

Montgomery Township Zoning Resolution

November, 1996
Revised: 2007

MONTGOMERY TOWNSHIP GENERALIZED ZONING MAP

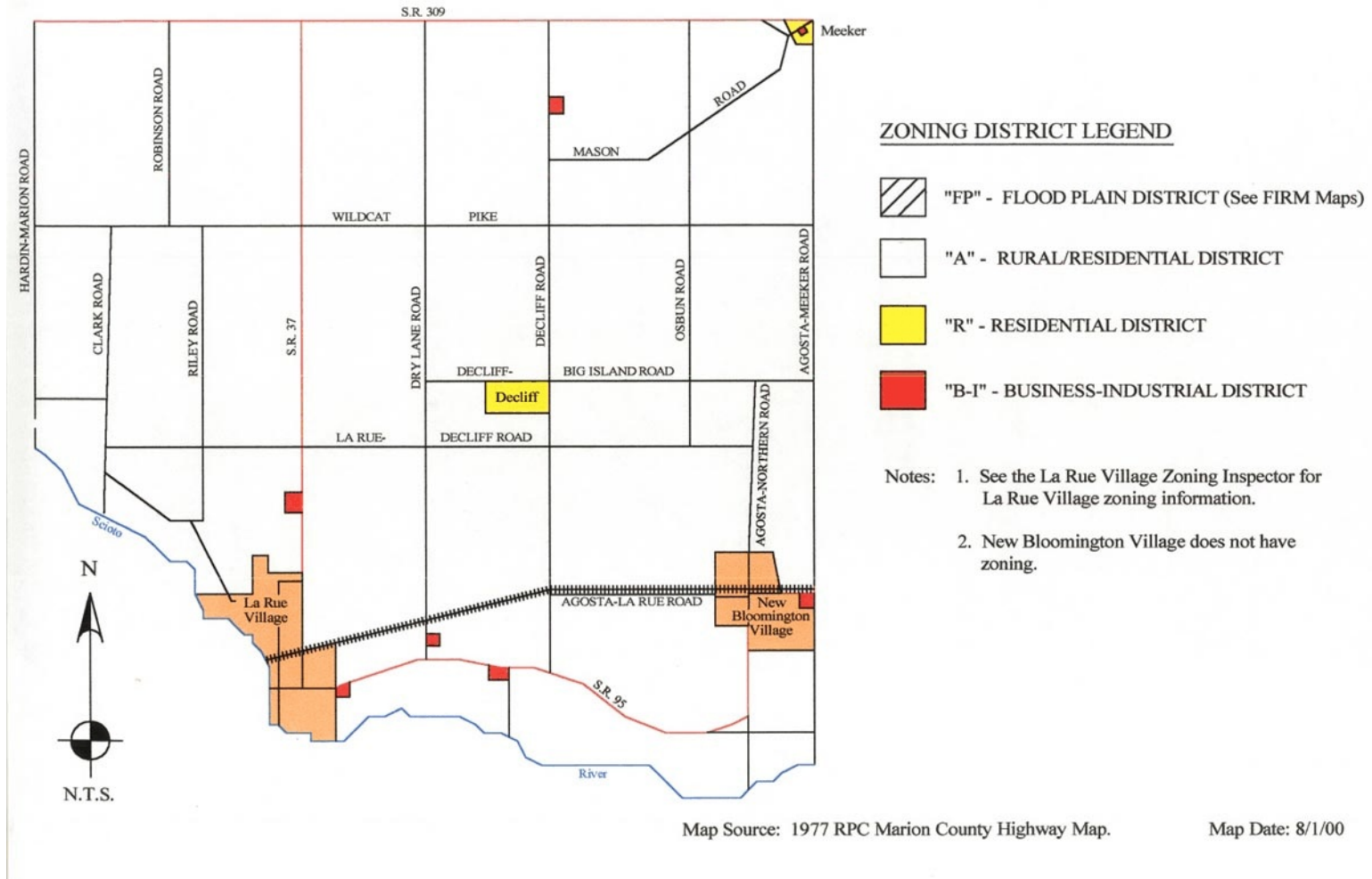


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MONTGOMERY TOWNSHIP ZONING RESOLUTION

Whereas: the Board of Trustees of Montgomery Township, deems it in the interest of the public health, safety, and general welfare of said Township and its residents to establish a general plan of zoning for said Township.

Now, Therefore, Be it Resolved by the Board of Trustees of Montgomery Township that such zoning resolution is hereby created.

CHAPTER 1

JURISDICTION AND PURPOSE

1.01 Jurisdiction

The provisions of this Resolution shall apply to the unincorporated territory of Montgomery Township in which a majority vote is recorded at the next election or at any subsequent election.

1.02 Purpose

This zoning resolution is adopted to promote the public health, safety, comfort, and general welfare; to protect and conserve property and property values; to secure the most appropriate uses of land; and to promote the adequate but economical provisions of public improvements, all in accordance with a comprehensive plan. More specific purposes are:

1. To provide adequate light, air, privacy and convenience of access to property.
2. To lessen or avoid congestion on the streets and highways of Montgomery Township.
3. To aid in limiting future flood damages.

CHAPTER 2

LEGAL PROVISIONS

2.01 Interpretation

2.011 Minimum Requirements

The provisions of this resolution shall be construed as minimum requirements. They do not prevent other more restrictive requirements, if approved by the Electors (eligible voters) of the Township, at any general, primary, or special elections.

2.012 Conflicts

Where this Resolution imposes greater restrictions upon the use of land or buildings or upon the bulk of buildings and where it requires higher standards than are required by other laws, ordinances, rules, or regulations, this Resolution shall prevail, and where other laws, ordinances, rules, or regulations are more restrictive, they shall apply.

2.02 Conformance Required

Except as hereinafter provided, no land, buildings, structure, or premises shall hereafter be used, and no building or structure or part thereof shall be located, erected, moved, reconstructed, extended, enlarged, or altered except in conformity with regulations herein specified for the District in which it is located.

2.03 Separability

Should any section, clause, or provision of this Resolution be declared by a court of competent jurisdiction to be invalid, such declaration shall not affect the validity of the Resolution as a whole, or part thereof, other than the part so declared invalid.

2.04 Pending Construction

Nothing herein shall require any change in plans, construction, size, or designated use of any development, building, structure, or part thereof, for which an official action to commence construction has been made before the effective date of this Resolution provided that construction is begun no later than six (6) months after the effective date of this Resolution and is carried on to completion in a reasonable manner and without unnecessary delay.

CHAPTER 3

GENERAL PROVISIONS

3.01 Street or Road Frontage required for all Lots

Except as permitted by other provisions of this Resolution, each use of land shall be located on a lot, as defined in Chapter 17, which lot shall have frontage on a street or road.

3.02 Agricultural Exemption

Nothing contained in this resolution shall prohibit the use of any land for agricultural purposes as defined in Chapter 17. No zoning permit of FEE shall be required for the construction of buildings incidental to the agricultural operation on the land where such buildings shall be located WHEN THE FARM OWNER OR OPERATOR SIGNS A STATEMENT THAT THE BUILDING(S) WILL BE SO USED FOR AGRICULTURAL PURPOSES.

A CHANGE OF USE FROM AGRICULTURAL TO OTHER REGULATED USES MAY REQUIRE A PERMIT.

3.03 Dwellings on Farms

A maximum of five (5) permanent single-family dwelling units, including manufactured homes, may be located on a farm parcel. These dwelling units are to be occupied only by families or persons engaged in the operation of the farm on the parcel. Ownership of the sites on which such dwellings are located shall not be transferred as separate parcels except in accordance with the Marion County Subdivision Regulations and the standards set forth in this Resolution.

3.04 Number of Lots

1. Any parcel of land of record on January 1, 1997, may be subdivided for residential use in the "A" - Rural / Residential District and "R" - Residential District in accordance with that district's minimum lot size and dimension standards and as follows:
 - A. To provide up to four (4) residential lots not including the remainder as one of the lots.
2. A residential lot is defined as any lot under five (5) acres with a home in use, planned, or as a potential use.
3. The four (4) lot limit from Subsections 1 and 2 shall not apply if the subdivision involved is considered a major subdivision pursuant to the Marion County

Subdivision Regulations and is also in compliance with all other Montgomery Township Zoning Regulations.

CHAPTER 4

OFFICIAL ZONING MAP AND ZONING DISTRICTS

4.01 Official Zoning Map

The Township of Montgomery is hereby divided into Districts which are shown on the map entitled "Official Zoning District Map of Montgomery Township". This Official Zoning map shall be identified by the signatures of the Montgomery Township Trustees and Montgomery Township Clerk. The Official Zoning District map shall remain on file in the office of the Montgomery Township Trustees.

4.02 Official Zoning Map as part of this Resolution

The Official Zoning Map and all notations, references, and other matters thereon are hereby made a part of this Code.

4.03 Determination of District Boundaries

Except where referenced and noted on the Official Zoning District Map by a clearly designated line and/or written dimensions, the district boundary lines are intended to follow property lines, lot lines, center lines of streets, alleys, or streams as they existed at the time of adoption of this Code. The Zoning Inspector shall interpret the location of boundary lines as shown on the Zoning District Map. When the Zoning Inspector's interpretation is questioned, the boundary lines shall be determined by the Board of Zoning Appeals as prescribed in Section 12.021.

4.04 Zoning District Boundaries

All parts of the unincorporated Township shall be designated on the Official Zoning District Map as being located in one of the following zoning districts:

"FP" Flood Plain District

"A" Rural / Residential District

"R" Residential District

"B-I" Business-Industrial District

4.05 Degree of Restrictiveness

Whenever, in this Code, the order of Districts as to the degree of restrictiveness is referred to, the order shall be as listed above, with the "FP" District being the most restricted and the

“B-I” District being the least restricted.

CHAPTER 5

“FP” - FLOOD PLAIN DISTRICT

5.01 Purpose

The purpose of the Flood Plain District is to regulate development on flood prone land in order to reduce future potential loss of life and damages to property.

5.02 Flood Plain District Overlay

The Flood Plain District shall be an over-lapping zone with regulations in addition to any other underlying Zoning District as established in Chapter 4.

5.03 Use Regulations

Any uses permitted in the underlying Zoning District shall be allowed with the exception of the storage of potentially hazardous materials which, if subject to flooding, may become flammable, explosive, or otherwise injurious to human, animal, or plant life.

5.04 Development Standards

All structures within the Flood Plain District shall meet the existing county Flood Plain Development Standards as enforced by Marion County.

5.05 Establishment Of Flood Plain Zone Boundary

The boundaries of the Flood Plain District shall be based on the Flood Insurance Rate Map provided by the Federal Emergency Management Agency pursuant to the National Flood Insurance Program. Should the Flood Insurance Rate Map be revised, the Flood Plain District boundaries shall also be revised to reflect any changes.

5.06 Disclaimer Of Responsibility

This Code does not imply that areas outside the Flood Plain District or land uses permitted within such District will be free from flooding or flood damages. This Code shall thus not create liability on the part of Montgomery Township or officer or employee thereof for any flood damages that result from reliance on this Code.

CHAPTER 6

“A” - RURAL / RESIDENTIAL DISTRICT

6.01 Purpose

The purpose of the Rural / Residential District is to preserve land currently used for agricultural purposes.

6.02 Use Regulations

6.021 Principal Permitted Uses

- Agriculture
- Manufactured Homes (See Section 9.11)
- Public Uses
- Semi-Public Uses
- Single-Family Dwellings
- Temporary Living Spaces (See Section 9.03)

6.022 Accessory Permitted Uses and Buildings

- Accessory Signs (See Section 9.043)
- Garden Houses, Tool Houses, Playhouses to a maximum of 100 square feet (Revised August, 2000)
- Home Occupations (See Section 9.01)
- Off-Street or Road Parking
- Roadside Stands on Farms (See Section 9.02)
- Private Garages
- Private Swimming Pools

6.023 Conditional Permitted Uses

- Advertising Signs (See Section 9.044)
- Agricultural Related Businesses
- Airports - Private Owner, Public Use
- Rock, Mineral, Sand, and Gravel Extraction (See Section 9.10)
- Nurseries (plant), Lawn, and Garden Centers
- Petroleum and Gas Drilling and Extraction (See Section 9.10)
- Private Cemeteries
- Recreational Facilities, Limited Commercial
- Recreational Facilities, Private
- Seasonal Dwellings
- Storage and / or Sale of Fertilizer and Agricultural-Chemicals

Topsoil Removal
 Veterinary Clinics or Animal Hospitals
 Home occupations utilizing new construction, extension or remodeling to dwellings and / or accessory buildings

6.03 Area and Dimensional Standards*

USE	MINIMUM LOT SIZE		MINIMUM YARD DIMENSIONS			MAXIMUM PERCENT OF LOT COVERAGE
	Width (Ft.)	Area (Sq. Ft.)	Front (Ft.)	Side (Ft.)	Rear (Ft.)	
Dwellings	150	1 Acre	**60	20	50	Not Applicable
All Other Uses	Sufficient to Comply with Yard and Coverage Requirements		**60	20	50	20%

No structure or building shall exceed 60 feet in height. The height limitation may be appealed to the Montgomery Township Board of Zoning Appeals. Telecommunication or cellular communication towers exceeding 60 feet in height shall be subject to the requirements of Section 9.05.

*See Section 10.02 for non-conforming lots.

**Front yard set back is measured from the front lot line.

(Revised 3-4-03)

CHAPTER 7

“R” - RESIDENTIAL DISTRICT

7.01 Purpose

The purpose of the Residential District is to encourage residential development at appropriate locations and at suitable densities for the provision or potential provision of public services and facilities.

7.02 Use Regulations

7.021 Principal Permitted Uses

Agriculture
Manufactured Homes (See Section 9.11)
Multi-Family Dwellings
Public Uses
Semi-Public Uses
Single-family Dwellings
Temporary Living Spaces (See Section 9.03)
Two-Family Dwellings

7.022 Accessory Permitted Uses and Buildings

Accessory Signs (See Section 9.04)
Garden Houses, Tool Houses, Playhouses to a maximum of 100 square feet
(Revised August, 2000)
Home Occupations (See Section 9.01)
Living Quarters on the Premises for Employees
Off-Street or Road Parking
Roadside Stands on Farms (See Section 9.02)
Private Garages
Private Swimming Pools

7.023 Conditional Permitted Uses

Business, Professional, or Industrial Offices in buildings having the external appearance of residential structures, not including the manufacture, sale, or storage of goods.
Funeral Homes or Mortuaries
Home occupations utilizing new construction, extension or remodeling to dwellings and / or accessory buildings (Revised 3-4-03)
Mobile Home Parks

Nursery Schools and Day Nurseries
 Private Clubs, Lodges, Fraternity or Sorority Homes
 Sanitariums, Convalescent Homes, Rest Homes
 Recreational Facilities, Private
 Rooming, Boarding, or Lodging Houses

7.03 Area and Dimensional Standards*

USE	MINIMUM LOT SIZE		MINIMUM YARD DIMENSIONS			MAXIMUM PERCENT OF LOT COVERAGE
	Width (Ft.)	Area (Sq. Ft.)	Front (Ft.)	Side (Ft.)	Rear (Ft.)	
<u>Single-Family Dwellings:</u>						
<i>Without Public Sewer or Water</i>	150	25,000	**60	10	30	Not Applicable
<i>With Public Sewer or Water</i>	100	18,000	**60	10	30	Not Applicable
<u>Two-Family Dwellings:</u>						
<i>Public Sewer and Water Required</i>	100	18,400	**60	10	30	Not Applicable
<u>Multi-Family Dwellings:</u>						
<i>Public Sewer and Water Required</i>	100	7,000 Per Unit	**60	10	30	Not Applicable
All Other Uses	Sufficient to Comply with Yard and Coverage Requirements		**50	20	30	20%

No structure or building shall exceed 60 feet in height. The height limitation may be appealed to the Montgomery Township Board of Zoning Appeals. Telecommunication or cellular communication towers exceeding 60 feet in height shall be subject to the requirements of Section 9.05. (Revised 3-4-03)

*See Section 10.02 for non-conforming lots.

**Front yard set back is measured from the front lot line.

CHAPTER 8

“B-I” - BUSINESS-INDUSTRIAL DISTRICT

8.01 Purpose

The purpose of the Business-Industrial District is to provide for various types of commercial and industrial development at appropriate locations.

8.02 Use Regulations

8.021 Principal Permitted Uses

Agriculture
Blending, Packaging, and Storage of Previously Manufactured Products, such as
Chemical Products, Feed, Grain, and Industrial Compounds
Gasoline Service Stations
Lodging including Motels
Manufacturing of Household, Business, or Industrial Products if not elsewhere
prohibited or regulated
Mini-Warehousing
Non-Manufacturing activities such as Transportation Terminals, Warehousing,
Research Testing Laboratories, Fuel Dealers, etc.
Professional, Business, or Industrial Offices
Public Uses
Restaurants, Taverns, Cafes, etc.
Retail business whose principal activity is the sale of new or used merchandise
Semi-Public Uses
Service establishments such as Barber Shops, Photography Studios, Dry
Cleaning, etc.
Workshop types of services such as Electrical Repair, Locksmiths, or repair of
other goods permitted to be sold within the District

8.022 Accessory Permitted Uses and Buildings

Accessory Signs (See Section 9.043)
Off-Street Parking and Loading Areas
Permanent Roadside Stands on Farms (See Section 9.02)
Any use customarily incidental to the principal use.

8.023 Conditional Permitted Uses

Adult Entertainment (See Section 9.09)
Advertising Signs (See Section 9.044)

Commercial or Industrial Uses determined by the Board of Zoning Appeals to be of the same general character as the principally permitted uses.

Punch Presses and Stamping Operations

The fabrication of Structural Steel, Heavy Machinery, and Transportation Equipment

The processing or manufacturing of Food Products

Topsoil Removal

Sawmills, Mixing of Cement, Bituminous or Asphaltic Concrete

The following uses shall not be located within one thousand (1,000) feet of any existing residence or residential district:

1. Chemical and / or Fertilizer Manufacturing Plant
2. Bulk storage of Flammable Liquids
3. Junk or Salvage Yards if surrounded by a screened fence a minimum of six (6) feet high

8.03 Area and Dimensional Standards

All buildings shall comply with the following dimensional requirements:

8.031 Minimum Front Yard Setback*

The minimum front yard depth shall be 60 feet.

8.032 Minimum Side or Rear Yard Setback

- A. If either the side or rear lot line abuts land which is within the "B-I" District, no minimum side or rear yard setback is required for the lot line adjoining the "B-I" District.
- B. If either side or rear lot line abuts land within a different zoning district, the minimum side or rear yard setback shall be twenty-five (25) feet for the lot line adjoining the different zoning district.

*Front yard setback is measured from the front lot line.

CHAPTER 9

SUPPLEMENTAL DISTRICT REGULATIONS

9.01 Home Occupations

Any person may maintain an office or carry on a customary home occupation in a dwelling unit used as the person's private residence provided the following conditions are met:

1. The home occupation does not involve any extension or modification of the dwelling unit which will alter its outward appearance as a dwelling other than a sign as permitted under Section 9.043.
2. There is a maximum of one (1) non-resident employee engaged in the home occupation.
3. No mechanical equipment shall be installed or used which will create excessive noise or interfere with radio and television transmission / reception.

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9.02 Roadside Stands on Farms

Roadside stands consisting of a structure used only for the display and sale of agricultural products, produced on the premises are permitted accessory uses provided the following conditions are met:

1. Adequate facilities are provided and maintained for off-street or road parking.
2. The stand shall be setback a minimum of ten (10) feet from the front lot line.

9.03 Temporary Living Spaces

9.031 Accessory Buildings / Accessory Uses

A manufactured home can be used as an accessory building or a recreational vehicle can be used as an accessory use if it is located on the same lot as an existing dwelling and is used as a temporary living space (with permit) in the case of a hardship. Hardships typically include the care of ill or aged relatives or the need for a temporary living space during the construction of a new, permanent dwelling unit.

9.032 Requirements for Accessory Manufactured Homes or Recreational Vehicles used as Temporary Living Spaces

1. All accessory manufactured homes or recreational vehicles shall comply with the Marion County Health Department regulations regarding sanitary sewage disposal and water supply.
2. No accessory manufactured home or recreational vehicle shall be used as a rental unit for the general public.
3. A permit for a temporary living space in an accessory manufactured home will be issued for a period of one (1) year.
4. All accessory manufactured homes or recreational vehicles shall be located in the rear yard behind the principal dwelling or the proposed location of the principal dwelling unit.
5. All manufactured homes shall have skirting installed along the perimeter of the unit.
6. Upon expiration of the zoning permit, the accessory manufactured home shall be immediately removed from the property. The recreational vehicle may remain but not be used as a temporary living space or as an accessory use.

9.04 Signs

9.041 Exempted Signs

The following signs are not subject to the provisions of this Resolution:

1. Signs relating to the agricultural operations of a particular farm. However, signs relating to general commercial products which are not produced on the farm are not exempt.
2. Governmental signs for control of traffic and other regulatory purposes, street signs, warning signs, railroad crossing signs, and signs of public utility companies for the purpose of safety.

9.042 General Provisions

1. No sign shall be erected in such a manner as to obstruct free and clear vision, or at any location where, by reason of position, shape, or color it may obstruct the view of motorists or pedestrians.
2. Any illuminated sign shall be shaded as to not interfere with the vision of motorists or pedestrians and so as not to direct light on a neighboring residential property.
3. Any sign that is not maintained shall be removed.

9.043 Accessory Signs

1. No accessory sign shall be located within the required setback of a side yard.
2. Accessory signs must be setback a minimum of 10' from the front lot line.
3. No accessory sign shall be located within one hundred fifty (150) feet of any road intersection unless affixed to the principal structure.

9.0431 Rural / Residential and Residential Districts

1. A home occupation or professional office may have one (1) unlighted sign with a maximum area of four (4) square feet per face.
2. Any other permitted non-residential use may have one (1) sign with a maximum area of thirty-six (36) square feet per face.

9.0432 Accessory Signs in the Business-Industrial District

1. Wall signs on the building shall be permitted and not regulated as to size.
2. Up to two (2) free-standing signs for each commercial or industrial use shall be permitted with a maximum total free-standing sign area of three hundred (300) square feet.

9.044 Advertising Signs

1. Advertising signs shall be deemed a conditional permitted use.
2. Advertising signs shall comply with the yard requirements for principal uses in the district in which it is to be located.

3. No advertising sign shall be located within one hundred fifty (150) feet of any road intersection unless affixed to the principal structure.
4. There shall be no more than one (1) advertising sign on any lot having less than two hundred (200) feet of unbroken frontage on a single street or road. A lot having two hundred (200) or more feet of unbroken frontage may have on a single street or road two (2) advertising signs.
5. The maximum total sign area of a single advertising sign shall be three hundred (300) square feet per face.
6. Advertising signs shall be a minimum of three hundred (300) feet from an existing residential building.
7. Advertising signs shall be allowed on parcels of ground used for agricultural (see Chapter 17 for definition) provided the above requirements are met.

9.05 Public Utilities

This Resolution shall not apply to public utilities and railroads. However, Section 519.211 of the Ohio Revised Code permits townships to ***regulate cellular communication towers*** owned by public utilities in areas zoned for residential use.

The following regulations shall be met whenever a cellular communication tower is to be located, erected, constructed, reconstructed, or any other situation as defined Section 519.211 (A) of the Ohio Revised Code:

1. Telecommunication or cellular communication towers shall be a minimum of one thousand (1000) feet from any existing residential dwelling unit.
2. Telecommunication or cellular communication towers shall be a minimum of 5280 feet from any public or private airport.
3. Telecommunication or cellular communication towers shall be a minimum of one and one-half (1½) tower heights (including base height if applicable) from any buildings, roads, alleys, utility lines, etc.
4. Any site where a telecommunication or cellular tower is constructed shall be landscaped and maintained in keeping with the decor of the area in which the tower is located.

9.06 Frontage Requirements for Deep Lots within the Rural / Residential District

In the Rural/Residential District, where development is desired a substantial distance from the road, the minimum required road frontage may be reduced to fifty (50) feet provided the following conditions are met:

1. The location of the home is a minimum of sixty (60) feet from the front lot line.
2. The width of the lot measured at the building line is a minimum of one hundred fifty (150) feet.
3. All applicable setback requirements are met.
4. Only one (1) single-family dwelling is constructed on the lot and no other abutting property owner uses the strip for access unless it is dedicated as a public street or approved as a private street.
5. The lot is approved under the Marion County Subdivision Regulations.
6. The total area of the lot surrounding the home (exclusive of the fifty [50] feet wide access strip area) shall be a minimum of one (1) acre.
7. The total lot area shall be equal to the acreage surrounding the home plus the acreage associated with the fifty (50) feet wide access strip.

9.07 Accessory Buildings

1. All accessory structures shall be located in the rear yard.
2. Attached garages or other accessory structures connected to the principal building by a breezeway or other permanent construction shall be considered to be part of the principal structure for the purposes of this Resolution and are required to meet the same setbacks as the principal structure.
3. Accessory buildings shall be located a minimum of twenty (20) feet from the principal building and a minimum of five (5) feet from any side or rear lot line.
4. On corner lots, an accessory building may not be constructed within twenty (20) feet of any existing residence.

9.08 Corner Lots

In all districts, a corner lot shall have a minimum side yard on the side street equal to the required front yard in the district in which it is located.

9.09 Adults Only Entertainment Establishment Regulations

Adults only entertainment establishments are a conditional permitted use only in the Business-Industrial District and are prohibited in all other districts. This type of use is subject to both a public hearing and approval by the Board of Zoning Appeals. This type of use must also comply with the following conditions:

1. Any adult-only entertainment establishment shall be located a minimum of fifteen hundred (1500) feet from any church, cemetery, residential dwelling, or residential dwelling district in order to avoid a degenerating influence on these uses or areas.
2. Any adult-only entertainment establishment shall be located a minimum of five thousand one hundred (5100) feet from any public or private school in order to avoid a potential noise, traffic conflict, and visual blight on the same section of road.
3. Any adult-only entertainment establishment shall be located a minimum of five thousand one hundred (5100) feet from the January 1, 1997, corporation limits of New Bloomington Village and La Rue Village in order to avoid an aesthetic degradation of these areas.
4. In all of the above cases, the distance shall be measured from the nearest property line of the existing use to the nearest property line of the proposed adult only entertainment establishment use.

9.10 Natural Resources

The mining of rocks, minerals, sand, and gravel, as well as, petroleum and gas drilling and extraction shall be permitted in accordance with zoning district regulations and Ohio Administrative Code and Department of Natural Resources and provided the following conditions are met:

1. Such operations are a minimum of two thousand (2000) feet from a residential district.
2. Such operations are a minimum of two thousand (2000) feet from an existing dwelling unit (excluding the residence of the owner or operator).
3. An application for such operation shall be made to the zoning inspector who shall issue a permit. The fee for the permit shall be ten (\$10.00) dollars. A new permit and fee shall be required annually as long as the operation continues or as long as equipment is located at the site of operation.
4. Upon termination of operation, land shall be restored to the original condition or use where practical. Also, all rock, mineral, sand, or gravel quarries shall be enclosed

by a ten (10) feet high security fence. All buildings and structures shall be removed at the expense of the operator within six (6) months of the termination date.

Revised (3-4-2003)

9.11 Minimum Residential Dwelling Unit Requirements

All single-family, two-family, and multi-family dwelling units must meet the following requirements, which shall be construed to be the minimum building requirements.

Manufactured Homes which have a manufacture date of January 1, 1995 or later must meet all of the following requirements

1. Minimum building width of 24 feet at the narrowest point, exclusive of breezeways, porches, terraces, and garages or attachments.
2. Minimum building length of 24 feet at the narrowest point exclusive of breezeways, porches, terraces, and garages or attachments.
3. The minimum floor area for a single- or two-family dwelling unit shall be 1200 square feet if the residential structure has one-story, and 1500 square feet if the residential structure has more than one-story.
4. The minimum floor area for a multi-family residential structure shall be 900 square feet per dwelling unit in the residential structure.
5. All dwelling units must be affixed to a permanent foundation and connected to appropriate utilities (water, sewer, electric, etc.).
6. All dwelling units must have a pitched roof (HUD approved for manufactured homes), conventional siding, and six inch minimum eave overhang including appropriate guttering.

Revised (August, 2000)

9.111 Manufactured Homes on Individual Lots

All manufactured homes constructed prior to January 1, 1995 must meet all of the following requirements:

1. The body of the unit shall have a minimum width of twenty-six (26) feet at its most narrow point exclusive of porches or other attachments.
2. All wheels, axles, springs, tongues, and structural supports needed to transport the unit to the site shall be permanently removed.

3. The unit shall be constructed upon and attached to a permanent foundation. The applicant shall show plans to the Zoning Inspector for a full permanent concrete or masonry foundation around the perimeter of the unit. This shall be a foundation that provides adequate support of the home's vertical and horizontal loads and transfers these and other imposed forces, without failure, from the home to the undisturbed ground below the frost line.
4. The unit must be certified to have met HUD (Housing and Urban Development) standards. The unit must be of new construction or less than five years old.
5. The unit shall have a minimum sloped roof of 3.5:12 and a roof covering comparable to neighborhood homes with a roof overhang a minimum of eight (8) inches from the vertical side of the unit.
6. The lot the unit is located on complies with the area and frontage standards for the zoning district where it is located.
7. The unit shall not require any additional skirting or underpinning of a style or type customarily associated with or used on manufactured homes.
8. Upon installation, the applicant must surrender any certificate of title issued for the unit to the Clerk of Courts and arrange to have the unit placed upon the real property tax list and duplicate by the County Auditor.
9. The unit shall be oriented on the lot so that its longest side is parallel to the street or road. However, the Board of Appeals may approve a different orientation if it finds that topography features of the lot or aesthetic considerations so warrant.
10. Once the foundation and perimeter walls are installed, the applicant shall notify the Zoning Inspector. After the Zoning Inspector has been notified, he shall inspect said work within ten (10) working days. Only after the Zoning Inspector has inspected the foundation and determined that it and the unit itself are in compliance with the requirements of this Section may the unit be installed.
11. Applicant shall begin to install the foundation within six (6) months of the issuance of the permit or said permit shall lapse. Applicant may seek an extension of up to six (6) months from the Zoning Board of Appeals.
12. The totality of the circumstances indicate an intention to make the unit a permanent addition to the land upon which it is situated.

9.12 Manufactured Home Parks

9.121 Application

The owner of a tract of land twenty (20) acres or more in area, located within a residential district may submit a plan for the development and use of such tract of land as a manufactured home park under the provisions of this Section.

9.122 Development Standards

9.1221 Ohio Department of Health

All manufactured home parks shall meet the requirements of the Ohio Sanitary Code adopted by the Ohio Department of Health under the authority of the Ohio Revised Code Section 3733.02.

9.1222 Subdivision Regulations

All manufactured home parks shall meet the requirements of the Subdivision Regulations for Marion County and the City of Marion under the authority of the Ohio Revised Code Section 711 (explained in O.A.G. 72-020).

9.1223 Board of Zoning Appeals

All applications and plans for a manufactured home park shall be reviewed by the Board of Zoning Appeals. In reviewing such application and plans for a mobile home park the Board shall determine whether the following requirements are met:

1. The proposed park is twenty (20) acres or more in size.
2. The front yard depth for the park as a whole shall be a minimum of sixty (60) feet from the front lot line.
3. The side yards and rear yard for the park are each fifty (50) feet from the side or rear lot lines. If the park abuts more than one existing public road, then the setback on the public road shall be sixty (60) feet from the lot line.
4. The minimum floor area of any manufactured housing unit used as a dwelling shall be seven hundred twenty (720) square feet.
5. The manufactured homes within the park shall be limited to single-family occupancy.

6. The park will be located in such a way to assure a maximum compatibility with other types of residential development.
7. The park will not be detrimental to the neighborhood.
8. A manufactured home park shall not have for display, sale, or storage any manufactured homes on the premises.

As a condition to determining that the park is compatible to nearby residential development, the Board of Zoning Appeals may set conditions including, but not limited to a requirement of screening by plants to obscure the view of the tract, limitations on signs allowed, and assurances of adequate recreation facilities.

9.1224 Board of Zoning Appeals Approval

If after review of the application and plans for a manufactured home park, the Board finds that all requirements have been met, the Board may grant approval. Such approval may, however, be conditioned on the compliance with Sections 9.11221 and 9.11222.

Revised (August, 2000)

9.13 Off-Street or Road Parking Area Standards

1. Off-street or road parking areas for five (5) or more vehicles shall be effectively screened on each side which adjoins or faces the Rural / Residential District or Residential District, by a solid fence, wall or hedge, which shall be not less than five (5) feet or more than eight (8) feet in height. Such fence, wall, or hedge shall be maintained in good condition without any advertising thereon.
2. For every parking area having five (5) or more spaces, a plan shall be submitted to the Zoning Inspector, showing that such parking area will be well drained and have a dust-free surface.
3. For every parking area having fifty (50) or more spaces, a plan designed by a certified engineer shall be submitted to the Zoning Inspector. The plan shall show a drainage system for the parking area.

Revised (August, 2000)

9.14 Screening for New Construction in the Business-Industrial District

The Zoning Commission shall review any proposed plans for new construction of a building, parking area, outside storage area, loading area, or waste storage facility in the Business-

Industrial District when it is determined the new construction will adjoin or face the Rural / Residential District or Residential District.

If the Zoning Inspector determines that a review by the Zoning Commission is necessary, the applicant shall submit a detailed site plan to the Zoning Commission. The site plan shall incorporate items such as building location, parking area layout, outside storage location, loading area location, outside waste storage location, a general screening plan, and a general drainage plan.

The Zoning Commission shall review the site plan for compliance with zoning district standards and the following requirements:

1. For every side of a new building, outside storage area, or loading area that adjoins or faces the Rural / Residential District or Residential District, one (1) evergreen or deciduous tree shall be installed for every ten (10) linear feet of new construction.
2. Where applicable, new parking areas shall comply with the standards set forth in Section 9.12.
3. The trees shall be planted between any new building, outside storage area, or loading area and the adjoining or facing Rural / Residential District or Residential District. All trees shall be setback a minimum of ten (10) feet from any side or rear lot line.
4. All trees shall be planted a minimum of twenty (20) feet from the rights-of-way edge. The Board of Zoning Appeals may grant a variance from this requirement when a practical difficulty is demonstrated when meeting this requirement.
5. The minimum tree height at the time of planting shall be ten (10) feet.
6. All waste storage facilities shall be screened by a solid fence on all sides a minimum of eight (8) feet high.
7. Any installed screening shall be well maintained.

Revised (August, 2000)

9.15 On-Lot Storm Water Drainage Requirements

9.151 On-Lot Storm Water Drainage Requirements for the Construction of New Homes on New Divisions of Land

1. All water drainage requirements shall comply with rules adopted by the chief of the Division of Soil and Water Conservation under R.C. 1511.02 (E) and

all other applicable federal and state statutes and regulations relating to water drainage.

2. Before any division of land takes place involving the construction of a new home, the seller must provide proof to the Zoning Inspector that an adequate drainage tile is available to the site before any transfer of land is formalized.
3. Proof of an adequate drainage tile will involve a visual inspection of such drainage tile by the Zoning Inspector.

9.152 On-Lot Storm Water Drainage Requirements for the Construction of New Homes on Existing Parcels of Ground

1. Before any zoning permit is issued for the construction of a new home on an existing parcel of land, the owner must provide proof to the Zoning Inspector that an adequate drainage tile is available to the site.
2. Proof of an adequate drainage tile will involve a visual inspection of such drainage tile by the Zoning Inspector.

Subsections 9.151 (1) and 9.151 (2) shall not apply if the subdivision involved is considered a major subdivision pursuant to the Marion County Subdivision Regulations and is also in compliance with all other Montgomery Township Zoning Regulations.

Revised (August, 2000)

CHAPTER 10

NON-CONFORMING USES AND BUILDINGS

10.01 Intent

Within the districts established by this Resolution or subsequent amendments, there exists lots, uses of land, or buildings which individually or in combination lawfully existed before this Resolution was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Resolution, shall be allowed to continue to exist until voluntarily removed. It is also the intent of this Resolution that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

10.02 Non-Conforming Lots

In a district in which dwellings are permitted, a dwelling and accessory structure(s) may be constructed on a lot which is non-conforming as to width and/or area provided the following conditions are met:

1. The lot was a lot of record at the effective date of this Resolution.
2. The lot is in separate ownership and not of continuous frontage with adjacent lots of the same ownership.
3. All applicable setback requirements are met.
4. The lot has been approved for on-lot water supply and sewage disposal by the Marion County Health Department.

10.03 Non-Conforming Uses

A non-conforming use may be continued subject to the exceptions and conditions hereunder:

10.031 Change of Non-Conforming Uses

A non-conforming use may be changed to another non-conforming use with the prior approval of the Board of Zoning Appeals in accordance with Section 12.02 of this Code.

10.032 Abandonment

A building, structure, or premises where a non-conforming use has ceased for two (2) years or more shall not again be put to a non-conforming use.

10.033 Expansion of Use

A building in which a non-conforming use occurs may be expanded or changed to provide for an expansion of its non-conforming use with prior approval from the Board of Zoning Appeals. Examples of such expansion include increasing the floor space of a commercial or industrial establishment.

10.04 Non-Conforming Building

10.041 Structural Alteration or Repair

A non-conforming building may be altered or repaired without prior approval from the Board of Zoning Appeals if such alteration or repair does not increase the degree of non-conformity. For example, if the setback requirements are non-conforming as to the dimensions, such dimensions shall not be further decreased.

10.042 Repairing Damaged Non-Conforming Buildings

A non-conforming structure in which a non-conforming use occurs that is destroyed by fire, flood, winds, natural disasters, or other acts beyond the control of the owner may be repaired or reconstructed and the non-conforming use, if any, may be continued provided that such repair or reconstruction is begun within a period of one (1) year, carried on diligently, and does not increase the degree of non-conformity.

10.05 Replacement of Non-Conforming Manufactured Homes

The replacement on non-conforming manufactured homes with another manufactured home shall only be permitted if the replacement unit meets requirements of Section 9.11.

Revised (August, 2000)

CHAPTER 11

ZONING INSPECTOR AND ZONING PERMITS

11.01 Position of Township Zoning Inspector

The position of Township Zoning Inspector is hereby created. He shall be appointed by the Board of Township Trustees and shall receive such compensation as the Trustees shall provide. He shall keep records of all applications for Zoning certificates and the action taken thereon.

11.02 Zoning Permits

11.021 Applications

Before constructing any building, (excluding buildings incident to agricultural purposes, but not dwelling units for farm workers), parking area with five (5) or more spaces, changing the use, altering any building or structure, undertaking a home occupation, adding accessory building(s), or installing sign(s), an application shall be made to the Zoning Inspector for a zoning permit. The applicant shall submit a description of the proposed construction, alteration, or change of use. Such description shall include when applicable, drawings to scale, showing relevant dimensions and any other information necessary for the enforcement of this Resolution.

No zoning permit shall be required for alterations, remodeling or repairs on any building, provided that the original footprint of the building is not altered.

No zoning permit shall be required for garden houses, tool houses, or playhouses that do not exceed a maximum of 100 square feet. However, anyone building one of these structures should consult with the Zoning Inspector for setback requirements before construction is started.

No zoning permit shall be required for temporary removable structures erected for the construction of roads, sewers, service lines, utility lines.

Revised (August, 2000)

11.022 Revoking a Permit

A zoning permit shall be revocable, if among other things, the actual use, construction or alteration does not conform to the terms of the application and permit granted thereon.

11.023 Expiration of a Zoning Permit

A zoning permit shall expire one (1) year after issuance unless the construction, alteration or change of use permitted by its issuance has been substantially begun and is thereafter pursued to completion.

11.03 Permit Fees

The following table presents the zoning permit fees at the effective date of this Resolution. These fees may be changed by resolution by the Township Trustees at any time. This procedure does not require the Township to follow the rules for amending the text.

ZONING PERMIT FEE SCHEDULE	
PERMIT TYPE	FEE
Value of New Construction or Alteration of Existing Structure	
<i>\$1,000 or less</i>	\$15.00
<i>\$1,001 - \$15,000</i>	\$30.00
<i>\$ 15,001 and over</i>	\$ 2.00 per \$1,000.00
Sign	\$ 5.00
Home Occupation	No Fee
Accessory Manufactured Home or Temporary Living Space	\$20.00
Natural Resources	\$10.00
Penalties:	
Failure to Obtain Permit	Permit Fee x 2

CHAPTER 12

BOARD OF ZONING APPEALS

12.01 Establishment and Organization

The Board of Township Trustees shall appoint a Township Board of Zoning Appeals consisting of five (5) members who shall be residents of the unincorporated territory of the township. The terms of all members shall be of such length and so arranged that the term of one member will expire each year. Each member shall serve until his successor is appointed. Members shall be removable for the same causes and in the same manner as provided by Section 519.04 of the Ohio Revised Code. Vacancies shall be filled by appointments made by the Board of Township Trustees and shall be for the unexpired term. The members shall serve without compensation.

12.02 Powers of the Board

12.021 Interpretation of this Resolution

Upon appeal from a decision of the Zoning Inspector, the Board may hear and decide any question involving the interpretation of the text of this Resolution or zoning map.

12.022 Applications for Conditional Uses

The Board shall have original jurisdiction and shall hear and decide upon application filed for conditional uses. In considering such an application, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and consistency therewith of the proposed use and development. Before authorizing a conditional use, the Board shall determine whether the proposed use would be hazardous, harmful, noxious, offensive or a nuisance to surrounding neighborhoods.

12.023 Variances

The Board may authorize upon appeal in specific cases, variances from the provisions of this Resolution as will not be contrary to the public interest. However, nothing contained herein shall authorize the Board to affect changes in the zoning map or to add to the uses permitted in any zoning district. In order to grant a variance, the Board must find:

1. That there are special circumstances or conditions applying to the land or buildings for which the variance is sought. These circumstances or conditions shall be such that the strict applications of the provisions of this

- Resolution would result in practical difficulties and unnecessary hardship and deprive the applicant of the reasonable use of the land or building.
2. That the granting of the variance will be in harmony with the general purpose and intent of this Resolution and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 3. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make it more practicable to consider an amendment to the resolution according to the procedure set forth in Chapter 14.

12.03 Procedures

The Township Board of Zoning Appeals shall organize and adopt rules in accordance with this Resolution. Meetings of the Board shall be held at the call of the Chairman, or in his absence, the Acting Chairman. The Chairman or Acting Chairman may administer oaths and the Board may compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The Board shall keep records of its actions, all of which shall immediately be filed in the office of the Board of Township Trustees.

Three (3) members of the Board shall constitute a quorum to conduct business. The Board shall act by Resolution and the concurring vote of three (3) members shall be necessary to decide on any matter of which the Board has jurisdiction to decide upon. In the absence of three (3) members, one (1) member shall be a quorum for the purpose of establishing a date and time for the continuance of the meeting, after this is accomplished, such meeting shall be adjourned.

12.031 Applications and Appeals

An application for a decision or an appeal to the Board may be made by any person or organization affected by the provisions of this Resolution. Appeals to the Board shall be taken within twenty (20) days after a decision by the Zoning Inspector. The applicant shall file a form (approved by the Board) with the Board which specify the grounds of the appeal.

When an application or appeal has been filed in proper form and with required data, the Secretary of the Board shall place within sixty (60) days said application or appeal on the calendar for a hearing and cause notices to be served stating the time, place, and object of such hearing. Such notices shall be served personally or by mail at least ten (10) days prior to the day of such hearing to all parties of interest. The Board shall also publish a notice of such hearing in a newspaper of general circulation in Montgomery Township at least ten (10) days prior to the public hearing.

The Board shall decide upon an application or appeal within thirty (30) days after the hearing. Any person may appear at such hearings in person or by agent or attorney.

12.04 Fees

In the event that an application is filed with the Board of Zoning Appeals resulting in a public hearing, the Board will require a fee of \$20.00 for the application plus the amount necessary to offset the cost of mailing and legal publishment.

CHAPTER 13

ZONING COMMISSION

13.01 Organization

The Zoning Commission shall be composed of five (5) members, appointed by the Township Trustees who shall be residents of the unincorporated territory of Montgomery Township. The terms of all members shall be of such length and so arranged that the term of one (1) member shall expire each year. Each member shall serve until his successor is appointed. Members shall be removable for the same causes and the same manner as provided by Section 519.04 of the Ohio Revised Code. Vacancies shall be filled by appointments made by the Board of Township Trustees.

13.02 General Procedures

The Township Zoning Commission shall meet at least four (4) times per year and shall also adopt rules to govern its activities in accordance with this Resolution. All meetings of the Commission shall be open to the public. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. The Commission shall keep records of its examination and other official actions, all of which shall be filed immediately in the office of the Township Trustees and shall be a public record. Three (3) members of the Commission shall constitute a quorum.

13.03 Powers and Duties

1. The Zoning Commission may initiate proposed amendments to this Resolution.
2. The Zoning Commission shall review all proposed amendments to this Resolution and make recommendations to the Board of Township Trustees pursuant to Chapter 14.

CHAPTER 14

AMENDMENTS

It shall be the policy of the Montgomery Township Government to consider this Zoning Resolution, together with its Zoning District Map, to be subject to amendment from time to time, in order to recognize changing conditions of Land Use and Development, and to utilize proved practices in zoning.

The following is a copy of Section 519.12 Ohio Revised Code, as it existed November 1, 1995:

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

Upon the adoption of such motion, or the certification of such resolution or the filing of such application, the township zoning commission shall set a date for a public hearing thereon, which date shall not be less than twenty or more than forty days from the date of the certification of such resolution or the date of adoption of such motion or the date of the filing of such application. Notice of such hearing shall be given by the township zoning commission by one publication in one or more newspapers of general circulation in the township at least ten days before the date of such hearing.

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

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

“(1) The name of the zoning commission that will be conducting the public hearing;

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

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

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

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

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

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

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

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

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

(6) The name of the person responsible for giving notice of the public hearing by publication or by mail, or by both publication and mail;

(7) Any other information requested by the board.

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

(1) The name of the board that will be conducting the public hearing on the proposed amendment;

(2) A statement indicating that the motion, application, or resolution is an amendment to the zoning resolution;

(3) The time and place where the text and maps of the proposed amendment will be available for examination for a period of at least ten days prior to the public hearing;

(4) The name of the person responsible for giving notice of the public hearing by publication;

(5) Any other information requested by the board.

(H) Within twenty days after such public hearing the board shall either adopt or deny the recommendations of the zoning commission or adopt some modification thereof. In the event the board denies or modifies the recommendation of the township zoning commission the unanimous vote of the board shall be required.

Such amendment adopted by the board shall become effective in thirty days after the date of such adoption unless within thirty 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 per cent of the total vote cast for all candidates for governor in such area at the most recent general election at which a governor was elected, requesting the board of township trustees to submit the amendment to the electors of such area for approval or rejection at a special election to be held on the day of the next primary or general election. Each part of this petition shall contain the number and the full and correct title, if any, of the zoning amendment resolution, motion, or application, furnishing the name by which the amendment is known and a brief summary of its contents. In addition to meeting the requirements of this section, each petition shall be governed by the rules specified in section 3501.38 of the Revised Code."

CHAPTER 15

ENFORCEMENT

It shall be unlawful to construct, reconstruct, enlarge, change, maintain or use any building or to use any land in violation of any provision of this Resolution or any amendment thereto. Any person, firm or corporation violating this Resolution or any regulation, provision or amendment thereto shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars (\$100.00). Each day and every day during which such illegal erection, construction, reconstruction, enlargement, change, maintenance or use continues, may be deemed a separate offense.

In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, or any land is or is proposed to be used in violation of law or of this Resolution or any amendment thereto, the Board of Township Trustees, the Prosecuting Attorney of the County of Marion, the Township Zoning Inspector or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or other appropriate action proceedings to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use. The Board of Township Trustees may employ special counsel to represent it in any proceedings or to prosecute any actions brought under this section.

A lot, yard, parking area or other open space shall not be reduced in area or dimension so as to make said area or dimension less than the minimum required by this Resolution. A part of a yard, parking area or other space provided for any building in compliance with this Code shall not be included as a part of a yard, parking area or other open space required for another building.

CHAPTER 16

EFFECTIVE DATE

This Resolution shall take effect and be in force within thirty (30) days following certification by the Board of Elections, if the Resolution is so approved by a majority vote cast by the electors of Montgomery Township.

CHAPTER 17

DEFINITIONS

Intent

The following terms shall have the meaning given herein for the purpose of this Resolution:

The words “shall” and “will” are to be interpreted as mandatory.

The word “may” is permissive.

All words used in the singular shall include the plural, and all words used in the present tense shall include the future tense, unless the context clearly indicates the contrary.

The word “Township” shall mean Montgomery Township, Marion County, Ohio.

The term “Commission” shall mean the Montgomery Township Zoning Commission.

The term “Board” shall mean the Montgomery Township Board of Zoning Appeals.

The term “Trustee” shall mean the Montgomery Township Trustees.

Accessory Building or Structure

Buildings located on the same lot with a principal building, the use of which is customarily incident to that of the principal building.

Accessory Use

A use subordinate to the principal use of a building or premise, and customarily incidental thereto.

Adults Only Entertainment Establishments

An establishment which features services that constitute adult services comprised of adult material or which features exhibitions of: persons totally nude, topless or bottomless, or persons with less than full opaque covering of private parts of the body, erotic dancers, strippers, male and female impersonators, or similar entertainment which utilizes adult material.

Adults Only Material

Any book, magazine, newspaper, pamphlet, poster, print, slide, transparency, figure, image, description, motion picture film, pornographic record, tape, or video. In addition any other tangible thing or any service, capable of arousing interest through sight, sound, or touch, or is characterized by an emphasis on sexual excitement.

Agriculture

The use of land for farming, including dairying, pasturage, apiculture, horticulture, floriculture, viticulture and animal or poultry husbandry.

Building

Any structure having a roof supported by columns or walls used for shelter or enclosure of persons or property.

Building Footprint

The maximum extent of the existing building foundation.

Comprehensive Plan

The Comprehensive Plan for Marion County or parts thereof, as and when adopted or amended by the Marion County Regional Planning Commission.

Conditional Use

A use permitted within a district other than a principally permitted use, requiring a conditional use permit and approval of the Board of Zoning Appeals.

Conditional Use Permit

A permit issued by the Zoning Inspector upon approval by the Board of Zoning Appeals to allow a use other than a principally permitted use to be established within the district.

District, Zoning

A portion of the land within Montgomery Township where certain uniform regulations and requirements are in effect.

Dwelling

Any building or portion thereof designed or used as the home of one or more persons or families, including modular dwellings but not including a tent, cabin, hotel, motel, or recreation vehicle.

Dwelling Seasonal

A summer cottage, winter lodge, or similar lodging occupied less than six (6) months during a year.

Floor Area

The measurement of floor area for the purposes of this Resolution shall be the sum of the area of the first floor, as measured to the inside of exterior walls plus that area, similarly measured, of all other stories having eighty-four (84) or more inches of headroom. For residential uses, the floor area of uninhabitable basements, cellars, garages, attics, breezeways, and unenclosed porches shall be excluded.

Home Occupation

An occupation which is carried on in the home clearly incidental and secondary to the residential use meeting the requirements of Section 9.01 of this Resolution.

Industrialized Home (ORC 3781.06 (C) (3))

An industrial home means a building unit or assembly of closed construction, fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and requires transportation to the site or intended use. "Industrialized Unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized Unit" does not include a manufactured home as defined by division (C) (4) of ORC Section 3781.06 or a mobile home as defined by division (O) of ORC Section 4501.01. Revised (August, 2000)

Junk Yard

Land used to dismantle more than two motor vehicles or trailers, or land used to store, sell or dump partly dismantled, obsolete or wrecked vehicles or their parts, used building materials, junk, paper, or other salvaged materials.

Lot

A single tract or parcel of land having frontage on a dedicated public or approved private street or road, occupied or intended to be occupied by a principal building or group of such buildings and accessory buildings or utilized for a principal use and uses accessory thereto, together with the minimum open space as required in this Resolution.

Lot Depth

The mean horizontal distance between the front and rear lot lines, measured at right angles to the street or road lines.

Lot Line Front

The lot line separating the lot from the right-of-way line of the principal street on which the lot abuts.

Lot Line Rear

The lot line opposite and most distant from the front lot line.

Lot Line Side

Any lot line other than a front or rear lot line. A side lot line of a corner lot separating a lot from a street or road, is called a side street lot line. A side lot line separating a lot from another lot is called interior lot line.

Lot of Record

A lot which is a part of a recorded plat or a lot described by metes and bounds, the map and/or description of which has been recorded in the office of the Marion County Recorder.

Lot, Area

The computed area within the lot lines.

Lot, Corner

A lot abutting two streets or roads at their intersections, where the interior angle is not more than 135 degrees.

Lot, Width

The mean horizontal distance across the lot between side lot lines, measured at right angles to the lot depth, provided that the minimum lot widths required by this Resolution shall be so measured at a distance from the front lot line equal to the required depth of the front yard.

Manufactured Home

The term “manufactured home” means a building or unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the Secretary of Housing and Development pursuant to the “Manufactured Housing Construction and Safety Standards Act of 1974”, 88 stat. 700, 42 u.s.c.a.5401, 5403 and that has a permanent label or tag affixed to it, as specified in 42 5415, certifying compliance with applicable federal construction and safety standards. Revised (August, 2000)

Mobile Home

The term “mobile home” means a building unit or assembly of closed construction, fabricated in an off-site facility, is more than thirty-five body feet in length or, when erected on site, is three hundred twenty or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C) (4) of Section 3781.06 of the Ohio Revised Code or as an industrialized unit as defined in division (C) (3) of Section 3781.06 of the Ohio Revised Code. Revised (August, 2000)

Non-Conformities

A building, structure, or use of land existing at the time of enactment of this ordinance (resolution), and which does not conform to the regulations of the district or zone in which it is situated.

Parcel

See “Lot” definition.

Principal Building

A building or structure in which is conducted the principal use of the lot on which it is situated.

Principal Use

The primary or chief purpose for which a lot or structure is used.

Public Uses

All lands, other than streets and highways, owned by and officially designated for continuing public use by a municipality, township, county, school district, State of Ohio, United States Government, or any other duly constituted agency of the government, such as parks, schools and administrative, recreation, cultural, and service buildings.

Recreation Facilities, General Commercial

Recreation areas and facilities open to the public, established and operated for profit, including commercial golf courses, swimming pools, riding stables, race tracks, amusement parks, carnivals and similar commercial enterprises.

Recreation Facilities, Limited Commercial

Recreation areas and facilities open to the public, established and operated for profit, limited to enterprises serving vacationing and/or one-day customers, including picnicking, camping, fishing and boating, miniature golf, ice/roller skating rinks, playgrounds, etc. with the sale of goods and services limited to food, beverages, boating, fishing and camping supplies, boat docking and launching, tent and recreational vehicle parking.

Recreation Facilities, Private

Privately owned recreation facilities which are not operated for the general public for profit, including private country clubs, golf courses, riding clubs, fishing or hunting clubs, game preserves, swimming pools and other similar non-commercial recreation areas or facilities.

Recreational Vehicle

The term “Recreational Vehicle” means a vehicular portable structure that is designed and constructed to be used as a temporary dwelling for travel, recreation, and vacation used and is classed as follows:

“Travel trailer” means a self-propelled recreational vehicle that does not exceed an overall length of thirty-five feet, exclusive of bumper and tongue or coupling, and contains less than three hundred twenty square feet of space when erected on site. “Travel trailer” includes a tent-type fold-out camping trailer as defined in section 4717.01 of the Ohio Revised Code;

“Motor Home” means a self-propelled recreation vehicle that is constructed with permanently installed facilities for cold storage, cooking and consuming food and for sleeping;

“Truck camper” means a non-self propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon, and attached to a motor vehicle. “Truck camper” does not include truck covers that consist of walls and a roof, but do not have floor and facilities enabling them to be used as a dwelling;

“Fifth wheel trailer” means a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch originally installed in the bed of a truck;

“Park trailer” means a vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is

designed for seasonal or temporary quarters, and may be connected to utilities necessary for the operation of installed features and appliances. Revised (August, 2000)

Semi-Public Uses

Land owned by a non-profit organization or agency which is open to general public use, including but not limited to a cemetery, church, Sunday school, parochial school, college, hospital, site occupied by an auditorium, museum, art gallery, or other institutions of an educational, religious, charitable, or philanthropic nature but not including any private or semi-private club, lodge, fraternity, sorority, or other similar activity.

Setback Line

A line established by the zoning ordinance (resolution), generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building, or structure may be located above ground, except as may be provided in said Code

Sign, Accessory

A sign which relates solely to the building or lot on which it is located.

Sign, Advertising

A sign which directs attention to a use, commodity, or service not related to the lot or parcel on which it located.

Variance

A variance is a modification of the strict terms of the relevant regulations where such modification 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 the regulations would result in unnecessary and undue hardship.

Yard, Front

A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.

Yard, Rear

A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.

Yard, Side

A yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.

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