodating an attendant, if larger than two-hundred (200) square feet, shall meet applicable yard regulations established by Section 1504. Pump island areas may be covered by a canopy, provided the area beneath is entirely open except for canopy-supporting members. Canopy supports may not be closer to a property line or right of way than gasoline pumps, and the plane of a canopy face may be no closer to a right of way or property line than ten (10) feet.
- 2) **Right of Way Dedication and Improvements** shall be required whenever an existing or proposed lot of record fails to abut existing right of way meeting the standards established by the most current, adopted Montgomery County thoroughfare plan. A plat of subdivision shall be approved by the Montgomery County Planning Commission, and recorded in the office of the County Recorder, indicating the area that is dedicated for use as public right of way.

<b>A</b>	Principal Building Height	<ul style="list-style-type: none"> <li>• 80 foot maximum</li> </ul>
<b>B</b>	Lot Area	<ul style="list-style-type: none"> <li>• 20,000 square foot minimum</li> </ul>
<b>C</b>	Lot Frontage	<ul style="list-style-type: none"> <li>• 80 foot minimum single family</li> </ul>
<b>D</b>	Front Yard Depth	<ul style="list-style-type: none"> <li>• 10 foot minimum for structures &lt; 25 feet in height</li> <li>• 25 foot minimum for structures 25-40 feet in height</li> <li>• 35 foot minimum for structures &gt; 40 feet in height</li> </ul>
<b>E</b>	Side Yard Depth	<ul style="list-style-type: none"> <li>• 0 foot minimum party wall</li> <li>• 10 foot minimum each side if adjacent to non-residential district</li> <li>• Greater than ¼ sum of building height and depth minimum each side if adjacent to residential or planned district; however no less than 15 feet or greater than 30 feet</li> </ul>
<b>F</b>	Rear Yard Depth	<ul style="list-style-type: none"> <li>• 25 foot minimum</li> <li>• 10 foot minimum for off street parking</li> <li>• Greater than ¼ sum of building height and depth minimum each side if adjacent to residential or planned district; however no less than 25 feet or greater than 35 feet</li> <li>• 40 foot minimum if rear loading and unloading and adjacent to residential district</li> </ul>
<b>G</b>	Accessory Building Height	<ul style="list-style-type: none"> <li>• 20 foot maximum</li> </ul>
	Maximum Lot Coverage	<ul style="list-style-type: none"> <li>• 90 percent</li> </ul>





**ARTICLE 16**  
**OIS - OFFICE, INDUSTRIAL , SALES & SERVICE DISTRICT**

**SECTION 1600 PURPOSE**

The OIS, Office, Industrial, Sales & Service zoning district designates areas for the orderly growth and development of moderate to large scale office, industrial and business and professional uses, along with their support functions, providing buffering to neighboring residential land uses.

**SECTION 1601 PRINCIPAL PERMITTED USES**

- A. The following land uses, fulfilling all requirements of other sections of this Article, shall be principally permitted in an OIS zoning district:
- 1) Administrative offices;
  - 2) Business offices and related facilities;
  - 3) Industrial sales and service establishments where a stock of goods may be maintained on the premises for local or regional transport and sales to customers, provided that retail sales comprise no more than an incidental and minor part of the total business;
  - 4) Distribution facilities;
  - 5) Financial institutions;
  - 6) Hospitals;
  - 7) Manufacturing and assembly uses;
  - 8) Printing & publishing facilities;
  - 9) Professional office or services;
  - 10) Public and private educational facilities;
  - 11) Research and development facilities;
  - 12) Medical clinics;
  - 13) Training centers on lot greater than 3 acres;
  - 14) Wholesaling centers;
  - 15) Warehouses

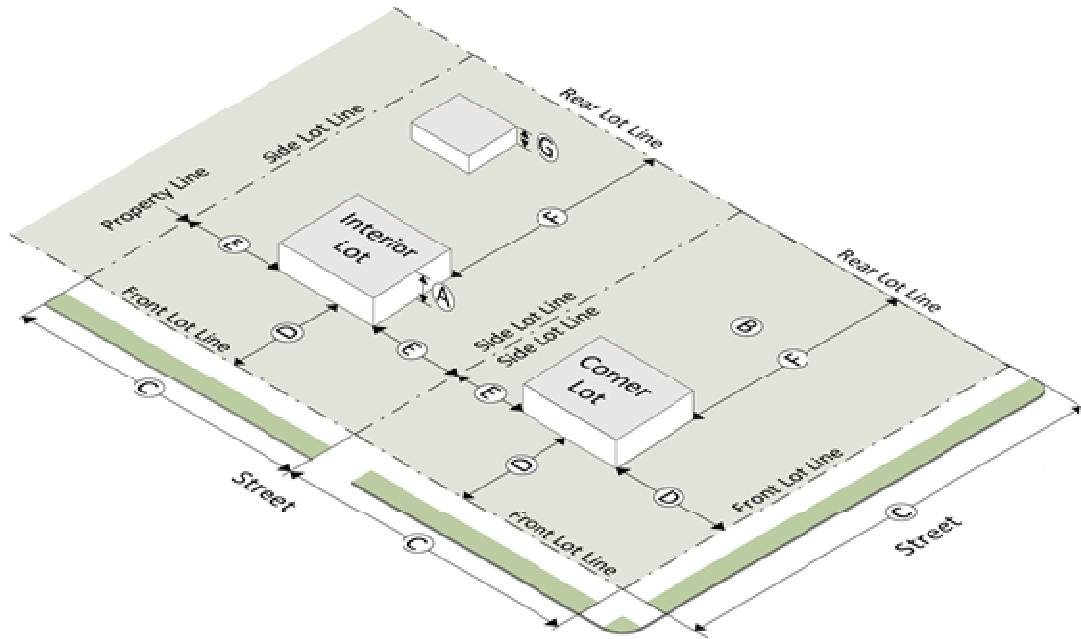
**SECTION 1602 CONDITIONAL PERMITTED USES**

- A. The following conditional permitted uses shall be considered for approval by the Board of Zoning Appeals, upon the filing of a proper application in accordance with Article 4:
- 1) Agricultural implement sales, service, storage, and rental;
  - 2) Automobile, boat, motorcycle, recreational vehicle, and truck sales, service and rental;
  - 3) Coffee/Food Stand/Food Truck;
  - 4) Daycare and nursery facilities;
  - 5) Funeral homes and mortuaries;
  - 6) Government building and public facility;
  - 7) Outdoor sales/storage of landscaping materials;
  - 8) Personal wireless service facilities;
  - 9) Restaurants, sit-down, fast food;
  - 10) Solar panel;
  - 11) Tavern, bars and lounges, excluding adult entertainment

**SECTION 1603 DEVELOPMENT STANDARDS**

- A. Principal permitted uses shall be issued a Certificate of Zoning Compliance in an OIS zoning district upon sufficient evidence that all activities are to be contained: i) within a single building; or ii) as part of a larger building, the gross square footage of which shall equal at least fifteen hundred (1,500) square feet.
- B. The following development standards shall apply to all uses other than personal wireless service facilities:
  - 1) **Abutting Residential Zones** – If there is an abutting residential zone, a fifty (50) foot buffer zone shall be provided along common lot lines, in accordance with provisions in Article 32, Landscaping, unless a six foot masonry wall or opaque wooden fence separates parking areas from residential lot lines and such parking areas are used only for non-commercial vehicles. In this scenario, a twenty-five (25) foot buffer would be required. If commercial vehicles utilize space alongside a residential zoning district or planned unit residential development, a six foot masonry wall, opaque wooden fence or perimeter landscaping shall be installed and properly maintained along common property lines, and a fifty (50) foot buffer zone shall be provided between the parking area and the property line.

<b>A</b>	Principal Building Height	<ul style="list-style-type: none"> <li>• 40 foot maximum with up to 80 foot with modified setbacks</li> </ul>
<b>B</b>	Lot Area	<ul style="list-style-type: none"> <li>• 20,000 square foot minimum</li> </ul>
<b>C</b>	Lot Frontage	<ul style="list-style-type: none"> <li>• 100 foot minimum</li> </ul>
<b>D</b>	Front Yard Depth	<ul style="list-style-type: none"> <li>• 35 foot minimum for structures</li> <li>• 10 foot minimum for off-street parking and drives</li> </ul>
<b>E</b>	Side Yard Depth	<ul style="list-style-type: none"> <li>• 15 foot minimum if structure &lt; 40 feet in height</li> <li>• 50 foot minimum each side if adjacent to residential district</li> <li>• Two times structure height if structure &gt; 40 feet in height</li> </ul>
<b>F</b>	Rear Yard Depth	<ul style="list-style-type: none"> <li>• 25 foot minimum if structure &lt; 40 feet in height</li> <li>• 50 foot minimum each side if adjacent to residential district</li> <li>• Two times structure height if structure &gt; 40 feet in height</li> </ul>
<b>G</b>	Accessory Building Height	<ul style="list-style-type: none"> <li>• 20 foot maximum</li> </ul>
	Maximum Lot Coverage	<ul style="list-style-type: none"> <li>• 80 percent</li> </ul>



**ARTICLE 17**  
**I-1 LIGHT INDUSTRIAL DISTRICT**

**SECTION 1700 PURPOSE**

The Light Industrial District designates areas for industrial and related uses which can be effectively serviced with necessary utilities and access. Only those uses which will have a minimal impact upon their neighborhoods and the larger physical and social environment will be allowed. Additionally, the Light Industrial District may reflect the existing pattern of industrial development in the community.

**SECTION 1701 PRINCIPAL PERMITTED USES**

- A. The following land uses, fulfilling all requirements of other sections of this Article, shall be principally permitted in an I-1 zoning district:
- 1) Administrative offices ;
  - 2) Agricultural implement sales, service, storage, rental;
  - 3) Automobile, boat, motorcycle, recreational vehicle and truck sales, service and rental;
  - 4) Business offices, wholesaling, warehousing and distribution establishments, and related facilities, and industrial sales and service establishments where a stock of goods may be maintained on the premises for local or regional transport and sales to customers, provided that retail sales comprise no more than an incidental and minor part of the total business;
  - 5) Commercial and business support services, including printing, compounding, assembly, treatment or fabricating establishments which may be characterized as light industry, such as tool and die manufacturing, electrical and electronic component production and assembly, surgical and medical equipment, small motor and machinery production and similar uses, provided all such uses are carried out within a completely enclosed structure and comply with the minimum performance standards specified by Article 30, General Provisions;
  - 6) Financial institutions;
  - 7) Funeral homes and mortuaries;
  - 8) Government buildings and public facilities;
  - 9) Hospital;
  - 10) Light Industry;
  - 11) Outdoor sales/storage of landscaping materials;
  - 12) Professional office or services;
  - 13) Public and private educational facilities;
  - 14) Research and development facility;
  - 15) Medical clinic;
  - 16) Training centers on lot greater than 3 acres;
  - 17) Warehousing and distribution.

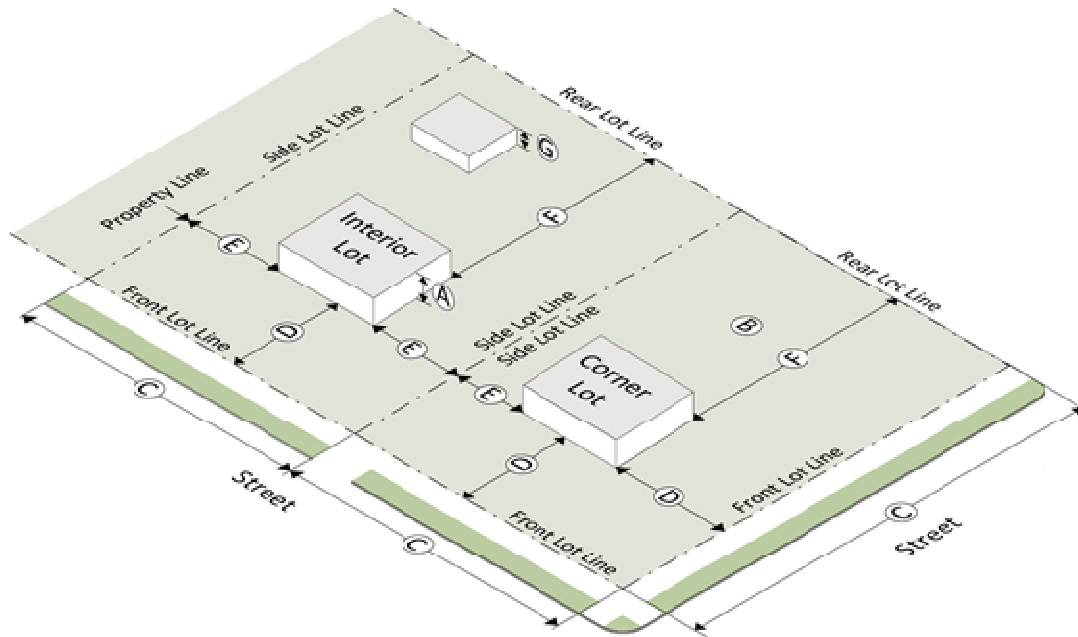
**SECTION 1702 CONDITIONAL PERMITTED USES**

- A. The following conditional permitted uses shall be considered for approval by the Board of Zoning Appeals, upon the filing of a proper application in accordance with Article 4:
- 1) Adult uses;
  - 2) Coffee/Food Stand/Food Truck
  - 3) Daycare and nursery facilities subordinate to a principal or conditional permitted use;
  - 4) Equipment rental establishments;
  - 5) Personal wireless service facilities;
  - 6) Solar panel;
  - 7) Tavern, bar and lounge, excluding adult entertainment.

**SECTION 1703 DEVELOPMENT STANDARDS**

- A. Principal permitted uses shall be issued a Certificate of Zoning Compliance in an I-1 zoning district upon sufficient evidence that all activities are to be contained: *i*) within their own building; or *ii*) as part of a larger building, the gross square footage of which shall equal at least fifteen hundred (1,500) square feet.
- B. The following development standards shall apply to all uses other than personal wireless service facilities:
- 1) **Abutting Residential Zones** – If there is an abutting residential zone, a twenty-five (25) foot landscaped perimeter area shall be provided along common lot lines, in accordance with provisions in Article 32, Landscaping, unless a six foot masonry wall or opaque wooden fence separates parking areas from residential lot lines and such parking areas are used only for non-commercial vehicles. If commercial vehicles utilize space alongside a residential zoning district or planned development residential area, a six-foot masonry wall or opaque wooden fence shall be installed and properly maintained along common property lines and a twelve (12) foot landscaped perimeter area shall be provided between the parking area and such wall or fencing.

<b>A</b>	Principal Building Height	<ul style="list-style-type: none"> <li>• 60 foot maximum with up to 80 foot with modified front yard setback</li> </ul>
<b>B</b>	Lot Area	<ul style="list-style-type: none"> <li>• 20,000 square foot minimum</li> </ul>
<b>C</b>	Lot Frontage	<ul style="list-style-type: none"> <li>• 100 foot minimum</li> </ul>
<b>D</b>	Front Yard Depth	<ul style="list-style-type: none"> <li>• 35 foot minimum for structures</li> <li>• 10 foot for off-street parking and drives</li> <li>• If loading doors face public street, greater of 60 foot or depth for longest length truck to be accommodated plus 10 feet</li> </ul>
<b>E</b>	Side Yard Depth	<ul style="list-style-type: none"> <li>• 20 foot minimum each side if structure &lt; 40 feet in height</li> <li>• 50 foot minimum each side if adjacent to residential district</li> <li>• Two times structure height if structure &gt; 40 feet in height</li> </ul>
<b>F</b>	Rear Yard Depth	<ul style="list-style-type: none"> <li>• 30 foot minimum if structure &lt; 60 feet in height</li> <li>• 50 foot minimum if adjacent to residential district</li> <li>• Two times structure height if structure &gt; 60 feet in height</li> </ul>
<b>G</b>	Accessory Building Height	<ul style="list-style-type: none"> <li>• 20 foot maximum</li> </ul>
	Maximum Lot Coverage	<ul style="list-style-type: none"> <li>• 90 percent</li> </ul>



**ARTICLE 18**  
**RFP REGIONAL FLOOD PLAIN DISTRICT**

**SECTION 1800 PURPOSE**

Areas subject to periodic flooding are designated for restricted development, under controlled conditions, so as not to exacerbate flooding elsewhere within a drainage basin, and so as to minimize future flooding damage to developed properties. No use shall be permitted which may adversely affect the capacity of mainstream waterway channels, floodways, any tributary to the mainstream waterway, or any associated drainage facility or system.

**SECTION 1801 PRINCIPALLY PERMITTED USES**

- A. Uses permitted in an RFP zoning district are those judged to have low flood-damage potential as determined by the Board of Zoning Appeals, Section 1804, Technical Evaluations by BZA. Such uses include:
- 1) Agricultural uses such as general farming, pasturage, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting meeting the same standards as given by Sections 601 (A,1) and 602 (A,1).
  - 2) Single-family homes not located in a floodway, subject to FEMA and Montgomery County regulations for potential flood areas.
  - 3) Uses such as lawns, gardens, parking areas, and play areas when accessory to adjacent residential uses.
  - 4) Private and public recreational uses such as golf courses, tennis courts, driving ranges, parks, wildlife and nature preserves, game farms, fish hatcheries, hunting and fishing areas, boat rentals, and hiking, biking and horseback riding trails. Such uses shall not include firearms, and shall not principally include motorized boats or vehicles such as automobiles, motorcycles, go-carts, all-terrain vehicles or the like.

**SECTION 1802 CONDITIONALLY PERMITTED USES**

Uses conditionally permitted in an RFP zoning district will be those judged to have low flood-damage potential and to be located outside the floodway as determined by the Board of Zoning Appeals, Section 1804, Technical Evaluations by BZA. Such uses must be similar in nature to uses described in Section 1801.

**SECTION 1803 REQUIRED CONDITIONS**

- A. No temporary or permanent structures, fill or deposits (including that for roads and levees), obstructions, materials or equipment storage, or other use shall be allowed as a principally permitted or conditional use which, acting alone or in combination with existing or future uses, may unduly affect the capacity of a floodway or unduly increase the height of a flood. All conditional uses shall be in conformance with, and subject to, flood damage prevention regulations for Montgomery County, Ohio, and the following:
- 1) Any fill proposed to be deposited in a floodway must be shown to have some beneficial purpose, and the amount thereof shall be not greater than is necessary to achieve that purpose, as demonstrated by a plan showing the uses to which the filled land will be put and the final dimensions of the proposed fill and altered topography. Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover, or by bulkheads.

- 2) Structures shall have low flood damage potential. Any structure or structures, if permitted, shall be constructed and placed on a building site so as to offer minimum obstruction to the flow of floodwater.
- 3) The storage or processing of materials that are, in time of flooding, buoyant or flammable is prohibited, as is the habitation of animal life. The storage of other materials or equipment may be allowed if not subject to major damage by floods, and if either firmly anchored to prevent flotation or readily removable from the area within a reasonable time after a flood warning.

#### **SECTION 1804 TECHNICAL EVALUATIONS BY BZA**

- A. The Zoning Administrator reserves the right to withhold a favorable decision on an application for development within a RFP zoning district pending what is deemed to be sufficient and credible professional engineering evaluations.
- B. The applicant shall be advised that Board of Zoning Appeals (BZA) review has been judged necessary, and that the cost of professional development proposal evaluations must be borne privately. Thereafter, the Zoning Administrator may transmit application materials to a registered engineer or a recognized water management and flood control authority for technical assistance in: 1) determining whether a proposed use is located in a floodway or floodway fringe; 2) evaluating a proposed project in relation to flood heights and velocities; 3) determining the potential seriousness of flood damage and the adequacy of protection plans; and 4) advice on other technical matters.

#### **SECTION 1805 BZA DECISION FACTORS**

- A. In acting upon such RFP zoning district applications, the Board shall consider all relevant factors specified in other sections of this Article, and:
  - 1) The danger to life and property due to increase flood heights or velocities caused by encroachments;
  - 2) The danger that materials may be swept onto other lands or downstream to the injuring of others;
  - 3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;
  - 4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - 5) The importance of the services provided by the proposed facility to the community;
  - 6) The requirements of the facility for a waterfront location;
  - 7) The availability of alternative locations not subject to flooding for the proposed use;
  - 8) The compatibility of the proposed use with the existing development and development anticipated in the foreseeable future;
  - 9) The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program for the area;
  - 10) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - 11) The expected heights, velocity, duration, rate of use, and sediment transport of the floodwaters expected at the site;
  - 12) Such other factors which are relevant to the purposes of this Article.



## **ARTICLE 19 PD PLANNED DEVELOPMENT DISTRICT**

### **SECTION 1900 PURPOSE**

The Planned Development zoning district is intended to provide permissive, voluntary and alternative zoning procedures for development. Principal reasons for such zoning include: i) the provision of flexibility whereby land holdings greater than two (2) acres in size, under unified ownership, can be planned and developed as a unit; ii) greater efficiency in the use of land and resources than is achievable through conventional development; and iii) the facilitation of flexibility of design in order to take advantage of natural land features.

### **SECTION 1901 PERMITTED USES**

- A. Uses permitted in a PD zoning district are those permitted by underlying zoning. Uses permitted elsewhere by this Zoning Resolution also may be permitted if the Zoning Commission and Board of Township Trustees determine that such uses are in harmony with adjacent neighborhoods, transportation networks, and other community facilities.
- B. Planned Development (PD) zoning districts are designated as follows:
  - PD-1 Residential Planned Development
  - PD-2 Commercial Planned Development
  - PD-3 Mixed-Use Planned Development
  - PD-4 Industrial Planned Development

### **SECTION 1902 DESIGN AND DEVELOPMENT STANDARDS**

- A. Design and development standards within a PD zoning district will normally be those associated with the most restrictive zoning standards applied to the same land uses elsewhere in the Township. Such standards may be altered to the extent that the Zoning Commission and Board of Township Trustees are able to make determinations that surrounding neighborhoods, as well as the general health, safety, and welfare, will be protected. The relaxation of otherwise applicable standards often will involve trade-offs of open space or public amenities designed to provide a net positive benefit to the community.
- B. Right of way dedication and improvements shall be required whenever an existing or proposed lot of record abuts existing right of way failing to meet width and design standards established by the most current, adopted Montgomery County thoroughfare plan. Under such circumstances, a plat of subdivision shall be submitted to and approved by the Montgomery County Planning Commission, and subsequently recorded in the office of the County Recorder, indicating the area that is dedicated for use as public right of way.

### **SECTION 1903 SITE DEVELOPMENT PLANNING**

- A. **General Process.** The applicant shall submit one concept, one preliminary and one formal plan as identified below for review and approval.
- B. **Concept Plans.** An applicant considering a Planned Development is encouraged to submit information to the Zoning Administrator for a concept plan review prior to officially filing for Preliminary Plan approval as described in Section C, Preliminary Plans. While a concept plan review submittal is not mandatory, it affords the applicant the opportunity to get initial feedback on the Township's view of the applicant's proposal and alternatives that may want to be considered prior to filing a formal application.

Submittal requirements for a conceptual review shall include:

- 1) A conceptual site plan, to scale, depicting:
    - a) Access from public streets and internal site circulation.
    - b) General building placement.
    - c) General parking areas (indicating the number of total spaces).
    - d) Proposed common open space, landscaped and buffered areas.
    - e) Existing site topography.
    - f) Natural features.
    - g) Other site information determined helpful by the applicant for the review of the project.
  - 2) Typical building elevation(s) depicting the size and general character of the proposed building(s).
  - 3) Submittal letter describing the proposed project including:
    - a) Existing site land use and zoning.
    - b) Proposed land use and requested zone changes.
    - c) Other descriptive data to help explain the project.
- C. **Preliminary Plans.** The submission of preliminary plans to the Zoning Commission, is required of applicants prior to a formal plans submittal. Preliminary plans must be submitted at least two weeks before the next regularly scheduled meeting of the Zoning Commission to be considered on that agenda. Seven copies of packets containing at least the following elements will be required:
- 1) Evidence of ownership or equivalent control of the entirety of the site;
  - 2) A base survey map of the site, to scale, showing boundary dimensions, important physical features, and surrounding thoroughfares;
  - 3) A description of all proposed land uses;
  - 4) A site plan showing, to scale, proposed lot lines, building outlines, off-street parking areas, and special site development features;
- D. **Formal Plan Requirements.** Following presentation and approval of preliminary plans, a **complete** site development plan application must be submitted at least two weeks before the next regularly scheduled meeting of the Zoning Commission to be considered on that agenda. Seven copies of packets containing the following elements will constitute a complete application:
- 1) A completed Butler Township application form;
  - 2) Evidence of ownership or equivalent control of the entirety of the site;
  - 3) A base survey map of the site, to scale, showing boundary dimensions, general topography, physical features, and surrounding thoroughfares;
  - 4) Proposed land uses;
  - 5) A site plan, to scale, showing lot lines, building outlines, off-street parking spaces, pedestrian walkways, bicycle and automobile circulation, and special site development features;
  - 6) Building plans, to scale, including floor plans and exterior elevations;
  - 7) Proposed restrictive covenants, homeowner's association proposals, and other legal documentation;
  - 8) Landscaping plans, including quantities, sizes, and varieties of landscaping;
  - 9) A time schedule of the projected development if the total landholding is to be developed in stages or if construction is to extend beyond a two-year time period.

**SECTION 1904 ZONING COMMISSION HEARING**

- A. **Public Hearing.** The Zoning Commission shall schedule a public hearing to consider a complete PD application for rezoning, and this public hearing date shall be not less than twenty nor more than forty days from the date of filing of said application with the Zoning Commission by a person or entity having ownership or equivalent control of the entirety of the area proposed for PD zoning.
- B. **Notifications.** Notification regarding the date of a public hearing shall be given by a newspaper of general circulation at least ten (10) days in advance of said public hearing. The Butler Township Zoning Administrator shall notify the applicant and certain nearby owners of property regarding a pending PD public hearing, and such notifications shall be in accordance with provisions in RC Section 519.12 (see Appendix A).
- C. **Statement of Findings.** Within twenty (20) days following the close of the public hearing, the Zoning Commission shall formally find in favor or against the proposed PD rezoning, and shall state the reasons for approving or disapproving by reference to required findings in Section 1906 below. If PD rezoning is approved by the Zoning Commission, a detailed statement of recommended development standards shall be issued in conveying the case to the Board of Township Trustees.

**SECTION 1905 BOARD OF TRUSTEES**

- A. **Public Hearing.** Upon recommendation from the Zoning Commission, the Board of Township Trustees shall set a time for a public hearing on the PD application, which date shall be not more than thirty (30) days from the date of the receipt of that recommendation. Notice of the hearing shall be given by the board by one publication in one or more newspapers of general circulation in the township, at least ten (10) days before the date of the hearing.
- B. **Action.** Within twenty (20) days after the close of its public hearing, the Board of Township Trustees shall either adopt or deny recommendations of the Township Zoning Commission or shall adopt some modification of those recommendations. For the Board to deny or modify recommendations of the Zoning Commission, a majority vote of the Board shall be required.
- C. **Approval.** Following Board of Township Trustees approval of a PD rezoning application, the subject property will be zoned PD, Planned Development, with the following numerical suffixes indicating the nature of the approved PD zone: number one (1) will indicate a residential PD; number two (2) will indicate a commercial PD; and number three (3) will indicate a mixed use PD. The Official Zoning Map shall be amended to reflect PD zoning changes.
- D. **Time Limits.**
  - 1) PD zoning approval shall become null and void, and the land shall revert to its former zoning classification, if: a) within one year of PD approval, a final subdivision plat, if applicable, for at least the first section has not been recorded by Montgomery County; and b) if zoning and building permits, within at least the first section, have not been secured within one year of final plat recording.
  - 2) Existing landscaping, acting as screening of a project site from surrounding sites, shall not be removed until final landscaping and screening are to be installed. Unless the Zoning Administrator determines that there is a sound development reason for delay, all approved landscaping and screening must be installed the earlier of six (6) months from the date of PD approval by the township trustees or before issuance of a Certificate of Zoning Compliance for a new structure. If delays in landscaping and screening installation are approved, subsequent occupancy of a building may be delayed until such approved screening has been installed.

**SECTION 1906 REQUIRED FINDINGS**

- A. Both the Zoning Commission and Board of Township Trustees shall only approve those PD zoning applications which contain enough information to allow specific findings of fact to be made, directly based upon the evidence presented, that:
- 1) The physical character of the site will be suitable for development in the manner proposed without hazard to persons or property, on or off the site, because of the probability of flooding, erosion or other dangers, annoyances or inconveniences.
  - 2) The site will be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development, and the streets and driveways on the site will be adequate to efficiently and safely serve the residents of the area as well as the traffic generated by uses within the proposed development.
  - 3) The PD District will be located in such a way, in relation to both public infrastructure and police and fire protection facilities that neither extension nor enlargement of such facilities will be required to the extent of probable higher net public costs than would development in forms generally permitted under existing zoning for the area.
  - 4) Structures, parking areas, drives, roadways, walks, lighting and appurtenant facilities will be located and designed to provide a high degree of efficiency, safety, convenience and harmony within the development as well as utmost compatibility with surrounding neighborhoods.
  - 5) Proposed development can be substantially completed within the period of time specified by the development application.
  - 6) The PD District will be in conformity with Butler Township comprehensive land use planning.
  - 7) Planning is consistent with the intent and purpose of this Zoning Resolution to promote the public health, safety and general welfare of Butler Township.
- Applicants may be asked to provide traffic studies, engineering studies, or other supporting documentation to make their case for PD zoning.

**SECTION 1907 MINOR MODIFICATIONS**

- A. An extension of time limits or minor modifications of approved plans may be approved by the Zoning Administrator. Modifications shall be proposed only after consultation with the Zoning Administrator, and only after applicant's provision of such documentation listed by Section 1903 that the Zoning Administrator deems relevant. Further, minor modifications shall be limited to changes that represent no more than a five (5) percent variance from approved plans, and approvals by the Zoning Administrator shall be conferred only upon a finding of the purpose and necessity for such extension or minor modification and evidence of reasonable effort toward the accomplishment of approved plans. Further, such modification approvals shall issue only after meetings of the Zoning Commission and Board of Trustees where each has been provided notice of proposed changes. Any changes not deemed minor by the Zoning Commission and Board of Trustees shall necessitate review by both bodies, in the same format as if a new PD District were being proposed.

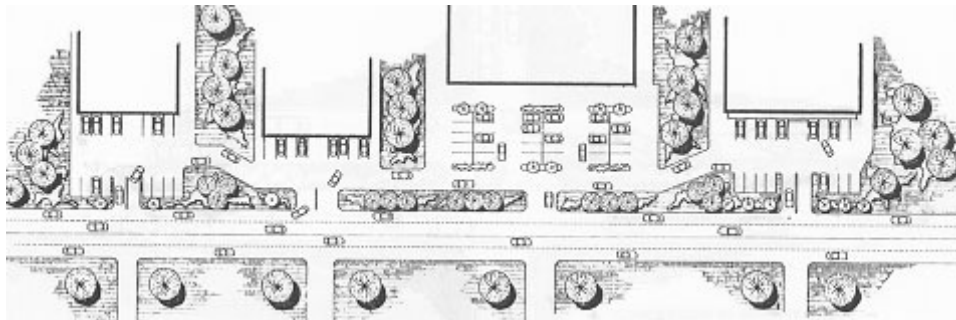
**ARTICLE 20**  
**MILLER LANE/NORTH DIXIE DRIVE DESIGN GUIDELINES**

**SECTION 2001 PURPOSE**

- A. The purpose of the Miller Lane/North Dixie Drive design guidelines is to implement the policies and strategies of the Miller Lane/North Dixie Drive Corridor Plan adopted by Butler Township in 2013. The reason for this plan is simple and straight forward: to provide the foundation for future development and redevelopment of this area that makes effective use of this area's assets while preserving and enhancing its character.
- B. This Article is meant to supplement the other regulations and standards that control the development of land under this Zoning Resolution. In the case of conflict, the regulations in this Article shall govern.

**SECTION 2002 SITE DEVELOPMENT – GENERAL**

- A. All on site utilities shall be located underground.
- B. Sidewalks or pedestrian path access from street sidewalks to the building shall be required.
- C. A maximum of one (1) driveway opening shall be permitted to a particular site from each of any one or two abutting streets for every 250 linear feet of frontage.
- D. As properties develop or redevelop to uses other than single family residential, properties should provide for cross easement access to adjoining properties and consolidate curb cuts upon development or redevelopment.



- E. Outdoor storage and service structures (dumpsters, mechanical equipment, etc.) shall be fully and effectively sited and screened from view from public rights-of-way.
- F. All pervious areas of the site (e.g. off-street parking areas and lots) should be adequately landscaped with a mix of trees, shrubs, plants and grass and maintained in good condition free of weeds and debris. Furthermore, healthy mature trees should be protected and preserved as much as possible rather than eliminating mature trees and replacing them with smaller, younger trees when redeveloping a site.

**SECTION 2003 BUILDING DESIGN**

- A. Blank, uninterrupted facades should be discouraged on all sides and stories of a building where visible from a public right-of-way. The use of windows, doors and other architectural features should be required at regular intervals to break up a blank wall. The use of false windows as an architectural feature may be permitted upon review. Planting areas and landscaped beds should be permitted if the height of the landscape material is at least half the height of the building or structure (e.g. 20 lineal feet of landscaping for every 100 feet of building length).

**SECTION 2004 ON-SITE SIGNAGE**

- A. At a minimum, all signage should be landscaped at the base of the sign in an area equal to twice the total square footage of the faces of the sign when a sign or sign structure is attached to the ground.
- B. Materials and colors used for freestanding signage should match or compliment the principal building it is advertising.

**SECTION 2005 OFF-STREET PARKING**

- A. In order to reduce the amount of impervious surfaces on parcels of land, the number of parking spaces in a parking lot should not exceed the minimum required number of parking spaces as required by the Butler Township Zoning Resolution by more than twenty percent unless additional interior landscaping and perimeter parking screening is incorporated into the vehicular use area or if pervious pavement is used.
- B. Increase the requirements for interior and exterior buffering and landscaping for parking lots to reduce the visual impact of the hardscape.

**ARTICLE 21****ARCHITECTURAL STANDARDS FOR COMMUNITY GATEWAY CORRIDORS AND MAJOR STRUCTURES****SECTION 2101 ARCHITECTURAL STANDARDS FOR COMMUNITY GATEWAY CORRIDORS AND MAJOR STRUCTURES**

- A. Vinyl or metal cladding is not allowed with the exception of minor trim, e.g., for soffits, vents or windows. The Zoning Administrator may allow minor redistributions of cladding material percentages when deemed both in the public interest and consistent with the intent of this Zoning Resolution section.
- B. Facade cladding within LC/S-2 or RC/S-1 zoning districts, for buildings less than 20,000 square feet in area and lying within a defined community gateway corridor, shall be composed of red or neutral color, non-glazed brick (being residential sized, jumbo, or utility) for at least forty (40) percent of the façade area. The bottom four (4) feet of cladding can utilize cut block, i.e., decorative masonry units. At least two different types of cladding material must be employed on any building façade commonly viewed off-premises from either a public or private street. The remaining façade area may be clad in: 1) horizontal wood siding; 2) stone facing material; or 3) EFIS or Dryvit, if above thirty-six (36) inches high on any elevation of the building.
- C. Facade cladding within LC/S-2 or RC/S-1 zoning districts, for all buildings greater than 20,000 square feet, shall be composed of red or neutral color, non-glazed brick (being residential sized, jumbo, or utility) for at least forty (40) percent of the front (entrance) façade area, with at least two different types of cladding material employed. No more than twenty (20) percent of cladding may be composed of smooth-faced, non-decorative concrete block.
- D. Buildings with street frontage exceeding eighty (80) feet shall be required to have a sidewalk, at least five (5) feet in width, separating the side(s) of the building with a public entrance from vehicular use areas. Such sidewalk shall extend the full length of the building. Further, such buildings shall either: 1) maintain a landscaped area between the sidewalk and the adjoining building façade, including a continuous shrub hedge at least 30 inches high as well as one shade tree or two ornamental trees per thirty-five lineal feet; or 2) have front-plane offsets to interrupt appearance of a continuous wall. Such offsets must be projecting/recessed by at least eighteen (18) inches, and must differ in appearance from adjacent wall setbacks by use of one of a minimum of three different façade masonry materials. A landscaped area shall be placed along other facades of such buildings commonly viewed from public or private streets, such area to include a continuous shrub hedge at least 30 inches high as well as one shade tree or two ornamental trees per thirty-five lineal feet. This requirement shall exclude service areas and the rear of buildings.
- E. Entry doors utilized within an LC/S-2 zoning district shall be glazed for at least one third (1/3) their total area.
- F. Windows within an LC/S-2 zoning district shall not exceed seventy-five (75) percent of the total ground level facade area.
- G. Awnings may be utilized to effectively accent a building facade, provided such awnings:
  - 1) Are fabric, of a dyed color complementing the architectural style of the building;
  - 2) Are opaque, and are not lighted from beneath;
  - 3) Maintain a minimum distance above pavement or pedestrian use areas of seven (7) feet.

**ARTICLE 30**  
**GENERAL AND ACCESSORY PROVISIONS**

**SECTION 3001 PERMITTED ACCESSORY USES — RESIDENTIAL DISTRICTS**

- A. The following accessory uses are permitted on each zoning lot in Residential or Office Residential zoning districts, limited to locations in rear yards:
- 1) Accessory buildings and structures, not exceeding fifteen (15) feet in height, per single-family, detached, dwelling unit, may be permitted as follows:
    - a) Accessory buildings or structures shall not be closer than five feet to any side or rear lot line and shall not be located in any recorded utility easement
    - b) Accessory buildings shall be not be closer than six feet from any principal dwelling structure on the same lot and no less than ten feet from any off-site building.
    - c) No more than two accessory building or structures s shall be permitted on the same lot.
    - d) On a corner lot, an accessory building or structure shall not be closer to the side street lot line than the required minimum front yard setback and no closer than the front building foundation line furthest from the street right-of-way of the adjacent property.
    - e) The total area of all accessory buildings and structures, in a Residential District shall not exceed **3.5% of the total lot area**. Such total will not be restricted, however, to less than 600 square feet or 40% of the gross floor area of the principal building or structure, whichever is most restrictive. The sum of all accessory buildings shall not, however, exceed 3,000 square feet. In no case shall the combined area of all accessory uses and permitted uses on a lot exceed the maximum impervious surface coverage as established in each use district.
  - 2) A swimming pool, hot tub, tennis court, or other recreational facility designed for, and limited to, the use of residents of the zoning lot where situated, provided no commercial use is made of such recreational facilities, and provided further:
    - a) Such recreational amenities comply with side yard requirements of the zoning district in which located.
    - b) Swimming pools, or an area completely enclosing same, are protected by a barrier wall or fence to prevent uncontrolled access, said barrier being at least five (5) feet in height, maintained in good condition, and provided with a locked entrance. A barrier wall or fence may be an extension of the side walls of the swimming pool.
    - c) Minimum property line offsets shall be six feet for any actively utilized, hard-surfaced part of a recreational amenity.
  - 3) Children’s playhouses and tree houses.
  - 4) Statuary, arbors, trellises, barbecue hearths, play equipment, non-mechanical laundry drying areas, all being less than ten feet in height.
  - 5) Birdhouses, flag poles, antennas and other energy receiving devices provided: 1) support for same is located on the same premises as the principal use, 2) height does not exceed one and one-half times the maximum height specified for principal structures, and 3) antennas and other energy receiving or transmitting devices, and their support structures or guys, are no closer to a public right of way or private street than the nearest foundation line of the dwelling unit with which they are associated.
  - 6) Other structures or uses customarily found in conjunction with and/or required for full utilization and enjoyment of a principal use, provided such structures or uses meet the definition for accessory use provided in Section 201.01.



**SECTION 3002 PERMITTED ACCESSORY USES — BUSINESS AND INDUSTRIAL DISTRICTS**

- A. Accessory uses are permitted on each zoning lot in a Business or Industrial zoning district, limited to locations in rear yards, provided total accessory use area does not exceed eighteen (18) percent of any rear yard.
- B. Within business and industrial zoning districts, any accessory use may be allowed which meets applicable standards of the zoning district in which located, provided such use is adjudged by the Zoning Inspector to be customarily found in conjunction with, and required for, full utilization and economic viability of a principal use on the same premises, and provided said accessory use meets the definition of same found in subsection 201.
- C. Temporary structures incidental to on-site construction activities during such period as construction is actively occurring.

**SECTION 3003 ACCESSORY USES NOT PERMITTED — RESIDENTIAL, OFFICE AND BUSINESS DISTRICTS**

- A. Overnight parking or outdoor storage of trucks over nine thousand (9,000) GVW rated capacity, buses or mobile homes.
- B. Outdoor storage, such as but not limited to: junk, wood, lumber, building materials, parking of inoperative or unlicensed motor vehicles or similar items of property, unless specifically permitted by the specific zoning district regulations shall not be permitted as an accessory use in any Residential, Planned Development (PD), or Business (LC/S-1, LC/S-2, RC/S-1) District.

**SECTION 3005 STANDARDS FOR PERMITTED ACCESSORY USES**

- A. **Location.** Accessory buildings and structures shall be limited to locations in rear yards, outside easement areas. No freestanding accessory building or structure encompassing a garage door may be located in a rear yard unless the driveway leading thereto passes through a principal structure side yard that is at least twelve (12) feet wide.
- B. **Property Line Offsets.** Accessory buildings and structures over one hundred fifty (150) square feet in size or more than eight (8) feet high shall be located at least six (6) feet from the nearest property line. Accessory buildings and structures less than one hundred fifty-one (151) square feet in size and less than eight (8) feet high shall be located at least three (3) feet from the nearest property line.

**SECTION 3006 RECREATION EQUIPMENT AND STORED VEHICLES**

- A. Recreational vehicles, boats, trailers, trucks, automobiles and other vehicles are permitted to be stored outdoors on developed zoning lots legally allowing and occupied by residential uses, subject to the following:
  - 1) Permitted items are owned by current occupants of the premises; are properly registered and have current licenses; and if designed to be driven or pulled along a roadway, are parked on a paved surface that extends the entire length and width of said vehicle or trailer.
  - 2) Such equipment may not be connected to water, sewer, gas or electricity, nor shall such equipment be used for living or housekeeping purposes.
  - 3) Recreational equipment may be parked or stored no closer to a public right of way or private street than the nearest foundation line of the dwelling unit with which it is associated, or no closer than ten (10) feet in any case.
  - 4) Recreational equipment may be parked or stored no closer to any side or rear property line than three (3) feet or any closer to the street than the front building line of the dwelling.
  - 5) Notwithstanding the provisions of subsections B and C immediately above, recreational vehicles may be parked, for loading and unloading purposes, anywhere on the premises for a period not

exceeding forty-eight (48) hours provided a period of at least twelve (12) hours transpires between events.

- 6) Wheels or any similar transporting device shall not be removed, except for service, nor shall any trailer be permanently affixed to the ground.

### **SECTION 3007 CASUAL SALES**

- A. Casual sales (including barn, basement, patio, garage, yard or block sales) are permitted on zoning lots legally occupied by residential or non-profit school or church uses, subject to the following:
  - 1) Sales shall extend for no more than three (3) consecutive days (or portion thereof).
  - 2) There are no more than two (2) such sales per zoning lot in any calendar year.
  - 3) No foods or beverages are offered for sale, but if foods or beverages are offered at no cost, an advance permit for such dispensing is obtained from the Board of Health.
  - 4) No fee shall be imposed on those attending.
  - 5) Off-premises signs are limited to two (2), such signs are not posted on existing structures within a public right of way, and all signs are removed within twenty-four (24) hours following conclusion of the sale.
  - 2) Balloons, streamers, special lighting, noise making devices, or other, similar displays shall not be used to call attention to the sale.
  - 3) Estate auctions and moving sales shall be limited to one (1) week, once per calendar year, provided there is a bona fide need for same to settle the estate of a former resident or because a current resident family is moving to other premises.

### **SECTION 3008 INDOOR BUSINESS ACTIVITIES**

- A. Business activities, including materials storage of any kind, shall be conducted wholly within a completely enclosed building unless otherwise sanctioned by the Board of Zoning Appeals.

### **SECTION 3009 EXTERIOR LIGHTING**

- A. Exterior lighting installed on private premises shall be shaded and directed as necessary to avoid casting direct light upon public streets, residential zoning districts or properties, or upon neighboring properties where such lighting might be considered a nuisance.

### **SECTION 3010 PAVING**

- A. Parking and drive areas as identified in Article 33, Off-Street Parking Regulations, including pedestrian ways, shall be paved with asphalt or concrete. A drive area shall be deemed to exist where a building encompasses a garage door, even though such a building may not immediately be utilized to house a motor vehicle or recreation equipment. Established walking areas not a part of a parking lot shall be hard-surfaced and dust-free.

**SECTION 3011 FENCES, WALLS, AND HEDGES**

Notwithstanding other provisions of this Zoning Resolution, fences, walls and hedges meeting certain conditions are permitted in required yards.

**A. Materials**

- 1) No fence, with the exception of those fences used for agricultural purposes, shall contain an electric charge unless approved by the Board of Zoning Appeals.
- 2) Barbed wire, razor wire, or any other type of anti-climbing wire shall only be permitted, upon administrative review and approval of the Board of Zoning Appeals, in the industrial district.
- 3) Materials used for fences shall be of traditional fencing materials (wrought iron, chain link, pressure treated lumber, cedar, redwood, PVC, masonry) and shall be constructed of weather resistant materials or annually treated so that they are weather resistant and maintained in good condition.
- 4) The finished or most decorative side of the fence shall face away from the property erecting the fence.
- 5) All latches, hinges and other hardware shall be galvanized or painted so as to prevent or retard rust and degradation.

**B. Corner Lots**

- 1) On a corner lot in all Residential districts, no fence, wall, hedge or other planting shall exceed a height of two and one-half (2 ½) feet above the centerline grades of intersecting streets nor shall they be erected, placed or maintained within the triangular area formed by the right-of-way lines at such corner lots and a straight line joining such right-of-way line at points which are fifty (50) feet distant from the intersection of the right-of-way line and measured along such right-of-way lines.
- 2) On corner lots, such fence, wall or hedge does not exceed a height of three (3) feet when constructed between an abutting right-of-way and the front wall of a principal structure.
- 3) On corner lots, when constructed behind the front wall of a principal structure, such fence, wall or hedge does not exceed a height of three (3) feet if between a distance of one (1) and five (5) feet from a public right-of-way, does not exceed a height of four (4) feet if between a distance of five (5) and ten (10) feet from a public right-of-way, does not exceed a height of five (5) feet if between a distance of ten (10) and fifteen (15) feet from a public right-of-way, and does not exceed a height of six (6) feet if at a distance of fifteen (15) feet or more from a public right-of-way.

**C. Front Yards**

Except as regulated by Article 32, Landscaping, fences, walls and hedges shall be permitted in required front yards, provided that:

- 1) Such fence, wall or hedge does not exceed a height of three (3) feet.
- 2) Such fence shall not be composed of chain link, wire or other wire-type materials.
- 2) Fences, walls and hedges adjacent to any public sidewalk shall be set back at least one foot from said sidewalk.
- 3) The total length of such fence, wall or hedge in a required front yard shall not exceed 50 percent of the lot frontage.
- 4) Fences, walls or hedges shall not be permitted to interfere with visibility along a driveway.
- 5) Fences shall be constructed only of materials manufactured and customarily used for permanent fencing.

**D. Side and Rear Yards**

- 1) Within a side or rear yard, no fence, wall or hedge shall be permitted to exceed a height of six (6) feet.
- 2) The use of barbed wire or electrically charged or agricultural fences is prohibited in all "RR," "R," and "S-PD" zoning districts unless associated with an allowed agricultural use involving animal husbandry.

**SECTION 3012 HOME OCCUPATIONS**

- A. There are permitted in any dwelling in any residential (“R”) zoning district certain home occupations carried on solely by members of the family residing therein. No wholesale, jobbing or retail business shall be permitted, unless it is conducted entirely by mail, computer, and/or telephone and does not involve the receipt, sale, shipment, delivery, or storage of merchandise on or from the premises. Home occupations requiring a state or local license and/or inspection shall not be permitted. Permitted home occupations include the following:
- 1) Professional office or service provided that such services limit the number of clients to one at a time.
  - 2) Handcraft, dressmaking, millinery, tailoring, and laundering, provided that such occupations are conducted solely by resident occupants in their residence.
  - 3) An office for a minister, rabbi, priest or other clergyman.
  - 4) A studio for an artist, sculptor or author.
  - 5) Real estate or insurance sales, provided that no non-resident employees work on the premises.
  - 6) Music teaching or other type of instruction (except nursery schools), provided that such teaching or instruction is limited to one pupil at a time.
- B. In no event shall a home occupation be interpreted to include an animal hospital, barber shop, beauty parlor, business or music school, clinic or hospital, dancing school, doctor’s or dentist’s office, lawyer’s office, mortuary, private club, equipment rental, repair shop or service establishment, restaurant, kennel or tourist home.
- C. In addition to all of the standards applicable to the district in which it is located, all home occupations shall comply with the following requirements:
- 1) No person other than members of the immediate family occupying such dwelling shall be employed in connection with the home occupation.
  - 2) No alteration of the principal building shall be made which changes the character thereof as a dwelling.
  - 3) No home occupation shall occupy more than the lesser of either two-hundred (200) square feet or twenty-five percent (25%) of any one floor in the dwelling unit in which it is located.
  - 4) No mechanical or electrical equipment may be used, except such type as is customary for purely domestic or hobby purposes.
  - 5) No home occupation shall be operated in such a manner as to cause offensive noise, vibration, odors, smoke or other particulate matter, heat, humidity, glare, electronic interference or otherwise constitute a nuisance or safety hazard to the occupants of nearby properties.
  - 6) No outdoor storage shall be permitted.
  - 7) No home occupation shall be conducted in any accessory building.
  - 8) No sign shall be displayed other than a single, unlighted sign with a maximum surface area of one (1) square foot, sufficient to display the name of the person and the type of home occupation.

**SECTION 3013 MINIMUM PERFORMANCE STANDARDS**

- A. **Fire & Explosive Hazards** – Storage, utilization, or manufacture of free-burning or intense-burning solid or liquid materials or products shall be prohibited in all zoning districts. This prohibition shall apply also to materials producing flammable or explosive vapors or gases.
- B. **Fissionable or Radioactive Materials** – Storage, utilization, or manufacture of fissionable or radioactive materials or products shall be prohibited in all zoning districts if their use might result at any time in the release or emission of such materials into the atmosphere, the ground, or sewerage systems. All sources of ionizing radiation shall be registered or licensed by the State Department of Health or other authority having jurisdiction, and shall be operated in accordance with applicable regulations.
- C. **Electrical Disturbances** – Activities emitting electrical disturbances affecting the operation of any equipment other than that of the creator of such disturbances shall be prohibited in all zoning districts.
- D. **Air Pollution and Noxious Gases** – No solid, liquid or gaseous emission of air pollutants shall be permitted which violate the minimum requirements of the U.S. Environmental Protection Agency, as adopted by the requirements of the Regional Air Pollution Control Agency (RAPCA) or other agencies having authority. Processes and operations of permitted uses capable of dispersing gases or toxic particulates into the atmosphere shall be hooded or otherwise suitably enclosed. The emission of such toxic gases or particulate matter shall be from a stack. No odor shall be emitted by any use permitted in a district in such quantities as to be readily detected without instruments by an average observer at any place along the lot line. Dust and other air-borne pollutants shall be minimized through the paving, wetting or landscaping of the lot area around any building.
- E. **Glare, Heat and Exterior Light** – Any operation producing intense light or heat, such as high temperature processes like combustion or welding, shall be performed within an enclosed building. The operation shall not be visible beyond any lot line bounding the property whereon the use is conducted. No exterior lighting shall be positioned so as to extend light or glare onto adjacent properties or right of ways.
- F. **Liquid or Solid Wastes** – No discharge, at any place, into any public sewer, private sewage disposal system, stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply, interfere with bacterial processes in sewage treatment, or otherwise cause the emission of dangerous or offensive elements, shall be permitted except in accordance with standards approved by the Ohio Environmental Protection Agency or such other governmental agency as has jurisdiction.
- G. **Noise** – Noise levels shall not exceed the following A-weighted decibel (DbA) levels:

District	Exterior	Interior
Residential	60DbA – 7:00am – 10:00pm 55DbA – 10:00pm – 7:00am	45DbA
Commercial	70DbA	45DbA
Industrial	70DbA	n/a
Public	65DbA	n/a

These noise levels shall not be exceeded for more than fifteen (15) minutes during any continuously monitored, typical, twenty-four hour period. Measurement shall be made from the edge of the zoning lot to the structure or noise source existing or proposed.

- I. **Vibrations** – No uses shall be located, and no equipment shall be installed, in such a way as to produce intense, earth-shaking vibrations which are discernible without instruments at the property lines of any premises.

**SECTION 3014 PORTABLE ON DEMAND STORAGE UNITS**

- A. The purpose of these regulations is to regulate the use and location of portable storage units. These units are typically known by the names: PODS (Portable On-Demand Storage Units), SAM (Store and Move), SmartBox USA, and UNITS.
- 1) **Characteristics:** These types of units are typically used for moving and temporary storage during construction. The unit is dropped off at a property, filled by the renter of the unit and is then transported to a new site for unpacking or stored at the facility of the portable storage unit owner.
  - 2) **General Regulations:** Portable storage units may be permitted as a temporary use in any zoning district as follows:
    - a) Location and Timeframe
      1. Temporary Use for New Construction
        - a. If used for new construction, portable storage units are to be removed within three calendar days after the unit is no longer necessary or construction is complete, whichever is sooner.
      2. Residential Districts
        - a. If used by an occupant of a property for moving or relocating, a portable storage unit shall only be located on a paved surface on the property (e.g. driveway).
        - b. The portable storage unit shall not be located on the property for a period of more than 7 consecutive days during each calendar year.
      3. Commercial and Industrial Districts
        - a. Portable storage units are permitted in any commercial or industrial district for temporary or permanent on site storage if screened from public view and are not occupying required off-street parking spaces as reviewed and approved by the Zoning Administrator.
        - b. When permitted, a portable storage unit shall only be located on a paved surface on the property for a period of time as determined by the Planning Director.
    - b) Prohibitions
      1. No portable storage unit shall be used for human or animal occupation.
      2. Portable storage units larger than 8 feet in width by 8 feet in height by 16 feet in length in residential districts shall be prohibited in the Township unless expressly permitted by the Board of Zoning Appeals.
      3. Only one (1) portable storage unit shall be permitted on the property at any time.
      4. No portable storage unit shall be located in or on a public right-of-way.
      5. No electrical or plumbing service shall be connected to or provide in the portable storage unit.
      6. No portable storage unit shall be placed in a manner blocking a sidewalk.
    - c) Units must be Secured
      1. Portable storage units shall be fully secured at all times including the use of a locking device on the door to prohibit unauthorized entry into the unit.
    - d) Public Nuisance
      1. The placement of any portable storage unit shall be located in such a manner on any property as not to create a public nuisance such as creating a motor vehicle visibility issue or storing hazardous materials.

**SECTION 3015 ANIMAL HUSBANDRY**

- A. Chickens: Chickens kept in residential areas shall be held to the following standards:
- 1) Roosters are prohibited.
  - 2) Slaughtering is prohibited.
  - 3) Animals must be kept in an enclosure at all times with at least four (4) square feet of floor area per animal.
  - 4) Enclosures are treated as an accessory structure, may only be in the rear yard, and must be at least ten (10) feet from all property lines and at least thirty (30) feet from all neighboring dwellings, schools, churches or businesses.
  - 5) Enclosures must be kept clean, dry, odor-free, neat and sanitary at all times.
  - 6) The owner must take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.
- B. Maximum Number of Animals
- 1) Lots under 10,000 SF
    - a) Chickens: 2
  - 2) Lots between 10,000 SF and 20,000 SF
    - a) Chickens: 4
  - 3) Lots between 20,000 SF and 40,000 SF
    - a) Chickens: 6
- C. Application of Regulation: The provisions of Subsections A and B above shall not be applied if the property on which the chickens are located meet the definition of agricultural property as defined in Section 519.21 of the Ohio Revised Code.

**SECTION 3016 OUTDOOR STORAGE AND DISPLAY****A. COMMERCIAL AND INDUSTRIAL DISTRICTS**

The outdoor storage or display of bulk goods including retail and seasonal items such as firewood, landscaping materials, bagged materials, construction materials, mulch and the like shall be controlled by the following regulations:

- 1) The outdoor storage or display of merchandise, inventory or materials shall not interfere with required off-street parking or the safe and unobstructed use of vehicular or pedestrian access ways or walkways or block any natural drainage.
- 2) Outdoor storage shall be stored in an orderly manner (e.g. stacked) and shall remain free of stagnant water, weeds, insects and vermin.
- 3) Outdoor storage or display locations shall be approved by the Zoning Administrator.

**B. RESIDENTIAL DISTRICTS**

- 1) The unenclosed outdoor storage of materials in a residential district shall not be permitted as per Section 3003 of this Article.

**SECTION 3017 TRASH COLLECTION AREAS, RECYCLING AND DONATION BOXES**

- A. The following requirements shall apply to all uses that utilize trash collection areas, recycling and donation boxes and related service entrances. Trash collection areas, recycling and donation boxes shall be accessory to a principal building on a lot.
- 1) Trash collection areas, recycling, and related equipment
    - a) Setbacks: Dumpsters, recycling, trash handling areas and related service equipment, shall not be permitted in any front yard and shall be in compliance with the setback requirements for accessory structures as determined by the zone district in which such structure is constructed. The dumpster and/or related equipment shall be located on a concrete pad constructed of sufficient strength for the dumpsters, recycling, equipment and vehicles that will empty the units.
    - b) Screening: Any dumpster, recycling, trash handling or similar equipment area shall be screened as required by Section 3203, Trash Collection Areas
  - 2) Donation boxes

Donation boxes are a receptacle used for the unmanned collection of donated and secondhand goods and merchandise for the purpose of redistribution by an entity.

    - a) Setbacks
      1. Donation boxes shall be in compliance with the setback requirements for accessory structures as determined by the zone district in which such structure is placed. The donation box shall be located on a concrete pad or paved area constructed of sufficient strength for the donation box, equipment and vehicles that will empty the units.
      2. Donation boxes may not be permitted in the required front yard or in front of a building or structure on a lot.
    - b) Requirements and Maintenance
      1. A permittee shall operate and maintain or cause to be operated and maintained all unattended donation boxes located in the Township as follows:
        - a. Unattended donation boxes shall be maintained in good condition and appearance with no structural damage, holes, or visible rust, and shall be free of graffiti;
        - b. Unattended donation boxes shall be locked or otherwise secured;
        - c. Unattended donation boxes shall contain the following contact information in two inch type visible from the front of each unattended donation box: the name, address, email, and phone number of both the permittee and operator;
        - d. Unattended donation boxes shall be serviced and emptied as needed. No materials or goods shall be stored or left outside of the box.
        - e. Unattended donation boxes shall be no more than 60" high, 56" wide and 49" deep.
        - f. The Township may require that the box be secured to the ground to prevent unauthorized movement.
      2. If the donation box is located under a building awning or within ten (10) feet of a wall of a building, it may be required to have an approved fire protection system.
      3. The permittee shall maintain the area surrounding the unattended donation box(es) free of any junk, debris or other material and shall be responsible to the extent provided by law for the cost to abate any violation.
      4. Notwithstanding any other provision of this code, it is unlawful for any person to place an unattended donation box:
        - a. On any property used for residential purposes.
        - b. On or in required parking or loading spaces.



**SECTION 3018 EXOTIC ANIMALS**

- A. The keeping of exotic animals or wildlife, as defined in Article 2, Definitions, as a pet is prohibited in all residential districts.

**SECTION 3019 FARM MARKET**

- A. A Farm market may be permitted as a temporary or seasonal use provided the following standards are met:
- 1) Fifty (50) percent or more of the market's gross income shall be from produce raised on farms owned or managed by the farm market operator.
  - 2) The sale of non-agricultural related items is prohibited.
  - 3) One sign, no larger than sixteen (16) square feet, may be permitted.
  - 4) Farm markets shall not block any ingress/egress or vehicular circulation in a parking lot, loading/unloading area or building entrance.
  - 5) Farm markets shall not block any fire hydrant or fire lane.
  - 6) No audio speakers shall be permitted.
  - 7) Farm markets shall be no larger than seven thousand (7,000) square feet in size, and shall meet the same yard setback, ingress/egress, and parking requirements that would apply in an LC/S-2 zoning district.
- B. Farm markets located on an agricultural property, as defined by Section 519.21 of the Ohio Revised Code, may be exempt from the provisions of Subsection A above. Farm markets not located on agricultural property are subject to the provisions in Subsection A above.

**ARTICLE 31**  
**ADDITIONAL HEIGHT, AREA, YARD AND USE REGULATIONS**

**SECTION 3101 HEIGHT LIMITATIONS AND EXCEPTIONS**

- A. Height limitations specified elsewhere in this Zoning Resolution shall not apply to:
- 1) Church spires, belfries, cupolas, domes, masts, or aerials extending not more than six (6) feet above the limiting height of the building upon which they are erected.
  - 2) Governmental public utility structures and communication facilities.
  - 3) Ground floor places of public assembly in churches, schools and other permitted public and semi-public buildings. For each three (3) feet by which the height of such a building exceeds the maximum height otherwise permitted in the district, its side and rear yard shall be increased in width and depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the zoning district.
  - 4) Bulkheads, elevators, water tanks, cooling and similar towers, monitors, and similar structures within OIS or I-1 zoning districts, as necessitated by the manufacturing processes in place, provided the linear dimensions of any such structure shall not exceed fifty (50) percent of the corresponding street lot frontage, and provided further that no such structure exceeding heights specified for permitted uses shall occupy more than twenty-five (25) percent of the area of the lot nor shall any part of its structure be closer than twenty-five (25) feet from any lot line.
  - 5) Ground-mounted personal wireless service facilities less than eighty (80) feet high, utilized solely by occupants of a non-residential zoning lot, where such facilities are associated with a legally established business use on the premises, provided that such personal wireless service facilities are limited in number to one; are located outside easement areas and only within rear yards; conform to applicable building codes and FCC and FAA regulations; are no closer to a residential property line than one-half the highest point above grade of the mast and antenna in combination; and do not have guy wires, ancillary supporting structures or other associated structures closer than six (6) feet to a property line or located within an easement area. Such structures will be treated as an accessory use of a given piece of property, but will not be counted against the limiting number of accessory structures on a given piece of property.
  - 6) Ground-mounted antennae, masts, and supportive structures, the combination of which have a height of less than fifty (50) feet, utilized for hobby or entertainment purposes solely by occupants of a residential zoning lot, provided that such personal wireless devices are limited in number to one; are located outside easement areas and only within rear yards; conform to applicable building codes and FCC and FAA regulations; are no closer to a residential property line than the total height above grade of the mast and antenna in combination; and do not have guy wires, ancillary supporting structures or other associated structures closer than six (6) feet to a property line or located within an easement area. Such structures will be treated as an accessory use of a given piece of property, but will not be counted against the limiting number of accessory structures on a given piece of property.

**SECTION 3102 YARD EXCEPTIONS AND MODIFICATIONS**

- A. Unless a higher setback is specified for a particular zoning district, all residential (“R”) zoned lots fronting on a thoroughfare designated by the official Montgomery County Thoroughfare Plan as having a planned right of way width greater than sixty (60) feet shall have a minimum front yard depth of thirty-five (35) feet.
- B. Side yard widths may be varied where the side wall of a building is not parallel with side lot lines, or the plane is broken or otherwise irregular. The average width of such varied side yard shall be not less than the otherwise required least width, provided that such side yard shall not be narrower at any

- point than one-half the otherwise required least width nor narrower than six (6) feet in any case.
- C. Rear yard requirements may be met, when there is no rear lot line parallel to the rear plane of the principal structure, by determining the average depth of the yard behind the principal structure provided that such determination does not yield a figure less than one-half the otherwise required rear yard depth nor less than fifteen (15) feet in any case.
  - D. In any zoning district where more than one building per zoning lot is permitted, to ensure the health, safety and general welfare of the residents, the yard requirements for that district shall apply to the separation of buildings.
  - E. Architectural features may project into required yards as follows:
    - 1) Cornices, canopies, eaves, and similar architectural features may project up to four (4) feet.
    - 2) Fire escapes and open stairs and ramps, including necessary landings, may project a distance of six (6) feet.
    - 3) Porches may project into a front yard a distance not to exceed eight (8) feet, and project into a rear yard a distance not to exceed twelve (12) feet, provided they are open on three (3) vertical sides, except for railings, banisters, and screening.
    - 4) Bay windows, balconies, or chimneys may project into a yard a distance not exceeding three (3) feet, provided the aggregate width of such projection shall not exceed one-third of the length of the wall upon which the projection is located.
    - 5) Patios may project into rear yards provided they are no closer than six (6) feet to any adjacent property line. If closer to a property line than eight (8) feet, patios shall be screened by an evergreen hedge or fence, maintained in good condition and at least four (4) feet in height, with opacity of at least eighty (80) percent.

### **SECTION 3103 CORNER LOTS**

- A. For corner lots, the yard area along all street frontages shall be considered to be front yard and the minimum front yard setback for that particular zoning district shall apply. For corner lots, the yard area between any part of the rear of the main building and the lot line to the rear of the main building shall be considered to be the rear yard and the minimum rear yard requirements for that particular zoning district shall apply, except that Section 3102(C) standards shall not apply to such rear yard requirements.

For corner lots, any yard area not covered by the above will be considered to be side yard and the minimum side yard requirements for that particular zoning district shall apply, except that Section 3102(B) standards shall not apply to such yard requirements. For the purpose of this definition, the rear of a main building shall be considered that part of a building where the principal rear entrance is located, or if there is not a principal rear entrance, that part of a building opposite to the front of the building where the front entrance is located.
- B. Principal structures on corner lots shall be oriented so that the front of the structure faces the abutting street offering the least frontage to said lot.
- C. The plane representing the front wall(s) of a principal structure on a corner lot shall be parallel with the abutting street right-of-way, to within fifteen degrees.
- D. On any corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2 ½) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along such street lines fifty (50) feet from the point of the intersection.

**SECTION 3104 DOUBLE FRONTAGE LOTS**

- A. Buildings on lots having frontage on two non-intersecting streets need not have a rear yard if an equivalent open space is provided on the lot in lieu of such required rear yard. Applicable front yards must be provided, however, on both streets.

**SECTION 3105 TEMPORARY BUSINESSES AND USES**

- A. A temporary business or use may be permitted within a district in which a new building for a similar occupancy would be permitted under these Zoning Regulations, only after obtaining a Certificate of Zoning Compliance and temporary structure or sale permit and otherwise complying with this Zoning Resolution. Such temporary businesses or uses shall only be those associated with an existing business on the zoning lot, and shall not include the sale or display of items on vacant lots. A temporary and revocable certificate for such use may be granted for a period of not more than fourteen (14) days, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.
- B. Temporary sales of garden supplies, plants and trees shall be permitted in RC/S-1 and LC/S-2 zoning districts, after approval by the Board of Zoning Appeals (BZA) , if:
- 1) Such sales are for seasonal, non-manufactured items, typically sold out-of-doors, and the sales period is limited to sixty (60) days.
  - 2) A Certificate of Zoning Compliance is obtained for each successive year and occurrence after BZA approval.
  - 3) The use approved by the BZA remains unchanged, and is not determined later to be noisome or potentially noisome. A change in any aspect of business activity, or a concern by the Zoning Administrator about a nuisance deriving from an approved use, shall require a re-hearing by the BZA.
  - 4) Adequate public safeguards, such as sufficient parking, setbacks, circulation patterns and the like, are determined by the BZA to exist. The procedure for BZA approval shall be the same as for a Conditional Use Permit.

**SECTION 3106 EXOTIC ANIMALS**

- A. No person in any "R" (residential) or residential Planned Development zone shall own, harbor, keep, breed, sell or import any exotic animal or reptile.
- B. No person in any non-residential zoning district shall own, harbor, keep, breed, sell or import any exotic animal or reptile with the following exceptions:
- 1) Wild animals used by research institutions and other governmental agencies having legal authority to possess such animals;
  - 2) Publicly supported zoos, circuses, or extensions thereof meeting up-to-date licensing/permitting requirements;
  - 3) Any animal which is commonly sold by a bona fide commercial pet shop.

**SECTION 3107 AIRPORT REGULATIONS**

- A. Airport regulations referenced in current Federal Aviation Regulations, including all amendments thereto, shall apply in all zoning districts.
- B. Notwithstanding any other provisions in these zoning regulations, no use may be made of land within any zoning district in such a manner as to:
  - 1) Create electrical interference with radio communications between the airport and aircraft;
  - 2) Make it difficult for operator of aircraft to distinguish between airport lights and other lights, resulting in glare to the eyes of operators of an aircraft approaching, leaving or using the airport;
  - 3) Impair visibility in the vicinity of the airport or otherwise endanger the landing, taking-off, or maneuvering of aircraft; or
  - 4) In any other manner constitute an airport hazard.
- C. Any Certificate of Zoning Compliance or variance granted under this Zoning Resolution may be so conditioned to require the owner of a structure, object, or natural growth in question to permit the installation, operation, and maintenance thereon, at no expense to the owner, of such markers and lights as may be necessary to indicate the presence of an airport hazard.

**SECTION 3108 TRUCKS, TRAILERS, AND OTHER VEHICLES**

- A. The following regulations shall apply to trucks, trailers, commercial, and other vehicles:
  - 1) The repairing, rebuilding or dismantling of a vehicle or trailer in an open yard in any zoning district except "OIS", or "I-1" is prohibited.
  - 2) The repairing, rebuilding or dismantling of a vehicle or trailer in an open yard in a "OIS" or "I-1" zoning district may be allowed if:
    - a) Not within a front yard;
    - b) Not within a required side yard;
    - c) Closely associated with a business legally operating on the zoning lot;
    - d) Such repairs are temporary, and not part of normal business activities.
  - 3) In any "R" (residential) or Planned Development zoning district, the overnight parking or storage of any commercial vehicle or commercial trailer, outside a fully enclosed structure, is prohibited.
  - 4) In "OIS" or "I-1" zoning districts, the temporary parking and storage of commercial vehicles or trailers, necessary to the use conducted on the zoning lot, may be permitted, provided that the area used is paved, is not in a required front yard, and such temporary periods do not exceed two (2) months in a twelve (12) month period.

**SECTION 3109 VEHICLES FOR SALE**

- A. Vehicles which are to be displayed for sale on a zoning lot, apart from legally operating vehicle sales businesses, must conform to all provisions of Article 32, Off-Street Parking and Loading. Such vehicles for sale must have been registered for at least ninety (90) days to a resident of the property on which the vehicle is to be displayed.

## **ARTICLE 32 LANDSCAPING**

### **SECTION 3201 REQUIRED SCREENING AND LANDSCAPING**

- A. Certain activities, as specified by this Zoning Resolution, shall be screened by fences, walls or landscaping so that such activities will not be detrimental to adjacent land uses. In addition, all new development and construction shall comply with these regulations. Landscaping includes the placement of materials such as grass, flowers, shrubs, hedges, trees or other acceptable ground cover within designated areas.
- B. Potentially noisome activities shall be screened so that the activity is not visible from a public street or property adjacent to the lot on which the activity is located. Such activities include articles or materials being stored, maintained, repaired, processed, erected, fabricated, dismantled, salvaged or otherwise not being offered for retail sale in a completed and usable condition.
- C. All required screening and landscaping shall be in accordance with this Article, specific zoning district regulations, and a landscape plan approved by the Zoning Administrator.
- D. Landscape plans submitted pursuant to this Article shall be prepared by a landscape professional, and may, where appropriate, be submitted as part of the site plan submittals required for a Certificate of Zoning Compliance.

### **SECTION 3202 GENERAL SCREENING AND LANDSCAPING STANDARDS**

- A. Required screening shall be provided in accordance with the following standards:
  - 1) All landscaping materials shall be installed and maintained according to accepted nursery industry procedures. The owner of the property shall be responsible for the continued maintenance of all landscaping materials, and shall keep them in a proper, neat and orderly appearance, free from refuse and debris at all times. All unhealthy or dead plant material shall be replaced within one (1) year, or by the next planting period, whichever comes first, by plant material similar in size and type to that which was removed. The owner or developer must show a proof of maintenance plan which indicates how the established landscaping will be maintained. It shall be required wherever any non-residential zoning district, reflecting an area designated for non-residential use by current, formally adopted development plans for Butler Township, abuts a lot or area designated for residential purposes by said formally adopted development plans for Butler Township, with such screening provided along mutual property lines.
  - 2) It shall have an opaqueness of eighty percent (80%) or more. It shall be at least six (6) feet in height and, subject to specific zoning district regulations, and shall be composed of wood, simulated wood designed and marketed for fencing, masonry or plant materials. Concrete or concrete block walls are prohibited for purposes of screening in required front yards in non-residential zoning districts.
  - 3) Fencing shall be of one color, presented in neutral tones.
  - 4) All lot areas not provided for buildings, accessory structures, vehicles, or pedestrians shall be landscaped, with at least seventy-five (75) percent of such landscaping consisting of live plant materials.
  - 5) Residential premises shall plant and maintain, within the required front yard(s), one (1) shade tree per forty (40) feet of lot frontage on a public street.
  - 6) The number of required trees shall be calculated by dividing lot frontage, in feet, by the required distance between trees (for example, 35), and rounding to the nearest whole number. Regardless of lot frontage, the minimum number of trees per zoning lot shall be two (2).

- 7) Required street trees shall be on a current “preferred plant” list maintained by Butler Township, shall be of two and one-half inch (2½”) or greater caliper, at least twelve (12) feet high above grade, and shall be planted no closer than five (5) feet from a public right of way.
  - 8) In addition to required shade trees, all buildings fronting “community gateway corridors,” such as Miller Lane, shall include within their landscaping thirty (30) shrubs, at least three (3) feet tall, per 100 linear feet of property frontage along such corridor.
  - 9) Residential properties of a density at or exceeding three (3) units per net acre, and all non-residential properties, shall screen above-ground utility service apparatus, exceeding one (1) square foot in area in a required front yard, with evergreens, at least five (5) feet tall, yielding an opacity of at least sixty (60) percent, or shall utilize other screening considered equivalent by the Zoning Inspector.
  10. A six (6) foot high wall or fence, exceeding eighty-five (85) percent opacity, shall be installed wherever a business zoning district abuts a residential zoning district.
  11. Wire fencing is prohibited in required front yards, and “slats” or inserts in such fencing are prohibited everywhere.
  12. Concrete or concrete block walls are prohibited in required front yards in non-residential zoning districts.
- B. All non-residential zoning lots shall be developed or redeveloped such that landscaping proposed, and maintained, yields trees totaling in number the equivalent of one shade tree per thirty-five (35) feet of zoning lot perimeter. This overall tree requirement may be distributed throughout the zoning lot per desires of the property owner, unless otherwise directed by these regulations.
  - C. In addition to required shade trees, all non-residential buildings fronting “community gateway corridors,” such as Miller Lane, shall include within their landscaping thirty (30) shrubs, at least three (3) feet tall, per 100 linear feet of property frontage along such corridor.
  - D. The design and development of all required screening shall be compatible with the existing and proposed land use(s) on the property and the development character of the surrounding land and structures.
  - E. Trees required by provisions of this Article shall be planted to meet the following standards: Shade trees shall have dimensions of at least a two and one-half inch (2 ½”) caliper and twelve (12) feet in height; ornamental trees shall have a caliper of at least one and one-half inches (1 ½”); and evergreen trees shall be at least six feet (6’) in height.
  - F. Traffic hazards shall be minimized where parking lot ingress/egress drives interact with public rights-of-way. On a corner lot, no fence, wall, hedge, or other obstruction shall exceed a height of two and one-half feet above the centerline grades of intersecting streets when placed within the triangular area formed by the right of way lines of intersecting streets at such corner lot and a straight line joining said right of way boundaries at points which are fifty feet distant from their intersection.
  - G. Landscaping exceeding a height of eight (8) inches shall not be utilized closer than three (3) feet from the edge of a public right-of-way pavement.
  - H. Properties with frontages along “community gateway corridors,” such as Benchwood Road, shall landscape detention/retention basins with plantings that include a minimum thirty (30) perennial plants or grasses per one hundred (100) feet of perimeter, as measured at high water level. These plants shall be massed in naturalistic groupings.
  - I. All non-residential properties shall screen above-ground utility service apparatus, exceeding one (1) square foot in area in a required front yard, with evergreens, at least five (5) feet tall, yielding an opacity of at least sixty (60) percent, or shall utilize other screening considered equivalent by the Zoning Administrator.
  - J. Concrete curbing surrounding parking, and landscaped areas contiguous to parking, shall be six (6) inches in height and “chair back” in design.

- K. Credit may be received for preserving existing trees, per the schedule below, except for the perimeter tree planting requirement, unless the location of the preserved tree is within the perimeter area. Preserved trees shall be credited at the following rate\*:

**Existing Crown**

Spread of Preserved Tree (Diameter)	Diameter** of Tree Trunk of Preserved Tree	Number of Trees Credited
90' or Greater	36" or greater	7
60-89'	30-35"	6
50-59'	26-29"	5
40-49'	20-25"	4
30-39'	13-19"	3
20-29'	8-12"	2
16-19'	4-7"	1

\*Crown spread measurement shall be rounded off to the nearest whole foot and the tree trunk diameter measurement shall be rounded off to the nearest whole inch.

\*\*Measured at a height of four and one-half (4 ½) feet above the natural grade.

- L. Preserved trees deemed eligible for credit shall be healthy and of such quality as is acceptable to the Township. In order to maintain the tree, fifty (50) percent of the ground area under and within the drip line of the tree shall be preserved from the tree trunk out to the edge of the drip line and shall be maintained in either vegetative landscape material or pervious surface cover, except when the Township determines that lesser areas and other ground cover treatment will provide sufficient nourishment for the continued growth of the preserved tree.

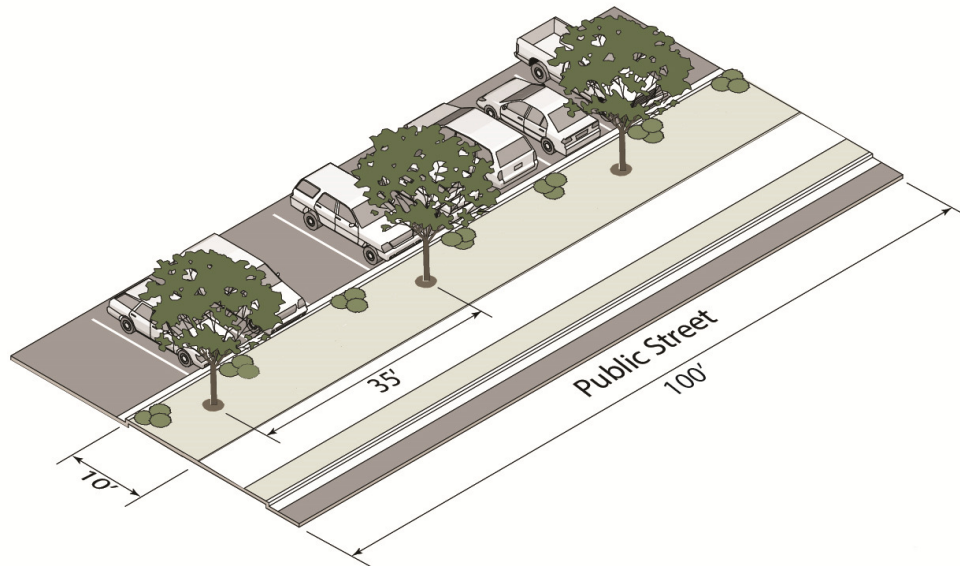
**SECTION 3203 TRASH COLLECTION AREAS**

- A. Trash and refuse shall be stored in and controlled by enclosed container systems located and or screened as to effectively prevent routine public viewing.
- B. All commercial, industrial and multi-family residential uses shall provide enclosed trash and/or garbage collection areas consisting of a solid wall or fence, six (6) feet in height and enclosed on at least three (3) sides, so as to effectively prevent routine public viewing of interior storage. Provision for adequate vehicular access to and from such areas for collection of trash and garbage is required.



### SECTION 3204 OFF-STREET PARKING AREAS

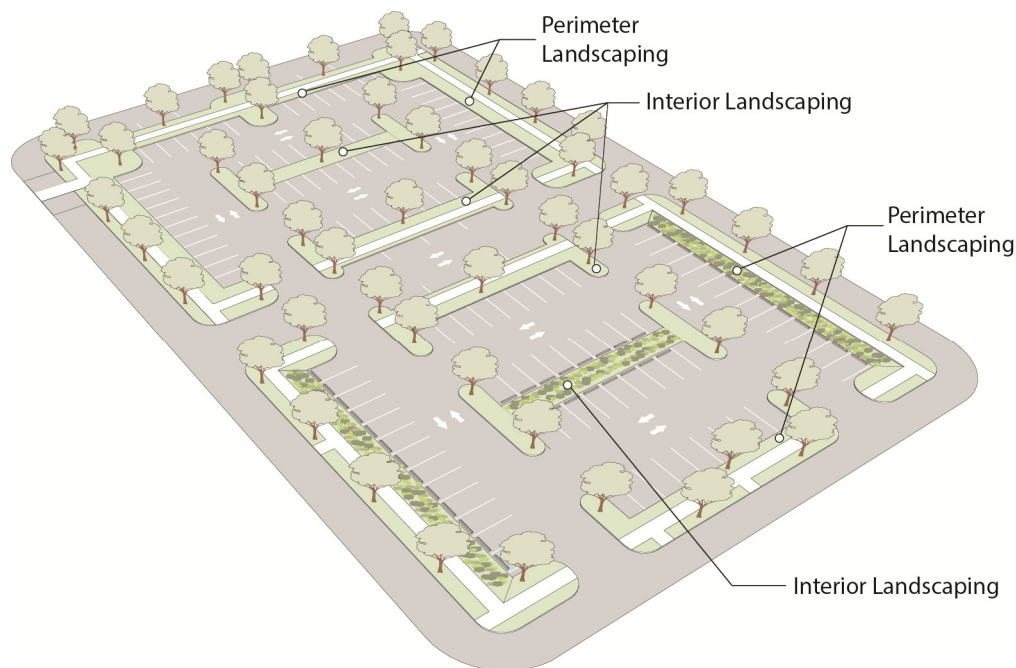
- A. **Perimeter Requirements** – The setback area for off-street parking facilities and other vehicular use areas shall be devoted to perimeter landscape. At a minimum, a ten (10) foot wide strip of land located between the front property line and the vehicular use area shall be landscaped. If this strip is utilized for parking space vehicle overhang purposes, such strip shall be seven (7) feet wide. Regardless of area devoted to parking, one (1) shade tree, conforming to the tree standard specified in Section 2202(E), shall be planted within the front setback area for each thirty-five (35) feet of lot frontage.



- B. **Small Off-street Parking Areas** – All unenclosed off-street parking areas greater in area than one thousand (1,000) square feet or two (2) parking spaces, and associated with other than single-family detached residential units, shall be screened from one and two-family residential dwellings on contiguous lots by screening. This screening shall be established by a solid, decorative, stone or brick wall, or a decorative fence of the appearance of wood. An existing, well-established and view-obscuring dense planting of evergreen shrubs can be approved by the Zoning Administrator in lieu of a solid barrier. Such walls, fences or hedges shall be six (6) feet in height, exceed eighty-five (85) percent opacity, and shall be maintained in good condition. Any remaining space between such wall, fence or hedge and single-family lot lines shall be landscaped with grass, hardy shrubs or evergreen ground cover and maintained in good condition.
- C. **Large Off-street Parking Areas** – All unenclosed vehicular use areas of four thousand (4,000) square feet or more shall be constructed, enlarged or reconstructed only after a landscape plan has been approved by the Zoning Administrator. Landscape plans submitted pursuant to this Article shall be drawn to scale, including dimensions and distances, and shall clearly delineate existing and proposed parking spaces or other vehicular use areas, access aisles, driveways, and the location, size and description of all landscape materials.

**D. Interior Off-Street Parking Requirements**

- 1) Within parking areas for ten (10) or more vehicles, four (4) percent of the paved parking area for customers shall be reserved for interior landscaping if the site is less than five (5) acres in size, and five (5) percent of the paved area for customers shall be reserved if the site is five (5) acres or larger.
- 2) Interior landscaping areas shall be at least one hundred eighty (180) square feet in area, and shall be raised or curbed.
- 3) Parking lots for more than fifty (50) automobiles shall have interior landscaping areas completely surrounded by functional paved parking.
- 4) Parking lots for fewer than fifty (50) automobiles may have interior landscaping areas surrounded on three (3) sides by functional paved parking.
- 5) Each one hundred eighty (180) square feet of required interior landscaping area shall require at least one (1) shade tree or two ornamental trees conforming to the tree standards specified in Section 3202(E).
- 6) Landscaped areas interior to parking lots shall be designed and arranged so as to divide parking corridors and limit vehicular movements outside designated aisles.
- 7) The minimum distance from a tree to the face of curbing separating vehicular use from landscaped areas shall be four (4) feet. Vehicles may overhang a landscaped area not more than two (2) feet when parked head-in to a landscaped area in a marked parking space. The overhang distance may be counted as part of the required depth of each parking space.
- 8) Grass, living vegetative matter or mulch shall be planted on all portions of interior landscape areas not otherwise occupied.
- 9) Up to twenty-five (25) percent of interior landscaping area required pursuant to Section 3204(D) may be relocated elsewhere, if approved by the Zoning Administrator, to emphasize an entrance corridor or feature.



- E. Distribution Exceptions** – In vehicular use areas where the Zoning Administrator has determined that the strict application of this section will interfere with the function of said area, a portion of required interior landscaping may be located near the perimeter of the paved area, including such perimeter areas as may be adjacent to a building.

**ARTICLE 33**  
**OFF-STREET PARKING AND LOADING**

**SECTION 3301 REQUIRED OFF-STREET PARKING AND LOADING**

At such time as any building is erected or modified, or at the time any land use is changed or extended, every land use shall be provided with off-street parking and loading to accommodate the vehicles of residents, employees, vendors, visitors, and customers.

**SECTION 3302 GENERAL REGULATIONS**

- A. **Applications.** All applications for a Certificate of Zoning Compliance shall include a site plan, drawn to scale and fully dimensioned, showing off-street parking and loading spaces, and access thereto, to be provided in compliance with these Zoning Regulations.
- B. **Maximum Lot Coverage.** The maximum lot coverage for each zoning district shall not be exceeded unless a variance is obtained from the Board of Zoning Appeals.
- C. **Storm Water Run-Off Plan.** Every permit for paving three-family or greater residential premises, or for paving a non-residentially utilized lot, shall be issued only after approval by Montgomery County of a storm water run-off plan for such paved area.
- D. **Public Right-of-Way.** No parking within a public right of way shall be considered as meeting required off-street parking standards.
- E. **Parking Space Allocation.** Space allocated to a required loading berth shall not be used to satisfy any requirement of these regulations for off-street parking spaces.
- F. **Drive Aisles.** Unless otherwise regulated by this Article, parking and loading spaces and associated drive aisles shall be provided on the same lot as the principal use they are intended to serve.
- G. **Parking Space Size.** All required parking spaces shall be at least ten (10) feet in width and twenty (20) feet in depth.
- H. **Reduction in Number of Spaces.** Off-street parking and loading spaces in existence on the effective date of this Zoning Regulations article shall not be reduced in number unless they already exceed the requirements of this Article for equivalent new construction. If so, the number of spaces shall not be reduced below the requirement herein for such equivalent new construction.
- I. **Vehicle Sales.** Off-street parking areas shall not be used for the display of vehicles for sale unless such display is in conjunction with the operation of an automobile sales facility.
- J. **Vehicle Repair.** No motor vehicle repair work or service of any kind, except emergency repairs, shall be permitted in, or in association with, any off-street parking or loading area, except that off-street parking areas for residential uses may be used for occasional auto washing or minor repairs of vehicles owned by the occupants.
- K. **Use of Spaces.** Off-street parking spaces shall be used only for the parking of operable, currently licensed, motor vehicles of patrons, occupants, or employees of the land uses associated with such parking spaces.
- L. **Truck Parking.** No trucks, truck beds, semi-tractor trailers, or other vehicles shall be stored or parked in any off-street parking area for the purpose of warehousing or distributing goods.
- M. **Commercial Vehicles.** Any van, pick-up truck, or similar business vehicle which is commercially licensed and carries commercial advertising shall be stored or parked at least twenty-five (25) feet from any public right of way.
- N. **Conducting Business.** No business shall be conducted within or from any vehicle. This prohibition shall not apply to the delivery of goods or services to various customer addresses.

**SECTION 3303 PAVING OF ZONING LOTS**

- A. Parking and drive areas, including pedestrian ways, shall be paved with Portland cement concrete or asphaltic concrete. A drive area shall be deemed to exist where a building encompasses a garage door, even though such a building may not immediately be utilized to house either a motor vehicle or recreation equipment.
- B. All open, off-street parking areas shall be improved with two (2) inches of asphalt (ODOT 448 asphaltic concrete), or other, comparable, all-weather, dustless material approved by the Zoning Administrator, atop six (6) inches of crushed aggregate base (ODOT 304 aggregate base) placed on compacted dirt subgrade.
- C. Parking spaces shall be properly marked by durable painted stripes a minimum of four (4) inches wide, extending the length of the parking space. Paving of off-street parking areas shall occur before occupancy of any new, enlarged, or modified land use.
- D. Any driveway apron between a street curb and a public right of way boundary shall be Portland cement concrete.
- E. Unless otherwise regulated, all vehicular use areas shall be separated from adjoining non-paved surfaces with continuous, Portland cement, chair-back concrete curbing at least six (6) inches tall. Exceptions to this requirement include the following:
  - 1) A lowered curb height may be allowed to accommodate service and pedestrian ramps or for storm water runoff control.
  - 2) A parking area serving only a single-family detached home on the same zoning lot.
  - 3) Parking areas associated with Planned Developments (PD) where alternative means are approved through the PD design and approval process.
  - 4) Parking areas for the exclusive use of employees and company or business vehicles, which exclude customer and visitor parking, do not require curbing except when located in a front or side yard.

**SECTION 3304 RESIDENTIAL OFF-STREET PARKING REGULATIONS**

- A. Every residentially zoned and/or residentially utilized zoning lot shall be subject to the following yard paving requirements:
  - 1) Residential properties with more than one principal structure on a zoning lot shall have their paving plan approved at the same time as overall site development approval is sought. Existing properties are limited to one (1) driveway and curb-cut leading to a garage, carport, or parking area.
  - 2) Every single-family residential zoning lot is allowed a driveway leading to either a garage or a carport. Such driveway may be twelve (12) feet in width for each garage/carport parking bay being served, but shall not exceed a driveway width of twenty-four (24) feet.
  - 3) Every single-family zoning lot is allowed, in addition to the driveway area specified above (§2304(A,2)), a separate paved area, up to ten (10) feet in width, for the storage or transport of recreational vehicles, trailers and the like. This separate paved area shall meet standards set out in Section 3006 of these Zoning Regulations.
  - 4) Commercial vehicles with motive power, licensed for operation on public thoroughfares, and not exceeding twenty-two (22) feet in overall length, nor seven (7) feet in width, nor eight (8) feet in height, may be parked on residential premises owned or rented by the owner of such a vehicle, provided the number of such vehicles on a zoning lot does not exceed one (1).
  - 5) The closest edge of a driveway to a property line shall be at least five (5) feet from rear property line and twenty (20) feet from a front property line, except where the driveway enters and/or exits the property at approximately a ninety-degree angle.

- 6) Single-family residential parking, apart from driveways, shall be confined to the lesser distance of an area either behind the front plane of the principal structure on the zoning lot, or seventy-five (75) feet away from an abutting street right of way.
- 7) Zoning lots accommodating multi-family residences are allowed to have paved either one-third of the yard area between the facing wall of the principal building on the site and the public right-of-way or an area not exceeding twelve hundred (1200) square feet, whichever is smaller.
- 8) Residential zoning lots are allowed to pave up to one-third of required rear yards, provided that such paving is kept at least six (6) feet removed from a perimeter property line.
- 9) Residential zoning lots are prohibited from paving required side yards, except for driveways meeting the standards established above.
- 10) For single-family residential uses on lots under 5 acres: driveways extensions, beyond the rear foundation of the primary residence used to access an accessory building, shall be permitted to have a dust-free, compacted stone or aggregate driveway, in lieu of pavement.
- 11) For single-family residential uses on lots 5 acres or greater: driveway extensions beyond the required minimum front yard setback, shall be permitted to have a dust-free, compacted stone or aggregate driveway, in lieu of pavement.

### SECTION 3305 NON-RESIDENTIAL OFF-STREET PARKING REGULATIONS

- A. Parking lots shall be considered accessory to a principal use on the lot served.
- B. Non-residentially zoned and non-residentially-utilized zoning lots, including those in CM, I, LC/S, OIS, PD, and RC/S zoning districts, shall be subject to the following off-street parking and paving requirements:
  - 1) **Number of Spaces:** Off-street parking quantities shall be provided as per Section 3207 below.
  - 2) **Ingress and Egress:** All non-residentially zoned and non-residentially-utilized zoning lots with street frontage less than two-hundred (200) feet are allowed one ingress/egress driveway, provided access drives on adjoining zoning lots are no closer than one hundred (100) feet. Common access drives for contiguous zoning lots shall be utilized whenever feasible.
  - 3) **Driveway Location:** The closest edge of a driveway to a property line shall be at least five (5) feet from side and rear property lines and ten (10) feet from a front property line, except that a side property line offset shall not be required where a common driveway exists along the side property lines of two contiguous zoning lots.
  - 4) **Commercial Drive Apron:** Commercial drive aprons shall incorporate at least a twenty-five (25) foot radius in transitioning between a public thoroughfare and a private parking lot.
  - 5) **Parking Space:** Parking spaces shall be delineated with a minimum width of ten (10) feet and a minimum depth of twenty (20) feet.
  - 6) **Parking Lot Aisle:** Parking lot aisles providing access to perpendicular parking shall be at least twenty-four (24) feet in width, and parking lot aisles serving angled parking shall be of a width judged adequate by reference to established and published traffic authorities.
  - 7) **Outdoor Storage of Motor Vehicles:** Outdoor storage or parking of recreational vehicles; commercial or non-commercial trailers; inoperative or unlicensed motor vehicles; or similar vehicles; unless specifically permitted by applicable zoning district regulations, shall not be permitted in a required front yard or between a public street and the front building plane of a principal structure; nor shall such items be maintained in any area where off-street parking is not permitted by applicable zoning regulations.
  - 8) **Grading, Marking, Pavement and Curbing:**
    - a) All areas designated or used either for off-street parking or for storage of items such as those given by Section 3205 (A,5) above, shall be paved in accordance with specifications found in Section 3203 above.
    - b) Parking areas and driveways shall be graded and drained so as to dispose of all surface water,

- including the use of permeable surfaces if approved by the Zoning Administrator, without injury or nuisance to adjacent properties or the public, and improved with concrete or asphalt, in accordance with the standards of the Township and County.
- c) Parking spaces shall be so arranged and marked to provide for orderly and safe parking and storage of vehicles in accordance with section, and shall be so improved with curbs to define the limits of paved areas.
- 9) **Lighting:** Parking and circulation areas, pedestrian areas and related outdoor areas shall be illuminated to provide safety and security to users of these areas, to provide security for property, and to maintain privacy for adjacent properties. Exterior lighting shall be designed, installed and maintained according to the following standards:
- a) Illumination levels. Except as provided in subsection 9)e)2. below, exterior lighting shall provide a minimum maintained horizontal footcandle (fc) illumination of 0.6 footcandles.
  - b) Residential parking. The minimum illumination levels in subsection 9)a) above shall not apply to single family or two family residential or multi-family residential parking areas with ten (10) or fewer parking spaces.
  - c) Uniformity ratio. Average illumination levels shall not exceed four times the minimum level.
  - d) Light trespass. In order to maintain privacy, exterior lighting shall be designed and maintained to provide a maximum of one horizontal footcandle illumination at side or rear property lines which are adjacent to a residential use or zoning district.
  - e) Light structure height.
    1. The maximum height of light structures in the LC/S-2 and RC/S-1 Districts shall be twenty-five (25) feet.
    2. The maximum height of light structures in all other districts shall exceed fifteen (15) feet.
    3. The Zoning Commission may approve greater heights upon proof by the applicant that the additional height complies with both of the following standards:
      - a. The additional height is necessary to efficiently illuminate outdoor areas; and
      - b. The additional height will have no adverse effect on adjacent properties.
  - f) Glare. Exterior lighting shall be designed and maintained so that glare is not cast on adjacent properties, regardless of use, or on adjacent streets. All lighting structures shall be cut-off types which include shields or other devices which eliminate all light above an angle of eighty-five degrees, as measured from the vertical axis of the light source. For the purpose of this subsection, "glare" means the brightness of a light source which causes eye discomfort.
  - g) Lighting plan submission. A lighting plan may be required by the Zoning Administrator for review by the Zoning Commission. Site plans submitted to the Zoning Commission shall include data analyses, prepared by persons competent to do so, that the proposed exterior lighting system complies with the standards in this section.

### **SECTION 3306 COMPUTATION OF REQUIRED OFF-STREET PARKING**

- A. The total requirement for off-street parking facilities for properties containing a mixture of different uses, or for parking areas shared by two or more buildings shall be the sum of the requirements for the various units separately. If the mixed occupancies of the two or more buildings are under separate ownership, there must be reciprocal easements for off-street parking satisfactory to the Zoning Administrator.
- B. In order to prevent excessive lot coverage, the artificial increase in air temperature, and surface water run-off, no minimum off-street parking space requirement in Section 3207, Required Amounts of Off-Street Parking, shall be exceeded by more than twenty (20) percent unless good cause can be shown by the applicant and approved by the Board of Zoning Appeals. Single Family Dwellings, Two Family Dwellings and Accessory Apartments are exempt from this provision.

- C. A reduction in the total number of required parking spaces for two or more non-residential uses jointly providing off-street parking may be authorized by the Zoning Administrator when the respective hours of operation of said uses do not normally overlap. Such a reduction in required off-street parking shall be subject to the following conditions:
  - 1) No more than fifty (50) percent of the parking spaces required for a building or use may be supplied by parking facilities required for any other building or use.
  - 2) Sufficient data shall be supplied to indicate that there is not substantial conflict in the principal operating hours of the uses proposing to make joint use of designated parking facilities.
- D. If in computing the number of parking spaces required by this Article, a fractional number results, any number of one-half or less may be disregarded, and any number greater than one-half shall be counted as one parking space.
- E. Unless otherwise stated, computations referring to building area shall be interpreted to mean gross building area.
- F. In stadiums, sports venues, and other places of public assembly in which benches, pews, or similar seating are utilized, each eighteen (18) inches of such seating shall be counted as one seat.

### **SECTION 3307 REQUIRED AMOUNTS OF OFF-STREET PARKING**

#### **A. Residential Uses**

- 1) Group care homes require one (1) space per every resident room plus one (1) space for each 400 square feet of gross floor area excluding resident rooms.
- 2) Retirement home, independent living and senior citizen housing require one (1) space per dwelling unit plus one (1) space per every 400 square feet of gross floor area excluding dwelling units.
- 3) Single-family, two-family, and multi-family dwellings require two (2) spaces per dwelling unit plus one space for each five (5) dwelling units for visitor parking.

#### **B. Retail Commercial, Office and Service Uses**

- 1) Adult uses require one (1) space for every three (3) seats or one space for every one-hundred square feet, whichever is greater.
- 2) Animal hospitals and kennels require three (3) spaces for each treatment area, plus one (1) space for each 200 square feet of space excluding treatment rooms.
- 3) Automobile accessories sales and installation establishments require two (2) spaces for each service bay, plus one (1) space for each three hundred (300) square feet of indoor sales area.
- 4) Automobile service stations, auto repair, and painting and body shops require the greater of either two (2) spaces for each service bay, plus one (1) space for each 50 square feet of waiting room area, or a minimum of six (6) spaces.
- 5) Automobile washing facilities a minimum of four (4) spaces, plus five (5) off-street waiting spaces for each car washing device or stall, or fifteen (15) off-street waiting spaces for an assembly line washing establishment, and two (2) parking spaces at the end of each washing bay for drying and hand finishing vehicles.
- 6) Barber shops, beauty salons and similar personal service establishments require two (2) spaces per service chair.
- 7) Bowling alleys require five (5) spaces for each alley, plus additional spaces required for a bar, restaurant or other accessory use.
- 8) Commercial schools and studios require one (1) space for each fifty (50) square feet of classroom or assembly area space.
- 9) Convenience retail, mini-markets, and carry-outs require two (2) spaces for every two-hundred (200) square feet of floor area.
- 10) Daycare centers require one (1) space per four (4) children at capacity, plus a drop-off area

- 11) Drive-through, including kiosks and stand-alone automatic teller machines, require off-street waiting space for five (5) vehicles per transaction location, plus spaces required as per this section for the use utilizing the drive-through facility.
- 12) Financial institution require one (1) space per one hundred (100) square feet of gross floor area, plus three (3) spaces per drive-through window or teller machine.
- 13) Funeral homes and mortuaries require one (1) space for every fifty (50) square feet of public floor area or one space for each four (4) seats, whichever is greater, plus one (1) space for each business vehicle.
- 14) Game rooms, including pool halls, require one (1) space for every one hundred (100) square feet of floor area.
- 15) Home furnishings and home improvement stores require one (1) space for each four hundred (400) square feet of indoor and outdoor sales and display area, plus one (1) space for each eight hundred (800) square feet of office, storage, and warehouse area.
- 16) Hotels require one (1) space for each sleeping unit, plus one (1) space for every 300 square feet of restaurants, assembly rooms, and related facility areas.
- 17) Local retail sales require two (2) spaces for every two-hundred (200) square feet of space.
- 18) Medical offices and clinics require the greater of either three (3) spaces per treatment or examination room, or five (5) spaces per practitioner.
- 19) Mixed uses require the sum of all permitted uses, reduced by twenty-five (25) percent.
- 20) Nurseries and garden supply stores require one (1) space for each two hundred (200) square feet of gross floor area of inside sales or display, plus one (1) space for each five hundred (500) square feet of exterior sales and display area.
- 21) Personal services require one (1) space for every one hundred (100) square feet of space
- 22) Professional offices require the greater of either one (1) space per three hundred (300) square feet of gross floor area or two (2) spaces per office.
- 23) Regional retail sales one (1) space for every 200 square feet of space.
- 24) Restaurants, sit-down require one (1) space per hundred (100) square feet of floor area, plus off-street waiting space for eight (8) vehicles for each drive-up window, with such waiting spaces to be located behind the point where a drive-in order is placed.
- 25) Restaurant, carry-out require one (1) space per fifty (50) square feet of floor area plus off-street waiting space for eight (8) vehicles for each drive-up window, with such waiting spaces to be located behind the point where a drive-in order is placed.
- 26) Taverns, bars and lounges require one (1) space for each three (3) seats, or one (1) space for each one hundred (100) square feet of floor area, whichever is greater.

**C. Institutional and Recreational Uses**

- 1) Assembly rooms and places of worship require one (1) space per four (4) seats of the main assembly hall or sanctuary.
- 2) College, junior colleges and universities require one (1) space for every two (2) classroom seats, plus one (1) space for every eight (8) seats in any auditorium.
- 3) Community centers, libraries, and other establishments of historical, educational and cultural interest require one (1) space per two hundred fifty (250) square feet of gross interior floor area.
- 4) Elementary and junior high schools require one (1) space per classroom plus one (1) space per every four (4) seats in any auditorium, assembly hall or sports venue.
- 5) Golf driving ranges require two (2) spaces per tee, plus one (1) space per every 200 square feet of interior gross floor area.
- 6) Government building or facility requires one (1) space for each three hundred (300) square feet of floor area
- 7) High schools require one (1) space for every five (5) classroom seats plus two (2) spaces per classroom, plus one (1) space per every four (4) seats in any auditorium, assembly hall or sports venue.



- 8) Hospital requires one (1) space for each bed.
- 9) Miniature golf courses require two (2) spaces per hole, plus one (1) space per 50 square feet of indoor facility area.
- 10) Nursing homes and extended care facilities require one (1) space per four (4) beds of design capacity.
- 11) Recreational uses, public or private, require one space for each five-hundred (500) square feet of outdoor playing area, plus six (6) spaces for each tennis, racquetball or handball court, plus four (4) spaces for each acre of unimproved recreation area, plus ten (10) spaces for each basketball court, plus twenty (20) spaces for each baseball, softball or soccer field, plus forty (40) spaces for each football field.
- 12) Swimming pool (HOA, private or public) requires two (2) spaces for every one-hundred (100) square feet of water surface area plus one (1) space for each 50 square feet of related building area.

#### D. **Light Industrial and Warehousing Uses**

- 1) Construction trades, contractor offices and industrial craft shops require one (1) space for every three hundred (300) square feet of floor area, plus one space for every motor vehicle used by the business in its normal business affairs.
- 2) Equipment rental establishments require one (1) space for every four-hundred (400) square feet of floor area, plus one (1) space for every three thousand (3,000) square feet of lot area devoted to the sale and display of vehicles and equipment.
- 3) Light Industry, require one (1) space for each one-thousand (1,000) square feet, plus one (1) visitor parking space for each five thousand (5,000) square feet of floor area, plus one (1) space for every company vehicle regularly stored on the premises.
- 4) Lumberyards and building materials sales require one space for each eight hundred (800) square feet of floor area, plus one (1) space for every three thousand (3,000) square feet of lot area devoted to the storage and display of building materials.
- 5) Mini-warehouse/self –storage warehouse require one (1) space for every five (5) rental storage units.
- 6) Research and development requires one space for every five-hundred (500) square feet of space.
- 7) Warehouses require one (1) space for every one-thousand (1,000) square feet of gross floor area, plus one (1) space for every two-hundred (200) square feet of related office space.
- 8) Wholesaling establishments require one (1) space for each 2,000 square feet of floor area.

#### **SECTION 3308 PARKING/LOADING REQUIREMENTS NOT LISTED**

- A. In the case of any building, structure, or premises for which a use is not specifically mentioned in this Article, provisions for a similar use shall apply, as approved by the Zoning Administrator.

#### **SECTION 3309 LOADING REQUIREMENTS**

- A. **Loading space required:** Every building or structure, newly erected, enlarged, structurally altered, or having a change of use, which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, shall be provided with off-street loading spaces. Loading space requirements shall not apply to buildings occupied exclusively by one to four families.
- B. **Dimension:** Each off-street loading space shall be at least twelve (12) feet in width by fifty (50) feet in length, with a vertical clearance of fifteen (15) feet and adequate area for ingress and egress.
- C. **Surfacing and drainage:** All loading areas shall be graded as necessary and improved with bituminous or Portland cement, and shall be provided with adequate drainage per plans approved by Montgomery County.

- D. **Access:** Each loading space shall be served by access to a street, service drive or alley in a manner that will not interfere with traffic or parking lot circulation.
- E. **Location:** Off-street loading areas shall be located on the same zoning lot as the specific use to be served, and shall not be located in any front yard or within twenty-five (25) feet of any street right of way, except for areas used for the occasional drop-off or pick-up of goods by vans, step-vans, or panel trucks.
- F. **Screening:** All operations, materials, and vehicles in any loading space that are visible from public streets or from residential districts shall be screened. The screening material, upon installation, shall be at least six (6) feet in height, 100 percent opaque.
- G. **Lighting:** Exterior lighting shall be designed and maintained so that glare is not cast on adjacent properties, regardless of use, or on adjacent streets. All lighting structures shall be cut-off types which include shields or other devices which eliminate all light above an angle of eighty-five degrees, as measured from the vertical axis of the light source. For the purpose of this subsection, "glare" means the brightness of a light source which causes eye discomfort.

### **SECTION 3310 LOADING SPACES REQUIRED**

- A. Off-street loading requirements shall be as follows:
  - 1) For a gross building occupancy area of less than one thousand (1,000) square feet, no loading spaces shall be required.
  - 2) For a gross building occupancy area of more than one thousand (1,000) square feet but less than ten thousand (10,000) square feet, one (1) loading space shall be required.
  - 3) For a gross building occupancy area of more than ten thousand (10,000) square feet, but less than forty thousand (40,000) square feet, two (2) loading spaces shall be required.
  - 4) For a gross building occupancy area of more than forty thousand (40,000) square feet, three (3) loading spaces shall be required, plus one (1) space for each thirty thousand (30,000) square feet in excess of forty thousand (40,000) square feet.

## **ARTICLE 34 SIGNS**

### **SECTION 3401 PURPOSE**

This article establishes uniform regulations governing the size, character and location of signs in Butler Township. Such regulations are intended to: 1) provide for the efficient communication of commercial and noncommercial speech; 2) enhance the safety and general welfare of the citizenry by restricting obstructions or impairments to the safety of pedestrians and motorists; and 3) preserve and enhance property values.

### **SECTION 3402 GENERAL REQUIREMENTS**

- A. **Compliance Responsibility and Remedies.** The owner or tenant in possession of each and every tract of real estate in the Township is responsible for the observance of all provisions of this article and any other regulation of the Township relative to signs situated on premises owned by him or her or of which he or she has possession. If any sign is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used in violation of any of the provisions of this article or any regulation promulgated pursuant to this article, the zoning administrator or other designated officer of the Township, or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies provided by law, may institute a proceeding in any proper court to enjoin, abate or remove such unlawful use of a sign as stated in this article.
- B. **Construction.** The provisions of all applicable building codes, including permitting requirements and the OBC, shall apply to signs.
- C. **Maintenance and Removal.** All signs and sign structures shall be kept in good repair so as to be structurally safe, legible, and virtually in the same condition as would be expected of a new display. Signs no longer safe or functional shall be removed immediately by the owner or tenant. Upon the vacation of a commercial establishment, the property owner shall be responsible for removal of all signs displayed in conjunction with the business and extant more than thirty (30) days after business activity has ceased.
- D. **Painted Signs.** Signs shall not be painted directly upon the surface of any building or structure, with the exceptions of (1) graphic displays approved by the Butler Township Board of Zoning Appeals, and (2) legal signs painted on the glass surface of windows.
- E. **Permit Required.** Unless specifically exempted by this Article, a proper sign permit application shall be made to, and permit issued by, Butler Township for each sign displayed. Signs for which a permit has been issued shall not be altered, reconstructed, relocated or replaced without a new sign permit application having been made to, and permit issued by, Butler Township.
- F. **Minimum Setback from Right of Way.** Specified setbacks in these regulations shall be the greater of either the distance from the existing right of way or the distance from the planned right of way specified by the latest adopted Montgomery County Thoroughfare Plan; except that if said Thoroughfare Plan specifies a planned half right of way boundary greater than seven feet from the existing right of way, the required sign setback need only be three feet from the right of way proposed by the Montgomery County Thoroughfare Plan.

**SECTION 3403 DEFINITIONS**

- A. Unless otherwise expressly provided, or unless the context clearly indicates otherwise, as used in this article the following terms shall mean:
- 1) **Flag.** “Flag” means fabric or other flexible media, usually employing color, diagrams, designs, logos, or a message, supported at one end, and allowed to move by action of the wind.
  - 2) **Graphic.** “Graphic” refers to a painted symbol, mural, artistic rendering or other representation of goods or services that are, have been, or can be provided. All graphic displays require Township Board of Zoning Appeals approval, along with issuance of a sign permit pursuant to such approval.
  - 3) **Festoons.** “Festoons” refers to one or more ribbons, pieces of tinsel, pinwheels, or similar devices to attract attention.
  - 4) **Roof plate line.** “Roof plate line” means that level on an exterior wall at which roof support members, like rafters and trusses, are attached. Parapet walls lie above the roof plate line, and the entirety of a mansard roof is considered above said roof plate line.
  - 5) **Sign.** “Sign” means a name, identification, description, display, illustration, or object which is affixed to, painted on, or represented directly or indirectly upon a building, structure or other physical object, or upon a piece of land, which directs attention to a business, object, product, place, activity, person, ideology, institution, organization, or other human endeavor.
  - 6) **Sign area.** “Sign area” means 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 other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding necessary, non-decorative 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.
  - 7) **Sign, Banner.** “Banner sign” means a sign on fabric or other flexible media, mounted against a building, and suspended from supports by the attachment of only a few parts of the medium to such supports.
  - 8) **Sign base.** “Sign base” means the part of a monument sign that is attached to the ground. Otherwise, for purposes of measurement, “sign base” means the land under a sign.
  - 9) **Sign, Billboard.** “Billboard sign” means a sign directing attention to a use, commodity or service not directly related, or not only related, to the premises on which the sign is located. Billboard signs are, and will be, considered principal structures upon a zoning lot.
  - 10) **Sign, Bulletin Board.** “Bulletin board sign” means a structure containing a surface, which may allow for changeable copy, on which is displayed the name of a religious institution, school, library, auditorium, stadium, athletic field or arena, or other similar use, for the announcement of services or activities to be held therein.
  - 11) **Sign, Business.** “Business signs” identify and/or advertise businesses on a given premises, and encompass every structural sign classification allowed within a given zoning district.
  - 12) **Sign, Cluster.** “Cluster signs” identify a grouping of retail and/or service businesses by way of highway-oriented pylon signs meeting criteria found in section 3410(l) of these Sign Regulations.
  - 13) **Sign, Construction.** “Construction sign” means a sign indicating the names of architects, engineers, contractors and similar persons involved in the design and construction of a structure or a project.
  - 14) **Sign, Directional.** “Directional sign” means a sign directing vehicular or pedestrian movement into, out of, or within premises.
  - 15) **Sign face.** “Sign face” means the surface of the sign on, against or through which the message of the sign is exhibited.

- 16) **Sign, Flashing.** “Flashing sign” means a mechanical or electronic display where the message, in whole or in part, or a pattern which is a part thereof, changes, in whole or in part, more often than once every two (2) minutes, and such change occurs over a period of more than one-half (1/2) second. Such signs include messages or displays that scroll across a sign face.
- 17) **Sign frontage.** “Sign frontage” means the length of all abutting public right of ways, except alleys and pedestrian walkways.
- 18) **Sign, Freestanding.** “Freestanding sign” means a sign suspended or supported by one or more uprights or braces mounted directly upon the surface of the land. This term is inclusive of “monument signs.”



- 19) **Sign height.** “Sign height” means the vertical distance from the uppermost point used in measuring the area of the sign to the ground immediately below such point, or to the level of the upper surface of the nearest street curb, other than a structurally elevated roadway, whichever measurement permits the greatest elevation of the sign.
- 20) **Sign, Highway-Oriented.** Highway oriented signs are: 1) taller than allowed monument signs, and are designed for reading by passersby from an interstate highway; 2) may be pole mounted (pylon); and 3) are allowed in “RC/S-1” and commercial “PD” zoning districts.
- 21) **Sign, Identification.** “Identification sign” means a sign which displays only the name, address, and/or use of the premises upon which the sign is located.
- 22) **Sign, Illuminated.** “Illuminated sign” means a sign that is lighted by an artificial light source.
- 23) **Sign, Marquee.** “Marquee sign” means a sign which is displayed upon a marquee.



- 24) **Sign, Monument.** “Monument sign” means a freestanding sign with one upright support and without visible space for the majority of the area between the square footage representing sign message area and the ground beneath. If such visible space would be less than one foot in height, it may be rendered opaque through the use of suitable landscaping.



- 25) **Sign, Moving.** “Moving sign” means a sign which either in part or total rotates, revolves or otherwise is in motion, or which appears to move.
- 26) **Sign, Nonconforming.** “Nonconforming sign” means a sign which does not conform to the requirements of this chapter, but which was erected before this chapter and any immediate predecessor to this chapter became effective.
- 27) **Sign, Plat.** “Plat sign” means a permanent display, maintained by a homeowner’s association, of the name of a subdivision or development.
- 28) **Sign, Portable.** “Portable sign” means a sign which is not permanently affixed to a structural base or building and which is movable to and from locations.



- 29) **Sign, Projecting.** “Projecting sign” means a sign suspended from or supported by a building, extending therefrom more than twelve inches and intended principally for viewing at an angle perpendicular, or nearly perpendicular, to the face of the building or structure from which it is suspended.



- 30) **Sign, Real Estate.** “Real estate sign” means a sign pertaining to the sale or lease of the tract of land on which the sign is located, or to the sale or lease of one or more structures or portions thereof located on such tract of land.
- 31) **Sign, Real Estate Development.** “Real estate development sign” means a sign which advertises a plat or other real estate development.
- 32) **Sign, Special.** “Special signs” meet the technical definition of signage without fitting a common structural category.
- 33) **Sign, Structure.** “Sign structure” means the supports, uprights, bracing or framework for a sign.
- 34) **Sign, Temporary.** “Temporary sign” means a sign, exclusive of a political message supporting a candidate or cause in an upcoming election, being displayed for a limited period of time. Examples of temporary signs are “For Sale”, “For Rent”, “Grand Opening”, “Yard Sale” and similar type signs.
- 35) **Sign, Wall.** “Wall sign” means a sign which is affixed or attached to the wall of a building or other structure and which extends not more than twelve inches therefrom. Such signs include those on the exterior surfaces of windows as well as permanent signs mounted on the inside of windows.



- 36) **Sign, Window.** “Window sign” means a sign visible from the exterior of a building or structure which is painted, attached, glued or otherwise affixed to the inside of a window, or depicted upon a card, paper or other material and placed, taped, or hung immediately behind a window for the purpose of attracting attention of passersby to sales, promotional items or other products or services not normally available. Other internally mounted signage visible from the exterior of a building or structure shall be considered wall signage.



**SECTION 3404 EXCEPTIONS TO CHAPTER**

- A. The following signs are not subject to this chapter:
- 1) Governmental signs for the control of traffic and other purposes, including street signs and warning signs;
  - 2) Signs of public service companies and other entities for the purpose of safety;
  - 3) Flags, emblems and insignia of any governmental agency, provided that:
    - a) The display area of such flags, emblems and insignia shall not exceed three in number and the greater of either forty square feet or the allowable area for a freestanding sign on the same zoning lot;
    - b) Flags, when displayed from poles, shall not have their longest dimension exceed thirty percent of the height of the pole from which they are displayed, such height to be visible by persons normally viewing such flag;
    - c) Such flags shall be displayed in accordance with the Federal Flag Code and other applicable regulations;
    - d) One flag displaying a company logo, provided said flag is in close proximity to, but no larger than two-thirds the area of, a legally sized and displayed United States flag;
  - 4) Commemorative plaques placed by recognized historical agencies;
  - 5) Signs within a stadium, open-air theater, shopping center, arena or other use which can be viewed only by persons within such use;
  - 6) Signs not visible beyond the boundaries of the lot or parcel upon which they are situated, or from any public thoroughfare or right of way;
  - 7) Signs not exceeding one square foot in area and bearing only property numbers or names of occupants of premises; and
  - 8) Gasoline station signs on freestanding canopies provided displays are limited to one per canopy face, and each display is the lesser of ten (10) square feet or fifteen (15) percent of the canopy face area in a given plane;
  - 9) Gasoline station signs limited to permanent words or logos displayed on the product-dispensing face of fuel pumps, displayed as an integral part of the cover of such pumps, and limited to products or services sold on the premises;
  - 10) Window and door-window displays in commercial ("LC/S" and "RC/S") zoning districts where such displays are no more than ten (10) percent of the area of such windows, and aggregate no more than twenty-five (25) square feet for the entire structure.

**SECTION 3405 PROHIBITED SIGNS**

- A. The following signs are prohibited in the Township:
- 1) Signs not permitted by this chapter unless legally installed or erected before the date this chapter became effective;
  - 2) Signs which are not securely affixed to the ground or some structure affixed to the ground;
  - 3) Inflatable signs;
  - 4) Festoons, moving or flashing signs, or any electronic display with a brightness greater than three-tenths (0.3) foot candles over ambient brightness.
  - 5) Signs visible from public streets which are affixed to trees, poles or other structures, except as provided in this chapter;
  - 6) Signs erected in or over a public street or way;
  - 7) Signs at or near any intersection of streets, erected in such a manner as to obstruct clear and free vision from one street to the other by the sign or its mounting structure, supports, base or any other part, when a person is seated in an automobile at or near the intersection;



- 8) Signs at any location where, by reason of message, position, shape or color, the sign might interfere with, obstruct the view of, or be confused with, any authorized traffic sign, signal or device;
- 9) Signs with light sources of such brightness as to constitute a nuisance or hazard to pedestrian or vehicular traffic, including any beamed light or light of great intensity pointing toward oncoming traffic or any other property;
- 10) Signs, handbills, posters, advertisements or notices of any kind which are fastened, placed, painted or attached in any way upon a curbstone, fence, lamppost, telephone pole, electric light or power pole, hydrant, bridge, culvert, public drinking fountain, public trash container, courtesy bench, rest station, building or tree, or in or upon any portion of any public right of way, street sign or traffic signal, except as specifically permitted in this chapter;
- 11) Displays of flags, banners, festoons, posters, placards, pennants, ensigns, light streamers and the like which are placed upon the exterior of buildings and property, except as specifically permitted in this chapter;
- 12) Banner signs, unless mounted flat and tightly within the space normally occupied by wall signs, or unless mounted with full-width supports at the top and bottom so as to prevent flapping and movement;
- 13) Signs painted directly upon the surface of any building or structure (windows excluded), except as specifically permitted in this chapter; and
- 14) Signs mounted on a roof structure;
- 15) Portable changeable copy signs.

#### **SECTION 3406 PERMITS AND FEES**

- A. **Permit Required.** Before any person erects, installs, uses, alters, relocates, replaces or reconstructs any sign regulated by this chapter, an application shall be made to Butler Township for a sign permit.
- B. **Fee Required.** Pursuant to proper application being made for an authorized sign, a fee shall be paid to Butler Township before the issuance of a sign permit.
  - 1) Permit fees for permanent signs shall be determined by the most recently adopted resolution of the Board of Township Trustees addressing such issues. This fee shall apply to new signs and to any change of advertising copy or sign message on existing signage.
  - 2) Change of sign copy because of a change in business occupancy shall be construed to be a structural change requiring another sign permit.
  - 3) For identification signs of less than two square feet, there shall be no fee. For the routine cleaning and maintenance of existing signage there shall be no permit or fee required.
  - 4) Permit fees for grand opening and special event signs shall be determined by the most recently adopted resolution of the Board of Township Trustees addressing sign fee issues.
  - 5) Signs only conditionally permitted upon favorable review by the Board of Zoning Appeals (BZA) shall be subject to an additional fee, beyond that specified above and pursuant to the most recently adopted resolution of the Board of Township Trustees addressing sign fee issues, if such BZA sign review is a separate occasion from the review of a conditional use, special exception or like application for the same zoning lot.
- C. **Signs erected without a permit** are subject to a Notice of Violation and the person erecting same shall be charged a double fee for the required permit.

**SECTION 3407 SIGNS IN “R/R,” “R,” AND RESIDENTIAL-PD ZONING DISTRICTS**

- A. The following **functional types** of signs are permitted in “R/R,” “R,” and residential-PD zoning districts:
- 1) Bulletin Boards;
  - 2) Construction signs;
  - 3) Directional signs;
  - 4) Identification signs;
  - 5) Political signs; and
  - 6) Real estate signs.

General regulations pertaining to these functional sign types are given by this section. Supplementary regulations can be found in Section 3410, below.

- B. The following **structural types** of signs are permitted in “R/R,” “R,” and “PD” zoning districts:
- 1) Freestanding signs; and
  - 2) Wall signs.
- C. **One sign per zoning lot** is permitted in “R/R,” “R,” and residential-PD zoning districts, unless a greater number is specifically allowed by other provisions of this chapter.
- D. The **minimum sign setback** from the front lot line in “R/R,” “R,” and residential-PD zoning districts shall be, unless specifically allowed by other provisions of this chapter, the greater of either ten feet or the distance in lineal feet which is equal to half the number of square feet in the sign area. No sign need be set back farther than the set-back line for principal structures.
- E. **Illumination of signs** in “R/R,” “R,” and residential-PD zoning districts shall be limited only to bulletin board, plat, directional, and identification signs. In addition, model home identification signs may be illuminated if:
- 1) Sales or rental activities referred to will occur within 72 hours thereafter;
  - 2) There is no illumination between the hours of 11:00 p.m. and 8:00 a.m. of the following day.
- F. **Temporary signs** up to four square feet in area may be displayed in “R/R,” “R,” and residential-PD zoning districts for not more than 14 days in a 90 day period.
- G. **Height of signs** shall not exceed either the height of the roof plate-line of the building wall to which such sign is attached, or if signs are freestanding, a height of 10 feet.
- H. **Maximum size** for permitted signs in “R/R,” “R,” and residential-PD zoning districts shall be, unless specifically allowed by other provisions of this chapter:
- 1) Identification signs, two square feet;
  - 2) Directional signs, one square foot;
  - 3) Bulletin boards, twenty-seven square feet;
  - 4) All other signs, six square feet, except that when the frontage of the lot exceeds fifty feet, the area of the sign may be increased by one square foot for each additional 20 feet of lineal frontage to a maximum sign area of sixteen square feet.
- I. **Signs for nonconforming uses** in “R/R,” “R,” and residential-PD zoning districts are limited to one display, and unless otherwise specified, to the lesser display area of either one (1) square foot for each five hundred (500) square feet of lot area, or to the area for signage specified for the same use in the most restrictive zoning district, provided that such sign not exceed thirty-two (32) square feet in area.

**SECTION 3408 SIGNS IN “LC/S,” “RC/S,” AND COMMERCIAL-PD ZONING DISTRICTS**

- A. The following **functional types of signs are permitted** in “LC/S,” “RC/S” and commercial-PD zoning districts:
- 1) Bulletin boards;
  - 2) Business signs;
  - 3) Cluster signs, oriented to Interstate 75, are allowed only in “RC/S” and commercial “PD” zoning districts;
  - 4) Construction signs;
  - 5) Directional signs;
  - 6) Identification signs;
  - 7) Political signs;
  - 8) Real estate signs.

General regulations pertaining to some of these functional sign types are given by this section. Supplementary regulations can be found in Section 3410.

- B. The following **structural types of signs are permitted** in “LC/S,” “RC/S” and commercial-PD zoning districts:
- 1) Awning and canopy signs;
  - 2) Freestanding signs intended for placement one year or less;
  - 3) I-75 highway-oriented pylon signs (“RC/S” and commercial “PD” zoning districts only);
  - 4) Marquee signs;
  - 5) Permanent monument signs;
  - 6) Projecting signs;
  - 7) Wall signs.
- C. **Two signs per establishment** are permitted in “LC/S,” “RC/S” and commercial-PD zoning districts, except that a sign oriented toward an interstate highway and meeting the criteria established in subsection (H) hereof shall be allowed in addition to the two other signs. Only one projecting sign per zoning lot is allowed. In addition to one freeway-oriented freestanding sign meeting the location criteria established by subsection (H) hereof, only one (1) freestanding monument sign is allowed per zoning lot.
- D. **Allowance.** The allowance of two signs per business shall pertain to ground-level office, retail and service commercial establishments of which at least seventy-five percent (75%) in a given building have street frontage and their own entrance. In the case of multilevel office buildings, or multiple businesses in a building where less than 75 percent have street-level frontage or individual entrances, signage shall be limited to two displays per zoning lot, and shall be controlled by the same standards as would be applied to a single-tenant building.
- E. **Minimum sign setbacks** shall be as follows in “LC/S,” “RC/S,” and commercial-PD zoning districts:
- 1) No part of a freestanding sign shall be within (10) ten feet of a street right of way or within twenty (20) feet of the intersection of corner right-of-way lines.
  - 2) No projecting sign within ten (10) feet of an existing or proposed street right of way shall be larger than twenty-five (25) square feet.
  - 3) Marquee, awning and canopy signs shall be an integral part of the structure to which they are attached.
- F. **Illumination** of signs is permitted in “LC/S,” “RC/S” and commercial-PD zoning districts, provided that illuminated signs facing “R/R,” “R,” or residential-PD zoning districts shall have neither exposed neon tubing nor an exposed visible light source, unless such signs are more than one hundred (100) feet distant from such non-commercial zoning districts.

- G. **Grand opening sign** provisions are provided in Section 3410, Supplementary Regulations, of this Article.
- H. **Heights of signs** which are freestanding in “LC/S,” “RC/S” and commercial-PD zoning districts shall not exceed eight (8) feet, except that **signs oriented toward an interstate highway** within six hundred fifty (650) feet, shall have the following standards apply:
- 1) Such sign shall be separated from other freestanding signs on the same zoning lot by at least seventy-five (75) feet, and shall be separated from other highway-oriented signs on adjoining lots by at least one hundred (150) feet.
  - 2) No part of such sign shall be closer than fifty (50) feet from the intersecting right of ways of two non-interstate public roads, nor closer than ten (10) feet to a right of way other than an interstate highway.
  - 3) No part of such sign shall be closer than ten (10) feet from another zoning lot.
  - 4) The difference in elevation between the bottom of a highway-oriented sign and the top of another freestanding sign on the same zoning lot shall be at least twenty (20) feet.
  - 5) For signs not meeting the definition of “cluster sign,” area per face shall not be larger than the greater of either fifty (50) square feet or three (3) square feet per foot of height above average grade elevation of the zoning lot, provided no such sign shall exceed three hundred (300) square feet in area, and provided further that there is a minimum of one hundred fifty (150) square feet of lot area for each one (1) square foot of sign area.
  - 6) For “cluster signs,” total area per sign plane shall not be larger than the greater of either fifty (50) square feet or four (4) square feet per foot of height above average grade on the zoning lot, provided such sign shall not exceed three hundred sixty (360) square feet in area, and provided no individual business identified has a message area exceeding two hundred (200) square feet per sign face.
  - 7) Such sign shall not be larger per face than:
    - a) The greater of either fifty (50) square feet or three (3) square feet per foot of height above average grade on the zoning lot; and
    - b) One (1) square foot for each one hundred fifty (150) square feet of lot area.
  - 8) Maximum height (top of sign) shall be eighty (80) feet above the average grade of the zoning lot if within one hundred (100) feet of the right of way limits for an interstate highway, and one hundred (100) feet above the average grade of the zoning lot if farther than one hundred (100) feet from the right of way limits for an interstate highway.
- I. **Maximum sizes for permitted signs** in “LC/S,” “RC/S” and commercial-PD zoning districts shall be, unless specifically allowed by other provisions of this chapter, as follows:
- 1) **Bulletin boards** shall not exceed twenty-one (21) square feet in size;
  - 2) **Monument signs** for business or identification purposes may be the larger of: a) twenty-five (25) square feet; b) one (1) square foot per foot of building frontage on a public street, with an upper size limit of seventy (70) square feet; or c) one (1) square foot per four (4) feet of lot frontage on a public street, with an upper size limit of seventy (70) square feet;
  - 3) **Pylon signs** oriented toward Interstate 75 have area size standards enumerated by Section 3408(H) above;
  - 4) **Awning, canopy and marquee signs** shall not exceed in size the area of the awning, canopy or marquee to which they are attached, and shall meet the same size restrictions as for projecting signs;
  - 5) **Directional signs**, four (4) square feet;

- 6) **Wall signs** for business, construction, identification or real estate sales purposes:
  - a) Two (2) square feet for each lineal foot of building frontage, to a maximum sign area the lesser of either one hundred fifty (150) square feet or fifteen (15) percent of the wall plane area to which such sign is mounted. Wall plane area shall be calculated on wall area between grade and the roof plate line. No wall sign may be mounted above the roof plate line.
  - b) The wall sign area limitations given by paragraph (l)(6a.) hereof may be increased by one (1) square foot for each six (6) linear feet the sign is set back from the minimum zoning set-back line.
  - c) Commercial uses of a retail or service nature, having no building frontage, not sub-lessees of a larger business entity on the premises, independent in ownership and management from other businesses on the premises displaying signage, and which are located in a structure of which at least seventy-five percent (75%) of the other businesses therein have street frontage exposure at the first story level, shall be permitted twelve (12) square feet of wall sign area for each five hundred (500) square feet of floor area, to a maximum permitted sign area of one hundred fifty (150) square feet.
  - d) No wall sign may be mounted in such a way that any part extends vertically above the surface of the wall to which it is attached.
- 7) **Projecting signs**, not exceeding the following limits:
  - a) Subject to other applicable restrictions pertaining to projecting signs, the basic size standard for such signs shall be one (1) square foot of sign area per lineal foot of building associated with a given business fronting a thoroughfare, to a maximum sign area of fifty (50) square feet.
  - b) A business fronting a public thoroughfare shall be allowed a minimum projecting sign area of ten (10) square feet.
  - c) No projecting sign within ten (10) feet of a public right of way shall exceed twenty-five (25) square feet in area.
  - d) Projecting signs shall provide at least fifteen (15) feet of clearance beneath when over an area used by motor vehicles, and ten (10) feet of clearance beneath in all other cases.
  - e) Projecting signs shall be subject to the same height limitations as wall signs.

#### **SECTION 3409 SIGNS IN “OIS” AND “I-1” ZONING DISTRICTS**

- A. The following **functional types of sign are permitted** in “OIS” and “I-1” zoning districts:
  - 1) Bulletin boards;
  - 2) Business signs;
  - 3) Construction signs;
  - 4) Identification signs;
  - 5) Directional signs;
  - 6) Political signs;
  - 7) Real estate signs; and
  - 8) Temporary signs.

General regulations pertaining to some of these functional sign types are given by this section. Supplementary regulations can be found in Section 3410.
- B. The following **structural types of signs are permitted** in “OIS” and “I-1” zoning districts:
  - 1) Permanent monument signs;
  - 2) Freestanding signs intended for placement one year or less;
  - 3) Projecting signs;
  - 4) Wall signs.
- C. **Two signs per establishment** are permitted in “OIS” and “I-1” zoning districts. Only one projecting sign per zoning lot is allowed.

- D. The allowance of two (2) signs per business shall pertain to ground level office, retail and service commercial establishments of which at least seventy-five (75) percent in a given building have street exposure and their own entrance. In the cases of multilevel office buildings, or multiple, independent businesses in a building where less than seventy-five percent (75%) have street level exposure and individual entrances, signage shall be limited to two (2) per zoning lot and shall be controlled by standards applied to the entire building
- E. **Minimum sign setbacks** shall be as follows in “OIS” and “I-1” zoning districts:
- 1) No part of either a monument or a freestanding sign shall be within ten (10) feet of a street right of way or within twenty (20) feet of the intersection of corner right-of-way lines;
  - 2) No projecting sign within ten (10) feet of a street right of way shall be larger than twenty-five (25) square feet.
- F. **Illumination of signs** is permitted in “OIS” and “I-1” zoning districts, provided that illuminated signs facing “R/R,” “R,” or residential-PD zoning districts shall not have exposed neon tubing nor an exposed visible light source, unless such signs are more than one hundred (100) feet distant from such non-commercial zoning districts.
- G. The **height of signs** which are freestanding in “OIS” and “I-1” zoning districts shall not exceed eight (8) feet.
- H. The **maximum sizes for permitted signs** in “OIS” and “I-1” zoning districts shall be as follows, unless specifically allowed by other provisions of this chapter:
- 1) **Bulletin boards** shall not exceed twenty-one (21) square feet in size;
  - 2) **Freestanding and monument signs** for business, construction, identification or real estate sales purposes, one (1) square foot for each four (4) lineal feet of lot frontage, up to a maximum of seventy (70) square feet;
  - 3) **Directional signs** shall not exceed two (2) square feet in size;
  - 4) **Wall signs** for business, construction, identification or real estate purposes, shall not exceed a limit of one (1) square foot of sign area for each lineal foot of building frontage, to a maximum sign area of two hundred (200) square feet, plus one (1) square foot for each six (6) lineal feet the sign is set back beyond the minimum building setback line.
  - 5) **Projecting signs**, not exceeding the following limits:
    - a) Subject to other applicable restrictions pertaining to projecting signs, the basic size standard for such signs shall be one (1) square foot of sign per lineal foot of building area, to a maximum sign area of fifty (50) square feet.
    - b) Signs projecting into a public right-of-way shall be limited to six (6) square feet in area and shall not project into the right-of-way more than one (1) foot.
    - c) A business fronting a thoroughfare and having a projecting sign which does not encroach into the right of way shall be allowed a minimum projecting sign area of ten (10) square feet.
    - d) No projecting sign within ten (10) feet of a public right of way shall exceed twenty-five (25) square feet in area.
    - e) Projecting signs shall provide at least fifteen (15) feet of clearance beneath when over an area used by motor vehicles and ten (10) feet of clearance beneath when over an area used by pedestrians. In all other cases, there shall be at least four (4) feet of clearance beneath projecting signs.
    - f) Projecting signs may not project horizontally more than three (3) feet from a building.
    - g) The height of wall and projecting signs shall be limited to the same height as the wall surface to which they are attached.

**SECTION 3410 SUPPLEMENTARY REGULATIONS**

- A. **Political signs** are allowed in all zoning districts, in addition to other permitted signs, provided that such signs meet the following conditions:
- 1) Political signs in any "R/R," "R," or residential-PD zoning district shall not exceed six (6) square feet in area per candidate or cause, per street frontage, per zoning lot.
  - 2) Political signs in all other zoning districts shall not exceed twelve (12) square feet per candidate or cause, per zoning lot.
  - 3) Political signs may be displayed only during a period thirty (30) days before and five (5) days after an election to which they pertain.
  - 4) Any person responsible for distributing political signs for display in the Township shall secure one (1) permit for all such signs representing one (1) candidate or issue.
- B. **Gasoline service station signs** may include the following and are subject to the following restrictions:
- 1) The following functional types of signs are permitted on zoning lots with gasoline service stations:
    - a) Identification signs;
    - b) Temporary signs;
    - c) Directional signs;
    - d) Business signs;
    - e) Real estate signs;
    - f) Political signs; and
    - g) Full service and self-service signs.
  - 2) The following structural types of signs are permitted on zoning lots with gasoline service stations:
    - a) Permanent monument signs;
    - b) Projecting signs; and
    - c) Wall signs.
  - 3) The following numbers of signs are permitted on any one zoning lot with a gasoline service station:
    - a) Two (2) wall signs, plus, if applicable, one (1) directional sign not more than six (6) square feet in area per service bay doorway indicating services to be performed in such service bay;
    - b) One (1) monument sign per establishment;
    - c) Two (2) projecting signs per establishment;
    - d) One (1) directional sign per driveway entrance, provided that at least ninety (90) percent of the area of each sign is free of advertising material; and
    - e) Full-service and self-service signs.
  - 4) The following **maximum sizes of signs** are established for zoning lots with gasoline service stations:
    - a) Wall signs may aggregate two (2) square feet for each lineal foot of building frontage, to a maximum sign area the lesser of either one hundred fifty (150) square feet or fifteen percent (15%) of the wall plane area to which such sign is mounted. Wall plane area shall be calculated on wall area between grade and the roof plate line. No wall sign may be mounted above the roof plate line.
    - b) Monument signs may be sixteen (16) square feet in area plus the larger of either one (1) square foot per foot of building frontage, or one (1) square foot per four (4) lineal feet of lot frontage on a public street, with an upper size limit of eighty-six (86) square feet. Such freestanding signs may include commodity prices.
    - c) Two projecting signs per establishment, plus canopy support pole projecting signs, if limited to one (1) such sign, not exceeding five (5) square feet in area, per support pole, and if indicating only full or self-service and/or operating instructions.

- 5) The following **setbacks** shall be observed for gasoline service station signs:
  - a) No part of a freestanding sign shall be within ten (10) feet of a street right of way or within twenty (20) feet of the intersection of corner right-of-way lines; with the exception of directional signs, which shall be allowed within four (4) feet of a street right of way if such directional signs do not exceed two and one-half (2.5) feet in height.
  - b) No sign shall be located less than ten (10) feet from any side property line.
- C. **Multi-family project identification signs** shall be allowed in all zoning districts, provided:
  - 1) There is only one (1) such sign and it is located at the principal entrance to the site;
  - 2) The height of the sign does not exceed six (6) feet;
  - 3) The sign area shall be limited to the lesser of either twenty (20) square feet or one (1) square foot per dwelling unit;
  - 4) If such sign is freestanding and independent of a wall edifice, it shall be set back from the public right of way by at least ten (10) feet;
  - 5) Such signs are either unlighted or indirectly lighted;
  - 6) Such sign may be established flat against a masonry wall, extending no more than six (6) inches therefrom, provided that the square footage of the face of said wall is at least six (6) times as great as the sign area displayed in the same plane, provided that said wall does not exceed six (6) feet in height and is located no closer than one (1) foot from a public right of way.
- D. **Real estate and construction signs** shall be allowed without permit, unless otherwise specified below, subject to the following restrictions:
  - 1) Real estate signs up to thirty-two (32) square feet in area and six (6) feet in overall height are allowed for sales of multifamily and nonresidential properties on zoning lots larger than one (1) acre.
  - 2) All other real estate signs in residential zones are limited to six (6) square feet in area and four (4) feet in overall height. All other real estate signs in nonresidential zones are limited to twenty-four (24) square feet in area and five (5) feet in overall height.
  - 3) Only one (1) real estate sign per zoning lot is allowed in the case of residential properties of three or fewer dwelling units. In the case of multifamily dwellings and nonresidential properties, one (1) real estate sign per street frontage is allowed if either a corner zoning lot or more than one street frontage is involved.
  - 4) Leasing signs for residential properties are prohibited, except as temporary displays for fourteen (14) days every ninety (90) days, with a permit issued therefore.
  - 5) On-site signs promoting the development and sale of lots, parcels or tracts having been approved for subdivision shall be permitted, provided:
    - a) Such signs are permitted only for development of eight (8) or more vacant tracts.
      - a. Only one (1) real estate sign is allowed per street frontage abutting the approved subdivision.
      - b. Such signs are not illuminated and do not exceed thirty-two (32) square feet in area.
  - 6) One construction sign, not exceeding sixteen (16) square feet in area, is allowed on each zoning lot where construction is taking place.
  - 7) Each model home shall be limited to two (2) model home identification signs with an aggregate total area of twenty (20) square feet, and such signs shall not be displayed concurrently with a construction sign.
- E. **Grand opening wall signs** are temporarily excluded from size limitations of this chapter and shall be allowed for all newly opened retail and service businesses, provided that:
  - 1) Such signs are displayed for not more than thirty (30) consecutive days.
  - 2) Such signs relate to a new retail or service entity at a given location and not to a name change or reorganization of a business.
  - 3) Such signs are confined to zoning lots wherein are located the newly established retail and service businesses.
  - 4) Such signs do not involve safety or distraction hazards.



- 5) Such signs do not involve banners, flags or festoons.
  - 6) A permit for such signs shall be issued by the Township after payment of a fee and the posting of a deposit as provided in Section 3406.
- F. **Charitable signs** and signs relating to matters of a religious, patriotic or civic nature, not elsewhere regulated by this chapter, are permitted in all zoning districts, provided that such signs meet the following conditions:
- 1) Only one such sign shall be displayed per zoning lot and not more than four (4) signs are displayed throughout the Township;
  - 2) The permission of the property owner shall be obtained before establishing a sign display;
  - 3) Such signs shall be displayed not more than two (2) weeks before nor more than five (5) days after the event being announced;
  - 4) The overall height of freestanding signs shall not exceed six (6) feet, and the location of freestanding and projecting signs shall be at least ten (10) feet from all right of way and property boundaries;
  - 5) The square footage per sign per zoning lot does not exceed sixteen (16) feet;
  - 6) A permit is obtained for such signs.
- G. A **shopping center** on a zoning lot of at least two (2) acres, occupied by a group of five (5) or more establishments forming a central retail and service market, may display one monument sign advertising only the name, ownership and location of the center and the name and type of business of each occupant within the center. The monument sign of a shopping center may have an area of one (1) square foot of sign area for each two (2) lineal feet of zoning lot frontage, with a maximum of one hundred (100) square feet. The sign shall be located not less than ten (10) feet from any right of way and shall be not more than fifteen (15) feet in height.
- H. **Single-family plat identification signs** shall be allowed in "R/R," "R," and residential-PD zoning districts, provided that:
- 1) The plat being identified contains at least ten (10) zoning lots;
  - 2) There is only one (1) sign or one sign per major entry into the plat from other than a designated local street;
  - 3) Such signage is located flat against a masonry wall, projecting no more than six (6) inches therefrom;
  - 4) The wall to which said sign is mounted is not more than six (6) feet in height, not closer than one (1) foot from a public right of way, and at least nine (9) times as large as the sign area alone;
  - 5) Such signs are limited in size to thirty-two (32) square feet in area and are either unlighted or indirectly lighted.
- I. **Cluster signs** are conditionally allowed in "RC/S" and commercial "PD" Zoning Districts provided:
- 1) An applicant submits a proper conditional use application, and the Board of Zoning Appeals (BZA) adheres to relevant provisions of Article 4, sections 403 and 404, of the Butler Township Zoning Resolution in approving a conditional use application which has addressed regulations in this section;
  - 2) Only retail and service businesses within an eligible identified area are to be identified by such signage;
  - 3) No more than one (1) business per zoning lot is identified, and there is no more than one (1) cluster sign per zoning lot;
  - 4) Eligibility for a cluster sign is limited to an area with a minimum of five (5) acres and at least two (2) zoning lots;
  - 5) A specific land area to be occupied by businesses identified by a cluster sign is designated as part of an application for conditional cluster sign approval;
  - 6) Some portion of the five (5) acre minimum area must lie within six hundred fifty (650) feet of Interstate 75, and the cluster sign must be located within this 650 feet;

- 7) All the owners of zoning lots within a designated area must agree that any other highway-oriented sign will be foregone in exchange for representation as part of a cluster sign.
- J. **Special signs and graphics** shall be allowed in non-residential zoning districts, provided approval is granted by the Board of Zoning Appeals, and provided further:
- 1) There is only one such display per zoning lot;
  - 2) No special sign exceeds fifteen (15) feet in height;
  - 3) The two-dimensional viewing area encompassing such a display does not exceed, in square footage, the size allowed for the largest sign otherwise permitted for a zoning lot in the particular zoning district.
- K. **Billboard signs** shall be considered principal structures on a zoning lot and shall be subject to the following standards:
- 1) Such signs may total only one (1) per zoning lot;
  - 2) Such signs may exist in only one plane;
  - 3) Sign area, in square feet, shall be proportional to distance to the nearest property line, such that allowable maximum area shall be determined by multiplying the first fifteen (15) feet of distance, or portion thereof, by five (5); the next ten (10) feet, or portion thereof, by four (4); and the remainder distance by three (3).
- L. **Electronic Message Signs**
- 1) Up to 35 percent of a permitted monument sign may incorporate a manual changeable copy sign. Up to 30 percent of a permitted pole sign may incorporate a manual changeable copy sign.
  - 2) In the LC/S-2 and RC/S-1 districts, the changeable copy sign can be an electronic message center such that:
    - a) Any message change shall be a static, instant message change.
    - b) Messages can only change once every 8 seconds or more.
    - c) The transition time between messages shall be less than one second.
    - d) The electronic message center shall come equipped with an automatic dimming photocell, which automatically adjusts the display's brightness based on ambient light conditions.
    - e) The brightness level shall not increase by more than 0.3 foot candles (or 3.23 lumens per square meter or lux), over ambient levels, as measured using a foot candle meter at a pre-set distance.
    - f) The procedure and distances for measurement of brightness shall be as established by the International Sign Association's Recommend Night-time Brightness Levels for On-Premise Electronic Message Centers.
    - g) The owners of such signs shall include a signed letter accompanying their Certificate of Zoning Compliance application, certifying that they will comply with the prescribed brightness limitations set by this code.
    - h) Only Light Emitting Diodes (LED) technology or similar quality signs shall be permitted for electronic message centers.

- 3) Electronic message centers incorporated into a monument sign may be permitted in all business districts for business establishments that sell gasoline or other vehicle fuels provided the sign complies with the follow:
  - a) The permitted monument sign associated with gasoline sales may incorporate an electronic message center that shall not exceed ten square feet of the permitted sign area and shall not be cumulative with the permitted electronic message allowance in the permitted Districts.
  - b) Any message change shall be a static, instant message change with no scrolling or other motion allowed.
  - c) Messages can only change once every one hour.
- 4) If any part of an electronic message sign is damaged or is not in proper working order, the entire sign shall be turned off until such time that the sign is in complete working order.

#### **SECTION 3411 NONCONFORMING SIGNS**

- A. No nonconforming sign may be altered, relocated or replaced unless, after such operation, it complies with this chapter. If a nonconforming sign is damaged so that its existing value after such damage is less than one-half of its value if replaced, then it shall be removed.

#### **SECTION 3412 APPEALS AND VARIANCES**

- E. Appeals and variances to the sign regulations shall be as established in Section 304, Butler Township Board of Zoning Appeals.

#### **SECTION 3413 PENALTY; EQUITABLE REMEDIES**

- A. Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a minor misdemeanor as per the Ohio Revised Code. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

**APPENDIX A**  
**Ohio Revised Code Section 519.12**

(A)(1) Amendments to the zoning resolution may be initiated by motion of the township zoning commission, by the passage of a resolution by the board of township trustees, or by the filing of an application by one or more of the owners or lessees of property within the area proposed to be changed or affected by the proposed amendment with the township zoning commission. The board of township trustees may require that the owner or lessee of property filing an application to amend the zoning resolution pay a fee to defray the cost of advertising, mailing, filing with the county recorder, and other expenses. If the board of township trustees requires such a fee, it shall be required generally, for each application. The board of township trustees, upon the passage of such a resolution, shall certify it to the township zoning commission.

(2) Upon the adoption of a motion by the township zoning commission, the certification of a resolution by the board of township trustees to the commission, or the filing of an application by property owners or lessees as described in division (A)(1) of this section with the commission, the commission shall set a date for a public hearing, which date shall not be less than twenty nor more than forty days from the date of the certification of such a resolution, the date of adoption of such a motion, or the date of the filing of such an application. Notice of the hearing shall be given by the commission by one publication in one or more newspapers of general circulation in the township at least ten days before the date of the hearing.

(B) If the proposed amendment intends to rezone or redistrict ten or fewer parcels of land, as listed on the county auditor's current tax list, written notice of the hearing shall be mailed by the township zoning commission, by first class mail, at least ten days before the date of the public hearing to all owners of property within and contiguous to and directly across the street from the area proposed to be rezoned or redistricted to the addresses of those owners appearing on the county auditor's current tax list. The failure of delivery of that notice shall not invalidate any such amendment.

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

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

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

- (1) The name of the township zoning commission that will be conducting the hearing on the proposed amendment;
- (2) A statement indicating that the motion, application, or resolution is an amendment to the zoning resolution;
- (3) The time and place where the text and maps of the proposed amendment will be available for examination for a period of at least ten days prior to the hearing;

- (4) The name of the person responsible for giving notice of the hearing by publication;
- (5) A statement that, after the conclusion of the hearing, the matter will be submitted to the board of township trustees for its action;
- (6) Any other information requested by the commission.

(E) Within five days after the adoption of the motion described in division (A) of this section, the certification of the resolution described in division (A) of this section, or the filing of the application described in division (A) of this section, the township zoning commission shall transmit a copy of it together with text and map pertaining to it to the county or regional planning commission, if there is such a commission.

The county or regional planning commission shall recommend the approval or denial of the proposed amendment or the approval of some modification of it and shall submit its recommendation to the township zoning commission. The recommendation shall be considered at the public hearing held by the township zoning commission on the proposed amendment.

The township zoning commission, within thirty days after the hearing, shall recommend the approval or denial of the proposed amendment, or the approval of some modification of it, and submit that recommendation together with the motion, application, or resolution involved, the text and map pertaining to the proposed amendment, and the recommendation of the county or regional planning commission on it to the board of township trustees.

The board of township trustees, upon receipt of that recommendation, shall set a time for a public hearing on the proposed amendment, which date shall not be more than thirty days from the date of the receipt of that recommendation. Notice of the hearing shall be given by the board by one publication in one or more newspapers of general circulation in the township, at least ten days before the date of the hearing.

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

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

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

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

(H) Within twenty days after its public hearing, the board of township trustees shall either adopt or deny the recommendations of the township zoning commission or adopt some modification of them. If the

board denies or modifies the commission’s recommendations, a majority vote of the board shall be required.

The proposed amendment, if adopted by the board, shall become effective in thirty days after the date of its adoption, unless, within thirty days after the adoption, 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 of that unincorporated area included in the zoning plan equal to not less than eight per cent of the total vote cast for all candidates for governor in that area at the most recent general election at which a governor was elected, requesting the board of township trustees to submit the amendment to the electors of that area for approval or rejection at a special election to be held on the day of the next primary or general election that occurs at least ninety days after the petition is filed. Each part of this petition shall contain the number and the full and correct title, if any, of the zoning amendment resolution, motion, or application, furnishing the name by which the amendment is known and a brief summary of its contents. In addition to meeting the requirements of this section, each petition shall be governed by the rules specified in section [3501.38](#) of the Revised Code.

The form of a petition calling for a zoning referendum and the statement of the circulator shall be substantially as follows:

“PETITION FOR ZONING REFERENDUM

(if the proposal is identified by a particular name or number, or both, these should be inserted here)

.....

A proposal to amend the zoning map of the unincorporated area of ..... Township, ..... County, Ohio, adopted .....(date)..... (followed by brief summary of the proposal).

To the Board of Township Trustees of ..... Township, ..... County, Ohio:

We, the undersigned, being electors residing in the unincorporated area of ..... Township, included within the ..... Township Zoning Plan, equal to not less than eight per cent of the total vote cast for all candidates for governor in the area at the preceding general election at which a governor was elected, request the Board of Township Trustees to submit this amendment of the zoning resolution to the electors of ..... Township residing within the unincorporated area of the township included in the ..... Township Zoning Resolution, for approval or rejection at a special election to be held on the day of the primary or general election to be held on .....(date)....., pursuant to section 519.12 of the Revised Code.

Street Address Date of Signature or R.F.D. Township Precinct County Signing

.....

STATEMENT OF CIRCULATOR

I, .....(name of circulator)....., declare under penalty of election falsification that I am an elector of the state of Ohio and reside at the address appearing below my signature; that I am the circulator of the foregoing part petition containing .....(number)..... signatures; that I have witnessed the affixing of every signature; that all signers were to the best of my knowledge and belief qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to section [3501.382](#) of the Revised Code.

.....

(Signature of circulator)

.....

(Address of circulator’s permanent residence in this state)

.....

(City, village, or township, and zip code)

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.”

The petition shall be filed with the board of township trustees and shall be accompanied by an appropriate map of the area affected by the zoning proposal. Within two weeks after receiving a petition filed under this section, the board of township trustees shall certify the petition to the board of elections. A petition filed under this section shall be certified to the board of elections not less than ninety days prior to the election at which the question is to be voted upon.

The board of elections shall determine the sufficiency and validity of each petition certified to it by a board of township trustees under this section. If the board of elections determines that a petition is sufficient and valid, the question shall be voted upon at a special election to be held on the day of the next primary or general election that occurs at least ninety days after the date the petition is filed with the board of township trustees, regardless of whether any election will be held to nominate or elect candidates on that day.

No amendment for which such a referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the amendment. Upon certification by the board of elections that the amendment has been approved by the voters, it shall take immediate effect.

Within five working days after an amendment's effective date, the board of township trustees shall file the text and maps of the amendment in the office of the county recorder and with the county or regional planning commission, if one exists.

The failure to file any amendment, or any text and maps, or duplicates of any of these documents, with the office of the county recorder or the county or regional planning commission as required by this section does not invalidate the amendment and is not grounds for an appeal of any decision of the board of zoning appeals.

Amended by 128th General Assembly File No. 29, HB 48, § 1, eff. 7/2/2010.

Effective Date: 08-28-2001; 12-20-2005; 06-01-2006; 2008 HB562 09-22-2008