

**BUTLER TOWNSHIP
DARKE COUNTY, OHIO
ZONING RESOLUTION**

AMENDED: MARCH 16, 1998

EFFECTIVE DATE: APRIL 20, 1998

**Prepared By:
Miami Valley Regional Planning Commission
400 Miami Valley Tower, 40 West Fourth Street
Dayton, OH 45402 (513) 223-6323**

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BUTLER TOWNSHIP DARKE COUNTY, OHIO ZONING RESOLUTION

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ARTICLES I through XIII



ARTICLE I GENERAL PROVISIONS

SECTION 100 AUTHORITY AND TITLE

- 100.01 Authority.** The provisions of this Zoning Resolution are adopted under authority granted to the Butler Township Board of Trustees by the Legislature of the State of Ohio in Chapter 519.02 of the Ohio Revised Code.
- 100.02 Title.** This Resolution and all provisions contained herein, including the Official Zoning District Map made a part hereof, shall be known as the "Butler Township Zoning Resolution" and may be cited as such, or as "this Zoning Resolution".

SECTION 101 PURPOSE

- 101.01 Purpose.** This Zoning Resolution is enacted for the purpose of promoting the public health, safety, peace, morals, comfort, convenience, property, order, and general welfare; and to lessen danger and congestion of public transportation and travel; and to secure safety from fire and other dangers; and to prevent overcrowding of land; and to avoid undue concentration of population; and to provide in an economical and adequate manner all necessary public facilities and requirements and to prevent undue encroachment thereon, all in accordance with a comprehensive plan for the desirable future development of Butler Township; and to provide a method of administration and to prescribe penalties for the violation of provisions hereinafter prescribed, in accordance with all applicable provisions of the Ohio Revised Code.

SECTION 102 JURISDICTION OF THE ZONING RESOLUTION

- 102.01 Unincorporated Areas.** Territorial jurisdiction of this Zoning Resolution shall apply to all land within the unincorporated territory of Butler Township, Darke County, Ohio.
- 102.02 Incorporated Areas.** Territorial jurisdiction of this Zoning Resolution shall not apply to any land within the incorporated territory of Butler Township, Darke County, Ohio except as permitted under Section 519.18 of the Ohio Revised Code for newly incorporated or annexed land.

SECTION 103 SEPARABILITY

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

SECTION 104 INTERPRETATION OF STANDARDS

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

SECTION 105 APPLICATION OF ZONING RESOLUTION

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

ARTICLE II ESTABLISHMENT OF ZONING DISTRICTS AND MAP

SECTION 200 ESTABLISHMENT OF ZONING DISTRICTS

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

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

SECTION 201 OFFICIAL ZONING DISTRICT MAP

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

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

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

SECTION 203 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

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

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

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

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

ARTICLE III STANDARD ZONING DISTRICT REGULATIONS

SECTION 300 ADOPTION OF STANDARD ZONING DISTRICT REGULATIONS

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

SECTION 301 RULES OF APPLICATION FOR STANDARD ZONING DISTRICT REGULATIONS

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

SECTION 302 A-1 AGRICULTURAL DISTRICT REGULATIONS

- 302.01 Purpose of District.** The purpose of the A-1 Agricultural District is to recognize and accommodate the physical, social, and economic needs of the agricultural community within Butler Township, Darke County, Ohio. Since agricultural pursuits provide a substantial economic base for Butler Township, and a majority of its area still possesses an existing agricultural character and prime agricultural soils, it is the intent of this district to maintain and protect such areas. Only those land uses which perform necessary functions within the agricultural community will be encouraged to locate within the A-1 Agricultural District. Rural farm dwellings are permitted to locate within the A-1 Agricultural District on lots with a minimum size of twenty (20) acres. Unnecessary encroachment by non-agricultural land uses which limits agricultural effectiveness either through encroachment of land resources or through incompatibility of land uses will be discouraged.
- 302.02 Permitted Principal Uses.** The following uses shall be permitted within the Agricultural District, provided they meet the development standards set forth for this district and any supplementary regulations applicable to such use in this Zoning Resolution.
- A. Agriculture, including farming, dairying, pasturage, agronomy, horticulture, floriculture, viticulture, and animal and poultry husbandry.
 - B. One (1) single-family dwelling.

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

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

- A. Accessory buildings and structures in accordance with Article 5, Section 502.
- B. Accessory off-street parking and loading areas as regulated in Article 6.
- C. Accessory signs as regulated in Article 7.
- D. Farm market in accordance with Article 5, Section 508.
- E. Fences, walls, and hedges in accordance with Article 4, Section 407.
- F. Home occupation operated in accordance with Article 5, Section 501.
- G. Tenant farmer dwelling in accordance with Article 5, Section 506.

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

- A. Agribusiness as regulated in Article 5, Section 507.
- B. Animal hospital, kennel, or veterinarian as regulated in Article 5, Section 518.
- C. Billboard as regulated in Article 5, Section 517.
- D. Child care nursery as regulated in Article 5, Section 516.
- E. Churches or other places of worship on lots with a minimum area of five (5) acres.
- F. Mineral extraction as regulated in Article 5, Section 510.
- G. Private landing strip as regulated in Article 5, Section 511.
- H. Private cemetery as regulated in Article 5, Section 512.
- I. Private recreation facilities in accordance with Article 5, Section 513.
- J. Private sanitary landfills as regulated in Article 5, Section 515.
- K. Private schools on lots with a minimum area of five (5) acres.
- L. Temporary mobile home as regulated in Article 5, Section 509.
- M. Existing farm dwellings on small lots as regulated in Article 5, Section 505.

302.05 Development Standards.

- A. Lot Area. No parcel of land shall be less than twenty (20) acres in area, except for parcels owned by public utilities or where specifically stated otherwise for conditional uses within the zoning district.
- B. Lot Width. No parcel of land shall be less than three hundred (300) feet in width.
- C. Lot Depth. No depth of any parcel of land shall be greater than three (3) times its average width..
- D. Front Yard Setback. The minimum front yard setback shall be fifty (50) feet from any established street right-of-way line. In the event there is no established right-of-way line, the minimum shall be ninety-five (95) feet from centerline along a state highway or eighty (80) feet from centerline along a county or township road.
- E. Side Yard Setback. The minimum side yard setback shall fifteen (15) feet. The total of both side yards shall not be less than thirty (30) feet.
- F. Rear Yard Setback. The minimum rear yard setback shall be forty (40) feet.

- G. Lot Coverage. The total ground area covered by all structures on the parcel shall not exceed twenty (20) percent of the total ground area of the parcel.
- H. Maximum Height. Thirty-five (35) feet.

SECTION 303 R-1 RURAL RESIDENTIAL DISTRICT REGULATIONS

303.01 Purpose of District. The purpose of the R-1 Rural Residential District is to recognize the existence of and the demand for residential lots of a relatively spacious nature. The density of residential development within this district should be limited to a maximum of one (1) dwelling unit per two (2) acres due to the lack of availability of central water supply and/or wastewater disposal systems. This district should only be applied to areas designated as "Preferred Rural Residential" on the Darke County Land Use Plan, areas lacking prime agricultural soils, areas with road access adequate to handle the proposed development, or areas where specific physical land characteristics are not conducive for normal agricultural pursuits. This zoning district shall not be applied in such a manner as to be detrimental to existing agricultural operations which are expected to remain viable in the future. Agricultural activities should be limited to accessory uses within this zoning district. This zoning district should not be drawn or expanded in such a manner as to create strip residential development along the major street network.

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

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

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

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

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

- A. Agriculture in accordance with Article 5, Section 504.
- B. Child care nursery as regulated in Article 5, Section 516.
- C. Private recreation facility as regulated in Article 5, Section 513.
- D. Private schools on lots with a minimum area of five (5) acres.
- E. Temporary mobile home as regulated in Article 5, Section 509.

303.05 Development Standards.

- A. Lot Area. No parcel of land shall be less than two (2) acres in net lot area, exclusive of road right-of-way, except for parcels owned by public utilities or where specifically stated otherwise for conditional uses within the zoning district.

- B. Lot Width. No parcel of land shall be less than two hundred (200) feet in width.
- C. Lot Depth. No parcel of land shall be less than two hundred (200) feet in depth, nor shall the depth be more than three (3) times its width.
- D. Front Yard Setback. The minimum front yard setback shall be fifty (50) feet from any established street right-of-way line. In the event there is no established right-of-way line, the minimum shall be ninety-five (95) feet from centerline along a state highway or eighty (80) feet from centerline along a county or township road.
- E. Side Yard Setback. The minimum side yard setback shall fifteen (15) feet. The total of both side yards shall not be less than thirty (30) feet.
- F. Rear Yard Setback. The minimum rear yard setback shall be forty (40) feet.
- G. Lot Coverage. The total ground area covered by all structures on the parcel shall not exceed thirty (30) percent of the total ground area of the parcel.
- H. Maximum Height. Thirty-five (35) feet.

SECTION 304 R-2 URBAN RESIDENTIAL DISTRICT REGULATIONS

304.01 Purpose of District. The intent of the Urban Residential District is to recognize the existence of residential lots at a maximum density of approximately four (4) dwelling units per acre. Necessary services and accessory uses compatible with urban residential surroundings are encouraged to locate within this district, including direct access to the major thoroughfare network. Central water supply and wastewater disposal facilities shall be required for any new areas placed within this district.

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

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

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

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

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

- A. Agriculture in accordance with Article 5, Section 504.

- B. Child care nursery as regulated in Article 5, Section 516.
- C. Private recreation facility as regulated in Article 5, Section 513.
- D. Private schools on lots with a minimum area of five (5) acres.
- E. Temporary mobile home as regulated in Article 5, Section 509.

303.05 Development Standards.

- A. Lot Area. The minimum lot area, exclusive of road right-of-way, shall not be less than that shown on the following table, except for parcels owned by public utilities or where specifically stated otherwise for conditional uses within the zoning district.

TYPE OF DEVELOPMENT	SEWER AVAILABLE AND WATER AVAILABLE	SEWER AVAILABLE AND WATER NOT AVAILABLE	SEWER NOT AVAILABLE
SINGLE-FAMILY	10,000 sq. ft.	20,000 sq. ft.	1 Acre Net Area
TWO-FAMILY	20,000 sq. ft.	30,000 sq. ft.	NOT PERMITTED
MULTIPLE-FAMILY	30,000 sq. ft. plus an additional 10,000 sq. ft. for each unit over 3	NOT PERMITTED	NOT PERMITTED
ALL OTHER USES	30,000 sq. ft.	30,000 sq. ft.	1 Acre Net Area

- B. Lot Width. The minimum lot width for any parcel shall be in accordance with the following table:

TYPE OF DEVELOPMENT	SEWER AVAILABLE AND WATER AVAILABLE	SEWER AVAILABLE AND WATER NOT AVAILABLE	SEWER NOT AVAILABLE
SINGLE-FAMILY	80 ft.	100 ft.	200 ft.
TWO-FAMILY	100 ft.	175 ft. or not less than one-third the depth of the parcel, whichever is greater	NOT PERMITTED
MULTIPLE-FAMILY	175 ft. or not less than one-third the depth of the parcel, whichever is greater	NOT PERMITTED	NOT PERMITTED
ALL OTHER USES	175 ft. or not less than one-third the depth of the parcel, whichever is greater	175 ft. or not less than one-third the depth of the parcel, whichever is greater	200 ft.

- C. Lot Depth. The depth of any parcel of land shall not be greater than three (3) times the lot width.
- D. Front Yard Setback. The minimum front yard setback shall be forty (40) feet from any established street right-of-way line. In the event there is no established right-of-way line, the minimum shall be ninety-five (95) feet from centerline along a state highway or eighty (80) feet from centerline along a county or township road.
- E. Side Yard Setback. The minimum side yard setback shall ten (10) feet. The total of both side yards shall not be less than thirty (30) feet.
- F. Rear Yard Setback. The minimum rear yard setback shall be forty (40) feet.
- G. Lot Coverage. The total ground area covered by all structures on the parcel shall not exceed thirty-five (35) percent of the total ground area of the parcel.
- H. Maximum Height. Thirty-five (35) feet.

SECTION 305 B-1 TOWNSHIP BUSINESS DISTRICT REGULATIONS

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

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

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

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

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

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

- A. Auto or farm equipment repair facility.
- B. Billboard as regulated in Article 5, Section 517.
- C. Convenience retail store with gasoline dispensing pumps.
- D. Drive-in theaters, bowling alleys, or other commercial recreation operations.
- E. Research facilities.
- F. Temporary outdoor retail sales.
- G. Wholesaling operations.

305.05 Development Standards.

- A. Lot Area. No parcel of land shall be less than one (1) acre in area, exclusive of any road right-of-way, except for parcels owned by public utilities or where specifically stated otherwise for conditional uses within the zoning district.
- B. Lot Width. No parcel of land shall be less than two hundred (200) feet in width.
- C. Lot Depth. No parcel of land shall be less than two hundred (200) feet in depth, nor shall the depth be more than three (3) times its width.

- D. **Front Yard Setback.** The minimum front yard setback shall be fifty (50) feet from any established street right-of-way line. In the event there is no established right-of-way line, the minimum shall be ninety-five (95) feet from centerline along a state highway or eighty (80) feet from centerline along a county or township road.
- E. **Side Yard Setback.** The minimum side yard setback shall fifteen (15) feet or the height of the structure, whichever is more. The total of both side yards shall not be less than thirty (30) feet. The minimum side yard setback along the side of a lot that abuts an agricultural or residential zoning district shall be fifty (50) feet.
- F. **Rear Yard Setback.** The minimum rear yard setback shall be forty (40) feet. The minimum rear yard setback along the rear of a lot that abuts an agricultural or residential zoning district shall be fifty (50) feet.
- G. **Lot Coverage.** The total ground area covered by all structures on the parcel shall not exceed thirty-five (35) percent of the total ground area of the parcel.
- H. **Maximum Height.** Thirty-five (35) feet.

SECTION 306 I-1 LIMITED INDUSTRIAL DISTRICT REGULATIONS

- 306.01 Purpose of District.** The purpose of the I-1 Limited Industrial District is to provide space for those industrial, wholesale and warehouse uses which operate in a clean and quiet manner. This district is not intended for the use of industries which deal with hazardous elements or emit noise, glare, dust, odor, smoke, or possess other offensive characteristics detrimental to surrounding land uses such as large traffic generators. The intent of this zoning district is to create and protect efficient limited industrial areas by insuring careful design, placement, and grouping of industries which will promote the protection of any adjacent residential or business activities. Land to be placed in this district is intended to have level topography, adequate utility services and major transportation facilities readily available.
- 306.02 Permitted Principal Uses.** The following uses shall be permitted within the I-1 Limited Industrial District, provided they meet the development standards set forth for this district and any supplementary regulations applicable to such use in this Zoning Resolution.
 - A. Public building and/or use which is supported in whole or in part by taxes or special public assessments, the location of which has been fixed by studies. Such uses include but are not limited to: wastewater pumping, and storage facilities; sanitary landfills as regulated in Article 5, Section 515; fire stations; police stations; parks; and public maintenance facilities.
- 306.03 Permitted Accessory Uses.** The following uses shall be permitted as uses accessory to a principal permitted use existing upon the property, provided they meet the development standards set forth for this district and any supplementary regulations applicable to such use in this Zoning Resolution.
 - A. Off-street parking, loading, and waiting spaces as regulated in Article 6.
 - B. Signs as regulated in Article 7.
 - C. Storage within an enclosed building of supplies or merchandise which are normally carried in stock in connection with a permitted use.
- 306.04 Conditional Uses.** The following uses shall be permitted only after approval by the Board of Zoning Appeals in accordance with Article 10, Section 1002.
 - A. Agribusiness, excluding feed lots and livestock auctions.
 - B. Automobile repair and painting facility.
 - C. Billboard as regulated in Article 5, Section 517.
 - D. Cold storage and frozen food locker.

- E. Fabrication, processing, packaging and/or assembly of articles or merchandise from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, textiles, tobacco, wax, wood, and yarn.
- F. Fabrication, processing, packaging and/or manufacture of food products and condiments, excluding slaughter houses and rendering and refining of fats, oils, fish, vinegar, yeast, and sauerkraut.
- G. Grain elevator.
- H. Junk Yard as regulated in Article 5, Section 514.
- I. Lumber yard, including incidental millwork, coal, brick, and stone.
- J. Machine shop or tool and die shop.
- K. Manufacturing, assembling or repairing of electrical and electronic products components, and equipment.
- L. Mineral extraction operation as regulated in Article 5, Section 510.
- M. Private sanitary landfill as regulated in Article 5, Section 515.
- N. Publishing and printing.
- O. Radio and/or television station.
- P. Radio, television, or other transmission tower or mast, provided that such tower or mast is located a distance equal to or greater than the height of the tower or mast from any existing dwelling.
- Q. Recycling center collection point, provided materials are kept in an enclosed building.
- R. Research and engineering laboratory.
- S. Warehouse or warehouse distribution center.

306.05 Development Standards.

- A. Lot Area. No parcel of land shall be less than one (1) acre in area, exclusive of any road right-of-way, except for parcels owned by public utilities or where specifically stated otherwise for conditional uses within the zoning district.
- B. Lot Width. No parcel of land shall be less than two hundred (200) feet in width.
- C. Lot Depth. No parcel of land shall be less than two hundred (200) feet in depth, nor shall its depth be more than three (3) times its width.
- D. Front Yard Setback. The minimum front yard setback shall be fifty (50) feet from any established street right-of-way line. In the event there is no established right-of-way line, the minimum shall be ninety-five (95) feet from centerline along a state highway or eighty (80) feet from centerline along a county or township road.
- E. Side Yard Setback. The minimum side yard setback shall fifteen (15) feet or the height of the structure, whichever is more. The total of both side yards shall not be less than thirty (30) feet. The minimum side yard setback along the side of a lot that abuts an agricultural or residential zoning district shall be one hundred (100) feet.
- F. Rear Yard Setback. The minimum rear yard setback shall be forty (40) feet. The minimum rear yard setback along the rear of a lot that abuts an agricultural or residential zoning district shall be one hundred (100) feet.
- G. Lot Coverage. The total ground area covered by all structures on the parcel shall not exceed thirty-five (35) percent of the total ground area of the parcel.
- H. Maximum Height. Thirty-five (35) feet.

SECTION 307 FLOOD PLAIN OVERLAY DISTRICT

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

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

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

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

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

307.04 Boundaries of Flood Plain Overlay District. The Flood Plain Overlay District shall apply to all areas under the jurisdiction of the Butler Township Zoning Resolution that are areas of special flood hazard as identified by the Flood Insurance Study, Darke County, Ohio, Unincorporated Areas dated January 15, 1982 as prepared and amended by the Federal Emergency Management Agency. This study, with accompanying maps and revisions thereto, is hereby adopted by reference and declared to be a part of

the Butler Township Zoning Resolution. Where detailed studies of the floodway and floodway fringe are not a part of the aforementioned flood insurance study, the following sources of data may be used to determine the necessary elevations for the purposes of this Zoning Resolution:

- A. Corps of Engineers-Flood Plain Information Reports.
- B. U.S. Geological Survey-Flood Prone Quadrangles.
- C. U.S.D.A., Soil Conservation Service-Flood Hazard Analysis Studies and County Soil Surveys (Alluvial Soils).
- D. Ohio Department of Natural Resources-Flood Hazard Reports and Flood Profile Charts.
- E. Known highwater marks from past floods.
- F. Other sources acceptable to the Board of Zoning Appeals.

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

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

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

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

- D. Utilities. All uses utilizing new and replacement water supply systems, sanitary sewerage systems, and/or on-site waste disposal systems shall be designed to minimize or eliminate infiltration of flood waters into such systems in accordance with the Darke County Health Department and/or Ohio EPA, as applicable. All on-site waste disposal systems shall be designed to minimize or eliminate discharge into flood waters and impairment or contamination to them during flooding.

307.08 Required Development Standards In Areas Of Special Flood Hazard Without Base Flood Elevation.

In all areas of special flood hazard identified as "Zone A" on the Flood Insurance Rate Map where base flood elevation data are not available from any source, all new construction and all substantial improvement of any residential, commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated to at least two (2) feet above the highest adjacent natural grade.

307.09 Required Development Standards In Areas Of Special Flood Hazard With Base Flood Elevation.

In all areas of special flood hazard where base flood elevation data are available from the Flood Insurance Study or from other federal, state, or local sources, all new construction and substantial improvement shall meet the following standards:

- A. Residential Structures. All new residential structures and substantial improvement of any existing residential structure, including mobile homes, shall have the lowest floor, including basement, elevated to at least one (1) foot above the base flood elevation.
- B. Nonresidential Structures. All new nonresidential structures and substantial improvement of any existing nonresidential structure shall have the lowest floor, including basement, elevated to at least one (1) foot above the base flood elevation. In lieu of the elevation requirement, such structure, together with attendant utility and sanitary facilities, shall be required to have floodproofing measures designed consistent with the regional flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces and other factors associated with the regulatory flood. The Board of Zoning Appeals shall require that the applicant submit a plan or document certified by a registered professional engineer that the proposed floodproofing measures adequately protect the proposed structure or substantial improvement and are consistent with the base flood elevation and associated flood factors for the particular area.
 - 1. Waterproofing. The structure shall be watertight to the level of the base flood elevation with walls substantially impermeable to the passage of water. Such waterproofing may be accomplished by the use of watertight doors, bulkheads, and shutters, or similar methods of construction and the use of paints, membranes, or mortars to reduce seepage of water.
 - 2. Structural Features. The structure shall have components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such features may include, but not be limited to the following:
 - a. Reinforcement of walls to resist water pressures.
 - b. Anchorage to resist flotation and lateral movement.
 - c. Addition of mass or weight to structures to resist flotation.
 - 3. Mechanical and Systems. The structure shall have its mechanical systems adequately protected from flood hazards and complementary mechanical systems necessary to reduce the flood hazard. Such systems may include, but not be limited to the following:

- a. Pumping facilities or comparable practices for sub-surface drainage systems for buildings to relieve external foundation wall and basement flood pressures
 - b. Installation of pumps to lower water levels in structures
 - c. Location of all electrical equipment, circuits, and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation.
- C. **Storage Facilities.** All storage facilities for chemicals, explosives, flammable liquids or toxic materials which could be hazardous to public health, safety, and welfare shall be stored in a manner which will assure that the facilities are situated at least one (1) foot above the base flood elevation. Non-toxic materials, materials that are buoyant, or items likely to be carried off-site by the base flood shall be stored in a manner to prevent flotation of the materials and/or their containers and escape of such materials off-site.

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

- A. They shall not be used for human habitation.
- B. They shall be designed to have low flood damage potential.
- C. They shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.
- D. They shall be firmly anchored to prevent flotation.
- E. Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

SECTION 308 PLANNED RESIDENTIAL DISTRICT REGULATIONS

308.01 Purpose of District. The planned residential district is intended to provide flexibility in the arrangement and design of residential neighborhoods, based upon a unified development plan conceived and carried out for an entire area. Within this district, appropriate and reasonable population is maintained while a variety of dwelling unit types is encouraged. Natural features such as topography, trees, and drainageways are encouraged to remain in their natural state to the degree possible. Such developments are generally characterized by a significant proportion of usable open space and a unified design concept with particular attention devoted to the periphery of the development, the overall objective being the compatibility of the development with its surroundings.

308.02 Minimum Project Area. The minimum land area required for a residential planned development shall be twenty (20) acres.

308.03 Density. Every preliminary plan application for a residential planned unit development shall designate the corresponding residential district or districts which reflect the intended density and types of residential uses for each segment of the site in which residential land uses are to be located. Although the lot design requirements may be waived for the approval of the final plan, the overall gross density which would normally be permitted under the designated residential district or districts must be maintained.

- 308.04 Permitted Uses.** Only those uses which are specified as permitted, accessory, or conditional uses within the designated residential district or districts designated on the preliminary plan may be included within the planned development.
- 308.05 Minimum Development Standards.** The minimum lot area, minimum lot frontage, and yard and maximum lot coverage requirements may be varied to allow for greater creativity in site design and structural design within the residential planned development. However, all spacing between principal structures shall be subject to the approval of the Zoning Commission upon consultations with the Fire Chief.
- 308.06 Height Requirements.** The height of any structure within a residential planned development shall be subject to approval by the Zoning Commission upon consultation with the Fire Chief.
- 308.07 Required Off-Street Parking, Loading, and Drive-Through Spaces.** All accessory off-street parking, loading, and drive-through waiting spaces shall be provided in accordance with Article 6 unless otherwise approved in the plan.
- 308.08 Signs.** All signs within the residential planned unit development shall be in accordance with Article 7 unless otherwise approved in the plan.
- 308.09 Underground Utilities Required.** Underground utilities, including telephone and electrical systems, are required within the limits of all planned developments. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if Butler Township finds that such exemption will not violate the intent or character of the proposed planned unit development.
- 308.10 Required Open Space.** Each residential planned development shall have acreage devoted to common open space which shall be designed for the leisure and recreational use of all residents or users within the planned development and may be designed for the leisure and recreational use of the general public. All common open space shall be in accordance with the following:
- A. The location, shape, size and character of common open space shall be suitable for the planned development in relation to the location, number, and types of dwelling units it is intended to serve. In any case, it shall be highly accessible to all residents or users of the planned development.
 - B. The common open space shall be used for amenity and/or recreational purposes. Any uses and/or buildings authorized for the common open space must be appropriate to the scale and character of the planned unit development in relation to its size, density, expected population, topography, and the type of dwellings.
 - C. The common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space with regard to its topography and unimproved condition.
 - D. The proposed common open space may be conveyed to a public authority which will agree to maintain the common open space and any buildings, structures or improvements which have been placed on it. All land dedicated to the public must meet the requirements of the appropriate authority as to size, shape, and location. Public utility or other similar easements and right-of-way for water courses or other similar channels are not acceptable for common open space dedication unless such land or right-of-way is usable as a trail or other similar purpose and approved by the authority to which the land is dedicated.

- E. The proposed common open space may be conveyed to the trustees of a Homeowners Association or similar organization formed for the maintenance of the planned development. The common open space may be conveyed by covenants under such an arrangement subject to approval by Butler Township. Such covenants shall restrict the common open space to the uses specified on the final development plan and provide for the maintenance of common open space in a manner which assures its continuing use for its intended purpose.
- 308.11 Conflict With Other Sections.** Because of the special characteristics of planned developments, special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this Section and those of the other Articles of this Zoning Resolution, the provisions of this Section shall prevail. Subjects not covered by this section shall be governed by the respective provisions found elsewhere in this Zoning Resolution.
- 308.12 Ownership and Divisions of Land.** No tract of land may be considered for or approved as a planned development unless such tract is under single ownership or evidence of unified control of the entire site is submitted with the application. The landowner of an approved planned development shall not divide and/or transfer parts of such development unless any successor in title has been bound to complete, use, and maintain each such unit in strict conformance with the adopted final master development plan.
- 308.13 Relationship to the Darke County Subdivision Regulations.** The uniqueness of each proposal for a planned development may require that there be modification from the specifications established in the Subdivisions Regulations of Darke County, Ohio. Modifications may be incorporated only with the approval of the Darke County Planning Commission.
- 308.14 Criteria for Approval of Planned Developments.** Before the approval of any Planned Unit Development is granted, the Zoning Commission and Township Trustees shall find that the facts submitted with the application meet the following criteria:
- A. The Planned Development shall be consistent in all respects with the Darke County Land Development Plan.
 - B. The Planned Development shall provide a more desirable and more diverse environment than would be possible under strict application of the standard minimum design requirements of other districts provided within this Zoning Resolution.
 - C. The Planned Development shall provide a development pattern which preserves and utilizes the natural topography, geologic features, scenic vistas, natural vegetation, and natural drainage patterns of the site.
 - D. The Planned Development shall provide an environment of stable character which promotes a harmonious relationship between land uses within the site and a harmonious relationship with surrounding development.
 - E. The Planned Development shall promote greater efficiency in the use of land, but shall not impose an undue burden on public services and facilities such as fire and police protection, schools, water supply, and wastewater disposal due to excessive population densities.
 - F. The Planned Development shall be accessible from public thoroughfares adequate to accommodate the traffic which will be imposed on them by the proposed development, and the proposed streets and parking areas within the site shall be adequate to serve the proposed arrangement of land uses.
 - G. The Planned Development shall provide a more spacious and useful pattern of open space and recreation areas than would normally be required under the strict application of existing zoning and subdivision requirements.

- H. The Planned Development shall be designed in such a way that each individual section of the development, as well as the total development, can exist as an independent section capable of creating an environment of sustained desirability and stability, or that adequate assurance has been provided that such an objective will be attained.
- I. If governmental ownership is planned for common open space or recreational facilities within the Planned Development, its acceptance shall be approved with or prior to the rezoning action. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted.

ARTICLE IV SUPPLEMENTARY DISTRICT REGULATIONS

SECTION 400 GENERAL PROVISIONS

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

SECTION 401 PUBLIC STREET FRONTAGE REQUIRED

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

SECTION 402 PRINCIPAL BUILDINGS PER LOT

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

SECTION 403 REDUCTION OF REQUIRED AREA OR SPACE

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

SECTION 404 ARCHITECTURAL PROJECTIONS INTO REQUIRED YARDS

- 404.01 Projections Into Any Yard.** Chimneys, flues, sills, pilasters, cornices, eaves, gutters, and other similar architectural features may project into any required yard a maximum of twenty-four (24) inches.
- 404.02 Unroofed Porches and Steps.** Unroofed porches and steps may extend from the dwelling into the required front yard a maximum of ten (10) feet and up to within ten (10) feet of the property line within side or rear yards.
- 404.03 Open Structures.** Attached open structures such as roofed porches, canopies, balconies, decks, platforms, and carports, shall be considered parts of the building to which attached and shall not project into any required yard.
- 404.04 Improvements Required By Americans With Disabilities Act.** Decisions of the Board of Zoning Appeals regarding architectural projections required for persons with disabilities that necessitate encroachment into any required front, side, or rear yard shall be based upon the Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities (36 CFR Part 1191), as amended.

SECTION 405 MAXIMUM HEIGHT REGULATIONS FOR NON-HABITABLE STRUCTURES

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

- A. **Maximum Height Permitted.** The maximum height of such structure shall not exceed fifty (50) feet in total height within any residential district and shall not exceed ninety (90) feet in total height within any other type of district. Any greater overall height than those stated above shall be considered a conditional use and shall require approval by the Board of Zoning Appeals after public hearing.
- B. **Required Setback From Residential Lots.** Structures and/or appurtenances granted an exception shall be set back a distance equal to or greater than its height from any boundary of a residential lot within a residential district.
- C. **Aircraft Hazard Prohibited.** Structures and/or appurtenances shall not be granted an exception to the maximum height regulations where it is determined that a hazard will be created for the safe landing and takeoff of aircraft at an established airport or landing strip, as determined by applicable Federal, State, and local agencies.

SECTION 406 SETBACK REQUIREMENTS FOR CORNER LOTS OR THROUGH LOTS

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

SECTION 407 VISIBILITY AT INTERSECTIONS

- 407.01 Front Yard Height Restrictions.** No fence, wall, hedge, or structure shall be permitted within any required front yard above the height of thirty-six (36) inches.
- 407.02 Height Restrictions At Intersections.** No fence, wall, hedge, fill, or structure shall be located, nor shall any vegetation be allowed to grow on any corner lot so as to create a line-of-sight impediment within one-hundred (100) feet of the intersecting centerlines of any two (2) or more streets. In determining whether a line-of-sight impediment exists, the Zoning Inspector shall measure sight distance at a height of thirty-nine (39) inches above the actual grades of the streets.

SECTION 408 MINIMUM RESIDENTIAL FLOOR AREA

- 408.01 Single-Family and Two-Family Dwellings.** The minimum residential floor area per dwelling unit for single-family and two-family dwellings within Butler Township shall be in accordance with the following table. These requirements shall be applicable to all zoning districts.

0 Bedroom.....	1,200 sq. ft.
1 Bedroom.....	1,200 sq. ft.
2 Bedroom.....	1,200 sq. ft.
3 Bedroom.....	1,200 sq. ft.
4 Bedroom.....	1,400 sq. ft.
5 Bedroom.....	1,550 sq. ft.
6+ Bedroom.....	1,700 sq. ft. plus 150 sq. ft. for each additional bedroom over 6

408.02 Multiple-Family Dwellings. The minimum residential floor area per dwelling unit for multiple-family dwellings within Butler Township shall be in accordance with the following table. These requirements shall be applicable to all zoning districts.

0 Bedroom.....	600 sq. ft.
1 Bedroom.....	700 sq. ft.
2 Bedroom.....	900 sq. ft.
3+ Bedroom.....	1,100 sq. ft. plus 120 sq. ft. for each additional bedroom over 3

SECTION 409 SCREENING REQUIREMENTS

409.01 When Required. Hereafter, no buildings or structures shall be erected, altered or enlarged nor shall land be used for any non-residential use on a lot that adjoins or faces any residential district until a plan for screening has been submitted and approved by the Zoning Inspector or the Board of Zoning Appeals, as appropriate.

409.02 Purpose for Screening. Screening shall be provided for one (1) or more of the following purposes:

- A. A visual barrier to partially or completely obstruct the view of structures or activities in order to minimize or prevent nuisances;
- B. As an acoustic screen to aid in absorbing or deflecting noise; and/or
- C. For the containment of ambient debris and litter.

409.03 Types of Screening Permitted. Screening may be one (1) of the following or a combination of two (2) or more:

- A. A solid masonry wall;
- B. A solidly constructed decorative fence;
- C. A louvered fence;
- D. Dense evergreen plantings; and/or
- E. Landscaped mounding with ground cover.

Such screening shall be of sufficient density or opaqueness to accomplish the purposes for screening previously stated in Section 409.02.

409.04 Location of Screening. Whenever any non-residential use is located upon a lot that abuts a residential zoning district, a visual screening wall, fence, mounds or planting shall be erected or placed along such mutual boundary lines. Such screening shall also be required where a multiple-family building is located upon a lot abutting a single-family residential district.

409.05 Height of Screening. Visual screening walls, fences, mounds and plantings shall be not less than 72 (seventy-two) inches high. The height of screening required in front yards shall be three (3) feet, unless the Zoning Inspector determines that a sight-distance hazard would be created.

409.06 Mounding Specifications. Mounding provided in lieu of or in combination with walls, fences, and/or evergreen plantings shall consist of a strip of land as wide as necessary to obtain a maximum slope of three (3) horizontal to one (1) vertical (angle of repose) for the required height. Mounding shall be planted with a ground cover suitable to prevent erosion.

409.07 Required Depth for Noise Screening. Screening for the purpose of absorbing or deflecting noise shall have a depth of at least fifteen (15) feet of mounding with plantings or ground cover or be a solid masonry wall in combination with decorative plantings.

409.08 Protection and Maintenance of Screening. Whenever required screening is adjacent to parking areas or driveways, such screening shall be protected by bumper blocks, posts or curbing to avoid damage by vehicles. All screening shall be trimmed and maintained in good condition and remain free of all advertising or other signs. Live vegetation used for screening shall receive regular maintenance, including trimming, mowing, and replacement of diseased plant materials.

ARTICLE V SUPPLEMENTARY USE REGULATIONS

SECTION 500 GENERAL PROVISIONS

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

SECTION 501 HOME OCCUPATIONS

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

any home occupation located within a residential district.

501.11 Use Guidelines. The Board of Zoning Appeals shall use the following guidelines in determining whether or not to approve a particular request for conducting a home occupation:

A. Specifically Permitted Uses. The following uses may be permitted as home occupations provided they conform to all of the provisions of this section:

1. Architectural and/or engineering service
2. Artist Studio
3. Baby sitting, up to three (3) children
4. Consulting services
5. Contracting
6. Data Processing
7. Dental technician with laboratory
8. Direct sale product distribution of personal care and small household items (Amway, Avon, Jaffra, Tupperware, Herbalife, etc.)
9. Drafting and graphic design services
10. Dressmaking, sewing, tailoring, contract sewing (one machine)
11. Electronic assembly
12. Financial planning and/or investment services
13. Flower arranging
14. Gardening and/or landscape maintenance
15. Home cooking and preserving for sale off site
16. Home crafts such as ceramics, model making, rug weaving, and cabinet making
17. House cleaning service
18. Insurance sales or broker
19. Interior design
20. Jewelry making and repair
21. Laundry and/or ironing service
22. Locksmith
23. Mail order (not including retail sales from site)
24. Millinery
25. Real estate sales or broker
26. Sales representative (office only)
27. Telephone answering, switchboard, or call forwarding services
28. Tutoring, limited to one student at a time
29. Typing and word-processing service
30. Watch repair
31. Writing and/or computer programming

B. Specifically Prohibited Uses. The following uses, by the nature of the investment or their operation, have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residence purposes. Therefore, the uses specified below shall not be permitted as home occupations:

1. Appliance repair
2. Automobile repair station, parts sales, upholstery, or detailing
3. Automobile washing service (including businesses working at customers homes)
4. Beauty salon and barber shop
5. Carpentry and/or cabinet maker shop

6. Ceramics, (kiln of six (6) cubic feet or more)
7. Church
8. Construction service such as masonry, plumbing, or painting
9. Gift shop
10. Health salon, gym, dance studio, aerobic exercise studio, massage
11. Limousine or pedicab service
12. Medical or dental office
13. Mortician and/or hearse service
14. Palm reading and fortune telling
15. Photo studio
16. Private club
17. Rental business
18. Restaurant and/or tavern
19. Retail sale from site (except direct distribution)
20. Skin care
21. Small engine repair
22. Tow truck service
23. Upholstery repair
24. Veterinary uses, including care, grooming, or boarding
25. Welding shop

SECTION 502 ACCESSORY BUILDINGS AND STRUCTURES

- 502.01 Mobile Homes and Tractor Trailers Prohibited As Accessory Structures.** No mobile home shall be used as an accessory structure, except as provided under Article 5, Section 509 of this Zoning Resolution. No tractor trailer shall be used as an accessory structure or for accessory storage within any residential zoning district.
- 502.02 Prohibited Within Front or Side Yards.** No garage or other accessory building shall be erected or located within a required side yard or front yard. All accessory buildings located less than ninety-five (95) feet from the front property line and not completely to the rear of a dwelling shall be designed as a part of the principal structure or connected thereto by a covered breezeway.
- 502.03 Required Setback.** When located at least ninety-five (95) feet from the front property line and completely to the rear of the main dwelling, an accessory building may be erected not less than fifteen (15) feet from the side or rear lot lines nor less than fifteen (15) feet from the main building.
- 502.04 Location Over Leach Area Prohibited.** No accessory building shall be located over or within ten (10) feet of any required on-site wastewater leaching area or replacement area designated by the Darke County Health Department.
- 502.05 Maximum Height Within Residential District.** Accessory buildings within any residential district shall not have a building height greater than one hundred ten percent (110%) of the principal building.

SECTION 503 PRIVATE ACCESSORY SWIMMING POOLS AND GAME COURTS

- 503.01 No Public Use.** Private accessory swimming pools or game courts shall be designed and used solely for the enjoyment of the occupants and guests of the principal use of the property on which it is located.
- 503.02 Location Requirements.** No private accessory swimming pool or game court shall be located closer than fifteen (15) feet to any property line, shall not encroach upon any required front yard or side yard, or encroach upon any required on-site wastewater leaching areas or replacement areas designated by the Darke County Health Department.

503.03 Access Control. All swimming pools shall be walled or fenced in order to prevent uncontrolled access by children from any street or adjacent property. All such fences or walls shall be a minimum of five (5) feet in height and maintained in good condition with a gate and lock.

503.04 Lighting. Exterior lighting shall be shaded whenever necessary in order to avoid casting direct light upon any other property or any public street.

SECTION 504 AGRICULTURAL RESTRICTIONS WITHIN PLATTED TERRITORY

504.01 Required Conditions. All agricultural use and structures within applicable platted areas shall be in accordance with the requirements of this section.

504.02 Relation To Other Requirements. The provisions of this Article shall be in addition to any and all other provisions contained in this Zoning Resolution applicable to any building, structure or land, or use thereof, regardless of the district in which such is located.

504.03 Applicable Platted Territory. The provisions of this Section shall apply to any platted and recorded subdivision approved under Section 711.05, 711.09, or 711.10 of the Ohio Revised Code, or in any area consisting of fifteen (15) or more lots approved under Section 711.131 of the Ohio Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road. Platted territory applicable to this section shall be designated on a map maintained by the Zoning Inspector and available for inspection at the Butler Township offices.

504.04 Agricultural Use and/or Structures On Lots of One Acre or Less. The use of land for agricultural purposes, or the erection, construction or alteration of any building or structure incident to the use of land for agricultural purposes, is prohibited on lots less than one (1) acre in size within platted territory covered under this section, unless approved by the Board of Zoning Appeals as a conditional use in accordance with the procedures specified in Article 10, Section 1002. In approving such conditional use, the Board of Zoning Appeals shall make a finding that the scale and type of such use is in character with the platted area and does not pose a nuisance.

504.05 Agricultural Buildings and Structures On Lots Greater Than One Acre But Not Greater Than Five Acres. All buildings and structures incident to the use for agricultural purposes which are located on lots greater than one (1) acre in size but not greater than five (5) acres in size and are located within platted territory covered under this section shall be subject to the same setback, height, and size regulations otherwise applicable in the zoning district in which such building or structure is located.

504.06 Dairying and Animal and Poultry Husbandry Prohibited. Within platted territory covered under this section and when at least thirty-five percent (35%) of the lots in such platted territory are developed with at least one (1) building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured homes under Section 4503.06 of the Ohio Revised Code, and when located on lots greater than one (1) acre in area but not greater than five (5) acres, dairying or animal or poultry husbandry is prohibited unless approved as a conditional use in accordance with the procedures specified in Article 10, Section 1002. In approving such conditional use, the Board of Zoning Appeals shall make a finding that the scale and type of such use is in character with the platted area and does not pose a nuisance.

SECTION 505 EXISTING FARM DWELLINGS ON SMALL LOTS

505.01 Transfer Permitted On Small Lots. Within the Agricultural District, the transfer of an existing farm dwelling which is no longer useful to a farming operation may be permitted on a lot smaller than the required minimum lot size provided the requirements of this section are met.

- 505.02 Must Be Pre-Existing Dwelling.** The lot shall only be created for the transfer of a farm dwelling which was issued a building permit and/or constructed prior to the effective date of this section of the Butler Township Zoning Resolution.
- 505.03 Health Department Approval Required.** The lot size and configuration shall be approved by the Darke County Health Department for the location of on-site water supply and wastewater disposal systems prior to approval by the Board of Zoning Appeals.
- 505.04 Required Development Standards.** The minimum lot area, lot frontage, and side and rear yard setbacks shall conform to the requirements for the R-1 Rural Residential District.

SECTION 506 TENANT FARMER DWELLING

- 506.01 Zoning Permit Not Required.** A zoning permit is not required for the erection of a tenant farmer dwelling, provided the land owner/lessee states in writing to the Zoning Inspector that the purpose of the tenant dwelling is to house a person who is to be engaged in assisting him/her with farming the land in question and/or maintaining and protecting it in his/her absence. The tenant farmer dwelling shall be considered an accessory use and shall be located on the same lot as the principal farm dwelling.

SECTION 507 AGRIBUSINESS

- 507.01 Required Conditions.** No conditional use permit shall be issued for any agribusiness operation unless the conditions set forth in this section have been satisfied.
- 507.02 Relation To Surrounding Agricultural Community.** The agribusiness establishment shall be incidental and necessary to the conduct of agriculture within the agricultural district and shall not be a business which is not dependent upon the surrounding agricultural community.
- 507.03 Setback From Residential Uses.** The minimum distance permitted between the agribusiness establishment and any existing dwelling unit or existing residential district shall be established by the Board of Zoning Appeals based upon the character of the agribusiness. In no event shall storage facilities be located closer than one hundred (100) feet from a side or rear lot line. In no event shall any processing facilities be located closer than two hundred (200) feet from a side or rear lot line.
- 507.04 On-Site Water or Wastewater Systems.** The agribusiness establishment shall have approval from the Ohio Environmental Protection Agency for any on-site water supply and/or wastewater disposal system.
- 507.05 External Effects.** The agribusiness shall not emit noise, odor, dust, or chemical residues which result in the creation of a nuisance or trespass to surrounding properties. Feed lots shall have a waste disposal plan approved prior to commencement of operations.
- 507.06 Thoroughfare Access.** The agribusiness shall be located upon a thoroughfare which the Board of Zoning Appeals determines is adequate to accommodate any traffic which is generated by the agribusiness establishment.
- 507.07 Emergency Response Plan.** The application shall include an emergency response plan for all areas potentially affected by a fire or a chemical release, if applicable.
- 507.08 Feed Lots.** All feed lots more than three hundred (300) animal units in size shall be required to have a conditional use permit from the Board of Zoning Appeals before beginning operation or expanding beyond such size. All such feed lots shall be located a minimum of one thousand (1,000) feet from any adjacent parcel. Prior to issuance of a conditional use permit, all such feed lots under one thousand (1,000) animal units shall have a waste management and disposal plan approved by the Darke County Soil and Water Conservation District and all such feed lots one thousand (1,000) or more animal units in size shall have a waste management and disposal plan approved by the Ohio Environmental Protection Agency.

SECTION 508 FARM MARKETS

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

SECTION 509 TEMPORARY MOBILE HOMES

- 509.01 Lot Must Have Existing Residential Structure.** The temporary placement of a mobile home upon a lot which already contains a residential structure may be permitted as a conditional use. A temporary mobile home permitted pursuant to this section shall be considered a conditional use within the district in which it is located.
- 509.02 Special Circumstances Required.** A temporary mobile home may be authorized by the Board of Zoning Appeals where such Board finds that special circumstances or conditions such as fires, windstorms, or other exceptional events have occurred which are fully described in the findings of the Board, such that the use of a temporary residential structure is necessary in order to prevent an exceptional hardship on the applicant, provided that such a temporary structure does not represent a hazard to the health, safety, morals or welfare of the community.
- 509.03 Written Statement From Health Department Required.** The applicant must produce a written statement from the Darke County Health Department approving the water supply and wastewater disposal system of the temporary mobile home location.
- 509.04 Time Restrictions on Temporary Permit.** A temporary conditional use permit shall initially be issued for a total of twelve (12) months. Such permit shall be reviewed annually by the Board of Zoning Appeals to determine if the conditions of approval are being complied with and such hardship still remains. Such approval and renewal may be revoked by the Board of Zoning Appeals any time such Board finds the hardship has expired and/or the conditions of approval have been violated.

SECTION 510 MINERAL EXTRACTION

- 510.01 Required Conditions.** All mineral extraction operations shall secure a conditional use permit prior to commencing excavation. Such permit shall not be issued unless the provisions of this Section have been satisfied as well as any other conditions specified by the Board of Zoning Appeals.
- 510.02 State Permit Required.** All proposed extraction operations which need a permit shall secure a permit for such activities from the Chief of the Division of Reclamation, Ohio Department of Natural Resources prior to the issuance of a conditional use permit.
- 510.03 Required Setbacks for Excavations.** All excavations shall meet the following setback requirements:
- A. **Excavation to a Depth of Six (6) Feet or Less.** Excavations to a depth of six (6) feet or less may be located as close as one hundred (100) feet from a residential district, provided the operation is conducted over a temporary time period not to exceed twelve (12) months and operation of equipment is limited to the extraction process.

- B. Excavation to a Depth Greater Than Six (6) Feet. Excavations to a depth greater than six (6) feet shall be located at least five hundred (500) feet from a residential district so zoned prior to the issuance of conditional use authorization and at least two hundred (200) feet from a dwelling within a residential district so zoned after the issuance of conditional use authorization.
- 510.04 Temporary Operational Roads.** All temporary operational roads shall be located at least two hundred (200) feet from any residential district.
- 510.05 Operational Controls.** The applicant shall submit a plan acceptable to the Board of Zoning Appeals which outlines procedures to minimize or prevent the creation of detrimental ground vibrations, sound, pressure, smoke, noise, odors, or dust which would injure or be a nuisance to any persons living or working in the vicinity.
- 510.06 Accessory Buildings or Structures.** Accessory buildings or structures shall be demolished and/or removed within six (6) months of completion of extraction operations within areas served by such buildings or structures, unless a plan for their future use has been approved as part of the required reclamation plan.
- 510.07 Effect on Underground Water Supply.** A study of the anticipated depth of excavations and the probable effect to the existing water table conducted by a hydrologist registered in the State of Ohio shall be provided to the Board of Zoning Appeals by the applicant. If the water table is to be affected, the operator shall provide proof, before permission for excavation is given, that the source of any public or private water supply shall not be adversely affected due to lowering of the water table or contamination of the supply.
- 510.08 Blasting Shall be Monitored.** The operator shall maintain complete records on a daily basis of all blasting operations including records of the time, the date, the location, and complete description of weather conditions relating to each such blast. Such records shall be available to the Zoning Inspector upon request. At the request of the Board of Zoning Appeals, the operator shall fully cooperate in any investigation by the Board of Zoning Appeals of the conditions of the operation. In the event that it is established as a matter of fact that there has been a failure to adequately comply with the provisions of this Section, said operator shall take immediate steps to provide full compliance herewith.
- 510.09 Required Screening and Access Control.** All mineral extraction, storage, separation, cleaning, and/or marketing operations shall be screened where deemed necessary by the Board of Zoning Appeals. Fencing at least five (5) feet in height or other means acceptable to the Board of Zoning Appeals shall be required to provide control of unauthorized access to areas excavated to a depth of at least five (5) feet below grade of adjacent land.
- 510.10 Accessory Storage, Separation, Cleaning, Size Reduction and Marketing.** Accessory storage, separation, cleaning, and/or marketing may be included in the application for a conditional use permit. Such activities shall only be permitted if the Board of Zoning Appeals makes a specific finding that such activities have been adequately located and screened according to the following conditions:
- A. Setbacks From Existing Residential District. Permitted uses shall be located at least five hundred (500) feet from a residential district that exists at the time conditional use authorization is granted unless the Board of Zoning Appeals determines that adequate buffering can be provided or already exists.
- B. Setbacks From Nonresidential Zoning Districts. Permitted uses shall be located at least two hundred (200) feet from any property line abutting any nonresidential zoning district existing at the time conditional use authorization is granted.

510.11 Runoff Control and Sediment Abatement Plan Required. All excavation operations disturbing more than ten thousand (10,000) square feet shall submit a runoff control and sediment abatement plan approved by the Darke County Engineer prior to final approval of a conditional use permit by the Board of Zoning Appeals.

510.12 Reclamation Plan Required. The applicant shall provide a reclamation plan acceptable to the Board of Zoning Appeals. The plan shall contain, at a minimum, the following:

- A. Plan Map. A map at a scale of one (1) inch equals one hundred (100) feet showing the existing contours at intervals of five (5) feet or less, any existing buildings or structures, and any public utilities or easements on the property.
- B. Submerged and Unsubmerged Areas. All excavations shall either be: (1) made to a depth more than five (5) feet below a water-producing level, or (2) graded and/or backfilled with non-noxious and non-flammable solids, to assure that the excavated area will not collect and retain stagnant water. The graded or backfilled surface shall create an adequate finished topography to minimize erosion by wind or rain and substantially conform with the contours of the surrounding area.
- C. Replacement of Cover and Vegetation. An estimate of the amount of soil and the number of trees and shrubs, and the type, ground cover shall be provided. The type and number per acre of trees, shrubs, ground cover, or legume to plant shall be determined in consultation with the Darke County Soil Conservation Service. Cover and vegetation shall be completed within one (1) year from the date of completion of the extraction in areas within five hundred (500) feet of a residential district or a dwelling. Such restoration shall be completed for each phase of excavation prior to approval of more than one additional excavation phase in all other areas. The depth of the proposed cover shall be at least as great as the depth of the unusable overburden which existed at the commencement of operations, or eighteen (18) inches, whichever is less.
- D. Grading Plan Required. A grading plan showing the proposed final topography of the area indicated by contour lines of no greater interval than two (2) feet shall be required. The angle of slope of all earthen banks shall be not greater than one (1) foot vertical to three (3) feet horizontal unless the Board of Zoning Appeals is satisfied that the angle of slope will not pose an erosion hazard and is no greater than that which existed at the commencement of excavation. Adequate vegetation to reduce erosion may be required.
- E. Future Land Uses and Improvements. The location of proposed land uses, and physical improvements such as roads, drives, drainage courses, utilities and other improvements shall be shown on such plan. The applicant shall consult with the Darke County Planning Commission and the Butler Township Zoning Commission.

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

SECTION 511 PRIVATE LANDING STRIPS

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

SECTION 512 CEMETERIES

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

SECTION 513 PRIVATE RECREATION FACILITIES

- 513.01 Required Conformance.** All private recreation facilities shall be in accordance with the following provisions in addition to any conditions specified by the Board of Zoning Appeals.
- 513.02 Community Swimming Pools.** Community swimming pools may be permitted provided the following conditions are met.
- A. The pool and accessory structures, including the areas used by the bathers and the required parking areas, shall not be located closer than fifty (50) feet to any residential district and must be screened.
 - B. The swimming pool and all of the areas used by the bathers shall be walled or fenced in order to prevent uncontrolled access by children from the streets or adjacent properties. Said fence or wall shall not be less than six (6) feet in height and maintained in good condition.
 - C. Loudspeakers, juke boxes, public address systems, and electric amplifiers shall be permitted insofar as they do not create a nuisance and/or disturb the peace of persons on any other properties within any district.

- D. Exterior lighting shall be shaded wherever necessary in order to avoid casting direct light upon any other property or a public street.

513.03 Recreational Vehicle Parks and Campgrounds. Recreational vehicle parks and campgrounds shall be in accordance with the provisions of this section in addition to any other conditions specified by the Board of Zoning Appeals.

- A. Minimum Total Area. The minimum total area of the park or campground shall be five (5) acres.
- B. Maximum Density. The maximum density of the park or campground shall be established by the Board of Zoning Appeals, but in no case shall the overall density exceed twelve (12) campsites per acre. In determining the overall density limit, the capability of the land to accommodate adequate campsites with a minimum of one thousand five hundred (1,500) square feet of nearly level and well drained area shall be considered.
- C. Thoroughfare Access. The thoroughfare upon which the park or campground is located shall be of adequate width and base to accommodate the type of traffic generated by such park or campground, as determined by the Board of Zoning Appeals. No entrance or exit from the park or campground shall require movement of traffic through a residential district.
- C. Parking Spaces. Each campsite within the park or campground shall be provided with a minimum of one (1) adequately sized parking space for the type of vehicle intended to use the site. In order to guarantee stability, the parking pad shall be composed of concrete, gravel, or other approved material.
- D. Setbacks For Campsites. All recreational vehicle sites, other camping sites, and all off-street parking spaces shall be located a minimum of twenty (20) feet from any side or rear property line, and not less than the required front yard setback from any public street. The minimum side or rear setbacks shall be fifty (50) feet when adjacent to any residential district.
- E. Screening. The Board of Zoning Appeals may require fencing, walls, landscaping, earth mounds, or other suitable efforts where it is determined that buffering or screening is necessary to minimize land use conflicts and/or protect the public safety.
- F. Internal Facilities. Management structures, recreational facilities, toilets, showers, dumping stations, or other similar uses shall be located within the park or campground in such a manner that they will not attract customers other than occupants of the park or campground.
- G. Water/Wastewater Facilities. The park or campground shall provide water supply and wastewater disposal facilities which meet the needs of the intended clientele, either independent recreational vehicles or dependent campers and primitive campsites. At a minimum, a service building with showers and toilets shall be required where not provided separately. All water supply, wastewater disposal, and refuse disposal facilities shall be located and designed subject to the approval of the Darke County Health Department.
- H. Permanent Residence Prohibited. No recreational vehicle shall be used as a permanent place of residence or business within the park or campground. Continuous occupancy for longer than any ninety (90) day period within any twelve (12) month period shall be deemed permanent occupancy.
- I. Traffic Access. All traffic into and out of the park or campground shall be through entrances and exits designed for safe and convenient movement of traffic. No entrance or exit shall require an acute angle turn for vehicles moving into or out of the park. The radii of curbs and pavements at intersections shall facilitate easy turning movements. No material impediment to

visibility shall be created.

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

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

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

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

SECTION 514 JUNK YARDS

- 514.01 Required Conditions.** A conditional use permit shall not be issued for a junk yard unless the conditions set forth in this section have been satisfied.
- 514.02 County License Required.** The operator of the junk yard shall possess a license from the Darke County Auditor.
- 514.03 Pest Control Plan Required.** The junk yard operation shall provide a plan for the control of insects, rodents, and other disease vectors. All vehicles stored or kept in such yards shall be so kept that they will not catch or hold water in which mosquitoes may breed, and so that they will not constitute a place or places in which mice or other vermin may be harbored, reared, or propagated.
- 514.04 Access Control Required.** The area of the site used for the storage of junk shall be completely enclosed by a fence or other suitable enclosure to attempt to prevent any uncontrolled access by unauthorized persons.
- 514.05 Required Screening.** The site shall contain mounding, fence screening, or natural vegetation adequate to obscure the view of junk from an abutting public street or surrounding property, as determined by the Board of Zoning Appeals. Any fence required for screening purposes shall be in accordance with the following requirements:

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

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

SECTION 515 SANITARY LANDFILLS

515.01 Required Conditions. Sanitary landfills may be permitted as a conditional use upon submission of satisfactory proof that such operations will not be detrimental to surrounding properties or to the environment. The following conditions shall be guaranteed by the applicant prior to the issuance of a conditional use permit.

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

- A. Vicinity maps, drawn at a scale of one (1) inch equal to one thousand (1,000) feet, illustrating the proposed site in relation to surrounding existing and proposed land uses, existing and proposed roads, surrounding zoning districts, and the Darke County Land Development Plan.
- B. Topographic maps, drawn at a scale no greater than one (1) inch equal to two hundred (200) feet with five (5) foot contour intervals, showing the existing and the proposed final physiographic layout of the site.
- C. A hydrogeologic and surface drainage study of the site conducted by a qualified professional engineer registered in the State of Ohio, illustrating the various depths, thicknesses, and hydrologic characteristics of underlying geologic deposits and the depth, direction of flow, and potential for contamination of the underground water supply.
- D. A plan for monitoring underground water contamination.
- E. A transportation plan for the site illustrating any proposed external routes or access to the landfill site and any proposed internal circulation routes within the landfill site.
- F. Proposed methods of control for insects, rodents and other disease vectors.
- G. Proposed methods of controlling odor, dust, and/or blowing debris such as paper.
- H. Proposed methods for screening.
- I. Proposed hours of operation.
- J. The location and size of proposed shelters for landfill personnel and equipment.
- K. A proposed plan for future use of the site.

515.03 Permit To Install Required. All proposed sanitary landfill operations shall be required to secure a "Permit to Install" from the Ohio Environmental Protection Agency prior to the conditional use permit becoming effective.

515.04 Screening. The site shall contain mounding or screening adequate to obscure the view of the landfilling operation from any public street, existing dwelling unit, or any residentially zoned property.

- 515.05 Water Pollution.** The site shall be limited to areas where surface or underground water pollution will not occur.
- 515.06 Access From Residential Areas.** The site shall not be accessible from any established residential area.
- 515.07 Odor Control.** The site shall be so located and operated as to minimize the effects of winds carrying objectionable odors to urbanized or urbanizing areas.
- 515.08 Attendant Required.** An attendant shall be on duty during the time the sanitary landfill site is open to supervise the unloading of refuse.
- 515.09 Control Of Blowing Debris.** Blowing paper shall be controlled by providing a portable fence near the working area. The fence and area shall be policed daily.
- 515.10 Open Storage/Burning Prohibited.** There shall be no open storage or burning of refuse or garbage.
- 515.11 Vector Control.** Conditions unfavorable for the production of insects, rodents, and other disease vectors shall be maintained by carrying out routine landfill operations promptly in a systematic manner.
- 515.12 Domestic Animals Excluded.** Domestic animals shall be excluded from the site.
- 515.13 Cover Layer Required Daily.** A compacted layer of at least six (6) inches of suitable cover material shall be placed on all exposed refuse by the end of each working day.
- 515.14 Other Required Conditions.** Other conditions which the Board of Zoning Appeals deems necessary to insure that the sanitary landfill operation will not be detrimental to surrounding properties or to the environment.
- 515.15 Hazardous Waste Restriction.** No hazardous waste, defined under Ohio Revised Code Section 3724.01 (J) (1) and (2), and the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806-2812, 42 U.S.C. 6921 to 6931 shall be deposited in or stored on any site designated as a sanitary landfill under Section 515 of this Zoning Resolution without application for and receipt of a hazardous waste storage-burial conditional use permit from the Board of Appeals and submission of an operating plan by the proposed site operator to include the following information and assurance:
- A. The full legal and corporate name of the site operator to include any other names used by said site operator within the past five (5) years, and the names of all the officers of the said proposed operator and include detailed resumes of same indicating prior experience or expertise in the operation of a hazardous waste storage-burial facility.
 - B. A detailed listing of the specific types of hazardous waste to be stored on site to include chemical and generic designation and known effects on flora and fauna of same.
 - C. A complete fire and population evacuation plan for all areas within five (5) miles of the site center.
 - D. A complete geologic and hydrologic study of the site showing site barrier control sufficient to prevent all off-site leachate transmission and insure protection of all water supplies.
 - E. Operator shall submit the name of its waste transport company to include the type of vehicles to be used to transport the hazardous waste and the training of the driver-operators.
 - F. Operator shall submit a plan for the control of malodorous airborne pollutants so that no such odors are transported off-site.

- G. Operator-applicant shall present proof to the Board of licensure for Hazardous Waste Storage under Section 3734.03 of the Ohio Revised Code prior to issuance of any conditional use permit by the Board of Zoning Appeals.
- H. Operator-applicant shall present proof of bond or surety to the sum set by Zoning Board of Appeals subject to the approval of the Township Trustees. Proof of bond shall be required prior to the grant of a conditional use permit for Hazardous Waste Storage in Butler Township.

515.16 Inspections and Enforcement. The Zoning Inspector or a Darke County Health Department employee may visit the site at any time and may have cause for a cease and desist order if the owner and/or operator of a sanitary landfill is in violation of any of the above sections or any other conditions imposed by the Board of Zoning Appeals.

SECTION 516 CHILD CARE NURSERY

- 516.01 Applicability.** The standards set forth in this section shall apply to the development of child care nurseries within Butler Township.
- 516.02 Thoroughfare Access.** The site shall not create excessive traffic on local residential streets.
- 516.03 Required Play Area.** An outdoor play area shall be required. The minimum size of such play area shall be no less than two-hundred (200) square feet per each child. The minimum width or depth of such play area shall be twenty (20) feet. Such play area shall also be completely enclosed by a fence or wall a minimum of forty-two (42) inches in height.
- 516.04 Required Screening.** The required play area shall be screened along all sides which are within fifty (50) feet of a lot within a residential district. All sides of the parking lot which face any dwelling or residential district shall be screened.
- 516.05 Maximum Enrollment.** The Board of Zoning Appeals may establish a maximum enrollment based upon neighborhood impact.

SECTION 517 BILLBOARDS

- 517.01 Required Conformance.** All billboards within Butler Township shall be in accordance with the provisions of this Section.
- 517.02 Permitted Locations.** Billboards may be erected on free-standing structures only in the A-1 Agricultural District and the I-1 Limited Industrial District. Billboards may be erected on any side or rear building wall only in the A-1 Agricultural District, B-1 Township Business District, and the I-1 Limited Industrial District.
- 517.03 Number of Faces.** Free-standing billboards can be double-faced and each side shall be considered as facing traffic flowing in the opposite direction.
- 517.04 Maximum Height.** The top of a free-standing billboard shall not extend more than twenty five (25) feet above the grade of the street.
- 517.05 Required Spacing.** No billboard shall be located closer than one thousand five hundred (1,500) feet to another billboard facing traffic flowing in the same direction.
- 517.06 Maximum Sign Area.** The maximum sign area permitted for a free-standing billboard shall not exceed two hundred fifty (250) square feet of total area. The maximum sign area for a wall billboard shall not exceed ten (10) percent of the wall area or two hundred (200) square feet of total area, whichever is less.

- 517.07 Structural Design.** Structures for free-standing billboards shall be of vertical (cantilever) construction and where the back of the sign is visible it shall be suitably painted or otherwise covered to present a neat and clean appearance.
- 517.08 Lighting.** All lighting used in the illumination of billboards shall be adequately shielded or shaded, and properly directed so as to not cast direct light upon public streets and/or adjacent and surrounding properties.
- 517.09 Required Setback From Street.** All free-standing billboards shall be set back from right of-way lines a minimum distance of one hundred (100) feet along all State highways designated as such on the Official Zoning District Map, and the required front yard setback along all other streets.
- 517.10 Setback From Residential Uses and Districts.** No billboard shall be located closer than five hundred (500) feet to any residential zoning district or two hundred (200) feet from any existing residential dwelling.

SECTION 518 ANIMAL HOSPITAL/KENNEL/VETERINARIAN

- 518.01 Minimum Lot Area.** Animal hospitals, kennels, and veterinarians shall only be located on lots with a minimum area of five (5) acres.
- 518.02 Required Setback.** No building, pen, or enclosure having windows capable of being opened or is located outside shall be located closer than two hundred (200) feet to any property line.

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

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

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

SECTION 601 HANDICAPPED PARKING REQUIREMENTS

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

SECTION 602 OFF-STREET PARKING SPACE DEVELOPMENT STANDARDS

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

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

- 602.03 Access.** All parking spaces, except those required for single-family or two-family uses not fronting upon an arterial or collector street, shall have access to a public street in such a manner that any vehicle leaving from or entering into the parking area from a public street shall be traveling in a forward motion. Access of driveways for parking areas shall be located in such a way that any vehicle entering or leaving such parking area shall be clearly visible for a reasonable distance by any pedestrian or motorist approaching the access or driveway from a public or private street.
- 602.04 Separation From Right-of-Way.** All parking facilities located within required front or side yards shall be separated from sidewalks and streets in public right-of-ways by a strip of land which shall be at least ten (10) feet in width and which shall be reserved as open space and planted in grass.
- 602.05 Paving.** All required parking spaces, together with driveways, and other circulation areas, shall be hard-surfaced with a pavement having an asphalt or concrete binder in or adjacent to residential districts and have an all-weather surface, at a minimum, in all other areas.
- 602.06 Marking.** Where necessary due to multiple curb cuts, the entrances, exits, and the intended circulation pattern of the parking area shall be clearly marked. All parking spaces shall be marked with paint lines, curb stones, or in any other manner approved by the Board of Zoning Appeals and maintained in clearly visible condition.
- 602.07 Drainage.** All parking spaces, together with driveways, aisles, and other circulation areas shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be designed to prevent the excess drainage of surface water onto adjacent properties or walkways and damage to public streets.
- 602.08 Barriers.** Wherever a parking lot extends to a property line, fencing, wheel stops, curbs, or other suitable barriers shall be provided in order to prevent any part of a parked vehicle from extending beyond the property line.
- 602.09 Lighting.** Any parking areas which is intended to be used during non-day hours shall be properly illuminated as to avoid accidents. Any light used to illuminate a parking lot shall be so arranged as to reflect the light away from any public street or adjoining property.
- 602.10 Landscaping Required.** All parts of open off-street parking areas which are unusable, either for parking or for traffic, shall be landscaped with plantings of grass, flowers, shrubs, and/or trees, which shall be continuously maintained in good condition.
- 602.11 Screening.** Screening shall be provided as required by the appropriate district regulations.
- 602.12 Maintenance.** The owner of property used for parking areas shall maintain such areas in good condition and free of all dust, trash, or other debris.

SECTION 603 USE OF PARKING AREAS

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

603.03 Collective Parking Areas. Two (2) or more non-residential uses may collectively provide the required off-street parking area, provided the required number of parking spaces shall not be less than the sum of the requirements for the individual uses computed separately, unless Section 603.02 is followed.

SECTION 604 PARKING SPACE REQUIREMENTS

604.01 Parking Space Requirements. For the purposes of this Zoning Resolution the following parking space requirements shall apply. The number of parking spaces required for uses not specifically mentioned shall be determined by the Board of Zoning Appeals.

604.02 Residential.

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

604.03 Commercial, Service, and Institutional.

<u>Type of Use</u>	<u>Parking Spaces Required</u>
Agribusiness establishment	One for each employee and one for each 400 square feet of floor area
Animal hospitals and kennels	One for each 2 animal enclosures and examination rooms and one for each two employees
Automobile or farm implement repair station	One for each 800 square feet of floor area and one for each employee
Automobile or farm equipment sales, machinery or other large item sales, and similar uses	One for each 400 square feet of floor area, one for each five vehicles or implements, and one for each employee
Automobile service stations	Two for each service stall and two for each service bay
Convenience retail store	One for each 200 square feet of floor area and one for each two employees, with a minimum total of eight (8) spaces
Child Care Nursery	One space for each five (5) children plus one space for each employee.
Churches and other places of religious assembly	One for each 300 square feet of floor area
Farm Markets	One for each 200 square feet of floor area, with a minimum total of two (2) spaces.
Offices	One for each 300 square feet of floor

Research facilities	One for each employee and one for each motor vehicle used in the business and maintained on the premises
Restaurants, taverns, night clubs, and similar uses	One for each three persons capacity, and one for each three employees
Retail stores	One for each 250 square feet of sales area

604.04 Industrial.

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

604.05 Recreational.

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

SECTION 605 LOADING SPACE REQUIREMENTS

- 605.01 Off-Street Loading Development Standards.** A permanently maintained area for standing, loading, and unloading services shall be provided for on the same lot with every building, structure, or part thereof erected and occupied for nonresidential use requiring distribution of materials or merchandise by vehicles. These off-street loading areas shall be required in order to avoid undue interference with public use of streets and alleys. All loading facilities shall be in accordance with the specifications of this Section.
- 605.02 Loading Space Dimensions.** Each loading space shall have minimum dimensions not less than twelve (12) feet in width, fifty (50) feet in length, and a vertical clearance of not less than fifteen (15) feet.
- 605.03 Projection Into Required Yards.** Off-street loading spaces may occupy any part of a required rear or side yard, but shall not project into any front yard.
- 605.04 Access.** All required, off-street loading spaces shall have access to public street or alley in such a manner that any vehicle leaving or entering the premises shall be traveling in a forward motion. This requirement may be waived upon approval by the Board of Appeals.
- 605.05 Paving.** All required loading spaces, together with driveways, aisles, and other circulation areas, shall be surfaced with an asphaltic or portland cement binder pavement in order to provide a durable or dust free surface.

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

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

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

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

<u>Type of Use</u>	<u>Required Loading Spaces</u>
Retail operations, including restaurant and dining facilities within hotels and office buildings, with a total usable floor area of 20,000 square feet or more devoted to such purposes	1 loading berth for every 40,000 square feet of floor area or fraction thereof; 1 loading space for every 20,000 square feet of floor area or fraction thereof

<u>Type of Use</u>	<u>Required Loading Spaces</u>
Retail operations, and all first floor non-residential uses, with a gross floor area of less than 20,000 square feet, and all wholesale and light industrial operations with a gross floor area of less than 10,000 square feet	1 loading space

Industrial and wholesale operations with a gross floor area of 10,000 square feet or over as follows:	Minimum number of loading spaces required
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10,000 to 39,999 square feet	1
40,000 to 99,999 square feet	2
100,000 to 159,999 square feet	3
160,000 to 239,999 square feet	4
240,000 to 319,999 square feet	5
320,000 to 399,999 square feet	6
Each 90,000 square feet above 399,999 square feet	1

SECTION 606 DRIVE-THROUGH WAITING SPACE REQUIREMENTS

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

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

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

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

ARTICLE VII SIGN REGULATIONS

SECTION 701 INTENT AND PURPOSE

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

SECTION 702 ZONING PERMIT REQUIRED

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

SECTION 703 GENERAL SIGN REQUIREMENTS

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

703.02 Location.

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

703.03 Traffic Hazard Minimization.

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

- 703.04 Illumination.** Any illuminated sign which is clearly visible from any residential district shall not be illuminated between the hours of 11 P.M. and 7 A.M. unless it is accessory to a business or commercial use open for business during such hours and located upon the same lot. All lighting, indirect or internal, shall consist of constant illumination which is uniform in intensity except for permitted time and temperature displays. All lighting shall be properly directed so as to not create a nuisance to surrounding properties and/or traffic because of glare.
- 703.05 Sign Types and Materials.** Streamers, spinners, banners, strings of lights, and other similar devices which do not serve the function of a sign shall not be permitted. Changeable copy shall not be permitted on any sign unless specifically permitted in this Article. Moving or rotating signs shall be prohibited.
- 703.06 Roof Signs Prohibited.** No signs shall be erected upon or attached to any roof. Religious symbols, unaccompanied by lettering, when applied to the cornice, tower, or spire of a place of worship shall be permitted.

SECTION 704 TEMPORARY SIGNS

- 704.01 Number of Temporary Signs Per Lot.** Not more than one (1) temporary sign shall be permitted on any lot within Butler Township at any time.
- 704.02 Temporary Real Estate Signs.** One (1) temporary sign identifying a property for sale, for rent, or for lease may be placed on-site until ten (10) days after the property has been closed, sold, rented, or leased. Real estate signs shall not exceed six (6) square feet in area per side within any residential district and shall not exceed twenty (20) square feet within any other district. All such signs shall be set back off any street right-of-way. All signs greater than six (6) square feet in area shall be set back a minimum of ten (10) feet from any street right-of-way. No zoning permit shall be required for any real estate sign six (6) square feet or less in area.
- 704.03 Temporary Subdivision Sale Signs.** One (1) temporary sign providing information on the sale of lots within an approved and recorded subdivision may be placed upon the property until such time as seventy-five percent (75%) of the lots within the subdivision are sold. All such signs shall be set back off any street right-of-way a minimum of ten (10) feet. The maximum sign area shall be twenty (20) square feet.
- 704.04 Temporary Construction Signs.** One (1) temporary sign identifying a construction project may be temporarily erected upon the same lot as the project. Such sign shall be permitted only for the length of the construction project or for one (1) year, whichever is shorter. Any extension past the one (1) year time shall be subject to approval by the Board of Zoning Appeals. Only one (1) temporary construction sign shall be permitted on a lot per street frontage. Maximum sign area permitted shall be six (6) square feet for each single-family or two-family dwelling, or three (3) square feet per dwelling unit for multiple-family residential structures up to a maximum of twenty (20) square feet. The maximum sign area permitted for any nonresidential project shall be twenty (20) square feet. All temporary construction signs shall be set back off any street right-of-way.
- 704.05 Temporary Agricultural Product Signs.** Signs identifying the sale of agricultural products such as vegetables, eggs, straw, hay, and seeds grown or produced upon the premises may be temporarily erected upon any lot during the season in which they are available. The maximum sign area permitted for a temporary agricultural product sign shall be six (6) square feet within any residential district and twelve (12) square feet within any nonresidential district. All temporary agricultural product signs shall be set back from the street right-of-way a minimum of ten (10) feet.
- 704.06 Temporary Special Event Signs.** One (1) temporary sign advertising a grand opening, a seasonal event, a special sale, or any other similar temporary special event may be temporarily located upon the premises on which the event is to take place for a period not to exceed seven (7) days within any thirteen (13) week period. The maximum sign area permitted for a special event sign shall be six (6) square feet in any residential district and thirty-two (32) square feet in any other district. All temporary special event signs

shall be set back from the street right-of-way a minimum of ten (10) feet. The Zoning Inspector may cause a temporary special event sign not meeting the requirements of this section to be removed in accordance with Section 708.

SECTION 705 BILLBOARDS

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

SECTION 706 IDENTIFICATION SIGNS

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

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

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

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

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

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

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

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

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

SECTION 707 REMOVAL OF PERMANENT SIGNS BY ZONING INSPECTOR

- 707.01 Public Nuisance.** For the purposes of this Zoning Resolution any permanent sign that does not meet the requirements of this Article and is not a legally nonconforming structure is considered a public nuisance. Any abandoned, dangerous, or materially, electrically, or structurally defective sign, or a sign for which no permit has been issued is also considered a public nuisance. The Zoning Inspector shall cause all such signs to be removed.
- 707.02 Notice Required.** The Zoning Inspector shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that if the sign is not removed or the violation is not corrected within thirty (30) days, the sign shall be removed in accordance with the provisions of this Zoning Resolution.
- 707.03 Mailing of Notice.** All notices mailed by the Zoning Inspector shall be sent by certified mail. Any time period provided in this section shall be deemed to commence on the date of the receipt of the certified mail. Notice shall be mailed to the owner of the property on which the sign is located as shown on the last tax assessment roll. The notice shall also be mailed to the owner of the sign and the occupant of the property, if known.
- 707.04 Appeal.** Any person having an interest in the sign or the property may appeal the determination of the Zoning Inspector ordering removal or compliance by filing a written notice of appeal with the Board of Zoning Appeals within thirty (30) days after the date of mailing the notice, or thirty (30) days after receipt of the notice if the notice was not mailed.

SECTION 708 REMOVAL OF TEMPORARY SIGNS BY ZONING INSPECTOR

- 708.01 Public Nuisance.** For the purposes of this Zoning Resolution any temporary sign that does not meet the requirements of this Article and is not a legally nonconforming structure is considered a public nuisance. Any abandoned, dangerous, or materially, electrically, or structurally defective sign or any sign for which no permit has been issued or a temporary permit has expired is also considered a public nuisance. The Zoning Inspector shall cause all such signs to be removed.
- 708.02 Required Notice.** The Zoning Inspector shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that if the sign is not removed or the violation is not corrected within forty-eight (48) hours, Butler Township shall cause forfeiture of any required bond to Butler Township for such sign and cause removal of such sign in accordance with the provisions of this Zoning Resolution.

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

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

ARTICLE VIII NONCONFORMITIES

SECTION 800 EXISTING CONFORMING LOTS, STRUCTURES, OR USES

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

SECTION 801 NONCONFORMING LOTS

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

SECTION 802 NONCONFORMING STRUCTURES

- 802.01 Continuation.** Any lawfully existing principal or accessory structure which by reason of size, type, location on the lot, or otherwise is in conflict with the applicable development standards of the zoning district in which it is located shall be considered a nonconforming structure. Any change, alteration, enlargement, or reduction of a nonconforming structure shall be in accordance with the provisions of

Sections 802.02 through 802.05. It is the intent of this Zoning Resolution to permit such nonconforming structure to continue until it is removed, but not to encourage its use or expansion outside of the provisions set forth in this Article.

802.02 Structural Alterations. Structural alteration of a nonconforming structure shall be in accordance with the provisions of this Section.

- A. **Must Comply With Development Standards.** Any structural alteration of a nonconforming structure shall be made only in such a manner that such alteration will comply with the development standards of the zoning district in which such nonconforming structure is located.
- B. **No Increase In Nonconformity.** Any structural alteration of a nonconforming structure shall not create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.
- C. **Reduction of Other Standards Prohibited.** The extension or enlargement of a nonconforming structure may not occupy ground space suitable and otherwise available for meeting the required off-street parking, loading, and drive-through waiting requirements of this Zoning Resolution.
- D. **Nonresidential Structures In Residential Zoning Districts.** Any enlargement of a nonconforming nonresidential structure located within a residential zoning district shall require a public hearing using the procedures prescribed for appeals in Article 10, Section 1003. If permitted, enlargements of such nonconforming structures shall only be made on property owned in conjunction with such nonconforming structure at the effective date of this Zoning Resolution or appropriate amendment thereto.
- E. **Residential Buildings In Nonresidential Zoning Districts.** Nonconforming residential buildings in a nonresidential district may be improved, modernized, or enlarged. However, no increase in the number of dwelling units shall be permitted.

802.03 Damage or Destruction. In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of the current replacement cost of the entire structure, such structure shall not be restored unless it thereafter conforms to the development standards for the zoning district in which it is located. When a structure is damaged to the extent of fifty (50) percent or less of the current replacement cost, no repairs or restoration shall be made unless a zoning certificate is obtained and restoration is actually begun within one (1) year after the date of such partial destruction. Such repair or restoration shall not increase the nonconformity that existed prior to the damage.

802.04 Moving. No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure thereafter conforms to the development standards of the zoning district in which it will be located after being moved.

802.05 Repair and Maintenance. Work may be done on ordinary maintenance and repairs, or on repair or replacement of wall, fixtures, wiring, or plumbing; provided, however, that this paragraph shall not be deemed to authorize any violation of this Article. Nothing in this Zoning Resolution shall be deemed to prevent the strengthening or restoring to a safe condition of a building or other structure, other than a damaged or destroyed building or other structure subject to the provisions of 802.05, in accordance with the order of a public official who is charged with protecting the public safety and who declares such building or other structure to be unsafe and orders its restoration to a safe condition.

802.06 Plans Approved Prior To Effective Date. To avoid undue hardship, nothing in this Zoning Resolution shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or appropriate amendment of this Zoning Resolution and upon which actual building construction has been carried on diligently.

SECTION 803 NONCONFORMING USES

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

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

ARTICLE IX ADMINISTRATIVE BODIES AND THEIR DUTIES

SECTION 901 TOWNSHIP ZONING INSPECTOR

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

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

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

SECTION 902 TOWNSHIP ZONING COMMISSION

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

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

902.03 Actions. The Zoning Commission shall act by resolution or motion. The concurring vote of three (3) members of the Zoning Commission shall be necessary to pass any motion to recommend the approval, disapproval, or modification of any proposed amendment to this Zoning Resolution. The results of such resolution or motion shall be forwarded to the Township Trustees for their action, except as may otherwise be provided herein.

902.04 Duties. The Township Zoning Commission shall be responsible for initiating or reviewing all proposed amendments to this Zoning Resolution and make recommendations to the Township Trustees in accordance with Article 10, Section 1004.

SECTION 903 BOARD OF ZONING APPEALS

903.01 Establishment. The Township Trustees shall appoint five (5) residents of the Township to the Board of Zoning Appeals. The terms of all members shall be so arranged that the term of one (1) member shall expire every year. Each member shall serve until his/her successor is appointed and qualified. Members of the Board of Zoning Appeals may be removable for nonperformance of duty, misconduct in office, or other cause by the Township Trustees, upon written charges being filed with the Township Trustees, after a public hearing has been held regarding such charges, and after a copy of the charges has been served either personally, by registered mail, or by leaving such copy at his/her usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by resolution of the Township Trustees and shall be for the unexpired term.

903.02 Meetings. The Board of Zoning Appeals shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Zoning Resolution. Meetings shall be held at the call of the Chair and at such other times as the Board of Zoning Appeals may determine. The Chairman, or in his/her absence the Acting Chair, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member upon question or if absent of failing to vote, indicating such fact, and shall keep records of its examinations and other official actions; all of which shall be a public record and be immediately filed in the office of the Board of Zoning Appeals.

903.03 Actions. In exercising its duties, the Board of Zoning Appeals may, as long as such action is in conformity with the terms of this Resolution, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the power of the Zoning Inspector from whom the appeal is taken. The concurring vote of three (3) members of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this Zoning Resolution.

903.04 Duties. For the purpose of this Zoning Resolution, the Board of Zoning Appeals has the following specific responsibilities:

- A. Appeals. To hear and decide appeals in accordance with Article 10, Section 1003 where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Inspector.
- B. Variances. Where an applicant has provided sufficient evidence to warrant the granting of a variance, to authorize such variances from the terms of this Zoning Resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of this Zoning Resolution will result in unnecessary hardship, and so that the spirit of this Zoning Resolution shall be observed and substantial justice done. The consideration of such variances shall be in accordance with Article 10, Section 1003.

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

SECTION 904 TOWNSHIP TRUSTEES

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

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

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

ARTICLE X ADMINISTRATIVE AND LEGISLATIVE PROCEDURES

SECTION 1001 ZONING CERTIFICATE

1001.01 Zoning Certificate Required. No person shall change any use of land, locate, erect, construct, reconstruct, enlarge or structurally alter any building or structure within Butler Township, Darke County, Ohio without first obtaining a zoning certificate. No zoning certificate shall be issued unless the plans for the proposed building or structure or use of land fully comply with the provisions of this Zoning Resolution, unless the Zoning Inspector receives a written order from the Board of Zoning Appeals deciding an appeal, a variance, or conditional use. A zoning certificate shall be required for all residential structures, all principal structures and uses, all accessory structures unless otherwise specified, all specified accessory uses, and all temporary uses. A zoning certificate shall not be required for the use of land for agricultural purposes, for buildings or structures exclusively used for agricultural purposes, or for structures required in the provision of essential services by a public utility.

1001.02 Application For Zoning Certificate. A written application and site plan for a zoning certificate shall be submitted to the Zoning Inspector on forms provided by Butler Township. The following information shall be required:

- A. Name, address, and phone number of applicant.
- B. Date.
- C. The name of the subdivision and the lot number or other information necessary to establish the location of the lot.
- D. The actual dimensions of the lot based on actual survey, including square footage and/or acreage, the yard and other open space dimensions thereof, and the location and size of any existing structures thereon.
- E. The location on the lot and size of any proposed structure and/or the proposed alteration of any existing structure, indication dimensions, including building height.
- F. The number of proposed dwelling units, and the total residential floor area and the number of bedrooms to be included in each dwelling unit.
- G. A permit from the Darke County Health Department or Ohio Environmental Protection Agency for on-site wastewater disposal, where applicable, illustrating the location of primary and secondary leaching field locations.
- H. The proposed parking plan and number and location of proposed off-street parking or loading spaces.
- I. A plan for screening when applicable.
- J. A statement by the applicant attesting to the truth and exactness of all information supplied on the application.
- K. A statement that the permit shall expire and shall be revoked if work has not been started and substantially pursued within one (1) year of its issue date.
- L. Such other information as may be necessary to determine conformance with this Zoning Resolution.
- M. A fee as established by the Township Trustees.

1001.03 Processing Zoning Certificate Application. Within thirty (30) days after the receipt of an application, the Zoning Inspector shall either approve or disapprove the application in conformance with the provisions of this Zoning Resolution. If the application is approved, the Zoning Inspector shall issue a zoning certificate. One (1) copy of the application shall be returned to the applicant by the Zoning Inspector after he/she shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One (1) copy of the application similarly marked shall be retained by the Zoning Inspector and filed. After the Zoning Inspector issues a zoning certificate, he/she shall issue a placard to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this Zoning Resolution.

1001.04 Required Coordination With ODOT. In the event an application involves land within three hundred (300) feet of the centerline of a proposed new highway or a highway for which changes are proposed as described in the certification of local officials by the Director of the Ohio Department of Transportation or any land within a radius of five hundred (500) feet from the point of intersection of said centerline with any public road or highway, the Zoning Inspector shall require a third application for a Zoning Permit and send it to the Director of the Ohio Department of Transportation by registered mail for review. If the Director of the Ohio Department of Transportation notifies the Zoning Inspector that he shall proceed to acquire the land needed, then the Zoning Inspector shall refuse to issue the zoning certificate. If the Director of the Ohio Department of Transportation notifies the Zoning Inspector that acquisition at this time is not in the public interest or upon the expiration of the one hundred twenty (120) day period or any extension thereof agreed upon by the Director of the Ohio Department of Transportation and the property owner, the Zoning Inspector shall, if the application is in conformance with all provisions of this Zoning Resolution, issue the zoning certificate.

SECTION 1002 CONDITIONAL USE PERMITS

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

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

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

- H. A narrative statement discussing the merits of the proposal.
- I. Such other information as may be required by the Board of Zoning Appeals.
- J. A fee as established by the Township Trustees.

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

1002.04 Approval of Conditional Uses. The burden of proof for granting a conditional use permit shall rest with the applicant. In granting any conditional use permit, the Board of Zoning Appeals may prescribe such conditions and restrictions as may be necessary to comply with the standards in this Section and the intent purpose of this Zoning Resolution. Violation of such conditions and restrictions, when made part of the terms under which the conditional use is granted, shall be deemed a violation of this Zoning Resolution and punishable under Article 10, Section 1005. Under no circumstances shall the Board of Zoning Appeals authorize a conditional use to allow a use prohibited expressly or by implication within the zoning district in which the property in question is located.

1002.05 Conditional Use Standards. Conditional uses may be permitted provided that such uses shall be found to comply with the following standards and all other applicable requirements as set forth in this Zoning Resolution:

- A. The use is so designed, located and proposed to be operated so that the public health, safety, morals and general welfare will be protected.
- B. The use will not result in the destruction, loss or damage of a natural, scenic, or historic feature of major importance.
- C. The use is operated in a manner that will not cause pollution of either underground water or surface water and will not have a detrimental impact to the underground water supply of the area.
- D. The use will be designed, constructed, operated, and maintained so that it shall not cause substantial injury to the value of the property in the area or neighborhood where it is to be located.
- E. The use shall be compatible with adjoining development and the proposed character of the zoning district where it is to be located.
- F. The use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide any such services adequately.
- G. The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

- H. Adequate landscaping and screening are provided, as required.
- I. Adequate off-street parking, loading, and/or waiting spaces are provided, and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.
- J. The use conforms with all applicable regulations governing the district in which it is located, except as may otherwise be determined for planned unit development.
- K. The use is compatible with the standards, objectives, and policies of the Darke County Land Development Plan.
- L. The use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors, or vibrations.
- M. Any other supplementary requirements as prescribed by the Board of Zoning Appeals.

1002.06 Expiration Of Conditional Use Permits. A conditional use permit shall be deemed to authorize only one (1) particular conditional use. The conditional use permit shall automatically expire if, for any reason, the conditional use shall cease for more than six (6) months, or construction is not begun within the amount of time indicated on the conditional use permit.

SECTION 1003 APPEALS AND VARIANCES

1003.01 Appeals. Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Zoning Resolution may be taken by any person aggrieved or by any officer or bureau of Butler Township affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision by filing, with the Zoning Inspector and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Inspector shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed was taken.

1003.02 Stay of Proceedings. An appeal stays all proceeding in furtherance of the action appealed from, unless the Zoning Inspector from whom the appeal is taken certifies to the Board of Zoning Appeals after the notice of appeal is filed with him, that by reason of facts stated in the application, a stay would, in his/her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application, on notice to the Zoning Inspector from whom the appeal is taken on due cause shown.

1003.03 Variances. The Board of Zoning Appeals may authorize, upon appeal in specific cases, such variance from the terms of this Zoning Resolution as will not be contrary to the public interest or the intent of this Zoning Resolution where, owing to special conditions, a literal enforcement of the provisions of this Zoning Resolution would result in unnecessary hardship, or in the case of area variances only, practical difficulties. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.

1003.04 Application. A variance from the terms of this Zoning Resolution shall not be granted by the Board of Zoning Appeals unless the applicant has provided sufficient evidence to warrant the granting of a variance, and a written application for a variance is submitted to the Zoning Inspector and the Board of Zoning Appeals containing, at a minimum, the following information:

- A. Name, address, and telephone number of applicant.
- B. Legal description of the property.

- C. Description of nature of variance requested.
- D. A narrative statement demonstrating to the satisfaction of the Board of Zoning Appeals that the requested variance conforms to the standards set forth in Section 1003.05.
- E. A fee as established by the Township Trustees.

1003.05 Standards For Granting Variances. Variances may be granted provided that such uses shall be found to comply with the following standards:

- A. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of this Zoning Resolution were to be carried out.
- B. The conditions upon which the application for variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property in the same zoning district.
- C. The purpose of the variance is not based exclusively upon a desire to increase financial gain.
- D. The alleged difficulty or hardship is caused by strict interpretation of this Zoning Resolution and has not been created by any persons presently having an interest in the property.
- E. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- F. The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

1003.06 Granting of Variances. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this Zoning Resolution would result in unnecessary hardship. The burden of proof for granting a variance shall rest with the applicant. In granting any appeal or variance, the Board of Zoning Appeals may prescribe such conditions and restrictions as may be necessary to comply with the standards in this Section and the intent purpose of this Zoning Resolution. Violation of such conditions and restrictions, when made part of the terms under which the appeal or variance is granted, shall be deemed a violation of this Zoning Resolution and punishable under Article 10, Section 1005. Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use prohibited expressly or by implication in the zoning district in which the property in question is located.

1003.07 Processing Appeals and Variances. The Board of Zoning Appeals shall hold a public hearing within twenty (20) days after the receipt of an application for an appeal or variance from the Zoning Inspector or an applicant.

- A. **Published Notice.** Before holding the required public hearing, notice of such hearing shall be given in one or more newspapers of general circulation within Butler Township at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed appeal or variance.
- B. **Mailed Notice.** Before holding the required public hearing, written notice of such hearing shall be mailed by the Chair of the Board of Zoning Appeals, by first class mail, at least ten (10) days before the day of the hearing to all parties in interest. The notice shall contain the same information as required of notices published in newspapers.

SECTION 1004 AMENDMENTS AND ZONING DISTRICT CHANGES

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

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

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

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

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

1004.04 Required Sign. All applicants submitting requests for change in district boundaries on the Official Zoning District Map shall be required to post a sign upon the property in question within five (5) days after the submission of an application. Such sign shall be clearly visible from the street, or in the case of two (2) or more streets, that street with the greater average traffic flow.

Such sign shall state "THIS PROPERTY IS BEING CONSIDERED FOR REZONING". "PUBLIC HEARING SCHEDULED FOR (month, date, and time)" and shall also denote the present and proposed zoning district classification for the site. No zoning permit shall be required. However, the location and size of such sign shall be subject to approval by the Zoning Inspector.

1004.05 Transmittal To County Planning Commission. Within five (5) days after the adoption of a motion by the Zoning Commission, transmittal of a resolution by the Board of Township Trustees, or the filing of an application by at least one (1) owner or lessee, the Zoning Commission shall transmit a copy of such motion, resolution, or application together with the text and map pertaining to the case in question to the Darke County Planning Commission. The Darke County Planning Commission shall recommend the approval, denial, or modification to the Zoning Commission. Such recommendation shall be considered at the public hearing held by the Zoning Commission.

1004.06 Coordination With Other Jurisdictions. In the event that a proposed rezoning is located adjacent to another political jurisdiction, an additional copy of the application shall be provided and forwarded to the chairman of the Planning Commission or the Zoning Commission of that jurisdiction. If the adjacent political subdivision has no zoning regulations in effect, the letter shall be forwarded to the township or municipal clerk of such jurisdiction. Any comments provided by the adjoining jurisdiction shall be considered at the public hearing of the Zoning Commission.

1004.07 Required Coordination With ODOT. Before any zoning amendment is approved affecting any land within three hundred (300) feet of the centerline of a proposed new highway or highway for which changes are proposed as described in the certification to local officials by the Director of the Ohio Department of Transportation, or within a radius of five hundred (500) feet from the point of intersection of said centerline with any public road or highway, the Commission shall give notice, by registered or certified mail to the Director of the Ohio Department of Transportation. The Zoning Commission may proceed as required by law, however, for one hundred twenty (120) days from the date the notice is received by the Director of the Ohio Department of Transportation. If the Director of the Ohio Department of Transportation notifies the Board of Township Trustees that he shall proceed to acquire any land needed, then the Board of Township Trustees shall refuse to approve the zoning. If the Director of the Ohio Department of Transportation notifies the Board of Township Trustees that acquisition at this time is not in the public interest or upon expiration of the one hundred twenty (120) day period or any extension thereof agreed upon by the Director of the Ohio Department of Transportation and the property owner, the Board of Township Trustees shall proceed as required by law.

1004.08 Zoning Commission Public Hearing. The Zoning Commission shall schedule a public hearing after the adoption of their motion, transmittal of a resolution from the Board of Township Trustees, or the filing of an application for zoning amendment. Said hearing shall not be less than twenty (20) nor more than forty (40) days from the date of adoption of such motion, transmittal of such resolution, or the filing of such application.

1004.09 Notice Of Zoning Commission Public Hearing. Before the required public hearing, notice shall be given by the Zoning Commission by at least one (1) publication in a newspaper of general circulation within the Township at least ten (10) days before the date of said hearing. The content of such notice shall be in accordance with Section 519.12 (C) or 519.12 (D) of the Ohio Revised Code, as applicable.

If the proposed amendment intends to rezone or redistrict ten (10) or fewer parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Zoning Commission, by first class mail, at least ten (10) days before the date of the public hearing to all owners of property within two hundred (200) feet of, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list. The failure of delivery of such notice shall not invalidate any such amendment. The content of such notice shall be in accordance with Section 519.12 (C) of the Ohio Revised Code.

- 1004.10 Recommendation Of Zoning Commission To Trustees.** Within thirty (30) days after the required public hearing, the Zoning Commission shall forward such recommendation to the Board of Township Trustees that the amendment be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment not be granted.
- 1004.11 Township Trustees Public Hearing.** Upon receipt of the recommendation from the Zoning Commission, the Board of Township Trustees shall schedule a public hearing. The date of said hearing shall be not more than thirty (30) days from the receipt of the recommendation from the Zoning Commission.
- 1004.12 Notice Of Trustees Public Hearing.** Notice of the required public hearing shall be given by the Board of Township Trustees by at least one (1) publication in a newspaper of general circulation within the Township. Said notice shall be published at least ten (10) days before the date of the required hearing. The content of such notice shall be in accordance with Section 519.12 (F) or (G) of the Ohio Revised Code, as applicable.
- 1004.13 Action By Township Trustees.** Within twenty (20) days after the required public hearing, the Board of Township Trustees shall either adopt or deny the recommendation of the Zoning Commission or adopt some modification thereof. In the event the Board of Township Trustees denies or modifies the recommendation of the Commission, the unanimous vote of the Board of Township Trustees shall be required.
- 1004.14 Effective Date.** Such amendment adopted by the Board of Township Trustees shall become effective thirty (30) days after the date of such adoption unless within thirty (30) days after the adoption of the amendment there is presented to the Board of Township Trustees a petition, signed by a number of registered electors residing in the unincorporated area of the Township or part thereof included in the zoning plan equal to not less than eight (8) percent of the total vote cast for all candidates for Governor in such area at the last preceding general election at which a Governor was elected, requesting the Board of Township Trustees to submit the amendment to the electors of such area for approval or rejection at a special election to be held on the day of the next primary or general election.
- 1004.15 Referendum Petition.** The content and form of such referendum petition shall be in accordance with Section 519.12 (H) of the Ohio Revised Code. The petition shall be filed, accompanied by an appropriate map of the area affected by the zoning proposal, with the Board of Township Trustees, which shall then transmit the petition within two (2) weeks of its receipt to the Board of Elections, which shall determine the sufficiency and validity of the petition. The petition shall be certified to the Board of Elections not less than seventy-five (75) days prior to the election at which the question is to be voted upon.
- 1004.16 Effect of Referendum Vote.** No amendment for which such referendum vote has been requested shall be put into effect unless a majority of the votes cast on the issue is in favor of the amendment. Upon certification by the Board of Elections that the amendment has been approved by the voters, it shall take immediate effect.

SECTION 1005 PROCEDURE FOR APPROVAL OF PLANNED DEVELOPMENT DISTRICT

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

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

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

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

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

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

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

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

1005.08 Supplementary Conditions and Safeguards. In approving any planned development district, the Township Trustees may prescribe appropriate conditions and safeguards, in conformity with this Zoning Resolution. Violation of such conditions or safeguards, when made a part of the terms under which the final development plan is approved, shall be deemed a violation of this Zoning Resolution and punishable under Article 10, Section 1006, of this Zoning Resolution.

ARTICLE XI DEFINITIONS

SECTION 1101 CONSTRUCTION OF LANGUAGE

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

SECTION 1102 DEFINITIONS

All words used in this Zoning Resolution shall have their customary meanings as defined in Webster's New World Dictionary, except those specifically defined in this Section.

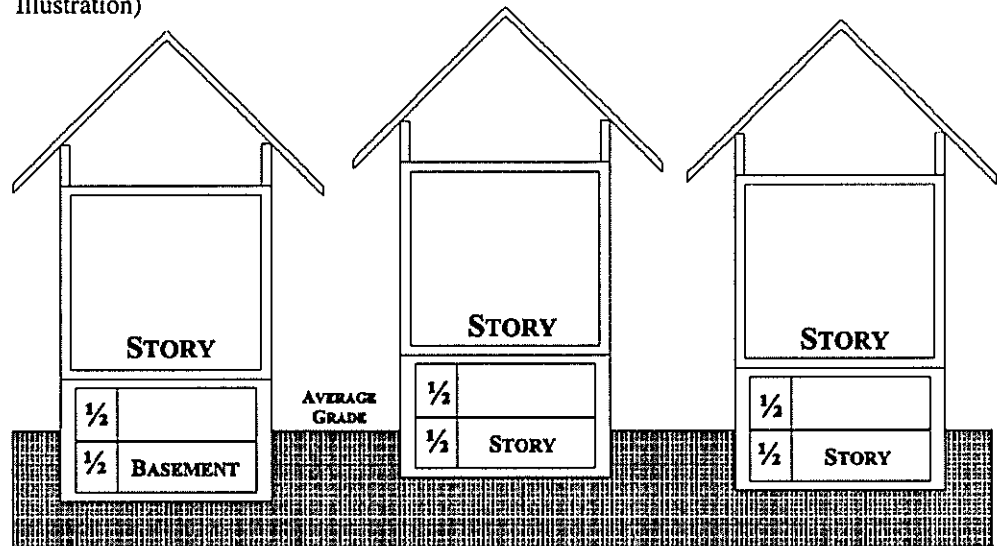
1102.01 Definitions Beginning with the Letter "A".

- A. Accessory Use or Structure: A use or structure incidental and subordinate to the principal use and/or structure on the lot and serving a purpose customarily incidental and subordinate to the use of the principal building.
- B. Agribusiness: Manufacturing, warehousing, storage, and related industrial and commercial activities that provide services for or are dependent upon agricultural activities found within the Agricultural District, and are not necessarily suited to locations within an established community. Agribusinesses include, but are not limited to the following uses: fertilizer sales, storage, and blending; sales and servicing of farm implements and related equipment; preparations and sale of feeds for animals and fowl; seed sales; poultry hatchery services; corn shelling, hay baling, and threshing services; grain elevators and bulk storage of feed grains; horticultural services; veterinary services; agricultural produce milling and processing; feed lots; livestock auctions; and retail nurseries.
- C. Agriculture: As used in this Resolution, Agriculture shall be interpreted the same as defined and used in Chapter 519 of the Ohio Revised Code; provided however, that as used in this Resolution, agriculture shall not include: (1) the keeping, caring and harboring of household pets, not exceeding a total of six (6) such pets; or, (2) the cultivating of land for a household garden, the harvest from which is to be utilized solely for the personal consumption of the residents, or immediate family thereof, of the lot or land upon which the garden is located and not otherwise sold or commercially distributed, and provided that the total area of such garden shall not exceed ten percent (10%) of the lot or parcel upon which the garden is located.
- D. Airport: Any runway, landing strip, or other facility designed or used by any person for the landing and take-off of aircraft by the public for commercial purposes, and may also include services such as fuel sales, storage, repair services, and aircraft sales.
- E. Alterations: Any change in the supporting members (bearing wall, beams, columns, girders, etc.) of a building or structure; or movement of a building or structure from one location to another.
- F. Automobile Repair Station: A building, lot, or both, in or upon which the business of general motor vehicle repair and service is conducted, to include engine rebuilding, rebuilding or reconditioning of motor vehicles, body repair, and painting and undercoating of automobiles, but excluding a junk yard as defined in this section.

- G. Automobile Sales or Rental: A building, lot, or both used for the display, sale, or rental of new or used motor vehicles in operable condition and where repair service is incidental.
- H. Automobile Service Station: A building, lot, or both, having pumps and underground storage tanks at which fuels, oils, or accessories for the use of motor vehicles are dispensed, sold, or offered for retail sale, and where mechanical repair service may be incidental to the dispensing of such items. The storage of junk or inoperable vehicles shall not be included in this definition.

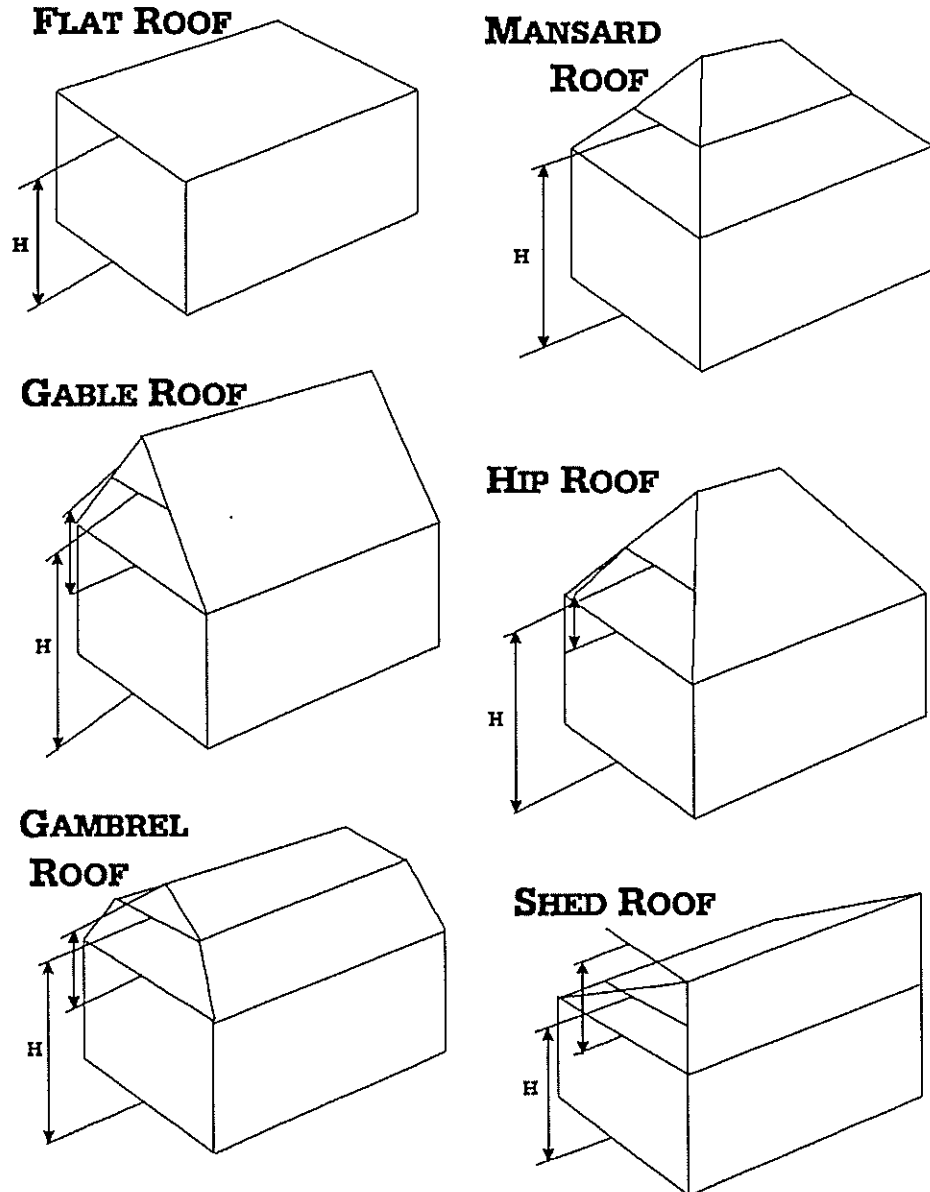
1102.02 Definitions Beginning with the Letter "B".

- A. Barn: An accessory structure upon a lot customarily used for the housing of livestock and for the storage of crops and/or machinery used in bona-fide agricultural activities as previously defined in this section.
- B. Basement: Floor space in a building partially or wholly underground, but having more than one-half ($\frac{1}{2}$) of its clear floor-to-ceiling height below the average grade of the adjoining ground. (See Illustration)



- C. Bedroom: A separate room within a dwelling unit for sleeping purposes containing a minimum of eighty (80) square feet of habitable floor area.
- E. Billboard: See Sign.
- G. Board of Zoning Appeals: The Board of Zoning Appeals of Butler Township, Darke County, Ohio.
- I. Building: Any structure having a roof supported by poles, columns, or walls which is designed for the shelter, support, or enclosure of persons, animals, chattels, or property of any kind.

- J. **Building Height:** The vertical distance from the average elevation of the finished grade at the front of the building to (a) the highest point of a flat roof; (b) the deck line of a mansard roof; © the average height between the eaves and ridge for gable, hip, and gambrel roofs; or (d) the average height between high and low points for a shed roof. (See Illustration)



1102.03 Definitions Beginning with the Letter "C".

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

- D. Club: A premises owned or operated by a person or persons for a civic, social, cultural, religious, literary, political, recreational, or like activity, but not primarily for profit or to render a service which is customarily carried on as a business.
- E. Commercial Recreation Facility: Any commercial activity conducted indoors or outdoors which is related to the recreation field, such as bowling alleys, skating rinks, indoor tennis courts, indoor motion picture theaters, drive-in theaters, community swimming pools, miniature golf, driving ranges, golf courses, skiing facilities, country clubs, and similar activities.
- F. Common Open Space: One or more parcels of land, together with the improvements thereon, jointly owned by the landholders of the individual building sites within a development, and for the use and enjoyment of the owners and occupants of the development.
- G. Conditional Use: A use permitted within a district other than a permitted principal use, requiring a conditional use permit and approval of the Board of Zoning Appeals. These uses are permitted only after the applicant has followed the procedures outlined in Article 10, Section 1002 of this Zoning Resolution.
- H. Conditional Use Permit: A permit issued by the Board of Zoning Appeals to allow certain specific developments that would not otherwise be allowed in a particular zoning district. These permits are issued only after the applicant has followed the procedures as stated in Article 10, Section 1002 of this Zoning Resolution. Development under a Conditional Use Permit differs from a zoning district change in that it is much more specific. The applicant submits plans and conditions exactly or reapplies for a permit before deviating from that plan.
- J. Court: An open space which may or may not have direct street access and which is bounded on two or more sides by a single building or a group of related buildings. A court is not a yard.
- K. Corner Lot: See Lot Types.

1102.04 Definitions Beginning with the Letter "D".

- A. Darke County Land Development Plan: A plan establishing the goals, objectives and policies for development within the unincorporated areas of Darke County. It shows the recommended pattern of residential, commercial, industrial, recreational, and open space uses as well as community facilities.
- B. Density: A unit of measurement designating the number of dwelling units per acre of land as follows:
 - 1. Gross Density: The number of dwelling units per acre of the total land to be developed.
 - 2. Net Density: The number of dwelling units per acre of land when the acreage involved includes only the land devoted to individual residential lots or uses and excludes such areas as street right-of-way, common open space, and other similar nonresidential uses.
- C. District: A portion of the unincorporated area of Butler Township within which certain regulations and requirements, or various combinations thereof, apply uniformly under the provisions of this Zoning Resolution.
- D. Drive-Through: A business or other establishment so developed that its retail or service character is dependent on providing a driveway approach and/or waiting spaces for motor vehicles so as to serve patrons while in the motor vehicle.

- E. Dwelling Unit: One or more rooms designed for or used as a unit to provide complete housekeeping facilities for one (1) individual family with sleeping facilities, permanently installed cooking facilities, and lawfully required sanitary facilities. This definition shall include "modular homes" as defined in this Zoning Resolution, but specifically excludes "mobile homes" as defined in this Zoning Resolution.
- F. Dwelling, Single-Family: A building consisting of one (1) single dwelling unit on an individual lot, separated from other dwelling units by open space.
- G. Dwelling, Two-Family: A building consisting of two (2) dwelling units, including condominiums, which may be either attached side-by side or one above the other. Each unit shall have a separate entrance.
- H. Dwelling, Multiple-Family: A building consisting of three (3) or more dwelling units, including condominiums, townhouses, quadruplexes, and garden apartments with varying arrangements of entrances and party walls.

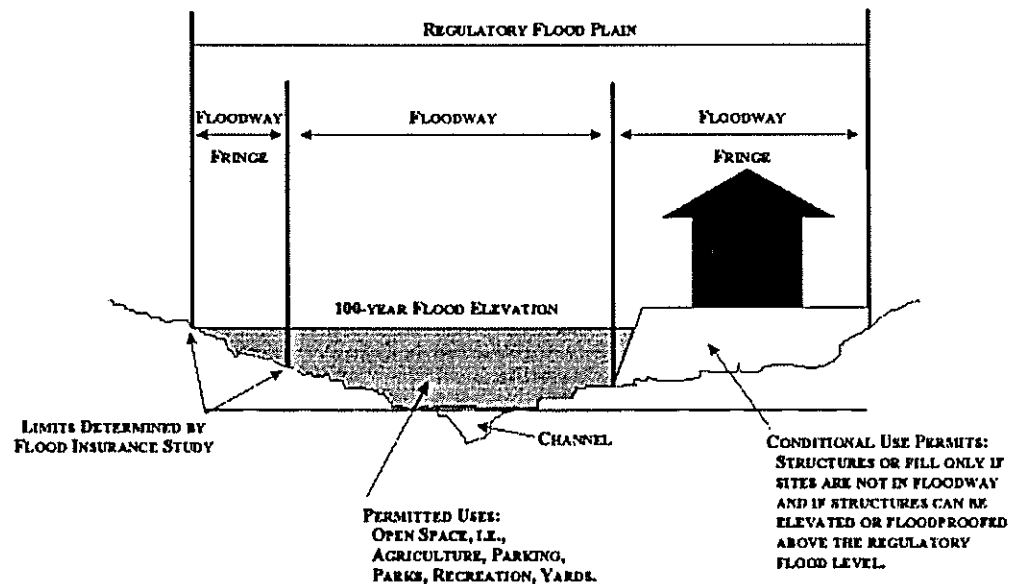
1102.05 Definitions Beginning with the Letter "E".

- A. Easement: Authorization by a property owner for use by another for a specified purpose, of any designated part of his property.
- B. Erection: The acts of building, construction, altering, reconstructing, moving upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like shall be considered a part of erection.
- C. Essential Services: The erection, construction, reconstruction, change, alteration, maintenance, removal or use of any underground or overhead equipment including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, signals, hydrants, or other similar accessories by any public utility or governmental agency for the purpose of furnishing adequate supply, transmission, distribution, collection, or disposal of gas, electric, water, steam, or communication service to the public in order to maintain the public health, safety, and welfare.
- D. Excavation: The act of digging, hollowing out, or any other breaking of ground resulting in a total quantity of more than one hundred (100) cubic yards of material or a vertical depth of more than four (4) feet. Common household gardening and ground care, or plowing of ground for agricultural purposes, shall be excepted from this definition.

1102.06 Definitions Beginning with the Letter "F".

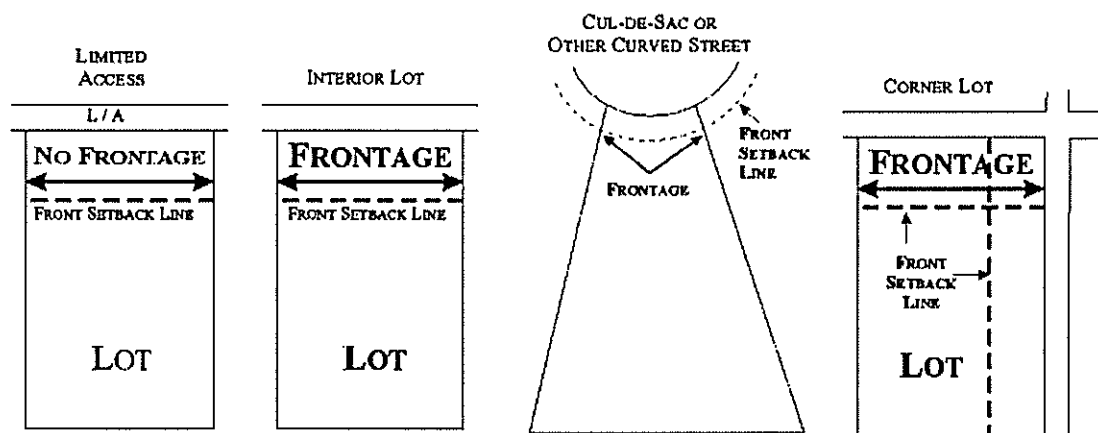
- A. Family: An individual; two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit in a dwelling unit or a mobile home; or a group of individuals, who need not be related, living together as a single housekeeping unit in a dwelling unit or a mobile home, provided that a ratio of two persons or less per bedroom within the dwelling unit or mobile home be maintained.
- B. Farm: All of the contiguous neighboring or associated land operated as a single unit by the owner-operator himself, his family, or hired employees on which bona fide agriculture is conducted as the primary use.

- C. Feed Lot: Land used for confining and feeding of livestock not connected with general farming for mass production for marketing. For the purposes of defining the size of a feed lot, animal units are used. One thousand (1,000) animal units equal: one thousand (1,000) slaughter and feeder cattle; seven hundred (700) mature dairy cattle; two thousand five hundred (2,500) swine weighing over fifty-five (55) pounds; five hundred (500) horses; ten thousand (10,000) sheep or lambs; fifty-five thousand (55,000) turkeys; one hundred thousand (100,000) laying hens or broilers if the facility has continuous overflow watering, thirty thousand (30,000) laying hens or broilers if the facility has a liquid manure handling system; or five hundred (500) ducks.
- D. Fence: Any free-standing structure, other than part of a building, which encloses or partially encloses any premises and is of sufficient strength and dimensions to prevent straying from within or intrusion from without. Live vegetation shall not be included in this definition.
- E. Fill: Soil, rock, earth, sand, gravel, or any other material exceeding a total of one hundred (100) cubic yards and more than four (4) feet in vertical height at its deepest point which may be deposited or placed onto or into the ground.
- F. Filling: The act of depositing or dumping of any fill onto or into the ground, except common household gardening and ground care.
- G. Fire Chief: The fire chief having jurisdiction over a property in question within Butler Township, Darke County, Ohio.
- H. Flood Plain: That land area of Butler Township which is subject to inundation by the 100-year flood as determined by the Flood Insurance Study: Unincorporated Areas of Darke County, Ohio prepared by the Federal Emergency Management Agency. (See Illustration)



- I. Floodway: That portion of the regulatory flood plain which is required to carry and discharge the flood waters of the 100-year flood without obstruction as designated in the Flood Insurance Study: Unincorporated Areas of Darke County, Ohio. (See Illustration)
- J. Floodway Fringe: That portion of the regulatory flood plain which serves primarily as a storage area for the flood waters of the 100-year flood as designated in the Flood Insurance Study: Unincorporated Areas of Darke County, Ohio. (See Illustration)

- K. Floor Area, Non-Residential: The sum of the gross horizontal area of all the floors of a non-residential building measured from the interior faces of the interior walls, excluding stairs, washrooms, elevator shafts, maintenance shafts, and similar areas.
- L. Floor Area, Residential: The sum of the gross horizontal area of all floors of a residential building measured from the interior faces of the exterior walls. Floor area shall not include breezeways, carports, garages, storage areas with only outside access, porches, unfinished attics or other unheated and/or unfinished areas attached to the dwelling.
- M. Frontage: The distance between the side lot lines measured along the required front setback line; and in the case of a corner lot where frontage shall be measured along the shortest front lot line. Property lines which abut limited access roads shall not be construed to be included within any calculation of frontage. (See Illustration)



1102.07 Definitions Beginning with the Letter "G".

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

1102.08 Definitions Beginning with the Letter "H".

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

1102.09 Definitions Beginning with the Letter "I".

1102.10 Definitions Beginning with the Letter "J".

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

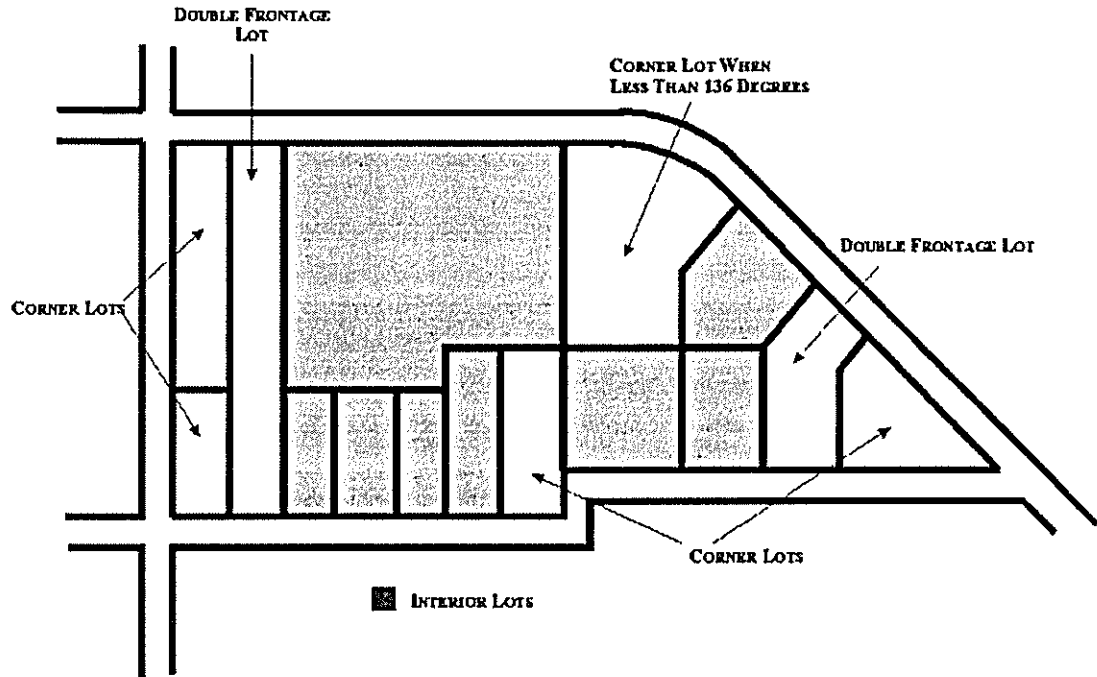
1102.11 Definitions Beginning with the Letter "K".

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

1102.12 Definitions Beginning with the Letter "L".

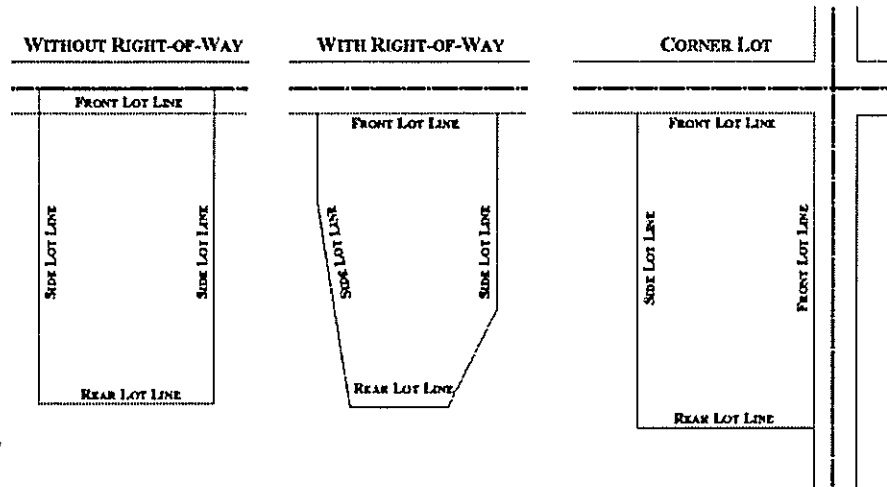
- A. Landing Strip, Private: Any runway, landing strip, or other facility designed or used by any person for the landing, take-off, and storage of aircraft on his own property principally for his own use.
- B. Loading Space, Off-Street: A space or berth located totally outside of any street or alley right-of-way for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

- C. Lot: A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and its accessory building and uses, including such open spaces as are required under the provisions of this Zoning Resolution. Every lot shall have the minimum required frontage upon a public street.



1. Corner Lot: A lot abutting upon two (2) or more streets at their intersection, or upon two parts of the same street, and in either case forming an interior angle of one hundred thirty-five (135) degrees or less as measured at the center-line of the road or the interior right-of-way line as applicable. (See Illustration)
 2. Interior Lot: A lot, other than a corner lot, with only one frontage on a public street. (See Illustration)
 3. Through Lot: A lot having frontage on two (2) non-intersecting streets or two approximately perpendicular portions of the same street. (See Illustration)
- D. Lot Coverage: That percentage of the lot area which, when viewed directly from above, would be covered by the principal and accessory structure or structures, or any part thereof, excluding projecting roof eaves of less than twenty-four (24) inches.
- E. Lot Lines: Lines bounding the lot as shown in the accepted plat or survey record. (See Illustration)
1. Front Lot Line: A lot line which either falls along a street right-of-way line or falls approximately along the center of a road, forming the boundary of a lot. On a corner, lot lines along both streets shall be considered front lot lines.
 2. Side Lot Line: A lot line which is neither a front lot line nor a rear lot line.

3. Rear Lot Line: The lot line that is most distant from, and most nearly parallel to, the front lot line. If a rear lot line is less than fifteen (15) feet long, or if the lot comes to a point, the rear lot line shall be a line at least fifteen (15) feet long, lying wholly within the lot, parallel to, and a maximum distance from the front lot line. In the case of a corner lot, the rear lot line shall be the lot line opposite the shortest front lot line.



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

1102.13 Definitions Beginning with the Letter "M".

- A. Manufacturing: Fabrication, altering, converting, assembling, storing, testing, and similar industrial uses.
- B. Mineral Extraction Operation: Any operation, including accessory buildings, roads, or structures, involving the excavation, mining, quarrying, storage, separation, cleaning and/or processing of clay, sand, gravel, limestone, shale, or other mineral resource. Such operation shall include all of the land or property that is used or owned in reserve by the person, firm, or corporation involved in such operation. Mineral extraction is an interim land use and such operations shall possess a plan for ultimate use of the property.
- C. Mobile Home: A manufactured relocatable residential unit providing complete, independent living facilities for one family including permanent provisions for living, sleeping, eating, cooking, and sanitation and the design and construction of which meets the standards and specifications of the United States Department of Housing and Urban Development. A mobile home is not included within the definition of "Modular Home" or "Dwelling Unit" and the removal of running gear shall not exempt a mobile home from this definition.
- D. Mobile Home Park: Any lot upon which two (2) or more mobile homes are located for residential use, either free of charge or for revenue purposes. A mobile home park shall include any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park.

- E. Modular Home: A factory-fabricated transportable building consisting of two or more units designed to be assembled into a permanent structure at a building site on a permanent foundation and used for residential purposes by one family, and is built to meet the standards and specifications of the Industrial Unit Standards of the Ohio Building Code.

1102.14 Definitions Beginning with the Letter "N".

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

1102.15 Definitions Beginning with the Letter "O".

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

1102.16 Definitions Beginning with the Letter "P".

- A. Parking Space, Off-Street: A space located totally outside of any street or alley right-of-way for the parking of an automobile or other vehicle.
- B. Prime Agricultural Soils: Prime agricultural soils are those soils within Butler Township which display characteristics well-suited to agricultural activities such as field crops under normal or typical management practices. It has been determined through studies that the following soil types, as described in the Soil Survey of Darke County, Ohio, are prime agricultural soils:

Ag	Algiers Silt Loam
BnA	Blount Silt Loam (0 to 2 percent slopes)
BnB	Blount Silt Loam (2 to 6 percent slopes)
Br	Brookston Silty Clay Loam
CeA	Celina Silt Loam (0 to 2 percent slopes)
CeB	Celina Silt Loam (2 to 6 percent slopes)
CrA	Crosby Silt Loam (0 to 2 percent slopes)
CrB	Crosby Silt Loam (2 to 6 percent slopes)
DeA	Del Rey Silt Loam (0 to 3 percent slopes)
Ee	Eel Silt Loam
EnA	Eldean Loam (0 to 2 percent slopes)
EnB	Eldean Loam (2 to 6 percent slopes)
GnB	Glynwood Silt Loam (2 to 6 percent slopes)
GnB	Glynwood Silt Loam (2 to 6 percent slopes)

LeB	Lewisburg Silt Loam (2 to 6 percent slopes, eroded)
Lp	Lippincott Silty Clay Loam
Md	Medway Silt Loam
MnA	Miamian Silt Loam (0 to 2 percent slopes)
MnB	Miamian Silt Loam (2 to 6 percent slopes)
Mt	Montgomery Silty Clay
OcA	Ockley Silt Loam (0 to 2 percent slopes)
OcB	Ockley Silt Loam (2 to 6 percent slopes)
OdA	Odell Silt Loam (0 to 3 percent slopes)
Pa	Patton Silty Clay Loam
Pe	Pewamo Silty Clay Loam
PyA	Pymont Silt Loam (0 to 3 percent slopes)
Sa	Saranac Silty Clay
SeA	Savona Silt Loam (0 to 2 percent slopes)
Sh	Shoals Silt Loam
Tr	Treaty Silty Clay Loam
WeA	Wea Silt Loam (0 to 2 percent slopes)
Ws	Westland Silty Clay Loam

The physical distribution of these soils within Butler Township is a guide in considering zoning district amendments, variances appeals, conditional use permits, and other administrative actions.

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

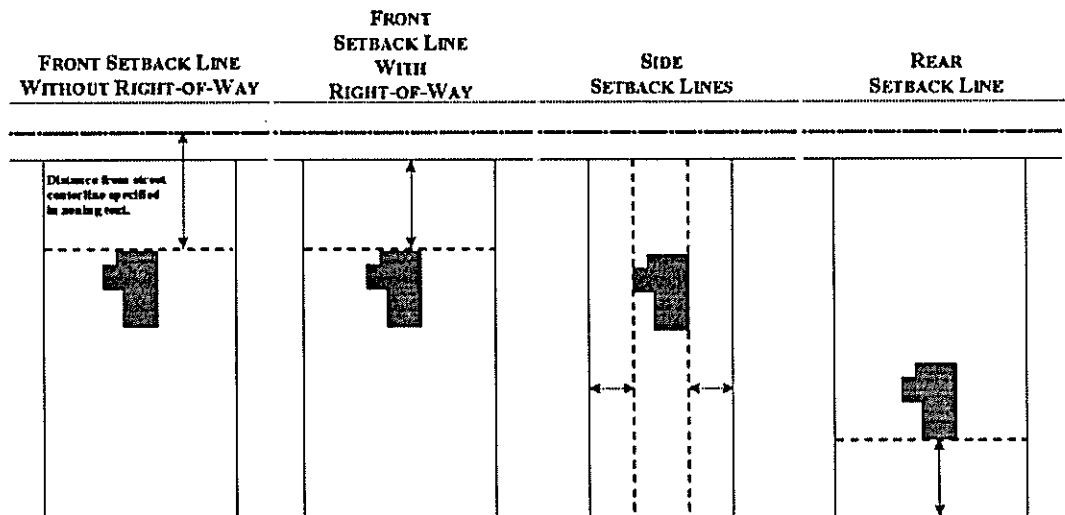
1102.17 Definitions Beginning with the Letter "Q".

1102.18 Definitions Beginning with the Letter "R".

- A. **Recreational Vehicle:** Any motor vehicle, or any other vehicle less than thirty-five (35) feet in length, designed or intended to be used primarily for short term dwelling or sleeping purposes away from the place of residence of the occupants; and not constituting the principal place of residence of the occupants.
- B. **Research and Engineering Laboratory:** Research, development and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation, and engineering. All research, testing, and development shall be carried on within entirely enclosed buildings, and no noise, smoke, glare, vibration, or odor shall be detected outside such building.
- C. **Restaurant, Drive-In:** An establishment offering food and beverages which are sold within the building, or to persons while in motor vehicles in an area designated for drive-in service, and may be consumed on or off the premises.
- D. **Restaurant, Sit-Down:** An establishment whose primary function is the offering of food and beverages which are sold and normally consumed within the restaurant building.
- E. **Retail:** Sale to the ultimate consumer for direct consumption and/or use and not for resale.
- G. **Right-of-Way:** A strip of land purchased or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

1102.19 Definitions Beginning with the Letter "S".

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



- D. Sign: A name, identification, description, display, or illustration which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel, or lot and which directs attention to an object, product, place, activity, person, institution, organization or business.
 1. Billboard: Any sign or advertisement used as an outdoor display by painting, posting, or affixing, on any surface, a picture, emblem, work, figure, numerals, or lettering for the purpose of directing attention to any business, service, or product which is not conducted or sold on the lot where such sign is located.

2. Freestanding Sign: Any sign which is not attached to, painted on, or supported by a building.
 3. Projecting Sign: Any sign which is attached perpendicular to any building or structure and extends more than twelve (12) inches beyond the surface of that portion of the building or structure.
 4. Sign Area: The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, or figure of similar character together with any frame or material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which the sign is placed. Sign area shall be computed from measurements of the maximum silhouette of the largest sign face or combination of faces as viewed from a single point.
 5. Temporary Sign: Any sign which announces or refers to an event such as construction, sale or lease of property, or a temporary special event such as a grand opening, special sale, or a temporary sale of seasonal products on the property on which such sign is located, and is designed or intended to be displayed for a limited period of time.
 6. Wall Sign: Any sign attached to or painted on the wall of a building or structure with the face in a plane parallel to such wall, and not extending more than twelve (12) inches from the face of such wall.
- E. Street: See Thoroughfare.
- F. Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to the ground. Among other things, structures include buildings, mobile homes, walls, fences, swimming pools, tennis courts, signs, and billboards.
- G. Swimming Pool: Any artificially constructed pool which contains a depth of water of at least one and one-half (1 ½) feet at any point used or intended to be used for swimming or bathing, including any accessory recreational structures.
- H. Swimming Pool, Community: Any swimming pool, other than a private pool, which is the principal use upon a lot and operated with or without a charge for admission.
- I. Swimming Pool, Private: A swimming pool located on the same lot as the principal use and used or intended to be used without compensation by the residents and guests of a single-family residence, a two-family residence, or a motel.

1102.20 Definitions Beginning with the Letter "T".

- A. Temporary Use or Structure: A transient, nonpermanent use or structure permitted to exist for a designated period of time during periods of construction of the principal use or structure, or for special events. A temporary structure shall not be intended to be permanently affixed to the ground.
- B. Thoroughfare, Street or Road: The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for access to a property by vehicular traffic and designated as follows:
1. Alley: A minor street used primarily for vehicular service access to the back or side of properties abutting on another street.

2. Arterial Street: A general term denoting a highway primarily for through traffic, carrying heavy loads and large volumes of traffic, usually on a continuous route.
3. Collector Street: A thoroughfare, whether within a residential, industrial, commercial, or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
4. Cul-de-Sac: A local street of relatively short length with one end open to traffic and the other end permanently terminating in a vehicular turn around.
5. Dead-End Street: A street temporarily having only one outlet for vehicular traffic and intended to be extended or continued in the future.
6. Local Street: A street primarily for providing access to residential, commercial, or other abutting property.
7. Loop Street: A type of local street, each end of which terminates at an intersection with the same arterial or collector street and whose principal radius points of the one hundred and eighty (180) degree system of turns are not more than one-thousand (1,000) feet from said arterial or collector street are not normally more than six hundred (600) feet from each other.
8. Marginal Access Street: A local or collector street, parallel to and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets. (Also called Frontage Street.)

C. Township Trustees: The Board of Township Trustees of Butler Township, Darke County, Ohio.

1102.21 Definitions Beginning with the Letter "U".

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

1102.22 Definitions Beginning with the Letter "V".

- A. Variance: A variance is a modification of the strict terms of this Zoning Resolution where such modifications will not be contrary to the public interest and, where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Zoning Resolution would result in unnecessary hardship, or in the case of area variances only, practical difficulties. Variances are granted only after the applicant has followed the procedures as stated in Article 10, Section 1003 of this Zoning Resolution.
- B. Veterinary Animal Hospital or Clinic: A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention. Such use may include overnight accommodations on the premises for treatment, observation, and/or recuperation.
- C. Vicinity Map: A drawing which sets forth by dimensions or other means the relationship of a property or use to other nearby developments of landmarks and community facilities and services within Butler Township in order to better locate and orient the area in question.

1102.23 Definitions Beginning with the Letter "W".

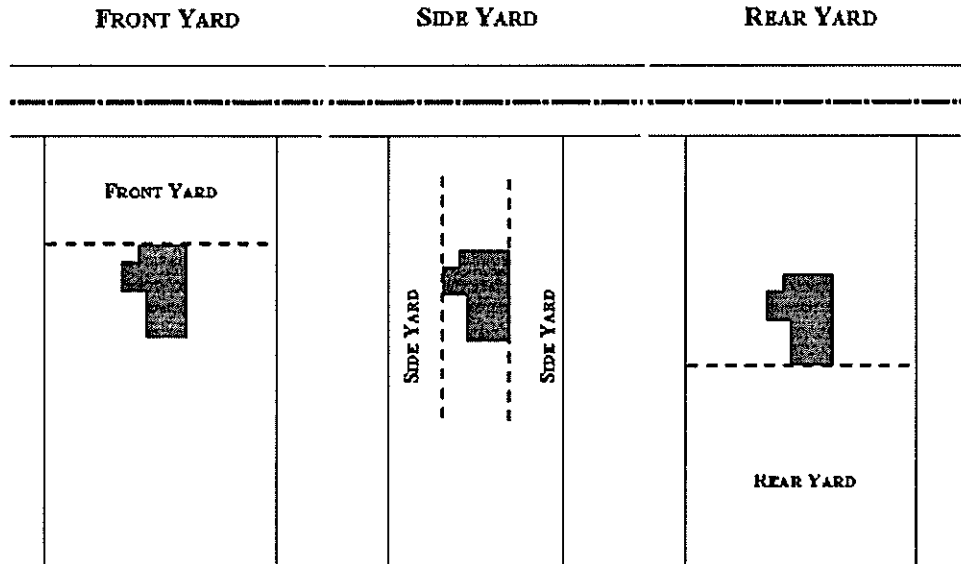
- A. Wastewater Disposal System, Central: A wastewater treatment system approved by the appropriate County, State, and/or Federal agencies which provides a collection network and a central wastewater treatment facility for a single development, a community, or a region.
- B. Wastewater Disposal System, On-Site: A septic tank or similar installation on an individual lot which utilizes an aerobic or anaerobic bacteriological process or equally satisfactory process for the treatment of sewage and provides for the proper and safe disposal of the effluent.
- C. Water System, Central: A water supply system approved by the appropriate County, State, and/or Federal agencies which provides a water supply to a single development, a community, or a region.
- D. Water System, On-Site: A well or other similar installation on an individual lot which provides a water supply to any structures or uses upon the lot, subject to the approval of health and sanitation officials having jurisdiction.

1102.24 Definitions Beginning with the Letter "X".

1102.25 Definitions Beginning with the Letter "Y".

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

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



1102.26 Definitions Beginning with the Letter "Z".

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

ARTICLE XII VIOLATIONS, ENFORCEMENT, AND PENALTIES

SECTION 1200 VIOLATIONS

1200.01 Prohibition Against Violations. Violation of the provisions of this Zoning Resolution or failure to comply with any of its requirements, including violations of conditions and restrictions established in various sections of this Zoning Resolution, and including those established by the Board of Zoning Appeals for conditional uses, variances, and appeal rulings, are hereby declared to be a nuisance per se and are prohibited. Each day such violation continues after receipt of a notice of violation shall be considered a separate offense. The owner or lessee of any building, structure, premises, or part thereof, and any architect, building, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

SECTION 1201 ENFORCEMENT

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

SECTION 1203 PENALTIES

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

ARTICLE XIII ENACTMENT AND EFFECTIVE DATE

SECTION 1300 ENACTMENT CLAUSE

WHEREAS, there has existed a comprehensive plan and resolution for zoning within Butler Township, Darke County, Ohio since November 9, 1972; and

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

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

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

RECOMMENDED FOR ADOPTION BY BUTLER TOWNSHIP ZONING COMMISSION:

February 1, 1996

ADOPTED BY THE BOARD OF TRUSTEES OF BUTLER TOWNSHIP:

February 19, 1996

SECTION 1301 EFFECTIVE DATE

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

EFFECTIVE DATE: *March 20, 1996*

AMENDMENTS:

Amended by the Butler Township Trustees:
Effective Date:

March 16, 1998
April 20, 1998

