

## ARTICLE V SUPPLEMENTARY USE REGULATIONS

### SECTION 500 GENERAL PROVISIONS

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

### SECTION 501 HOME OCCUPATIONS

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

**SECTION 502 ACCESSORY BUILDINGS AND STRUCTURES**

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

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

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

**SECTION 503 PRIVATE ACCESSORY SWIMMING POOLS AND GAME COURTS**

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

**SECTION 504 AGRICULTURAL RESTRICTIONS WITHIN PLATTED TERRITORY**

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

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

**SECTION 505 EXISTING FARM DWELLINGS ON SMALL LOTS**

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

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

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

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

**SECTION 507 AGRIBUSINESS**

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

**SECTION 508 FARM MARKETS**

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

## SECTION 509 TEMPORARY MOBILE HOMES

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

## SECTION 510 BED AND BREAKFAST HOMES AND INNS

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

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

**SECTION 511 PRIVATE LANDING STRIPS**

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

**SECTION 512 CEMETERIES**

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

**SECTION 513 PRIVATE RECREATION FACILITIES**

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

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

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

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

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

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

**SECTION 514 JUNK YARDS**

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

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

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

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

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

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

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

**SECTION 515 SANITARY LANDFILLS**

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

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

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

- B. Topographic maps, drawn at a scale no greater than one (1) inch equal to two hundred (200) feet with five (5) foot contour intervals, showing the existing and the proposed final physiographic layout of the site.
- C. A hydrogeologic and surface drainage study of the site conducted by a qualified professional engineer registered in the State of Ohio, illustrating the various depths, thickness', and hydrologic characteristics of underlying geologic deposits and the depth, direction of 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 Elizabeth Township.
- 515.16 Inspections and Enforcement.** The Zoning Inspector or a Miami County Health Department employee may visit the site at any time and may have cause for a cease and desist order if the owner and/or operator of a sanitary landfill is in violation of any of the above sections or any other conditions imposed by the Board of Zoning Appeals.

**SECTION 516 CHILD CARE NURSERY**

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

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

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

## **SECTION 517 BILLBOARDS**

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

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

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

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

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

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

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

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

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

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

## **SECTION 518 ANIMAL HOSPITAL/KENNEL/VETERINARIAN**

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

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

**SECTION 519 JUNK OR INOPERABLE VEHICLES**

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

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

**SECTION 520 WIRELESS TELECOMMUNICATION FACILITIES**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 521 ADULT ENTERTAINMENT FACILITIES**

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

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

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

## **SECTION 522 MINERAL EXTRACTION**

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

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

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

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

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

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

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

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

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

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

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

**SECTION 523 ROOMING HOUSES**

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

**SECTION 524 INDOOR COMMERCIAL STORAGE OF RECREATIONAL VEHICLES**

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