

# ZONING RESOLUTION

## MIAMI TOWNSHIP ZONING RESOLUTION

Amended July 2021

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## **Section 1 Purpose**

This resolution is enacted, and amended as necessary, for the purpose of protecting and promoting the health, safety and welfare of Miami Township residents; to secure the most appropriate use of land resources; to promote and protect the rural aesthetic quality of Miami Township through agricultural uses and open space preservation; to regulate development density; to promote and protect environmental concerns, to promote economic viability and to maintain a balance between the specific rights of property owners and the general welfare of the larger community.

Furthermore, this resolution is intended to guide and regulate future developments of a residential, business, or industrial nature within the incorporated areas of Miami Township and to provide the methods of administration and redemption, as permitted in Chapter 519 of the Ohio Revised Code.

## **Section 2: Construction of Language and Definitions**

### **2.1 Construction of Language**

For the purposes of this Resolution, certain terms or words used herein shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the

plural number includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "building" includes the word "structure", and the word "dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel". In case of any difference of meaning or implication between the text of this Resolution and any caption or illustration, the text shall control.

Terms not herein defined shall have the meaning customarily assigned to them.

## **2.2 Definitions**

**2.201 Accessory Use or Building:** Is a use or building on the same lot with, and of a nature customarily incident and subordinate, to those of the main use or building.

**2.202 Agriculture:** Agriculture as defined in Section 519.01 of the Ohio Revised Code

**2.2021 Agricultural Production:** Commercial animal or poultry husbandry, aquaculture, aquaculture meaning the farming of algae, apiculture, animal husbandry, or poultry husbandry; the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, or sod; the growth of timber for a noncommercial purpose if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use; or any combination of such husbandry, production, or growth; and includes the processing, drying,

storage, and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth; land devoted to biodiesel production, biomass energy production, electric or heat energy production, or biologically derived methane gas production if the land on which the production facility is located is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use, provide that at least fifty per cent of the feedstock used in the production was derived from parcels of land under common ownership or leasehold. Agricultural production includes conservation practices, provided that the tracts, lots, or parcels of land or portions thereof that are used for conservation practices comprise not more than twenty-five per cent of tracts, lots, or parcels of land that are otherwise devoted exclusively to agricultural use and for which an application is filed under Section 929.02 of the Revised Code.

**2.2022 Agritourism:** An agriculturally related educational, entertainment, historical, cultural or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate or enjoy that activity.

**2.203 Agricultural Service Establishment:** A business engaged in the support of agricultural or horticultural activities, including feed, seed and fertilizer sales, tile services, landscaping, greenhouse, farm equipment service or repair, butcher shop.

## **2.204 Airport**

**2.2041 Airport; (Commercial):** Any runway, landing strip, or other facility designed or used by any person for the landing and takeoff of aircraft by the

public for commercial purposes, and may also include services such as fuel sales, storage, repair services, and aircraft sales.

**2.2042 Airport; (Private):** Any runway, landing strip, or other facility designed or used by any person for the landing, take-off, and storage of aircraft on his own property principally for his own use.

**2.205 Alley:** Is any dedicated public way affording a secondary means of access to abutting property and not intended for general traffic circulation.

**2.206 Alterations:** Is any change, addition, or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

**2.207 Apartment:** Is a suite of rooms or a room in a multi-family building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit as herein defined.

**2.208 Auto Service Station:** Is a place where gasoline or any other automobile engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises; including the sale of minor accessories and the services of and minor repair of automobiles, not including storage of inoperable vehicles.

**2.209 Auto Repair Station:** Is a place where, along with the sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service,

such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles.

**2.210a Basement:** Is that portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story, except as provided in paragraph 2.290.

**2.210b Bed and Breakfast:** Is a single-family dwelling unit in which the primary use is the permanent residential quarters (more than six months in a calendar year) for the owners of record, natural persons who live in the dwelling at any time of guest occupancy. Bedrooms in the principal structure are made available for guest occupancy for a fee. Such occupancy shall be for less than eight (8) consecutive days and occupied by no more than (5) guests total with a maximum of two (2) adults in a room, with only breakfast served upon the premises as part of the accommodations. Such an establishment may only operate when in compliance with all aspects of section 5.305, Bed and Breakfast Operations.

**2.210c Best Management Practice (BMP):** Activities, procedures, protocols and prohibitions to reduce and/or prevent the risk of a release of a potential pollutant to the environment. Includes the storage, transfer, maintenance, handling, and emergency response practices involved in properly managing Regulated Substances. Various types and alternative BMPs may be appropriate for a given situation.

**211 Block:** Is the property abutting one side of a street and lying between the two nearest intersecting streets, (crossing or terminating) or between the

nearest such street and railroad right-of-way, unsubdivided acreage, river or live stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate lines of the municipality.

**2.212 Board of Appeals:** Is the Board of Zoning Appeals of Miami Township, Greene County, Ohio.

**2.213 Boarding House:** Any building originally designed for and used as a single family dwelling or part thereof, where rooms for lodging, with or without meals, are provided for compensation for ten (10) or fewer persons who are not members of the keeper's family. Furthermore, the owner and/or operator shall live on the premises.

**2.214 Building:** Is any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter, or enclosure of persons, animals, chattels, or property of any kind.

**2.215 Building Height:** Is the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain the height may be measured from the average ground level of the grade at the building wall.

**2.216 Building Line:** Is a line formed by the face of the building, and for the purposes of this Resolution, a building line is the same as a front setback line.

**2.218 Clinic:** Is an establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or similar professions.

**219 Club:** Is an organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

**2.219b Community Water Supply System:** A water system which has at least 15 service connections used by year-round residents of the area or regularly serves 25 year-round residents. As defined by the Ohio EPA.

**2.220 Conditional Use:** A use permitted within a district other than a principally permitted use, requiring a conditional use permit and approval the board of zoning appeals. These uses are permitted only after the applicant has followed the procedures of Section 18.44.

**2.221 Conditional Use Permit:** This is a permit issued by the Board of Appeals to allow certain specific developments that would not otherwise be allowed in that particular zoning district where the land is located. These permits are issued only after the applicant has followed the procedures as stated in this Resolution. Development under a Conditional Use Permit differs from a zoning change in that it is much more specific. The applicant submits plans and if approved, he must follow those plans exactly or reapply for a permit before deviating from that plan.

**2.221a CONSERVATION PRACTICES:** Practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of



grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

**2.222 Convalescent or Nursing Home:** Is an establishment that specializes in providing necessary services to those unable to care for themselves.

**2.223 District:** Is a portion of the unincorporated area of the township within which certain regulations and requirements or various combinations thereof apply under the provisions of this Resolution.

**2.224 Drive-in:** Is a business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, or within a building or structure on the same premises and devoted to the same purpose as the drive-in service.

**2.225 Dwelling Unit:** Is a building or a portion thereof, designed for occupancy by one (1) family for residential purposes and having cooking facilities.

**2.226 Dwelling, One-Family:** Is a building designed exclusively for occupancy by one (1) family.

**2.227 Dwelling, Two-Family:** Is a building designed exclusively for occupancy by two (2) families living independently of each other.

**2.228 Dwelling, Multiple-Family:** Is a building or a portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.

**2.229 Erected:** Is a term which includes the acts of building, constructing, altering, reconstructing, moving upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, the like, shall be considered a part of erection.

**2.230 Family:** Is one or two persons or parents, with their direct lineal descendants and adopted children together with not more than two persons not so related, or a group of not more than three persons who need not be related, living together as a single housekeeping unit in a dwelling unit.

**2.231 Farm:** Land that is composed of tracts, lots, or parcels totaling not less than ten (10) acres devoted to agricultural production or totaling less than ten (10) acres devoted to agricultural production if the land produces an average yearly gross income of at least twenty-five hundred dollars (\$2,500) from agricultural production.

**2.232 Feed lot:** Is land used for confining and feeding of livestock, not connected with general farming, for mass production for marketing.

**2.233 Fence:** Is any structure other than part of a building of sufficient strength and dimensions to prevent straying from within or intrusion from without.

**2.234a Filling:** Is the depositing or dumping of any matter on to, or into the ground, except as incidental to common household gardening and ground care.

**2.234b Flag Lot:** A large lot not meeting minimum frontage requirements and where access to the public road is a narrow, private right of way or driveway.

**2.235 Floodway Fringe:** That portion of the regulatory flood plain which serves primarily as a storage area for the flood waters of the 10 year flood as designated in the Flood Insurance Study: Unincorporated Areas of Greene County, Ohio. (see Illustration I)

**2.236 Floodway:** That portion of the regulatory flood plain which is required to carry and discharge the flood waters of the 100 year flood without obstruction as designated in the Flood Insurance Study: Unincorporated Areas of Greene County, Ohio (see Illustration I)

**2.237 Flood Plain, Regulatory:** That land area of Township which is subject to inundation by the 100 year flood as determined by the Flood Insurance Study: Unincorporated Areas of Greene County, Ohio prepared by the Federal Emergency Management Agency. (see Illustration I)

**2.238 Flood, 100 year:** The temporary inundation of normally dry land areas by a flood that is likely to occur once every 100 years (i.e., that has a one percent (1%) chance of occurring each year, although the flood may occur in any year). (see Illustration I)

**2.239a Floor Area (For the purpose of computing parking):** Is that area used for or intended to be used for the sale of merchandise or services, or to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, such as hallways, stairways and elevator shafts, or for utilities or sanitary

facilities, shall be excluded from this computation of "Floor Area".

Measurements of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

**2.239b Frontage:** The continuous distance between the side lot lines measured along the required front setback line; and (2) in the case of a corner lot where frontage shall be measured along the shortest front lot line. Property lines, which abut limited access roads, shall not be construed to be included within any calculation of frontage. (See Illustration)

**2.240 Garage; Parking:** Is a space or structure or series of structures for the temporary storage or parking of motor vehicles, not primarily of commercial vehicles or for dead storage of vehicles, having no public shop or service in connection therewith, other than for the supplying of motor oil and lubricants, air, water and other operating commodities wholly within the buildings, to the patrons of the garage only and not readily visible from or advertised for sale on the exterior of the building.

**2.241 Garage; Private:** Is an accessory building or portion of a main building designed or used solely for the storage of motor driven vehicles, boats, and similar vehicles owned or used by the occupants of the building to which it is accessory.

**2.242 Garage; Service:** Is any premises used for the storage or care of motor driven vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

**2.243 Grade (Ground level):** Is the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five (5) feet of a sidewalk, the above-ground level shall be measured at the sidewalk, unless otherwise defined herein.

**2.244 Home Occupation:** Is any occupation operated in its entirety within the principal dwelling by the person or persons maintaining a dwelling therein; employing no more than two persons not living within the dwelling; not having a separate entrance from outside the building; not involving alteration or construction not customarily found in dwellings; not utilizing more than twenty five (25) percent of the total actual floor area of any one story; not displaying, or creating outside the structure any external evidence of the operation of the home occupation, except for one unanimated, nonilluminated, name plate having an area of not more than one (1) square foot.

**2.245 Hospital or Sanitarium:** Is a public or semi-public facility that provides accommodations and continuous service for the sick and injured including obstetrical, medical and surgical care.

**2.246 Hotel:** Is a building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals in which there are ten (10) or more sleeping rooms and no provision made for cooking in individual room or apartment. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.

**2.247 Junk:**

**2.2471 Junk or Inoperable Vehicle:** A vehicle shall be deemed junk or an inoperable vehicle whenever any two or more of the following occur a period of two weeks prior to the filing of a cease and desist order:

- a. The vehicle is without a valid, current registration and/ or license plate;
- b. The vehicle is apparently inoperable;
- c. The vehicle is without fully inflated tires and/or has any type of support under it;
- d. The vehicle has a missing or shattered window or windshield and/or,
- e. The vehicle has an extensively damaged or missing door, motor, transmission, or other similar major part.

**2.2472 Junk Yard (Salvage Yard):** Any use primarily involved with buying, selling, exchanging, storing, baling, packing, disassembling, or handling of waste or scrap materials, including but not limited to vehicles, machinery, and equipment not in operable condition or parts thereof, and furniture, building materials, metals, paper, rags, rubber tires, and bottles. Such operations conducted entirely within completely enclosed buildings shall not be considered a Junk Yard. Two (2) or more junk or inoperative vehicles on a lot shall be considered a Junk Yard.

**2.248 Kennel:** Is any lot or premises used for the sale, boarding or breeding of dogs, cats, or other household pets. Kennel shall also mean the keeping on, or in, any lot or building of three or more dogs, cats or other household pets which are over the age of six (6) months.

**2.249 Landscaping:** Is the grading and planting of grass, shrubs, and trees.

**2.250 Loading Space:** Is an off-street space on the same lot with a building, or group of buildings for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

**2.251 Lot:** Is a parcel of land occupied, or to be occupied by a main building or a group of such buildings and accessory building, or utilized the principal use and uses accessory thereto, together with such open spaces are required under the provisions of this Resolution.

**2.252 Lot Area:** Is the total horizontal area within the lot lines of the lot.

**2.253 Lot, Corner:** A lot which has at least two contiguous sides, each abutting upon a street for its full length.

**2.254 Lot, Interior:** Is any lot other than a corner lot.

**2.255 Lot, Through:** Is any interior lot having frontages on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

**2.256 Lot Coverage:** Is the part or percent of the lot occupied by buildings including accessory buildings.

**2.257 Lot Line:** Is a line bounding a lot as defined herein.

**2.258 Front Lot Line:** A street right-of-way line forming the boundary of a lot. On a corner lot, the street right-of-way line with the least amount of street frontage shall be the front lot line.

**2.259 Rear Lot Line:** Is that lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot. In the case of a corner lot, the rear lot line is opposite the front lot line of least dimension.

**2.260 Side Lot Line:** Is any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**2.261 Lot Width:** Is the horizontal distance between the side lot lines, measured at the two points where the building line, or setback line intersects the side lot lines.

**2.262 Lot of Record:** Is a parcel of land, the dimensions of which are on a document or map on file with the County Recorder or in common use by county officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remaining thereof.

**2.263 Main Building:** Is a building in which is conducted the principal use of the lot upon which it is situated.

**2.264 Main Use:** Is the principal use to which the premises are devoted and the principal purpose for which the premises exist.



**2.265 Major Thoroughfare:** Is an arterial street which is intended to serve as a large volume trafficway for both the immediate area and the region beyond, and may be designated as a major thoroughfare, parkway, freeway, expressway, or equivalent term to identify those streets comprising the basic structure of the street plan. Any street with a right-of-way width, existing or proposed, of eighty (80) or more feet shall be considered a major thoroughfare.

**2.266 Mobile Home:** A manufactured relocatable residential unit providing complete, independent living facilities for one family including permanent provisions for living, sleeping, eating, cooking, and sanitation. A mobile home is not included within the definition of "Manufactured Home" and the removal of running gear shall not exempt a mobile home from this definition.

**2.2661 Mobile Home Park:** Any lot upon which two or more mobile homes are located for residential use, either free of charge or for revenue purposes. A mobile home park shall include any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park.

**2.2662 Manufactured Homes:** (Previously referred to as a Modular Home): A factory fabricated transportable building, manufactured after January 01, 1995, consisting of two or more units designed to be assembled into a permanent structure at a building site on a permanent foundation and used for residential purposes by one family, and is built to meet the standards and specifications of the U.S. Housing and Urban Development (HUD) office, and meeting the following requirements:

**2.26621** Affixed to a permanent foundation.

**2.26622** Connected to appropriate utilities.

**2.26623** Width or Length of at least twenty-two (22) feet at one point.

**2.26624** Total minimum living area of 900 square feet excluding garages, porches and attachments.

**2.26625** A minimum 3:12 roof pitch.

**2.26626** A minimum six (6) inch eave overhang including appropriate guttering.

**2.267 Motel:** Is a series of attached, semi-detached or detached rental units containing a bedroom, bathroom, and closet space. Units shall for overnight lodging and are offered to the public traveling by motor vehicle. It may include all facilities specified under the definition of "Hotel" in Item 2.246.

**2.268 Non-conforming Building:** Is a building or portion thereof, lawfully existing at the effective date of this Resolution, or amendments thereto and that does not conform to the provisions of the Resolution in the district in which it is located.

**2.269 Non conforming Use:** Is a use which lawfully occupied a building or land at the effective date of this Resolution or amendments thereto and that does not conform to the use regulations of the district in which it is located.

**2.270 Nursery:**

**2.2701 Plant Material:** Is a space including accessory building or structure for the growing or storage of live trees, shrubs or plant materials not offered for retail sale on the premises, including products used for gardening or landscaping.

**2.2702 Retail:** Is a space including accessory building or structure, or combination there of, for the storage of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping.

**2.271 Off-street Parking Lot:** Is a facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than two (2) vehicles.

**2.271a One Year Capture Area:** The scientifically delineated area within the one-year groundwater time-of-travel contour surrounding a community water supply well field. Also referred to as the “Inner Management Zone” by Ohio EPA. Boundaries of the one-year capture area define the boundaries of the Well Field Protection Overlay District.

**2.272 Usable Open Space:** The required portion of a lot excluding the required front yard area which is unoccupied by principal or accessory buildings and available to all occupants of the building for use for recreational and other leisure activities normally carried on outdoors. This space shall be unobstructed to the sky and shall not be devoted to streets, service driveways or off street parking or loading space, and shall be twenty (20) feet in least dimension on the ground.

**2.273 Parking Space:** Is hereby determined to be a minimum area of two hundred (200) square feet with minimum dimensions of 10 feet x 20 feet having a vertical clearance of at least 7 feet, said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully for the storage or parking of permitted vehicles. For parallel parking, the length of the parking space shall be increased to 24 feet.

**2.274 Planned Unit Development:** Is land under unified control, planned and developed as a whole according to comprehensive and detailed plans, including streets, utilities, lots or building sites, site plans and design principles for all buildings as intended to be located, constructed, used and related to each other, and for other uses and improvements on the land as related to buildings. Development may be a single operation or a definitely programmed series of development operations including all lands and buildings, with a program for provision, operation and maintenance of such areas, improvements and facilities necessary for common use by the occupants of the development.

**2.275 Political Signs:** See section 2.2809

**2.276 Swimming Pool:** Any artificially constructed pool or natural body of water which contains a depth of water of at least 1-1/2 feet at any point used or intended to be used for swimming or bathing, including any accessory recreational structures.

**2.2761 Swimming Pool; (Community):** Any swimming pool other than a private pool, which is the principal use upon a lot and operated with or without a charge for admission.

**2.2762 Swimming Pool; (Private):** A swimming pool located on the same lot as the principal use and used or intended to be used without compensation by the residents and guests of a single family residence, a two-family residence, a multi-family residence, or a motel.

**2.277 Public Utility:** Is any person, firm, or corporation, governmental department, board or commission duly authorized to furnish and furnishing under state or governmental regulations to the public: gas, steam, electricity, sewage disposal, telegraph, telephone, transportation or water.

**2.277a Regulated Substance:** Chemicals and mixtures of chemicals which are health hazards in groundwater. Materials packaged for personal or household use as food or drink for humans or animals are not Regulated Substances. Regulated Substances include:

1) Chemicals for which there is valid scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.

2) Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.

3) Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and which comprises one (1.0) percent or greater of the composition on a weight per unit weight basis, and mixtures of chemicals which include a carcinogen

if the concentration of the carcinogen in the mixture is one tenth of one (0.1) percent or greater of the composition on a weight per unit weight basis.

4) Ingredients of mixtures prepared and/or stored within the one-year capture area in cases where such ingredients are health hazards but comprise less than one tenth of one (0.1) percent of the mixture on a weight per unit weight basis if carcinogenic, or less than one (1.0) percent of the mixture on a weight per unit weight basis if non-carcinogenic.

5) Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids).

**2.278 Restaurant:** Is an establishment whose primary business is serving food and beverages to patrons for consumption inside the building.

**2.279 Row House or Town House:** Is a two (2) story row of three (3) or more attached one (1) family dwellings, each unit of which extends from the basement to the roof.

**2.280 Sign:** A device, fixture, placard, or structure that uses any color, form graphic, symbol, or writing to advertise, announce the purpose of, or identify a person or entity, or to communicate other information of any kind to the public.

**2.2801 Sign, (Wall):** A sign attached parallel to, but within twelve (12) inches of a wall, or painted on the wall surface of any building or structure.

**2.2802 Sign, (Accessory)** A sign designed to be permanent that advertises or announces activities, goods, products, or a specific use, owner or tenant, available within or on the premises on which the sign is located.

**2.2803 Sign Area:** The entire display surface of a sign including the supporting structure.

**2.2804 Sign, (Billboard)** A free-standing panel erected for the display of poster or painted advertising concerning goods or services not available on the site containing the sign.

**2.2805 Sign, (Freestanding):** Any nonmovable sign not attached to a building.

**2.2806 Sign Height:** The vertical distance measured from the highest point of the sign to the grade of the ground beneath the sign.

**2.2807 Sign, (Informational):** A sign, the purpose of which is: 1) to provide information such as but not limited to, traffic-directing, prohibiting trespassing, indicating danger, caution or directions; or 2) to convey information of a social or ideological nature.

**2.2808 Sign, (Movable):** A sign which is designed to be moved or relocated, including, but not limited to, portable signs mounted on a chassis and wheels or supported by legs.

**2.2809 Sign, (Political):** Any sign with a maximum dimension of four (4) feet by four (4) feet associated with candidates or issues appearing on a ballot in an election sanctioned by the Board of Elections. Such signs shall be posted

no earlier than thirty (30) days prior to and removed within seven (7) days after such election.

**2.2810 Sign, (Temporary):** Any sign with a maximum sign area of ten (10) square feet generally intended for use for three (3) months or less within a 12 month period. This shall include, but is not limited to, seasonal agricultural product or service availability, real estate sales or rentals, merchandise .for sale by property owner, and special event announcement by a non-profit or charitable organization.

**2.290 Story:** Is that part of a building, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. If the floor level directly above a basement is more than six (6) feet above grade, such basement shall be considered a story.

**2.291 Story (Half):** Is an uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven feet six inches (7 '6"). For the purpose of this Resolution, the usable floor area is only that area having at least four feet (4') clear height between floor and ceiling.

**2.292 Street:** Is a public thoroughfare which affords the principal means of access to abutting property.

**2.293 Structure:** Is anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.



**2.294 Temporary Use of Building:** Is a use or building permitted by the Board of Appeals to exist during periods of construction of the main building or use, or for special events.

**2.295 Township Trustees:** Is the Board of Township Trustees of Miami Township, Greene County, Ohio.

**2.296 Underground Storage Tank:** An underground storage tank (UST) is one or a combination of tanks (including underground pipes connected thereto) which is used to contain a Regulated Substance(s) and the volume of which (including the volume of underground pipes connected thereto) is ten (10) percent or more beneath the surface of the ground. The term Underground Storage Tank does not include any of the following:

- 1) Pipeline facilities, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, 82 Stat. 720, 49 U.S.C.A. 2001, as amended;
- 2) Surface impoundments, pits, ponds, or lagoons;
- 3) Storm or waste water collection systems;
- 4) Flow-through process tanks;
- 5) Storage tanks located in underground areas when the tanks are located on or above the surface of the floor and the integrity of the tank is periodically visually evaluated;
- 6) Septic tanks; and

7) Tanks equal or less than five hundred (500) gallons used for storing heating fuel for consumptive use on the premises where stored provided the premises are single-family or two-family residences.

**2.296a Well Field Protection Overlay District:** A special overlay zoning District established for the purpose of protecting community water supplies. District boundaries are defined by the Ohio EPA endorsed and scientifically delineated one-year capture area or Inner Management Zone of a community water supply.

**2.297 Use:** Is the purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

**2.298 Variance:** Is a modification of the literal provisions of the Zoning Resolution granted when strict enforcement of the Zoning Resolution would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

**2.299 Yard:** Is an open space on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Resolution, as defined herein.

**2.2991 Front Yard:** Is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

**2.2992 Rear Yard:** Is an open space extending the full width of the lot the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building.

**2.2993 Side Yard:** Is an open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.

**2.300 Zoning Commission:** Is the township Zoning Commission of Miami Township, Greene County, Ohio.

**2.3001 Zoning Inspector:** Is the Zoning Inspector or his authorized representative, appointed by the Board of Township Trustees of Miami Township.

**2.3002 Zoning Permit:** Is a document issued by the Zoning Inspector authorizing buildings, structures or uses consistent with the terms of this Resolution and for the purpose of carrying out and enforcing its provisions.

## **Section 3: Districts and Boundaries**

**3.1 Districts:** In order to classify, regulate and restrict the location of trades and industries and the location of buildings designed for specified uses; to regulate and limit the height and bulk of buildings; to regulate and determine the area of yards and other open spaces surrounding buildings, and to regulate and limit the density of population, Miami Township, Greene County, Ohio, is hereby divided into 8 classes of "Districts." The use and area regulations are uniform in each district, and said districts shall be known as:

A- I Agricultural District

R-1a Single Family Residence District

R-1b Single Family Residence District

B-1 Business District

I-1 Industrial District

F-1 Flood Plain District

**3.2 Maps:** The boundaries of these districts are hereby established as shown on the map accompanying this Resolution, which map is designated as the "Zoning District Map of Miami Township ." The Zoning District Map and all notations, references and other information shown thereon are a part of this Resolution and shall have the same force and effect as if such map and all notations, references and other information shown thereon were all fully set forth or described herein which Zoning District Map is properly attested and on file with the Zoning Inspector of Miami Township, Greene County, Ohio.

**3.3 District Boundaries:** Where the district boundary lines on said map follow either streets or alleys or lot lines, and where the districts designed on the map are bounded by such street, alley or lot lines, the centerline of the street, alley or lot lines shall be the boundary of the district unless such boundary is otherwise indicated on the map. In all other cases, the district boundary lines shall be determined by use of the scale appearing on the Zoning District Map or by dimensions. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.

## **Section 4: General Provisions**

**4.1 Required Conformance:** Except as hereinafter specifically provided:

**4.11** No land shall be used except for a purpose permitted in the district in which it is located.

**4.12** No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building be used, except for a use permitted in the district in which such building is located.

**4.13** No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered to exceed the height limit herein established for the district in which such building is located.

**4.14** No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered except in conformity with the area regulations of the district in which such building is located.

**4.15** No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered to the extent specifically provided hereinafter except in conformity with the off-street parking and loading regulations of this Resolution.

**4.16** The minimum yards, parking spaces, and open spaces, including lot areas per family, required by this Resolution for each and every building existing at the time of passage of this Resolution or for any building hereafter

erected or structurally altered, shall not be encroached upon or considered as part of the yard or parking space or open space required for any other building, nor shall any lot area be reduced below the requirements of this Resolution for the district in which such lot is located.

**4.17** Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one principal building on one lot.

**4.18** Every parcel remaining as a result of the sale of a portion of said parcel must remain in conformance with the minimum lot size and road frontage requirements of the district in which it is located.

## **4.2 Exceptions to Restrictions:**

**4.21** Nothing contained in this Resolution shall prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, and no Zoning Permit or Certificate of Occupancy and Compliance shall be required for any such use, building or structure.

## **4.3 Non-Conforming Uses of Buildings:**

**4.31** The lawful use of any dwelling, building, or structure and of any land or premises, as existing and lawful at the time of the enactment of this Resolution or any amendment thereto may be continued subject to the provisions of this section.

**4.32** Any property purchased or acquired in good faith for any non-conforming use prior to the adoption of this Resolution, upon which property, the work or changing or remodeling or construction of such non-conforming use has been commenced at the time of adoption of this Resolution may be used for the non-conforming use for which such changing, remodeling or construction was undertaken provided that said work is completed within two years of the date of adoption of this Resolution or amendment thereto.

**4.33 Substitution or Extension:**

**4.331** If no structural alterations are made, any non-conforming use of a structure and premises, may as a conditional use be changed to another non-conforming use provided that the Board of Zoning Appeals shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with other provisions of this resolution.

**4.332** Whenever a non-conforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

**4.34 Discontinuance:** No building, structure or premises where a non-conforming use has been voluntarily discontinued for two years or more shall again be put to a non-conforming use.

**4.35 Reconstruction:** Nothing in this Resolution shall prevent the reconstruction of a building or structure wholly or partly destroyed by fire, flood, explosion, wind, earthquake, war, riot, or other calamity or act of God

provided the reconstruction is started within 6 months and completed within 2 years.

**4.36 Repairs and Alterations:** Such repairs and maintenance work as required to keep it in sound condition may be made to a non-conforming building or structure, provided no structural alterations shall be made except as are required by law or authorized by the Board of Zoning Appeals.

**4.4 Conversion of Dwellings:** The conversion of any building into a dwelling, or the conversion of any dwelling unit so as to accommodate an increased number of dwelling units or families, shall be permitted only within a district in which a new building of similar occupancy would be permitted under this Resolution, and only when the resulting occupancy will comply with the requirements governing new construction in such a district.

#### **4.5 Accessory Buildings in R-districts**

**4.51** An accessory building may be erected, detached from the principal building or, except in the case of a stable, may be erected as an integral part of the principal building, or it may be connected thereto by a breezeway or similar structure. No accessory building shall be erected in any required court, or in any required yard other than a rear yard.

**4.511** If located in a rear or side yard both detached and integral or connected accessory structures shall be subject to the requirements set forth in the following subsections.

**4.5111** The heights of such accessory buildings shall not exceed fifteen feet (15) and shall be separated a minimum of ten feet (10) from other separate



buildings or structures on the same lot. A breezeway or similar structure may be used to connect an accessory structure with a principal structure.

**4.5112** No such detached accessory building in a rear yard shall be located less than 60 feet from the front street lot line on a lot in any R-District or on a lot in any other district having a common side lot line with a lot in any R-District.

**4.5113** Where a corner lot adjoins in the rear, either directly or across an alley, a lot located in any R-District, no part of an accessory building located in a rear yard within 25 feet of the common lot line or centerline of the alley shall be nearer the side street lot line than the least depth of the front yard existing or required along such side street for a building on such adjoining lot, nor regardless of location on the lot, shall such accessory building project into the side or front yard required for the principal building to which it is accessory.

**4.5114** Coverage of rear yard by accessory buildings shall not exceed 20 percent.

**4.6 Street Frontage Required:** Except as permitted by other provisions of this Resolution, no lot shall contain any building used in whole or part for residential purposes unless such lot abuts for at least 40 feet on a public street.

**4.7 Rear Dwellings:** Rear dwellings shall be prohibited.

**4.8 Accessory Uses:** .

**4.81** In each district, unless otherwise specifically prohibited, any use, building and/or structure customarily incidental in such district shall be permitted.

**4.82 Specific Accessory Uses:** Without limiting the provisions of subsection 4.8l above, the following specific uses, structures and/or buildings shall be deemed accessory:

**4.821** Living quarters of person or persons employed on the premises, provided the same do not contain kitchen facilities and/or are not rented or otherwise used as a separate dwelling

## **Section 5: A-1 Agricultural District**

**5.1 Purpose:** The Agricultural District is established for the following purposes:

1. To protect agricultural land from the encroachment of incompatible land uses
2. To preserve Class 1 and Class 2 agricultural land, as defined in Soils Survey of Greene County, Ohio
3. To preserve and protect the land necessary for the continuation of agricultural uses in the township
4. To meet the needs of a healthy agricultural community

Lands within the township that are used for agricultural production may cause inconvenience and or discomfort to residents. Miami Township recognizes the “right to farm” provisions within the Ohio Revised Code.

**5.2 Principal Permitted Uses:**

## **5.201 Agriculture**

### **5.202 Single-family dwelling**

**5.2021 Height Regulations:** No structure except agricultural structures shall exceed 2 ½ stories or 35 feet in height, except as hereinafter provided.

**5.2022 Area, Frontage and Yard Requirements:** The following minimum requirements shall be observed except by agricultural uses and as hereinafter provided.

**5.2023 Minimum Lot Areas:** 3 acres

**5.2024 Minimum Lot Frontage:** 300 continuous feet

**5.2025 Front Yard Depth:** The front yard depth shall not be less than 55 feet measured from the front line or 85 feet measured from the centerline of the right-of-way the lot abuts, whichever is greater.

**5.2026 Side Yard Widths:** The least side yard width shall not be less than 20 feet and the combined width of both side yards shall not be less than 50 feet.

**5.2027 Rear Yard Depth:** The rear yard shall not be less than 60 feet.

### **5.203 Home Occupations**

### **5.204 Agritourism**

**5.2041** All operations hereunder must meet the definition of Agritourism in Section 2.204 and the applicant must provide evidence of these standards.

**5.2042** Site Plan: The applicant must provide a site plan which indicates:

- The land and buildings (both existing and new) to be used for agritourism
- All septic systems, wells, driveways and parking areas within the area used for agritourism
- All residences and property boundaries in and within 250 feet of the proposed land and buildings

**5.2043** Ingress and Egress: The proposed Agritourism must have ingress and egress to a public road which has been reviewed and found satisfactory by Miami Township Fire and Rescue, must not compromise roadway drainage, and shall be approved in number and location based on traffic safety and optimal sight distance based on the posted speed limits. An on-site turn around shall be provided such that no vehicle will back out onto a traveled roadway.

**5.2044** Parking: Sufficient parking area(s) must be provided so that no on street parking is used.

**5.2045** Set Backs for all areas used by agritourism:

*Activities taking place between 9 AM and 9 PM:*

- Front: 25 feet
- Side: 15 feet from any residential lot line or residence, whichever is closer
- Rear: 40 feet from any residential lot line or residence, whichever is closer

*Activities taking place between 9 PM and 9 AM:*

- Front: 25 feet
- Side and rear: 250 feet from any residential lot line or residence, whichever is closer, however parking and drives need be only 200 feet from any residential lot line or residence, whichever is closer.

**5.2046 Building Size:** No building taller than 35 feet may be used for agritourism.

### **5.3 Conditional Uses:**

#### **5.301 Churches and parish houses**

**5.3011** The same restrictions that apply to single family dwellings (5.2021-5.2027) shall apply.

**5.302** Private and publicly owned non-commercial recreation areas, uses and facilities, including country clubs, swimming pools and golf courses, forests and wild life preserves, and similar areas and uses.

**5.3021** The same restrictions that apply to single family dwellings (5.2021-5.2027) shall apply.

#### **5.303 Private, grass airstrips**

**5.304 Agricultural Service Establishments located on lots of at least 10 acres with the following conditions:**

**5.3041** Agricultural Service Establishment is defined in Section 2.203 and cannot have more than (4) employees.

**5.3042** A maximum of 2 acres may be utilized for permanent structures for storage, warehousing, processing, offices, retail space, parking, and traffic.

**5.3043** Structures shall meet the agricultural district setback requirements of section 5.202.

**5.3044** Parking shall be provided as required in Section 14.

**5.3045** Ingress and Egress: Locations shall be approved in number and location based on traffic safety and optimal sight distance based on the posted speed limits. An on- site turn around shall be provided such that no vehicle will back out onto a traveled roadway.

**5.305 Bed and Breakfast Operations**, under the following conditions:

**5.3051** All operations hereunder must meet the definition of Bed and Breakfast in section 2.210b.

**5.3052** Are operated totally within the principal dwelling and not within a garage or accessory structure.

**5.3053** Does not have exterior evidence of operation other than one unlit Accessory Sign (as defined in section 2.2802) approved as to location and size by the Board of Zoning Appeals, but no more than (12) square feet in area and compliant with the provisions of section 14.3 Signs.

**5.3054** Shall contain no separate kitchen facilities for guests.

**5.3055** Shall provide one (1) off-street parking space for every (2) adult guests in addition to the off-street parking otherwise required for the principal structure as provided in each district.

**5.3056** Shall permit access to the guest room only through the principal structure.

**5.3057** Shall obtain and provide, to the Township Zoning Inspector, a Certificate of Occupancy from the Greene County Department of Building Regulation.

**5.3058** Guest records, inclusive of names and number of guests, addresses and dates of occupancy shall be constantly maintained and made available upon request by any governing authority.

**5.3059** The property shall not be rented out or used by guests or organizations for events/activities such as weddings, receptions, luncheons, parties, reunions, seminars, entertainment, training courses, business meetings, or similar functions.

**5.30510** A copy of a Conditional Use Permit issued under this section, and a copy of the Certificate of Occupancy, shall be continuously and prominently displayed in a common area of the establishment where guests are able to review such documents without request.

**5.4 Accessory Uses:** Outdoor advertising signs and billboards subject to the provision of sub-section 14.3.

**5.5 Signs:** See Section 14.3

## **Section 6: R-1a Single Family Residence District**

**6.1 Purpose:** The purpose of this section is to provide and reserve residential lands for those whose principal income is not related to agricultural activities. Such development would be of a low density, single family nature, served by local residential streets and requiring minimum levels of utility capacity.

### **6.2 Principal Permitted Uses:**

**6.201** Single-family dwellings.

**6.202** Churches and other places of worship, and Sunday School buildings, located not less than 50 feet from any other lot in any R-1 or R-1b district; or 30 feet from any other lot in any R-2 or R-3 district.

**6.203** Schools and colleges for academic instructions, provided that no building shall be located less than 50 feet from any other lot in any R-1 a or R-1b district; or 30 feet from any other lot in any R-2 or R-3 district.

**6.204** Public uses such as parks, playgrounds, recreational and community center buildings and grounds, golf courses, tennis courts, and summer recreation uses of a non-commercial nature provided that any principal building or swimming pool shall be located not less than 100 feet from any other lot in any R-1 a or R-1b district; or 50 feet from any lot in any R-2 or R-3 district.

**6.205** Home occupations.



## **6.206 Agritourism**

**6.2061** All operations hereunder must meet the definition of Agritourism in Section 2.204 and the applicant must provide evidence of these standards.

**6.2062 Site Plan:** The applicant must provide a site plan which indicates:

1. The land and buildings (both existing and new) to be used for agritourism
2. All septic systems, wells, driveways, and parking areas within the area used for agritourism
3. All residences and property boundaries in and within 250 feet of the proposed land and buildings

**6.2063** Ingress and Egress: The proposed Agritourism must have ingress and egress to a public road which has been reviewed and found satisfactory by Miami Township Fire and Rescue, must not compromise roadway drainage, and shall be approved in number and location based on traffic safety and optimal sight distance based on the posted speed limits. An on-site turn around shall be provided such that no vehicle will back out onto a traveled roadway.

**6.2064** Parking: Sufficient parking area(s) must be provided so that no on street parking is used.

### **6.2045 Set Backs for all areas used by agritourism:**

*Activities taking place between 9 AM and 9 PM:*

- Front: 25 feet
- Side: 15 feet from any residential lot line or residence, whichever is closer
- Rear: 40 feet from any residential lot line or residence, whichever is closer

*Activities taking place between 9 PM and 9 AM:*

- Front: 25 feet
- Side and rear: 250 feet from any residential lot line or residence, whichever is closer, however parking and drives need be only 200 feet from any residential lot line or residence, whichever is closer.

**6.2046 Building Size:** No building taller than 35 feet may be used for agritourism.

### **6.3 Conditional Uses:**

**6.301** Public buildings and properties of a cultural or administrative type, not including repair garages, storage, or repair yards or warehouses, provided any such building shall be located not less than 50 feet from any other lot in any R-1a or R-1b district; or 30 feet from any lot in any R-2 or R-3 district.

**6.302** Private country clubs, golf courses, and other private non-commercial subscription types of recreation areas and facilities or recreation centers, including swimming pools, provided that any principal building or swimming pool shall be located not less than 100 feet from any other lot in any R-1a or R-1b district; or 50 feet from any lot in any R-2 or R-3 district.

**6.303** Cemeteries adjacent to or an extension of existing cemeteries.

**6.304** Planned Unit Developments, as specified in Section 13

**6.305** Wireless Communication Facilities as specified in Section 19.

**6.306** Bed and Breakfast Operations as Specified in Section 5.

**6.4 Height Regulations:** No structure except agricultural structures shall exceed 2 1/2 stories or 35 feet in height, except as hereinafter provided.

**6.5 Area, Frontage and Yard Requirements:** The following minimum requirements shall be observed and as hereinafter provided.

**6.51 Minimum Lot Area:** 3.00 acres.

**6.52 Minimum Lot Frontage:** 300 continuous feet.

**6.53 Front Yard Depth:** The front yard depth shall be not less than 55 feet measured from the front yard line or 85 feet measured from the centerline of the right-of-way the lot abuts, whichever is greater.

**6.54 Side Yard Widths:** The least side yard width shall not be less than 20 feet and the combined width of both side yards shall not be less than 60 feet.

**6.55 Rear Yard Depth:** The rear yard depth shall not be less than 60 feet.

**6.6 Signs:** See Section 14.3

## **Section 7: R-1 B Single-Family Residence District**

**7.1 Purpose:** The purpose of this district is to provide and protect residential land, properly located, for families who desire to live in an environment of single family dwellings, but who do not want or have no need for the large lot as is provided for in the R-1A district.

## **7.2 Principal Permitted Uses**

**7.21** Any use or structure permitted and as regulated in the R-1 a district except as hereinafter modified.

### **7.22 Agritourism**

**7.221** All operations hereunder must meet the definition of Agritourism in Section 2.204 and the applicant must provide evidence of these standards.

**7.222 Site Plan:** The applicant must provide a site plan which indicates:

1. The land and buildings (both existing and new) to be used for agritourism
2. All septic systems, wells, driveways and parking areas within the area used for agritourism
3. All residences and property boundaries in and within 250 feet of the proposed land and buildings

**7.223** Ingress and Egress: The proposed Agritourism must have ingress and egress to a public road which has been reviewed and found satisfactory by Miami Township Fire and Rescue, must not compromise roadway drainage, and shall be approved in number and location based on traffic safety and optimal sight distance based on the posted speed limits. An on-site turn around shall be provided such that no vehicle will back out onto a traveled roadway.

**7.224** Parking: Sufficient parking area(s) must be provided so that no on street parking is used.

### **7.225 Set Backs for all areas used by agritourism:**

*Activities taking place between 9 AM and 9 PM:*

- Front: 25 feet
- Side: 15 feet from any residential lot line or residence, whichever is closer
- Rear: 40 feet from any residential lot line or residence, whichever is closer

*Activities taking place between 9 PM and 9 AM:*

- Front: 25 feet
- Side and rear: 250 feet from any residential lot line or residence, whichever is closer, however parking and drives need be only 200 feet from any residential lot line or residence, whichever is closer.

**7.226 Building Size:** No building taller than 35 feet may be used for agritourism.

### **7.3 Conditional Uses**

**7.31** Conditional uses permitted in 6.3.

**7.4 Height Regulations:** No structure shall exceed 2 1/2 stories or 35 feet in height, except as elsewhere provided.

**7.5 Area Frontage and Yard Requirements:** The following minimum requirements shall be observed except as elsewhere provided.

### **7.51 Without Sewer and Water Provided by a Public Utility:**

**7.511 Minimum Lot Area:** 3.00 acres.

**7.512 Minimum Lot Frontage:** 300 continuous feet.

**7.52 Without Sewer and Using Water Provided by a Public Utility;  
or Without Water and Using Sewer Provided by a Public Utility:**

**7.521 Minimum Lot Area:** 1.00 acre.

**7.522 Minimum Lot Frontage:** 150 continuous feet.

**7.523 Front Yard Depth:** The front yard depth shall be not less than 35 feet measured from the front yard line or 65 feet measured from the centerline of the right-of-way the lot abuts, whichever is greater.

**7.524 Side Yard Widths:** The least side yard width shall not be less than 16 feet and combined width of both side yards shall not be less than 34 feet.

**7.525 Rear Yard Depth:** The rear yard depth shall not be less than 50 feet.

**7.53 With Sewer and Water Provided by a Public Utility:**

**7.531 Minimum Lot Area:** 10,000 square feet.

**7.532 Minimum Lot Frontage:** 80 continuous feet.

**7.533 Front Yard Depth:** The front yard depth shall not be less than 30 feet measured from the front lot line.

**7.534 Side Yard Widths:** The least side yard width shall not be less than 8 feet and the combined width of both side yards shall not be less than 20 feet.

**7.535 Rear Yard Depth:** The rear yard depth shall not be less than 40 feet.

**7.6 Signs:** See Section 14.3.

## **Section 10: B-1 Business District:**

**10.1 Purpose:** The purpose of this section is to provide land for mercantile or retail establishments and service establishments.

### **10.2 Principal Permitted Uses:**

**10.201** Restaurants, cafe, and soda fountain.

**10.202** Automobile service stations and parking lots.

**10.203** Bank, building and loan associations and personal loan company.

**10.204** Indoor theater or assembly hall.

**10.205** Inter-city bus station.

**10.206** Bar, cocktail lounge, night club, billiard parlor, pool hall, bowling alley and dance hall.

**10.207** Hotels and Motels.

**10.208** Self service laundry and dry cleaner.

**10.209** Funeral Parlor.

**10.210** Uses similar to above uses, as determined by the Board of Zoning Appeals.

### **10.211 Agritourism**

**10.2111** All operations hereunder must meet the definition of Agritourism in Section 2.204 and the applicant must provide evidence of these standards.

#### **10.2112 Site Plan:**

The applicant must provide a site plan which indicates:

1. The land and buildings (both existing and new) to be used for agritourism
2. All septic systems, wells, driveways and parking areas within the area used for agritourism
3. All residences and property boundaries in and within 250 feet of the proposed land and buildings

**10.2113** Ingress and Egress: The proposed Agritourism must have ingress and egress to a public road which has been reviewed and found satisfactory by Miami Township Fire and Rescue, must not compromise roadway drainage, and shall be approved in number and location based on traffic safety and optimal sight distance based on the posted speed limits. An on-site turn around shall be provided such that no vehicle will back out onto a traveled roadway.



**10.2114** Parking: Sufficient parking area(s) must be provided so that no on street parking is used.

**10.2115 Set Backs for all areas used by agritourism:**

*Activities taking place between 9 AM and 9 PM:*

- Front: 25 feet
- Side: 15 feet from any residential lot line or residence, whichever is closer
- Rear: 40 feet from any residential lot line or residence, whichever is closer

*Activities taking place between 9 PM and 9 AM:*

- Front: 25 feet
- Side and rear: 250 feet from any residential lot line or residence, whichever is closer, however parking and drives need be only 200 feet from any residential lot line or residence, whichever is closer.

**10.2116 Building Size:** No building taller than 35 feet may be used for agritourism.

**10.3 Height Regulations:** No structure shall exceed 3 stories or 40 feet in height, except as elsewhere provided.

**10.4 Area, Frontage and Yard Requirements:** The following minimum requirements shall be observed except as elsewhere provided.

**10.41 Retail and service establishments shall comply with the following requirements:**

**10.411 Minimum Lot Area:** 20,000 square feet.

**10.2116 Building Size:** No building taller than 35 feet may be used for agritourism.

**10.3 Height Regulations:** No structure shall exceed 3 stories or 40 feet in height, except as elsewhere provided.

**10.4 Area, Frontage and Yard Requirements:** The following minimum requirements shall be observed except as elsewhere provided.

**10.41 Retail and service establishments shall comply with the following requirements:**

**10.411 Minimum Lot Area:** 20,000 square feet.

**10.412 Minimum Lot Frontage:** 100 continuous feet.

**10.413 Minimum Front Yard Depth:** 25 feet measured from front lot line.

**10.414 Side Yard Widths:** None required except when adjacent to an R-district in which case not less than 15 feet.

**10.415 Rear Yard Depth:** None required except when adjacent to an R-District, in which case not less than 40 feet.

**10.5 Signs:** See Section 14.3

## **Section 11: I-1 Industrial District**

**11-1 Purpose:** The purpose of this district is to provide for industrial and other uses that by virtue of their external effects; noise, glare, fumes, smoke, dust, odors, truck and/or rail traffic should be isolated from residential uses. These uses perform essential functions for the township including employment and should be provided for in areas that are best suited for industrial development by reason of location, topography, soil conditions, and availability of adequate utilities and/ or transportation systems.

**11.2 Permitted Principal Uses:**

**11.201** Automobile, tractor, trailer, farm implement assembly or manufacture, or other plants of a similar nature.

**11.202** Battery manufacture, tire recapping or retreading.

**11.203** Bleaching, cleaning and dyeing plant.

**11.204** Bottling works.

**11.205** Building and trades, including contractor's yard and utilities storage yard.

**11.206** Cold storage plant.

**11.207** Commercial greenhouse.

**11.208** Dairy products manufacture.

**11.209** Fabrication, processing, packaging and/or manufacture of food products and condiments excluding fish products, slaughterhouses and rendering and refining of fats, oils, fish, vinegar, **years(REMOVE)** and sauerkraut.

**11.210** Fabrication, processing, packaging and/or manufacturing of musical instruments, toys, novelties, rubber or metal stamps.

**11.211** Fabrication, processing, packaging and/or manufacture of ice, cold storage plant, bottling plants.

**11.212** Flour or grain mill.

**11.213** Glass products, pottery, figurines or manufacture of similar products using previously pulverized clay.

**11.214** Industrial research laboratories.

**11.215** Inflammable liquids, underground storage only.

**11.216** Lumber yards including incidental millwork, coal, brick, stone.

**11.217** Monument sales including incidental mechanical operations.

**11.218** Motor freight depot or trucking terminal; provided, the truck entrances and exits are onto streets whose pavement width is at least thirty feet between curbs.

**11.219** Sign contractor.

**11.220** Storage yard for building supplies and equipment, contractors equipment, food fabrics, hardware and similar goods when located entirely within a building, provided, such buildings shall not be used for wrecking or dismantling of motor vehicles.

**11.221** Television and radio broadcasting towers, including Wireless Communication facilities.

**11.222** Veterinary clinic or kennels, animal hospital, provided that all animals are housed in buildings or enclosures which are at least two hundred feet from any "R" District.

**11.223** Warehouses.

**11.224** Commercial fertilizer distribution center.

**11.225** Uses similar to the above uses, as determined by the Board of Zoning Appeals.

**11.226 Agritourism**

**11.2261** All operations hereunder must meet the definition of Agritourism in Section 2.204 and the applicant must provide evidence of these standards.

**11.2262 Site Plan:** The applicant must provide a site plan which indicates:

1. The land and buildings (both existing and new) to be used for agritourism
2. All septic systems, wells, driveways and parking areas within the area used for agritourism
3. All residences and property boundaries in and within 250 feet of the proposed land and buildings

**11.2263** Ingress and Egress: The proposed Agritourism must have ingress and egress to a public road which has been reviewed and found satisfactory by Miami Township Fire and Rescue, must not compromise roadway drainage, and shall be approved in number and location based on traffic safety and optimal sight distance based on the posted speed limits. An on-site turn around shall be provided such that no vehicle will back out onto a traveled roadway.

**11.2264** Parking: Sufficient parking area(s) must be provided so that no on street parking is used.

**11.2265 Set Backs for all areas used by agritourism:**

*Activities taking place between 9 AM and 9 PM:*

- Front: 25 feet
- Side: 15 feet from any residential lot line or residence, whichever is closer
- Rear: 40 feet from any residential lot line or residence, whichever is closer

*Activities taking place between 9 PM and 9 AM:*

- Front: 25 feet
- Side and rear: 250 feet from any residential lot line or residence, whichever is closer, however parking and drives need be only 200 feet from any residential lot line or residence, whichever is closer.

**11.2266** Building Size: No building taller than 35 feet may be used for agritourism.

**11.3 Accessory Uses:** Uses customarily accessory to the above uses.

**11.4 Conditional uses:**

**11.41** Automotive wrecking, junk or salvage yard, if in a completely enclosed building.

**11.42** Tool and die shop, wrought iron shop, blacksmith or machine shop, drop hammers, and punch presses.

**11.43** Foundry not causing noxious fumes or odors.

**11.5 Required Conditions:**

**11.51** All uses, except for loading and unloading operations and parking, shall be conducted wholly within a completely enclosed building.

**11.52** No building customarily used for night operation, such as a bakery or milk bottling and distribution station, shall have any opening, other than stationary windows or required fire exits, within 250 feet of any R-District, and any space used for loading or unloading commercial vehicles in connection with such an operation shall not be within 200 feet of any R-District.

**11.6 Height Regulations:** No structure shall exceed 3 stories or 40 feet in height.

**11.7 Area Frontage and Yard Requirements:** The following minimum requirements shall be observed, except as hereinafter modified:

**11.71 Minimum Lot Area:** one (1) acre.

**11.72 Minimum Lot Frontage:** 100 continuous feet.

**11.73 Front Yard Depth:** The front yard depth shall be not less than 25 feet measured from the front lot line.

**11.74 Side Yard Widths:** 15 feet, except when adjoining a R-District, then not less than 200 feet on side yards adjoining R-Districts. Side yard adjacent to a Residential District may be reduced to 100 feet if landscaping and planting so designed and planted as to be 25 percent or more opaque when viewed horizontally between two and eight feet above average ground level is provided. Final approval of this option shall be made upon review of the subject site by the Zoning Commission.

**11.75 Rear Yard Depth:** None, except when adjoining an R-District, then not less than 200 feet.

**11.8 Signs:** See Section 14

## **Section 12: F-1 Flood Plain River**



**12.1 Findings of Fact:** Certain areas of Miami Township are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health and safety. These flood losses are caused by the cumulative effect of obstructions in flood hazard areas causing increases in flood heights and velocities, and when inadequately anchored, damage to uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

**12.2 Purpose:** The purpose of the Flood Plain River Protection Overlay is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base. In addition, these provisions are intended to accomplish the following:

1. To protect the natural floodwater storage capacity of river flood plains by restricting uses which are dangerous to health, safety, and property in times of flooding or cause excessive increases in flood heights and velocities;
2. To require that uses vulnerable to floods, including facilities which serve the above uses, be protected and/or floodproofed against flooding and flood damage at the time of construction, and to prevent flood damages and associated public relief expenditures created by improper construction in the flood plain;
3. To protect individuals from buying lands which are unsuited for intended purposes due to flood hazard;

4. To protect watercourses, tributaries, thereto associated flood plains, and adjoining woodlands and wetlands for value as water retention and water recharge areas;
5. To provide for the protection, preservation, proper maintenance and use of rivers and streams and their flood plains in order to preserve and conserve the quality, clarity and freeflowing condition of their waters, to protect fish and wildlife habitat, to prevent erosion of stream banks, maintain cool water temperatures, lessen the impact of siltation on stream waters, and to preserve and protect valuable resources in the interest of present and future generations; and
6. To permit reasonable and compatible uses of land which compliment the natural functions and characteristics of watercourses and their flood plains and further the purposes of this overlay.

**12.3 Applicability of Flood Plain Overlay to Existing Zoning District:** The provisions of this section shall be applicable to all lands shown as being located within the boundaries of the Flood Plain Overlay on the zoning map and shall be supplemental to the regulations of the underlying zoning district. Where the requirements of this section are in conflict with the regulations of the underlying district, the more restrictive regulations shall apply.

**12.4 Warning and Disclaimer of Liability:** The degree of flood protection sought by the provisions of this overlay is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes such as ice jams and bridge openings restricted by debris. This overlay does not imply that areas outside the one hundred (100) year flood plain or that land uses permitted within, will be free

from flooding and flood damages. The creation of the Flood Plain River Protection Overlay shall not create liability on the part of Miami Township or any officer or employee thereof for any flood damages that result from reliance on this Zoning Resolution or any administrative decision lawfully made thereunder.

### **12.5 Boundaries of Overlay:**

**12.5 Boundaries of Overlay:** The Flood Plain River Protection Overlay shall include all areas subject to inundation by waters of the one hundred (100) year flood. The basis for including areas within the overlay shall be the engineering report entitled *Flood Insurance Study. Greene County. Ohio Unincorporated Areas*; dated April 1, 1981, as amended and prepared by the U. S. Department of Housing and Urban Development, Flood Insurance Administration. This study, with accompanying maps and any revisions thereto, is hereby adopted by reference and declared to be part of this Zoning Ordinance. One (1) copy of *The Flood Insurance Study* is to be kept on file in the office of the Zoning Inspector of Miami Township. The Flood Plain River Protection Overlay is hereby divided into three (3) areas in accordance with the above-mentioned study: "Floodway," "Floodway Fringe," and "General Flood Plain."

**12.6 Authorized Uses Within the Overlay:** The only uses permitted to be located within the Flood Plain River Protection Overlay are in the Underlying District Uses. In most cases, the uses within the underlying Zoning district are permitted, except where a use would, by nature of such use, pose a health and safety threat in times of flooding.

1. Floodway: the floodway of the regulatory floodplain is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential. The following provisions apply within all floodway areas:
2. Prohibit encroachment, including filling, new construction, substantial improvement and other developments.
3. Permitted uses in association with the underlying zoning district shall include: agriculture, accessory parking not including a building, parks, recreation, yards and open space.
4. Floodway fringe: within the floodway fringe of the regulatory floodplain filling for the elevation of structures permitted within the underlying zoning district may be permitted. Such filling shall comply with the requirements as stipulated in the appropriate State or County Building Code.

## **Section 13: Planned Unit Development**

### **13.1 INTENT:**

This Section is intended to permit the creation of Planned Development Districts. This district has been established for the purpose of conserving land through more efficient allocation of private lots, multi family dwelling units, common grounds, nonresidential uses, greater efficiency in providing public and utility services, and securing benefits from new techniques in community development. Such regulations need not be uniform, but may vary and shall promote the public health, safety and welfare.

### **13.2 TYPE OF PLANNED DEVELOPMENT DISTRICTS**

"PD-R"Planned Residential District

### **13.3 CRITERIA FOR PLANNED DEVELOPMENT APPROVAL**

The Township Trustees shall not approve an application for a Planned Development District unless it shall, in each specific case, make specific findings of fact directly based upon the particular evidence presented to it, which support conclusions that:

1. The development can be substantially completed within the period of time specified in the schedule of development submitted by the developer.
2. The site will be accessible from public roads that are adequate to carry traffic that will be imposed upon them by the proposed development and the streets and driveways on the site of the proposed development will be adequate to serve the residents or occupants of the proposed development. Private streets will be permitted if constructed to the same standards as public streets.
3. The development will not impose an undue burden on public services and facilities such as fire and police protection, the school system, water and sewer services, and transportation network.
4. The Development Plan contains such proposed covenants, easements and other provisions relating to the proposed development standards, as reasonable required for the public health, safety and welfare.
5. The location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a "PD" District not used for structures, parking and loading areas, or accessways, shall be landscaped or otherwise improved.

### **13.04 PRE-APPLICATION CONSULTATION**

A developer is encouraged to engage in informal consultations with the Zoning Inspector, Regional Planning and Coordinating Commission (RPCC) staff, County Engineer, Greene County Soil and Water Department, and Utilities Provider prior to the filing of any application; however, no statement or representation by such persons shall be binding on either the Zoning Commission or the Township Trustees.

### **13.05 DEVELOPER'S OPTIONS**

1. The Developer shall have the following options:
  - Submission of a Pre-Development Plan, processed in the manner hereinafter set forth, and the subsequent submission of a Final Development Plan for any portion of the approved Pre-Development Plan the Developer desires to develop, or
  - Submission of a Final Development Plan without a Pre-Development Plan, and processed in the manner as hereinafter provided for.
2. No Zoning Certificate shall be issued for any property for which a Planned Development classification is requested and no construction shall begin until an approved Final Development Plan is in effect for that phase or property, whichever of the above options is elected by a Developer.
3. No use shall be established or changed and no structure shall be constructed in any portion of a Planned Development until the final subdivision plat for that portion has been approved by the RPCC and recorded in compliance with the requirements of the Subdivision

Regulations for Greene County. Such plat shall show or include the following:

- Site arrangement, water, sewer/streets, and other public utilities and/or facilities; land to be publicly or commonly owned and maintained.
- Deed restrictions, protective covenants and other legal statements or devices to be used to control use, development and maintenance, and shall be consistent with the approved Final Development Plan.
- An adequate plan for water drainage on both the proposed site and all adjacent properties.

### **13.6 SUBMISSION OF PRE-DEVELOPMENT PLAN**

Eighteen (18) copies of a Pre-Development Plan and one (1) 8 1/2" x 11" photostat of the Pre-Development Plan shall be submitted with the application and shall include in text and map form:

1. A survey of the tract that is to be developed showing existing features of the property including streets, alleys, easements, utility lines, existing land use, general topography and physical features.
2. A preliminary site plan showing the approximate areas and arrangement of the proposed uses, the relationship of abutting land uses and zoning districts, proposed lots and amount of buildable area within each lot. Included on this site plan, the location and arrangement of the proposed, parks, playgrounds, school sites, recreational facilities, and the points of ingress and egress of the Development including access to streets where required.
3. Evidence that the applicant has sufficient control over the tract to complete the proposed plan, including a statement of all the

ownership and beneficial interests in the tract of land and the proposed "PD" District Development.

4. In the case of residential, a statement identifying density of the various residential uses in the development.
5. A statement describing the provision that is to be made for the care and maintenance of open space or recreational facilities, and
6. Any other information required by the Zoning Commission or Trustees.

### **13.7 PROCEDURE FOR APPROVAL OF PRE-DEVELOPMENT PLAN**

1. The Township staff or designee shall study the material received, and confer with other agencies of government as appropriate in the case, to determine general acceptability of the proposal submitted. At a minimum, township staff will consult with the County Engineer, Sanitary Engineer and Planning Commission staff.
2. The Zoning Commission, per this Resolution, shall hold a public hearing on the proposed Pre-Development Plan.
3. The recommendations of the Zoning Commission to the applicant shall be in writing and following any such public hearing, agreements between the applicant and the Zoning Commission as to changes in the Pre-Development Plan and report or other matters shall be recorded and acknowledged by the Zoning Commission and the applicant at a public meeting. On items on which no agreement is reached, or there is specific disagreement, this fact shall be recorded, and the applicant may place in the record his reasons for any disagreement.
4. When the Pre-Development Plan and report have been approved in principle (as whole or with reservations duly noted), or when the applicant indicates in writing that no further negotiations with the



Zoning Commission are desired before proceeding, the Commission shall, within thirty (30) days, make its recommendations to the Township Trustees. Such recommendations shall indicate approval, approval with modifications, or disapproval. With such recommendations, the Commission shall transmit to the Township Trustees, and make available to the public, the latest draft of the Pre-Development Plan and report submitted by the applicant, a record of agreements reached and matters on which there were no specific agreements, including any reasons recorded by the applicant for any such disagreement.

### **13.8 ACTION BY THE TOWNSHIP TRUSTEES**

The Township Trustees shall hold a public hearing on the Pre-Development Plan as provided for in this Resolution.

If the application is granted, the area of land involved shall be rezoned as a "PD-R" district by resolution and such resolution shall incorporate the Pre-Development Plan, including any conditions or restrictions that may be imposed by the Township Trustees.

### **13.09 SUBMISSION OF FINAL DEVELOPMENT PLAN IN ACCORDANCE WITH AN APPROVED PRE-DEVELOPMENT PLAN**

A Final Development Plan may be filed for any portion of an approved Pre-Development Plan the applicant wished to develop and it shall conform to the approved Pre-Development Plan. The filing fee shall be the same as that required for a change in Zoning District. Eighteen (18) copies of the Final

Development Plan and one (1) 8 1/2" x 11" photostat of the final Development Plan shall be submitted and shall include in text and map form:

1. A site plan showing the location and arrangement of all existing and proposed structures, the proposed traffic circulation pattern within the development, landscaping, the areas to be developed for parking, the points of ingress and egress including access streets where required, the relationship of abutting land uses and zoning districts, proposed lots and blocks, if any, and proposed public or common open space, if any, including parks, playgrounds, school sites and recreational facilities.
2. A statement of the density, the proposed total gross floor area, and the percentage of the development which is to be occupied by structures.
3. Sketches of the proposed structures.
4. When a Planned Development is to be constructed in stages or units, a schedule for the development of such stages or units shall be submitted. No such stage or unit shall have a density that exceeds by more than twenty (20) percent the density of the entire Planned Development. When a Planned Development provides for common open space, the total area of common open space provided at any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire Planned Development as the stages or units completed or under development bear to the entire Planned Development.
5. Evidence that the applicant has sufficient control over the tract to effect the proposed plan, including a statement of all the ownership and beneficial interests in the tract of land and the proposed development.

6. In addition to the final site plan, in the case of a Business or Industrial Planned Development, a statement identifying the principal types of business and/or industrial uses that are to be included in the proposed development.
7. When a Planned Development includes provisions for common open space or recreation facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted.
8. Copies of any restrictive covenants that are to be recorded with respect to property included in the Planned Development District.
9. Any other information required by the Trustees.

### **13.10 PROCEDURE FOR APPROVAL OF FINAL DEVELOPMENT PLAN WITH APPROVED PRE-DEVELOPMENT PLAN**

1. The Township staff or designee shall study the material received, and confer with other agencies of government as appropriate in the case, to determine general acceptability and conformance to approve Pre-Development Plan.
2. The Zoning Commission shall hold a public meeting on the proposed Final Development Plan. All property owners within five hundred (500) feet of the project shall be notified.
3. The recommendations of the Zoning Commission to the applicant shall be in writing. Agreements between the applicant and the Zoning Commission as to changes in the Final Development Plan and report or

other matters shall be recorded and acknowledged by the Zoning Commission and the applicant at the public meeting.

4. Recommendations by the Zoning Commission shall indicate approval, approval with modifications, or disapproval. With such recommendations, the Commission shall transmit to the Township Trustees, and make available to the public, the latest draft of the Final Development Plan and report submitted by the applicant.
5. At a public meeting the Township Trustees shall evaluate the Zoning Commission's recommendation and Final Development Plan to consider all aspects thereof and determine whether or not it is in accord with the approved Pre-Development Plan. The Township Trustees shall disapprove, approve, or approve the Final Development Plan with amendments, conditions or restrictions. If the Plan is approved, the Plan shall be incorporated into the Zoning Resolution and that District for which the Plan is proposed, including any condition or restriction that may be imposed by the Township Trustees. Upon approval by the Township Trustees, the Final Development Plan will go into immediate effect.
6. Approval of a Final Development Plan as being in compliance with the standards of approval established under this section shall not be considered an amendment or supplement to the Township Zoning Resolution for the purpose of 519.12 of the ORC .

### **13.11 SUBMISSION OF FINAL DEVELOPMENT PLAN WITHOUT AN APPROVED PRE-DEVELOPMENT PLAN**

The applicant need not file a Pre-Development Plan if a Final Development Plan is filed for the entire site incorporating all requirements of both the Pre

and Final Development Plans as described in this Section. The Final Development Plan shall be processed, noticed and heard in the manner prescribed herein. Eighteen (18) copies of the Final Development Plan and one (1) 8 1/2" x 11" photostat of the Final Development Plan shall be submitted and shall include in text and map form:

1. A survey of the tract that is to be developed showing existing features of the property, including streets, alleys, easements, utility lines, existing land use, general topography and physical features.
2. A site plan showing the location and arrangement of all existing and proposed structures, the proposed traffic circulation pattern within the Development, landscaping, the area to be developed for parking, the points of ingress and egress including access streets where required, the relationship of abutting land uses and zoning districts, proposed lots and blocks, if any, and proposed public or common open space, if any, including parks, playgrounds, school sites and recreational facilities.
3. A statement of the density of the various Residential uses within the development, when applicable, the proposed total gross floor area, and the percentage of the development which is to be occupied by structures.
4. Sketches of the proposed structures and landscaping.
5. When a Planned Development is to be constructed in stages or units, a schedule for the development of such stages or units shall be submitted. No such stage or unit shall have a density that exceeds by more than twenty (20) percent the density of the entire Planned Development. When a Planned Development provides for common open space, the total area of common open space provided at any stage of development shall, at a minimum, bear the same relationship

to the total open space to be provided in the entire Planned Development as the stages or units completed or under development bear to the entire Planned Development.

6. Evidence that the applicant has sufficient control over the tract to effect the proposed plan, including a statement of all the ownership and beneficial interests in the tract of land and the proposed Development.
7. When a Planned Development includes provisions for common open space or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by laws of such entity shall be submitted.
8. Copies of any restrictive covenants that are to be recorded with respect to property included in the Planned Development District.
9. Any other information required by the Zoning Commission or Trustees.

### **13.12 ACTION BY THE TOWNSHIP ZONING COMMISSION ON A SINGLE STAGE FINAL DEVELOPMENT PLAN**

The Zoning Commission shall hold a public hearing on the Final Development Plan as provided by this Resolution. Such public hearing shall consider all aspects of the Final Development Plan including any proposed stages and/or units of development. The Zoning Commission shall prepare and transmit to the Township Trustees and to the applicant, specific findings of fact with respect to the extent to which the Final Development Plan complies with the standards set out in this Section and the District for which the change has

been requested, together with its recommendations to the Township Trustees with respect to the action to be taken on the Final Development Plan. The Zoning Commission may recommend disapproval, approval, approval with amendments, conditions or restrictions. Copies of the findings and recommendations of the Zoning Commission shall be made available to any other interested persons.

### **13.13 ACTION BY THE BOARD OF TOWNSHIP TRUSTEES**

The Township Trustees shall hold a public hearing on the Final Development Plan as provided by this Resolution. If the application is granted, the area of land involved shall be rezoned as a "PD-R, District by resolution and such resolution shall incorporate the Plan, including any condition or restriction that may be imposed by the Township Trustees.

### **13.14 EXTENSION OF TIME OR MODIFICATION**

An approved Pre-Development or Final Development Plan may be amended by following the procedures described in this Section. However, minor adjustments in the Final Development Plan which become necessary because of field conditions, detailed engineering data, topography or critical design criteria pertaining to drives, curb cuts, retaining walls, swimming pools, tennis courts, fences, building locations, and building configurations, parking area locations or other similar project particulars, may be authorized in writing by the Township Trustees. These minor adjustments may be permitted, provided that they do not increase density, decrease the number of parking spaces or allow buildings closer to perimeter property lines. The Trustees shall approve, disapprove or modify all minor adjustments.

## **13.15 "PD-R" PLANNED RESIDENTIAL DISTRICT**

### **1. Principal permitted uses:**

1. Residential use development in a unified manner in accordance with the approved Development Plan.
2. Uses permitted in any Residential District.

### **2. Development Standards**

1. (Single-Family) PD-R. A single family residential "PD" development shall meet those established setback requirements, minimum lot or open space, height regulations, minimum rear and minimum side yard of the abutting zone on the perimeter buildings of the project. However, "R-1A" district standards shall be observed as a minimum on perimeter buildings. Structures built on the interior of the project shall have flexibility as to layout and minimum lot size shall be determined at the time of the negotiations, however, the maximum density of Section 6 shall apply. However, R1-B district standards shall be observed as a minimum on perimeter buildings on planned developments containing 20 gross acres or less. All other requirements shall apply.
2. Planned Development Residential (Multi-Family) PD-RM. Multi family residential "PD" buildings shall meet those established setback requirements, general area, height regulations, minimum rear and minimum side yard requirements of the abutting zone on the perimeter buildings of the project. However, "R-3" district standards shall be observed as a minimum on perimeter buildings. Structures built on the interior of the project shall have flexibility as to layout (minimum distance between buildings shall be twenty (20) feet with the average for the entire project of thirty (30) feet between buildings) and



minimum lot size shall be determined at the time of negotiations, however, the maximum density of Section 6 shall apply.

3. Maximum density for single family development shall be two (2) dwelling units per gross acre (no utilities provided) after streets are deducted from the development plan or four (4) dwelling units per gross acre (with utilities provided and used) after streets are deducted from the development plan.
4. Maximum density for multi-family development shall be eight (8) dwelling units per gross acre after streets are deducted from the development plan with eight (8) dwelling units per structure.
5. The final development plan required by Section 13, Planned Development, shall be prepared in conformance with the above and in conformance with the Section 4, General Provisions.
6. Open Space Requirements: Open space shall be a minimum of fifty five (55) percent of the land area and shall not be used or occupied by automotive vehicles. Such space shall be reserved for landscaping, and its location, use and other improvements shall be consistent with the character of the site and its relationship to the general area in which it is located.
7. Accessory uses are permitted as in R-IA through R-IB.

### **3. Required Conditions**

A. The regulations of any "PD" District shall be uniform throughout any one "PD-R" District and shall include but without limitation the following where applicable:

1. Conditions of use.
2. Public streets and sidewalks.
3. District buffer strips.
4. Parking and loading.

5. Height and area standards.
6. Lighting.
7. Landscaping.
8. Open space and provision for maintenance and/or neighborhood playground or public parks.
9. Signage.

B. The regulations of said "PD-R" District shall be finalized by the Board of Township Trustees at the time the district is established and, except as otherwise permitted in this section, shall be equal to the following:

1. Insofar as practicable the regulations of the most restrictive district adjoining the proposed "PD-R" District, and;
2. Any other more restrictive regulations which in the opinion of the Board of Township Trustees should apply.

#### **4. Parking and Loading**

Off-street parking and loading spaces shall be required as set forth under the General Provisions and Section 14.1 Off-Street Parking and Loading Areas.

## **Section 14: Special Provisions**

### **14.10 Well Field Protection Overlay District**

**14.10.1 Purpose.** The intent of this Well Field Protection Overlay District is to provide for the protection of community groundwater supplies within Miami Township through the regulation of potentially polluting land uses and Regulated Substances (see Definition Section).

**14.10.2 Scope.** The provisions contained herein shall apply to community water supply systems within the Township that have scientifically delineated and currently maintained protection areas endorsed by the Ohio EPA. The Well Field Protection Overlay District shall include the lands, located within the current boundaries of the “one-year capture area” or “Inner Management Zone” as defined by Ohio EPA. Parcels wholly located or portions of parcels located within these boundaries are subject to the requirements of this Section. The provisions for the Well Field Protection Overlay District shall be supplemental to the regulations of the underlying zoning district. Where the requirements of this Section are in conflict with the regulations of the underlying district, the more restrictive regulations shall apply.

**14.10.3 Permitted Uses Within** the Well Field Protection District, the permitted uses shall be those of the underlying zoning district in addition to the requirements contained in this regulation.

**14.10.4 Conditional Uses** Within Well Field Protection District, the conditional uses shall be those of the underlying zoning district, unless prohibited in Section 14.10.5 below, and any other requirements contained herein.

**14.1.41** In addition to the conditional use procedure requirements set forth in Section 18, if a proposed activity/use will involve quantities of Regulated Substances meeting the criteria set forth in Section 14.10.8.1, and is not prohibited under section the applicant shall provide the Township Zoning Inspector with a written Plan that describes the proposed activity, lists the specific regulated substances and quantities involved, analyzes any potential threats posed by the activity to groundwater resources, and provides information on the Best Management Practices that will be utilized to reduce

and/or alleviate those threats. This Plan shall be used by the Board of Zoning Appeals and the Zoning Commission to render a decision on the proposed conditional use.

### **14.10.5 Prohibited Uses**

**14.10.5.1** Sanitary landfills.

**14.10.5.2** Sludge and septic waste disposal.

**14.10.5.3** Commercial quarries, gravel pits, and asphalt production.

**14.10.5.4** Foundries.

**14.10.5.5** Cemeteries.

**14.10.5.6** Commercial feedlots.

**14.10.5.7** Commercial fertilizer & agri-chemical distribution centers.

**14.10.5.8** Commercial machine and tool and die shops.

**14.10.5.9** Commercial repair garages, storage, or repair yards or warehouses.

**14.10.5.10** Automobile service stations.

**14.10.5.11** Automotive and scrap metal wrecking; junk and salvage yards.

**14.10.5.12** Automobile, tractor, trailer, farm implement assembly and/or manufacturing.

**14.10.5.13** Motor freight depots and trucking terminals.

**14.10.5.14** Battery manufacturing and tire re-capping or re-treading.

**14.10.5.15** Commercial Chemical and Paint warehouse/storage

**14.10.5.16** Dry cleaners.

**14.10.5.17** Industrial research laboratories.

**14.10.5.18** Uses similar to the above uses, as determined by the Board of Zoning Appeals.

#### **14.10.6 Non-Conforming Uses**

**14.10.6.1** A use, property or business having an amount of Regulated Substances exceeding the quantities set forth in Section 14.10.8.1 is a non-conforming use and is allowed to remain, however, no expansion involving regulated substances, or any modification resulting in an increased amount of regulated substances greater than the quantities set forth in Section 14.10.8.1 on the property is permitted, without first obtaining conditional use approval in accordance with this Resolution.

14.10.6.2 If a non-conforming use of any land, building, or structure is discontinued for two (2) years or more, any further use shall be in conformity with these zoning regulations.

### **14.10.7 Groundwater Protection Standards & Best Management Practices**

**14.1.1.1 Quantity Limitations.** Use, storage, handling and/or production of Regulated Substances in conjunction with permitted and conditional uses within the Well Field Protection District shall be limited by aggregate of Regulated Substances. The aggregate of Regulated Substances in use, storage, handling and/or production on any single parcel or portion thereof located within the District may not exceed fifty-five (55) gallons or four hundred forty (440) pounds, which ever is less at any time.

**14.1.1.1 Limited Exclusions.** The following activities and Regulated Substance and associated amounts are exempt from the requirements of these regulations.

**14.10.7.11** Regulated Substances used for non-routine maintenance and repair of property or equipment. The use, storage, handling and/or production of Regulated Substances under this exclusion shall be limited to:

**14.10.7.1.1.1** The aggregate of regulated substances in use, storage, handling, and/or production may not exceed fifty (50) gallons or four hundred (400) pounds at any time.

**14.1.1.1.1.2** The total use, storage, handling and/or production of Regulated Substances may not exceed one hundred (100) gallons or eight hundred (800) pounds in any twelve (12) month period.

**1.41.1.1.1.3** Medical and laboratory research substances used in containers not larger than 5 gallons or 40 pounds in size.

**14.1.1.1.1.4** Cleaning agents, medicines, and cosmetics packaged for personal or household use.

**14.1.1.1.1.5** Animal maintenance and medicinal substances packaged for residential and farm use.

**14.1.1.1.1.6** Lawn care, garden, and home and equipment maintenance chemicals packaged for personal or residential use.

**14.1.1.1.7** Construction materials stored at or being transported to a permitted construction site which do not pose real or present danger of causing contamination.

**14.1.1.1.8** Office supplies packaged for personal or office use.

**14.1.1.1.9** Refrigerants contained in on-site cooling equipment or contained in household appliances, including refrigeration repair service storage vessels.

**14.10.1.1.10** Properly maintained liquid-filled electrical transformers. Motor vehicle fuels and other liquids that are stored on and are an integral part of

an operable motor vehicle or boat and used specifically and solely for the operation of the vehicle in which the substances are contained. This does not include the tanker portion of a tractor-trailer or similarly purposed vehicle.

**14.10.1.1.11** Heating oil for residential uses stored in tanks with a total aggregate capacity of less than 550 gallons per residential lot

**14.10.1.1.12** On-site storage of agricultural chemicals to be used for routine on-site agricultural operations and application, provided such substances are stored in standard approved packaging and such chemicals are applied to cropland under Best Management Practices as indicated by soil tests, agricultural experts, or label directions approved by the United States Environmental Protection Agency (EPA) or the Ohio Department of Agriculture. This exclusion also applies to the application of agricultural chemicals to cropland where such chemicals are brought in from other locations.

*NOTE: This regulation does not restrict the use of agricultural chemicals applied in accordance with best management practices and/or label directions.*

**14.10.1.2 Best Management Practices.** To the maximum extent practicable, owners and operators that use, store, handle and/or produce applicable Regulated Substances within the Well Field Protection District in the quantities provided in Section 14.10.8.1 shall implement Best Management Practices (BMPs) to reduce risk of release and pollution of the environment.

**14.10.1.3 Inventory Information.** Owners and operators with applicable types and quantities of Regulated Substances within the Overlay District shall, upon written request of the Township Zoning Inspector, provide



inventory information on those Regulated Substances and evidence and/or documentation of the applicable BMPs being utilized to manage them. Information including, but not limited to, types, quantities, containment, and location of Regulated Substances may be required either in written or verbal form. Forms and guidance for reporting may be obtained from the Zoning Inspector, as required.

**14.10.1.4 Secondary Containment.** Drums and other types of containers holding Regulated Substances and wastes of such substances shall be stored within secondary containment. The containment system shall be designed to capture 110% of a release from a primary containment unit. Existing containment systems and procedures shall not be removed, nor shall their ability to contain spills be compromised, so long as Regulated Substances are stored, transferred or used within the containment areas. Improvements and/or additions to containment systems may be performed so long as the ability to contain a spill is not compromised. Temporary approved containment systems may be required during maintenance and/or improvement activities.

**14.10.1.5 Spill Response.** Standardized spill response procedures shall be adopted and documented and training will be provided to employees to help insure response protocols are enacted if a spill or release occurs.

**14.10.1.6 Above-Ground Storage Tanks.** All new above ground storage tanks shall meet the design and monitoring requirements of the State and local Fire Marshals, in addition to any additional requirements set forth herein.

**14.10.1.7 Underground Storage Tanks** (see Definition). All underground storage tanks shall be in accordance with the following provisions:

**14.10.1.7.1 Underground Storage Tanks for Fuel and Lubricants.** All underground storage tanks for fuels and lubricants shall comply with the following provisions:

**14.10.1.7.1.1 Existing Tanks.** Owners and operators of underground storage tank systems for fuel and lubricants used for vehicle operations and fuel for building and for processing heating, including residential heating fuel tanks having a capacity of greater than five hundred (550) gallons, which are located within the Well Field Protection District shall comply with the requirements of OAC Section 1301:7-9-10 (Bureau of Underground Storage Tank Regulation {BUSTR}, Underground Storage Tank – UST systems located in sensitive areas), as amended.

**14.10.1.7.1.2 New Tanks.** Owners and operators of new underground storage tank systems for fuel and lubricants used for vehicle operations and fuel for building and for processing heating, including residential heating fuel tanks having a capacity of greater than five hundred fifty (550) gallons, for which installation is commenced after the effective date of this resolution shall comply with the requirements of OAC Section 1301:7-9-10 at the time of installation. Owners and operators of underground storage tank systems within the Well Field Protection District shall comply with the requirements of this Subsection irrespective of whether they are located within a sensitive area as defined by OAC Section 1301:7-9-10.

**14.10.1.7.1.3 Underground Storage Tanks for Regulated Substances Other Than Fuels or Lubricants.** All underground storage tanks for regulated

substances other than fuels or lubricants shall comply with the following provisions:

**14.10.7.1.3.1 Existing Tanks.** With the exception of the residential use of home heating fuel in tanks having a capacity equal to or less than five hundred fifty (550) gallons, and underground storage systems for accessory vehicle fuel, vehicle lubricants, fuel for building heating and fuel for process heating, any storage of Regulated Substances in underground storage tanks within the Well Field Protection Overlay District shall be deemed to constitute a dangerous nuisance. Every such nuisance shall be properly abandoned or secondarily contained and monitored in accordance with BUSTR Standards within five (5) years of the effective date of this Resolution.

**14.10.7.1.3.2 New Tanks.** New underground storage tanks and/or replacement of existing underground tanks for Regulated Substances other than fuels and lubricants is *not* permitted.

**14.1.1.1.1.1 Underground Storage Tanks Out of Service.** Owners and operators of any underground storage tank system in the one year capture area which is out of service for twelve (12) consecutive months after the effective date of this resolution shall permanently abandon or remove the underground storage tank in accordance with the requirements of Ohio Administrative Code Rule 1301:7-9-12 (B), (C), and (E) through (M), inclusive, and they shall file one (1) copy of the closure report required in subsection (L) with the Township Fire Chief.

**14.1.1.3 Septic Systems.** Residential septic systems shall be permitted by the Greene County Combined Health District and maintained by the owner in accordance with Health District regulations. Such systems shall be

periodically pumped-out at the interval recommended by the Greene County Combined Health District. Commercial septic systems shall be permitted by Ohio EPA and be maintained in accordance with state law.

**14.1.1.4 Disposal of Septic Waste.** Disposal of septic waste is governed by the U.S. Code of Federal Regulations (40 CFR) Part 503. Disposal of such waste is prohibited.

**14.1.1.5 Wastewater Treatment Facilities.** Disposal of biosolids from waste-water treatment facilities is prohibited.

**14.1.1.6 Application of Agricultural Chemicals.** Agricultural chemicals shall be applied in accordance with best management practices and/or label directions.

#### **14.1.1 Reporting Regulated Substance Spills, Leaks, Or Discharges**

**14.1.1.1 Notification Required.** Any person with direct knowledge of a spill, leak or discharge of a regulated substance that escapes containment or contacts a pervious ground surface within Well Field Protection District and such spill, leak or discharge is not immediately and completely remediated, shall give notice to the Township Fire Department (911) by telephone as soon as feasibly possible. Such notification shall not alleviate other local, state, and federal reporting obligations.

**14.1.1.2 Application of Agricultural Chemicals Not a Spill, Leak or Discharge.** The application of agricultural chemicals, fertilizers, mineral acids, organic sulfur compounds, etc. used in routine agricultural operations, including plant nutrients and crop protection materials, applied under best

management practices as indicated by soil tests, agricultural experts, or label directions approved by the United States EPA or the Ohio Department of Agriculture, shall not be considered a spill, leak, or discharge subject to the requirements of this Section.

**14.1.1.3 Liability and Required Documentation.** Any entity or person who spills, leaks or discharges Regulated Substances shall be liable for any reasonable expense, loss or damages incurred by the Township in response to such an incident, in addition to the amount of any fines imposed on account thereof under state and federal law. Said entity or person shall document and maintain sufficient records so as to reflect accurately the circumstances related to any such incident and develop and implement procedures to substantially eliminate the likelihood of reoccurrence of such spills, leaks or discharges as soon as practicable following the incident, but no later than one hundred eighty (180) days after the incident.

**14.1.2 Clean Closure Requirements.**

**14.1.2.1** Except in the case of a seasonal discontinuation of operation, the owner or operator of any non-residential property that becomes unoccupied or has discontinued operation for a period of ninety (90) consecutive days shall remove all regulated substances from the property, other than those used exclusively for heating, cooling, and providing electrical lighting for the premises, within ninety (90) days after the date upon which the property initially became unoccupied or the operation discontinued. The owner or operator shall notify the Miami Township Zoning Inspector in writing of the date of the cessation of operation no later than the day upon which the operation actually ceases or the property becomes unoccupied, and such

notification shall include the owner's name, phone number, and address and the operator's name, phone number, and new address.

### **14.1.3 Enforcement**

**14.1.3.1** In accordance with Section 16 of this Resolution, the Miami Township Zoning Inspector or his/her designee, shall administer, implement, and enforce the provisions of this Section.

**14.1.3.2 Notice of Violation.** Any person found in violation of any provisions of this Section or any other requirement, rule or regulation issued under the authority of this Section will be served with a written notice stating the nature of the violation and providing reasonable time for compliance, provided however, written notice of violation may be waived under the conditions heretofore described in this Section and provided further, that if the Zoning Inspector has previously promulgated a schedule of compliance or issued an order addressing the same type of or a similar violation and the time for compliance has passed, the Zoning Inspector may dispense with establishing another time period for compliance.

**14.1.3.3 Public Water Supply Protection Authority.** If any activity or use of Regulated Substance is deemed by the Zoning Inspector, with advice from the appropriate authorities, to pose a real and present danger of contaminating surface and/or groundwater that would normally enter the public water supply, the Zoning Inspector is hereby authorized to:

1. Cause cessation of said activity or use of the regulated substance; and/or
2. Require the provision of administrative controls and/or facilities sufficient to mitigate said danger; and/or

3. Cause the provision of pollution control and/or abatement activities.

**14.1.3.4 Exemption Of Regulated Substances.** The City of Dayton Well Field Protection Office maintains a list of Regulated Substances that have been determined by the Dayton Environmental Advisory Board to pose no threat to groundwater quality. Miami Township shall use said list as the basis for excluding non-threatening Regulated Substances from the provisions of these regulations. The Zoning Inspector shall make said list available to interested parties. The Township Trustees may, with appropriate scientific evidence, supplement said list to include additional Regulated Substances that do not pose threats to local community water supplies.

**14.1.3.5 Technical Consultants.** Upon application for a conditional use permit, zoning certificate and/or occupancy certificate for a use within the Well Field Protection District, the Zoning Inspector may employ such technical expertise as needed to ensure compliance with the provisions of these regulations. All reasonable costs, as determined by the Township, incurred in the compliance review process shall be passed through to the applicant and shall be in addition to those fees normally charged to review an application for a zoning certificate and/or occupancy certificate.

**14.1.3.6 Liability.** Any entity or person who spills, leaks or discharges contaminates shall be liable for any expense, loss or damages, including cleanup, incurred by Miami Township or any other affected party.

**14.1.3.7 Violation.** Whoever violates and is found guilty of any provisions of this Section are subject to the penalty provisions as outlined in Section 16 of this Resolution.

**14.1.3.8 Considerations.** When considering the exercise of any of the above authorities or actions on an entity, the Zoning Inspector shall consult with the appropriate Township authorities (Trustees, Fire Chief, Zoning Commission, Board of Zoning Appeals, etc.) and community water supply authorities to determine what measures need to be taken to ensure the public water supply is reasonably and adequately protected from contamination for the present and the future. These authorities may take into consideration any evidence provided by the entity regarding cost-benefit and economic impact imposed by the requirements or actions.

**14.11** In accordance with the provisions of OAC 1301:7-9-09 (Bureau of Underground Storage Tank Regulation {BUSTR} — Sensitive areas) all existing and new underground storage tanks (see specific definition) located or to be located within environmentally “sensitive areas” as specifically defined in that Section are required to meet the additional design, construction, and monitoring standards provided in OAC 1301:7-9-10 (*UST systems located in sensitive areas*). These additional standards include, but are not limited to, the following:

1. Secondary tank containment systems, including double-walled tanks, external liners, and vaults.
2. Secondary piping containment systems.
3. Leak detection systems.
4. Monitoring Procedures.

#### **14.11 Parking and Loading Areas:**

##### **14.11a Off-Street Loading Spaces Required**



In any district, in connection with every building or part thereof hereafter erected, having a gross floor area of 10,000 square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt of distribution by vehicles of material or merchandise there shall be provided and maintained on the same lot with such building, at least 1 off-street loading space plus 1 additional such loading space for each 20,000 square feet or major fraction thereof of gross floor area so used in excess of 20,000 feet.

**14.111** Each loading space shall be not less than 10 feet in width, 25 feet in length and 14 feet in height.

**14.112** Such space may occupy all or any part of any required yard space except as hereinafter modified.

**14.113** No such space shall be located closer than 50 feet to any R-District unless wholly within a completely enclosed building.

#### **14.12 Off-Street Parking Areas Required**

**14.121** In all districts, in connection with every industrial, commercial, business, trade, institutional, recreational or dwelling uses, and similar uses, space for parking and storage of vehicles shall be provided in accordance with the following schedule:

- Automobile sales and service garages – 5 spaces for each 1,000 sq. ft. of gross floor area plus 1 space for each 2,000 sq. ft. of gross land area.
- Banks, Business and Professional Offices- 4 spaces for each 1,000 sq. ft. of gross floor area.

- Bowling Alleys- 5 spaces for each alley.
- Churches and Schools- 1 space for each 8 seats in a principal auditorium or 1 space for each 17 classroom seats, whichever is greater.
- Dance Halls, Assembly Halls- 1 spaces for each 1,000 sq. ft. of gross floor area.
- Dwelling – 2 parking spaces for each family or dwelling unit.
- Funeral Homes, Mortuaries- 4 spaces for each parlor or 1 space for each 50 square feet of floor area, whichever is greater.
- Furniture and Appliance Stores, Household Equipment or Furniture Repair Shops, over 1,000 square feet of floor area- 5 spaces for each 1,000 sq. ft. or gross floor area.
- Hospitals- 1 space for each 3 beds (bassinets are not considered beds).
- Hotels, Lodging Houses- 1 space for each 2 bedrooms.
- Manufacturing Plants- 2 spaces for each 3 employees on the maximum working shift.
- Restaurants, Beer Parlors, and Night Clubs, over 1,000 square feet floor area -10 spaces for each 1,000 sq. ft. of gross floor area.
- Retail Stores, Shops, etc. under 2,000 square feet floor area- 6 spaces for each 1,000 sq. ft. of gross floor area.
- Sports Arenas, Auditoriums other than in Schools- 1 parking space for each 4 seats.
- Theaters, Assembly Halls with fixed seats- 1 parking space for each 4 seats
- Wholesale Establishments or Warehouses- 1 space for each 2 employees or 10% of the floor area, whichever is greater.

**14.122** In the case of any building, structure, or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar, shall apply as determined by the Board of Zoning Appeals.

**14.123** Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements governing location of accessory parking spaces in relation to the use served are adhered to. Further, no parking space or portion thereof shall serve as a required space for more than one use unless authorized by the Zoning Board of Appeals.

**14.124** Except in the case of dwellings, no parking area provided hereunder shall be less than 1,000 square feet in area.

**14.125** Where a lot does not abut on a public or private alley or easement of access there shall be provided an access drive not less than 8 feet in width in the case of a dwelling, and not less than 18 feet in width in all other cases leading to the loading or unloading spaces and parking or storage areas required hereunder in such manner as to secure the most appropriate development of the property in question, except where provided in connection with a use permitted in a residence district, such easement of access drive shall not be located in any R-district.

**14.126** Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

**14.1261** Off-street parking areas, including commercial parking lots, for more than 5 vehicles shall be effectively screened on each side which adjoins or faces premises situated in any R-District, or institutional premises, by a masonry wall and/or compact evergreen hedge. Such wall or hedge shall be not less than 4 feet in height at time of planting and shall be maintained in good condition without any advertising thereon. The space between such wall or hedge and the side lot line adjoining premises in any R-District shall be maintained in good condition. Said sight-proof screening provisions shall appear on the site plan submitted for a building permit, and shall be physically constructed when development is occupied. These screening requirements may be waived if the development is effectively screened by natural topography. The Zoning Inspector shall determine by whatever means he deems necessary to make such determination, and grant such relief from this standard in writing to the proposed developer of the land.

**14.1262** No part of any parking space shall be closer than 5 feet to any established street right of way or alley line. In case the parking lot adjoins an R-District, it shall be set back a distance of not less than 25 feet from the established street right of way line for a distance of not less than 50 feet measured from the R-District boundary.

**14.1263** Any off-street parking area, including any commercial parking lot, for more than 5 vehicles shall be surfaced with an asphaltic or Portland cement binder pavement so as to provide a durable and dustless surface, shall be so graded and drained as to dispose of all surface water accumulation within the area, and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles.

**14.1264** Any lighting used to illuminate any off-street parking area including any commercial parking lot, shall be so arranged as to reflect the light away from adjoining premises in any R-District.

**14.1265** All entrances and exits to and from such areas shall open on or lead directly to a major thoroughfare insofar as practicable.

**14.127** The Board of Zoning Appeals may authorize a modification, reduction or waiver of the foregoing requirements, if it should find that in the particular case appealed, the peculiar nature of the residential, business, trade, industrial or other use, or the exceptional shape or size of the property or other exceptional situation or condition, would justify such modification, reduction or waiver.

## **14.2 Recreation Vehicles, Mobile Homes**

**14.21** Parking of a mobile home or recreation vehicle in any residential district shall be prohibited except that one (1) recreation vehicle may be parked or stored in an enclosed garage, or accessory building, or rear yard, or on any lot provided that no living quarters shall be maintained therein.

**14.22** In any district, the wheels or any similar transporting devices of any recreation vehicle shall not be removed except for repairs, nor shall such recreation vehicle be otherwise permanently fixed to the ground by any person, firm or corporation.

**14.23** No mobile home may be stored or parked in any district outside an approved and licensed mobile home park or trailer court.

## **14.3 Signs**

### **14.31 Purpose and Scope.**

**14.311 Purpose.** These regulations are enacted to promote and protect the public health, welfare and safety; to recognize and protect the rural aesthetic character of Miami Township and to accommodate the advertising and informational needs of local organizations, individuals, farms and businesses.

**14.312 Permit requirements.** All signs must be issued a permit, with any associated fees paid prior to posting and/or alteration, excepting those listed under Section 14.313. Any signs requiring a permit shall be referred to as “permitted signs” throughout this Section.

**14.313 Exemptions.** The following are exempt from requiring a permit:

**14.3131** Temporary signs, excluding agricultural commodities, erected for a period not to exceed 90 days within a 12 month period. Any temporary sign erected must meet all applicable sign requirements.

**14.3132** Political signs.

**14.3133** Signs erected by or on behalf of the Township government.

**14.3134** Any off-premise sign relating to a charitable, civic or other nonprofit organization, of which the size, location and duration have been given prior approval by the Miami Township Trustees.

**14.3135** Property or residential identification with a total sign area not exceeding two (2) square feet.

#### **14.32** General Requirements

**14.321** All signs shall be securely fastened by posts or other substantial supportive structure(s) to effectively minimize danger to property and/or people.

**14.322** Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or adjacent property.

#### **14.33** Prohibitions

**14.331** Signs that may be confused with official traffic signs are prohibited. No sign may be designed or erected in such a way or location that it will constitute a threat to traffic safety.

**14.332** Signs designed to attract attention by utilizing movement of any kind, including but not limited to, streamers, pennants, propellers, lights, or reflective elements are prohibited.

**14.333** No sign may be illuminated between the hours of 11:00 p.m. and 6:00 a.m. unless the associated use is operating during those hours.

**14.334** Internally illuminated signs are prohibited.

**14.335** Billboards are prohibited.

**14.336** Movable signs are prohibited.

**14.337** Off-premise signs are prohibited except as allowed in Section 14.3134.

**14.338** No sign shall be posted on the roof of any building.

#### **14.34** Signs in Agricultural Districts

**14.341** The total permitted sign area shall not exceed thirty-two (32) square feet with a maximum of two (2) signs per lot.

**14.342** A maximum of two (2) temporary signs per lot are allowed.

**14.343** No freestanding sign shall exceed eight (8) feet in height

**14.344** Any freestanding sign with a sign area of sixteen (16) square feet or less shall be set back a minimum of ten (10) feet from the edge of the road pavement.

**14.345** Any freestanding sign with a sign area greater than sixteen (16) square feet shall be set back a minimum of twenty (20) feet from the edge of the road pavement.

#### **14.35** Signs in Residential Areas



**14.351** One (1) permitted sign, not exceeding sixteen (16) square feet per lot shall be allowed.

**14.352** One (1) temporary sign per lot is allowed.

**14.353** No freestanding sign shall exceed four feet in height.

**14.354** All freestanding signs shall be set back a minimum of (10) feet from the edge of the road pavement.

#### **14.36 Signs in Business and Industrial Districts**

**14.361** All signs located in Business and Industrial Districts shall comply with the regulations outlined in Section 14.34

#### **14.37 Violations**

**14.371** Any property owner found in violation of these provisions shall be served a written notice by the Zoning Inspector indicating the specific violation and a specified time in which the violation is to be remedied. The owner shall notify the Zoning Inspector if remediation can not occur within the given time. Violations of this Section shall be subject to the penalties outlined in Section 16.6 of this Resolution.

#### **14.4 Quarries, Commercial Mines, and Gravel Pits**

**14.41** Quarries, commercial mines, and gravel pits, may be permitted in a A-I district and F-I district by the Board of Zoning Appeals upon submission of

satisfactory proof that such operations will not be detrimental to the neighborhood or surrounding properties providing the following conditions are guaranteed by the applicant.

**14.411** All equipment used in these operations shall be constructed, maintained and operated in such a manner as to eliminate so far as practicable, noise, vibration, or dust which would injure or annoy persons living in the vicinity, and accessways or roads within the premises shall be maintained in a dust-free condition through surfacing or such other treatment as may be necessary.

**14.412** No mining, quarrying or gravel or sand extraction shall be permitted nearer than 100 feet to the boundary of the property being utilized for such use.

**14.413** In order to insure adequate lateral support, all sand and gravel excavations shall be located at least 100 feet and backfilled to at least 100 feet from a street right-of-way line and all quarrying or blasting shall be located at least 100 feet from the right of way line of any existing or platted street, road, highway or railway, except that such excavation or quarrying may be permitted within these limits to the point of reducing the ground elevation to the grade of the existing or platted street, road, or highway where officially approved by the township trustees.

**14.414** All excavations of gravel or sand shall either be made to a water-producing depth, plus at least 5 feet or graded and/or backfilled with non-toxic and non-flammable solids to assure:

**14.4141** That the excavated area will not collect and retain stagnant water.

**14.4142** That the graded or backfilled surface will create an adequate topography to minimize erosion by wind and rain and substantially conform with the contours of the surrounding area.

**14.415** The banks of all excavations not backfilled shall be sloped to the water line at a grade of not less than 2 feet horizontal to 1 foot vertical and such banks shall be sodded or surfaced with at least 6 inches of suitable soil and seeded with grass. Spoil banks shall be graded to a level suiting the existing terrain and planted with trees, shrubs, legumes, or grasses where revegetation is possible. Where flood water exists, spoil banks shall be high enough to prevent overflow of water in the gravel pits and shall be sloped, graded and seeded as prescribed herein.

**14.416** Whenever the floor of a quarry is more than 5 feet below the average grade of the street, road, highway, or land adjacent thereto, the property containing such quarry shall be completely enclosed by a barrier consisting of not less than a 6 foot mound of earth planted with suitable dense planting or an approved fence not less than 6 feet in height along the property line. Such mound shall be located at least 25 feet from any street, road, highway, or boundary of the quarry property.

**14.417** All quarrying, blasting, or drilling shall be carried out in a manner and on such scale as to minimize dust, noise, and vibration and to prevent adversely affecting the surrounding neighborhood.

**14.418** When any quarrying has been completed, such excavated area shall either be left as a permanent spring-fed lake or the bottom floor thereof shall be leveled to prevent the collection and stagnation of water and to provide proper drainage without excessive soil erosion, and said floor shall

be covered with soil of adequate thickness for the growing of turf or other ground cover. The edge of such excavation shall be further protected by construction of a barrier consisting of not less than a 6 foot mound of earth planted with a double row of multiflora rose bushes or other equally effective planting.

**14.419** To guarantee the restoration, rehabilitation, and reclamation of mined-out areas, every applicant granted permission by the Board of Zoning Appeals to operate a quarry, mine or gravel pit as herein provided shall furnish a performance bond running to Miami Township, Greene County, Ohio, in an amount of not less than \$10,000 and not more than \$50,000 as a guarantee that such applicant, in restoring, reclaiming and rehabilitating such land, shall within a reasonable time and to the satisfaction of the board meet the requirements of subsections 14.4 through 14.418. The amount of performance bond shall be based upon an estimate of costs to meet the aforementioned requirements prepared by a licensed civil engineer and submitted by the applicant.

## **14.5 Sanitary Landfills**

**14.51** Sanitary landfills may be permitted in any A-1 district by the Board of Zoning Appeals upon submission of satisfactory proof that such operations will not be detrimental to the neighborhood or surrounding properties providing the following conditions are guaranteed by the applicant.

**14.51a** In accordance with the provisions of OAC 3745-27-07 (*Additional criteria for approval of sanitary landfill facility permit to install applications*), no sanitary landfill shall be permitted in Miami Township in the following areas:

1. In a State park or established state park purchase area.

2. Above an aquifer declared by the federal government under the "Safe Drinking Water Act" to be a sole source aquifer.
3. Above an unconsolidated aquifer capable of sustaining a yield of one hundred gallons per minute for a twenty-four-hour period to an existing or future water supply well located within one thousand feet of the limits of solid waste placement of the sanitary landfill facility.
4. Within the surface and subsurface areas surrounding a public water supply well through which contaminants may move toward and may reach the public water supply well within a period of five years (i.e. five-year Time-of-Travel).
5. Within one thousand feet of areas designated by the Ohio Department of Natural Resources as either a state nature preserve, a state wildlife area, or a state scenic river.
6. 4. Within one thousand feet of stream segments designated by Ohio EPA as either a state resource water, a coldwater habitat, or an exceptional warmwater habitat.

**14.511** All sanitary landfill sites shall be subject to approval by the County Health Department.

**14.512** A topographic map showing the design of the sanitary landfill site at a scale of not over 200 feet to the inch and with five (5) foot contour intervals shall be submitted with the application.

**14.513** The applicant shall submit information describing the geological characteristics of the site.

**14.514** The site shall be limited to areas where water pollution will not occur. The Board of Zoning Appeals may impose any conditions it deems necessary to prevent water pollution.

**14.515** The site shall be accessible from at least two directions.

**14.516** The site shall be so located as to minimize the effect of winds carrying objectionable odors to urbanized or urbanizing areas.

**14.517** The sanitary landfill site shall be designed by a qualified expert and submitted to the County Health Department for approval.

**14.518** Suitable shelter for landfill equipment shall be provided.

**14.519** Suitable shelter and sanitary facilities shall be provided for personnel.

**14.520** Suitable measures shall be taken to control fires.

**14.521** An attendant shall be on duty, during the time the sanitary landfill site is open, to supervise the unloading of refuse.

**14.522** Blowing paper shall be controlled by providing a portable fence near the working area. The fence and area shall be policed regularly.

**14.523** Sewage solids or liquids and other hazardous materials shall not be disposed on the site.

**14.524** There shall be no open storage or burning of refuse or garbage.

**14.525** No bulky items such as car bodies, refrigerators, and large tires shall be disposed on the site.

**14.526** Refuse shall be spread and compacted in shallow layers not exceeding a depth of two (2) feet of compacted material.

**14.527** 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.

**14.528** In all but the final layer of a landfill, a layer of suitable cover material compacted to a minimum depth of one (1) foot shall be placed daily on all surfaces of the fill except those where operations will continue on the following working day.

**14.529** A layer of suitable cover material compacted to a minimum thickness of two (2) feet shall be placed over the entire surface of each portion of the final lift not later than one (1) week following the placement of refuse within that portion.

**14.530** Conditions unfavorable for the production of insects and rodents shall be maintained by carrying out routine landfill operations promptly in a systematic manner.

**14.531** Suitable measures shall be taken whenever dust is a problem.

**14.532** The entire site, including the fill surface, shall be graded and provided with drainage facilities to minimize runoff onto and into the fill, to prevent erosion or washing of the fill, to drain off rain water falling on the fill, and to prevent the collection of standing water.

**14.533** An inspection of the entire site shall be made by a representative of the County Health Department before the earth-moving equipment is removed from the site. Any necessary corrective work shall be performed before the landfill project is accepted as completed. Arrangements shall be made for the repair of all cracked, eroded, and uneven areas in the final cover during the year following completion of the fill.

**14.534** Domestic animals shall be excluded from the site.

**14.6 Swimming Pools:** Any public or commercial swimming pool shall be located at least 400 feet from all property lines of the premises on which it is located and shall be completely surrounded by a fence, wall, or other barrier adequate to prevent entrance by children unless it is completely enclosed in a building.

**14.7 Junk:** The accumulation of trash, junk vehicles, vehicle parts, rags, or any other debris in any district shall be a nuisance per se and shall be prohibited outside of any approved junk yard. The purpose of this section is to promote the health, safety and welfare of Miami Township by eliminating environments for breeding of vermin, rodents, insects, and infestations.

**14.8 Junk Yards:** Junk yards may be permitted as a Conditional Use within specified districts upon the submission of satisfactory proof that such operations will not be detrimental to the neighborhood or surrounding properties. No junk yard shall be located, operated, or maintained within Miami Township unless it is located within the proper district and the following conditions have been guaranteed by the applicant:

1. The operator of the junk yard shall possess a license from the Greene County Auditor.



2. The junk yard operation shall possess a plan for the control of insects, rodents, and other disease vectors.
3. The area of the site used for the storage of junk shall be completely enclosed by a fence or other suitable means to prevent any uncontrolled access by unauthorized persons.
4. The site shall contain mounding, screening, or natural vegetation adequate to obscure the view of junk from any public street or surrounding property as determined by the Board of Zoning Appeals.
5. 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.
6. All motor vehicles stored or kept in such yards shall be so kept that they will not catch and 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.
7. Because of the tendency for junk yards to promote the breeding of mosquitoes and vermin and the potential volatile nature of certain materials, no operation shall be permitted closer than five hundred (500) feet from any established residential district.

**14.9 Private Accessory Swimming Pools:** Private accessory swimming pools may be permitted in any district, provided the following provisions are met:

1. The pool is intended solely for the enjoyment of the occupants and guests of the principal user of the property on which it is located.
2. It may not be located closer than ten (10) feet to any property line and may not encroach upon any required front yard, side yard, or any

required on- site waste-water leaching areas or replacement areas designated by the Greene County Health Department.

3. The swimming pool shall be walled or fenced in order to prevent uncontrolled access by children from any street or adjacent property. Any such fence shall not be less than five (5) feet in height and maintained in good condition with a gate and lock.
4. Exterior lighting shall be shaded wherever necessary in order to avoid casting direct light upon any other property or any public street.

## **Section 15: Exceptions and Modifications**

The requirements and regulations specified here in before in this resolution shall be subject to the following exceptions, modifications and interpretations.

**15.1 Existing Lots of Record:** In any district where dwellings are among the principal permitted uses, a 1 family detached dwelling no greater in height than 2 stories may be erected on any lot of official record at the effective date of this resolution, irrespective of its area or width, the owner of which does not own any adjoining property; provided,

**15.11** That such lot complies with the frontage requirements of subsection 4.6.

**15.12** In no case shall the width of any side yard be less than 10 percent of the width of the lot, and provided, that on a corner lot, the width of the side yard adjoining the side street lot line shall not be less than 8 feet or 20 percent of the frontage, whichever is the greater.

**15.13** The depth of the rear yard of any such lot need not exceed 20 percent of the depth of the lot, but in no case shall it be less than 10 feet.

**15.2 Height Limits:** Height limitations stipulated elsewhere in this resolution shall not apply:

**15.21** To barns, silos, or other farm buildings or structures on farms; to church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, observation towers, transmission towers, windmills, chimneys, smokestacks, flag poles, radio towers, masts and aerials; to parapet walls extending not more than 4 feet above the limiting height of the building.

**15.22** To place of public assembly in churches, schools, and other permitted public and semi-public buildings, provided that these are located on the first floor of such buildings and provided that, for each 3 feet by which the height otherwise permitted in the district, its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the district.

**15.23** To bulkheads, elevator penthouses, water tanks, monitors and scenery lofts, provided no linear dimension of any such structure exceeds 50 percent of the corresponding street lot line frontage; or to towers and monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders, or other structures, where the manufacturing process requires a greater height provided, however, that all such structures above the heights otherwise permitted in the district shall not occupy more than 25 percent of the area of the lot and shall be distant not less than 50 feet in all parts from every lot line not a street lot line.

### **15.3 Area Requirements**

**15.31** In any district, where neither public water supply nor public sanitary sewer is accessible, the minimum lot area shall be 3.00 acres and the minimum continuous lot frontage shall be 300 feet.

**15.32** In any district where public water supply or public sanitary sewer but not *both* are accessible, the otherwise specified lot area and frontage requirements, if less than the following, shall be: lot area – 1.00 acre, continuous lot frontage at building line – 100 feet.

**15.33** Where both public water and public sanitary sewer is accessible and will be installed, the minimum requirement in any district will be 10,000 square feet area and 80 feet continuous frontage, unless otherwise specified.

**15.34** Provided, however, that no zoning permit shall be issued for any lot which is not provided with public water supply or public sanitary sewer unless the Board of the Health has certified that the area and width of the lot are satisfactory for the proposed use under conditions of soil, drainage, and topography found on such lot. Based on such conditions, the County Board of Health may require greater lot areas or widths than those specified herein.

### **15.4 Front Yard Modifications**

**15.41** In any R-district, where the average depth of at least two existing front yards on lots within 100 feet of the lot in question and within the same block front is less or greater than the least front yard depth prescribed elsewhere in this resolution, the required depth of the front yard on such lot shall be modified. In such case, the front yard depth shall not be less than the

average depth of existing front yards on the 2 lots immediately adjoining; provided, however, that the depth of a front yard on any lot shall be at least 10 feet and need not exceed 60 feet.

**15.5 Double Frontage Lots:** Buildings on lots having frontage on 2 non-intersecting streets need not have a rear yard if an equivalent open space is provided on the lot in lieu of such required rear yard; applicable front yards must be provided, however, on both streets.

**15.6 Rear and Side Yards, How Computed:** In computing the depth of a rear yard or the width of a side yard, where the rear or side yard abuts an alley, 1/2 of the width of the alley may be included as a portion of the required rear or side yard, as the case may be.

### **15.7 Projections into Required Yards**

**15.71** Certain architectural features may project into required yards or courts as follows:

**15.711** Into any required front yard, or required side yard adjoining a side street lot line

**15.7111** Cornices, canopies, eaves, or other architectural features, may project a distance not exceeding 2 feet, 6 inches.

**15.7112** Fire escapes may project a distance not exceeding 4 feet, 6 inches.

**15.7113** An uncovered stair and necessary landings may project a distance not to exceed 6 feet, provided such stair and landing shall not extend above the entrance floor of the building except for a railing not exceeding 3 feet in height.

**15.7114** Bay windows, balconies, and chimneys, may project a distance not exceeding 3 feet, provided that such features do not occupy, in the aggregate, more than 1/3 of the length of the building wall on which they are located.

**15.712** Subject to the limitations in subsection 15.711 above named features may project into any required side yard adjoining an interior side lot line, a distance not to exceed 1/5 of the required least width of such side yard, but not exceeding 3 feet in any case.

**15.713** Subject to the limitations in subsection 15.711 the features named therein may project into any required rear yards the same distances they are permitted to project into a front yard.

**15.714** An uncovered porch or terrace extending no more than 3 feet above the finished grade may extend to within 5 feet of an interior side lot line, or within 25 feet of a front lot line or a side street lot line.

## **Section 16: Enforcement**

**16.1 Enforcement by Zoning Inspector:** There is hereby established the office of Zoning Inspector. It shall be the duty of the Zoning Inspector to enforce this resolution in accordance with the provisions hereof. All departments, officials, and public employees of Miami Township, vested with

the duty or authority to issue permits or licenses, shall conform to the provisions of this resolution and shall issue no permit or license for any use, building or purpose in conflict with the provisions of this resolution. Any permit or license, issued in conflict with the provisions of this resolution shall be null and void.

**16.2 Filing Plans, Zoning Permits:** Every application for a zoning permit shall be accompanied by a drawing in duplicate, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part: the location, size, and height of any building or structure to be erected or altered; the existing and intended use of each building or structure or part thereof; the number of families or housekeeping units the building is designed to accommodate; and, when no buildings are involved, the location of the present use and proposed use to be made of the lot; and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this resolution. One copy of such plans shall be returned to the owner when such plans shall have been approved by the Zoning Inspector together with such zoning permit as may be granted. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

No permit for excavation or construction shall be issued by the Zoning Inspector, unless the plans, specifications and the intended use conform to the provisions of this resolution.

In every case where the lot is not provided and is not proposed to be provided with public water supply and/or disposal of sanitary wastes by means of public sewers, the application shall be accompanied by a Certificate

of Approval by the Health officer of Greene County of the proposed method of water supply and/or disposal of sanitary wastes.

If the work described in any zoning permit has not begun within one year from the date of issuance thereof, said permit shall expire; it shall be revoked by the Zoning Inspector, and written notice thereof shall be given to the persons affected. If the work described in any zoning permit has not been substantially completed within two and one half (2 1/2) years of the date of issuance thereof, said permit shall expire and be revoked by the Zoning Inspector, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and new zoning permit has been obtained or extension granted.

### **16.3 Certificate of Occupancy and Compliance:**

**16.31** No building or accessory structure hereafter erected or structurally altered shall be occupied, used, or changed in use until a certificate of occupancy and compliance shall have been issued by the Zoning Inspector, stating that the building or proposed use of a building, or premises, complies with this resolution.

**16.32** Certificate of Occupancy and Compliance shall be applied for coincident with the applicant for a zoning permit, and shall be issued within 10 days after the erection or structural alteration of such buildings shall have been completed in conformity with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Zoning Inspector, and copies shall be furnished, on request, to any person having a proprietary or any interest in the building affected. No fee shall be charged



for an original certificate but for copies of any original certificate there shall be a charge of 50 cents each.

**16.33** The use of no building already erected at the passage of this resolution shall be changed from one class to another until a certificate of occupancy and compliance with the provisions of this resolution shall have been obtained from the Zoning Inspector.

**16.4 Duty of Zoning Inspector:** The Zoning Inspector shall act upon all such applications on which he or she is authorized to act by the provisions of this resolution within 14 days after these are filed in full compliance with all the applicable requirements as specified under subsection 16.2. He or she shall either issue a zoning permit within said 14 days or shall notify the applicant in writing of his refusal of such permit and the reasons therefor.

**16.5 Fees:** For all zoning permits, there shall be a fee remitted and the amount shall be determined by the Township Trustees.

**16.6 Violations and Penalties:** It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain, or use, any building or land in violation of any of the provisions of this resolution or any amendment or supplement thereto; violators shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.00. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance, or use continues, may be deemed a separate offense.

**16.7 Violations – Remedies:** In case any building is or is proposed to be located, erected, constructed, enlarged, changed, maintained, or used, or any

land is or is proposed to be used in violation of this resolution or any amendment or supplement thereto, the township trustees, the Zoning Inspector, or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action, actions, proceedings, to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use.

## **Section 17: Duties of Zoning Commission**

For the purpose of this resolution, the Commission shall have the following duties:

To prepare and keep current a comprehensive general plan for meeting present requirements and such future needs as may be foreseen.

To establish principles and policies for guiding action affecting the development within the townships.

To review all proposed amendments to this resolution as well as any other regulations in the interest of promoting orderly development in compatibility with the Comprehensive Plan.

To determine whether specific proposed developments conform to the principles and requirements of the Comprehensive Plan and Zoning Resolution.

To keep the Board of Township Trustees and the general public interest informed and advised as to these matters.

To perform other duties which may be lawfully assigned to its or which may have bearing on the preparation or accomplishment of the plan.

## **Section 18: Board of Zoning Appeals**

**18.1 Creation:** Pursuant to Section 519.13 of the Revised Code of Ohio the Board of Township Trustees shall appoint the Township Board of Zoning Appeals in accordance with the provisions of said section.

**18.2 Membership and Organization:** Said board shall organize, meet, and act in accordance with the provisions of Section 519.15 of the Revised Code of Ohio.

**18.3 Hearing:** The Zoning Inspector shall fix a reasonable time and place for the hearing of any application, petition, or appeal. He shall notify the Zoning Board of Appeals and give at least ten (10) days notice of the time and place of such hearing, to the applicant and to the owners of record of property within three hundred (300) feet of the premises in question, such notice to be delivered personally or by mail addressed to the respective owners at the address given on the last assessment roll and by one publication in one or more newspapers of general circulation in the township. Any party may appear at such hearing in person, by agent or by attorney. The board shall decide the application or appeal within a reasonable time.

**18.4 Powers and Duties:** The Board of Appeals shall have all the appropriate power and duties prescribed by law, and by this resolution. The board shall have the following duties and powers:

**18.41 Administrative Review:** To hear and decide appeals only in such cases where it is alleged there is error in any order, requirement, decision, or determination made by the Enforcing Officer in the enforcement of this resolution. The concurring vote of three (3) members of the board shall be necessary to reverse any order, requirement, decision, or determination of the Enforcing Officer, or to decide in favor of the applicant on any matter upon which they are required to pass under the terms of this resolution.

**18.42 Determination of Similar Uses:** To determine if uses not specifically mentioned in this resolution are similar to uses permitted within a district.

**18.43 Determination of District Boundary Location:** To determine the exact location of any district boundary if there is uncertainty as to exact location thereof. In making such determination the board shall be guided by the provisions of Section 3.3.

**18.44 Conditional Use Permits:** To hear and decide only such conditional uses as the Board of Appeals is specifically authorized to pass on under the terms of this resolution, or to deny conditional use permits when not in harmony with the intent and purpose of this resolution. The following requirements shall be complied with prior to any approval or denial of a conditional use permit by the Board of Appeals.

**18.441** A written application for a conditional use is submitted to the Zoning Inspector of Miami Township, Greene County, Ohio indicating the section of

this resolution under which the conditional use is sought and stating the grounds on which it is requested.

**18.442** Such requests shall then be forwarded to the Township Zoning

Commission for Review as guided by standards listed under 18.4442, subsection a. Their recommendations shall then be forwarded within 30 days to the Board of Zoning Appeals.

**18.443** A public hearing shall be held by the Board of Zoning Appeals as specified in Section 18.3 of this resolution.

**18.444** The Board of Appeals shall determine:

**18.4441 Authority:** If it has the authority to grant the request.

**18.4442 Adverse Affect:** That the granting of the conditional use will not adversely affect the neighborhood in which the conditional use is to be located. In this regard the Board shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that use at the proposed location:

- Will be harmonious with and in accordance with the general objectives, or with any specific objectives of the township's comprehensive plan and/or the zoning ordinance.
- Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.

- Will not have an undue adverse effect on wildlife and their habitat, on the preservation of agricultural land, on human psychological dependence upon open space, and on the boundary line defining urban land use from rural.
- will not be hazardous or disturbing to existing or future neighboring uses.
- Will be served adequately by essential and public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
- Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, flare or odors.
- Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets or roads.
- Will not result in water pollution. In making this determination, they shall consider: the amount of rainfall received by the area, the relation of the land to flood plains, the nature of soils and subsoils and their ability to adequately sue disposal; the slope of the land and its effect on effluents; the presence of streams as related to effluent disposal; the applicable health and water resources department regulations.
- Does have sufficient water available per lot, both physically and legally, for the foreseeable needs of the subdivision or development.
- Will not cause an unreasonable depreciation of an existing water supply.

- Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result; and
- Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

**18.445** Conditions: In granting any conditional use permit, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity to the provisions of this resolution and the recommendation of the Zoning Commission. The Board of Appeals shall require a bond to assure conformance to such conditions and safeguards as may be necessary. Violation of such conditions and safeguards shall cause the performance bond mentioned above to be forfeited and shall be deemed a violation of this resolution and punishable under Section 16.6. A conditional use permit shall expire in one (1) year after it is issued unless actual construction has taken place or is underway except as provided elsewhere in this resolution.

**18.45 Variances:** To vary the strict application of any of the requirements of this resolution in the case of exceptionally irregular, narrow, shallow or deep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship – not economic in nature – that would deprive the owner of the reasonable use of the land or building involved but in no other case. The fact that another use would be more profitable is not a valid basis for legally granting a variance. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. No variance in the strict application of this resolution shall be granted by the

Board of Appeals unless and until the applicant submits, and the board concurs, with the following:

**18.451 Conditions and Circumstances:** That special conditions and circumstances exist which are peculiar to the land, structure or building involved and *which are not applicable to other lands*. Structures. or buildings in the same district.

**18.452 Property Rights:** That literal interpretation of the provisions of this resolution would deprive the applicant of property rights commonly enjoyed by other properties in the same district under the terms of this resolution.

**18.453 Applicant Not at Fault:** That the special conditions and circumstances do not result from the actions of the applicant, his agents or prior property/owners.

**18.454 No Special Privilege:** That granting the variance requested will not confer on the applicant any special privilege that is denied by this resolution to other lands, structures, or buildings in the same district.

**18.455 Harmony With Locality:** That the variance requested shall not alter the essential character of the locality. In making this determination, the Board of Appeals shall be advised by the recommendation of the Zoning Commission.

**18.46 Procedure for Consideration of Petitions For Variances:**

**18.461** The Board of Appeals shall make a finding that the reasons set forth in the application are valid and justify the granting of the variance. The board



shall also determine if the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

**18.462** *Under no circumstances shall the Board of Appeals grant a variance which will permit a use which is not permitted in the district involved.*

**18.463** Condition: The Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this resolution and the recommendation of the Zoning Commission. The Board of Appeals shall require a bond or irrevocable letter of credit to assure conformance to such conditions and safeguards as the board may require.

**18.464** Violation of such conditions and safeguards when such are made a part of the terms under which a variance is granted, shall cause the bond mentioned in 18.463 above to be forfeited and shall be deemed in violation of this resolution and punishable under Section 16.6 of this resolution.

**18.465 Public Hearings:** Prior to taking action on a request for a variance the Board of Appeals shall hold a public hearing and give notice to property owners as in Section 18.3 of this resolution.

**18.47 Procedure for Appeals:** Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer of the township affected by any decision of the administrative officer. Such appeal shall be taken within 20 days after the decision by filing, with the officer from whom the appeal is taken and with the Board of Zoning Appeals, a notice of appeal specifying the grounds. The application shall be accompanied by a fee as determined by the Township Trustees to cover the cost of advertising and related administrative expenses. The officer from whom the appeal is taken

shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

## **18.5 Temporary Exceptions**

In addition to permitting the special exceptions and conditional uses herein before specified in this resolution, the board shall have the power, upon application, to permit the following special exceptions and conditional uses:

**18.51 Temporary Buildings:** Temporary buildings for uses incidental to construction work while construction is in progress.

**18.52 Temporary Structures and Uses:** The temporary use of a structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this resolution for the district in which it is located, providing that such use be of a temporary nature and does not involve the erection of a substantial structure. A zoning permit for such use shall be granted in the form of a temporary and revocable permit, for not more than a 12 month period, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

**18.6 Effective Date:** The decision of the Board of Appeals shall not be come final until the expiration of five (5) days from the date of entry of such order unless the board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

## **Section 19: Amendments or Supplements, Validity and Repeal**

**19.1 Title or supplements:** Amendments or supplements to the resolution shall be made in accordance with the provisions of Section 519.12, Revised Code of Ohio.

**19.2 Validity:** If any article, section, sub-section, paragraph, sentence or phrase of this resolution is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this resolution.

**19.3 Repeal:** The repeal of a plan of township zoning shall be governed by Section 519.25 of the Revised Code of Ohio.

### **SUPPLEMENTING THE ZONING RESOLUTION OF MIAMI TOWNSHIP BY THE ENACTMENT OF SECTIONS I THROUGH XII TO CREATE AND ESTABLISH LAND USE REGULATIONS FOR WIRELESS TELECOMMUNICATION FACILITIES.**

## **SECTION I**

### **LEGISLATIVE PURPOSES**

The purpose of this Resolution is to regulate the placement, construction, removal, and modification of wireless telecommunication facilities and their support structures in order to protect the public health, safety and morals, while at the same time not unreasonably interfering with the development of

the competitive wireless telecommunications marketplace in the Miami Valley Region. Specifically, the purposes of the Resolution are:

- To direct the location of various types of towers and wireless telecommunications facilities into appropriate areas of Miami Township.
- To protect residential areas and land uses from potential adverse impacts of towers and wireless telecommunications facilities.
- To minimize adverse visual impacts of towers and wireless telecommunications facilities through careful design, siting, landscaping and innovative camouflaging techniques.
- To promote and encourage shared use/co-location of towers and antenna support structures as a primary option rather than construction of additional single-use towers.
- To avoid potential damage to adjacent properties caused by towers and wireless telecommunications facilities by ensuring such structures are soundly designed, constructed, and modified, are appropriately maintained, and are fully removed.
- To the greatest extent feasible, ensure that towers and wireless telecommunications facilities are compatible with surrounding land uses.
- To the greatest extent feasible, ensure that towers and wireless telecommunications facilities are designed in harmony with natural settings and in a manner consistent with current development patterns.

## **SECTION II**

### **APPLICABILITY**

All towers, antenna support structures, and wireless telecommunication facilities, any portion of which are located within Miami Township, which meet any of the following requirements are subject to this Resolution:

A written notice has been received by Miami Township from a property owner under Section [519.211(B)(4)] of the Ohio Revised Code requesting that Township zoning authority apply to such facility.

A Township Trustee objects to such wireless telecommunication facility under Section [519.211(B)(4)] , thus triggering application of such zoning authority.

A written notice has been received by Miami Township from a property owner under Section [519.211(E)(1)] of the Ohio Revised Code requesting that Township zoning authority apply to such facility.

Except as provided in this Resolution, any use being made of an existing tower or antenna support structure on the effective date of this Resolution shall be deemed a nonconforming structure and allowed to continue, even if in conflict with the terms of this Resolution. Any tower site that has received approval in the form of a zoning permit by Miami Township, but has not yet been constructed or located, shall be considered a nonconforming structure so long as such approval is current and not expired.

## **SECTION III**

### **DEFINITIONS**

For the purposes of this Resolution, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as otherwise defined in this section. The words shall and will are mandatory and may is permissive. Words not defined shall be given their common and ordinary meaning.

**3.1 Act.** The Telecommunications Act of 1996

**3.2 Adequate Coverage.** Miami Township will consider coverage to be “adequate” within that area surrounding a Base Station where the predicted or measured median field strength of transmittal signal is greater than or equal to -95dbm for at least 75% of the intended coverage area. It is acceptable for there to be holes within the area of Adequate Coverage where the signal is less than -95 dbm, as long as the signal regains its strength to greater than or equal to -95dbm further away from the Base Station. For the limited purpose of determining whether the use of a Repeater is necessary or desirable, there shall be deemed not to be Adequate Coverage within said holes. The outer boundary of the area of Adequate Coverage, however, is that location past which the signal does not regain a strength of greater than or equal to -95dbm.

**3.3 Adequate Capacity.** Miami Township will consider capacity to be “adequate” if the Grade of Service (GOS) is p.05 or better for median traffic levels offered during the typical busy hour, as assessed by direct measurement of the Personal Wireless Service Facility in question. The GOS

shall be determined by the use of standard Erlang B calculations. As call blocking may occur in either the land line or radio portions of a wireless network, Adequate Capacity for this ordinance shall apply only to the capacity of the radio components.

Where capacity must be determined prior to the installation of the Personal Wireless Services Facility in question, Adequate Capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with total daily traffic occurring within the busiest hour of the day), with total daily traffic based on aggregate estimates of the expected traffic in the Coverage Area.

**3.4 Antenna.** Any panel, whip, dish, or other apparatus designed for communications through the sending and/or receiving of electromagnetic waves, excluding any support structure other than brackets.

**3.5 Antenna Support Structure.** Any building or other structure other than a tower which can be used for location of wireless telecommunications facilities.

**3.6 Applicant.** Any person that applies for a permit pursuant to this Zoning Resolution.

**3.7 Application.** The process by which an applicant submits a request and indicates a desire to be granted a zoning certificate under the provisions of the supplement. An application included all written and graphic documentation, verbal statements and representations, in whatever form or forum, made by an applicant to Miami Township concerning such a request.

**3.8 Co-location.** The use of a wireless telecommunication facility by more than one wireless telecommunications provider.

**3.9 (County) (Township).** The (Greene) (Miami Township)

**3.10 DBM.** Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliWatt.

**3.11 Emergency.** A reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.

**3.12 EFR.** Electromagnetic Frequency Radiation.

**3.13 Engineer.** Any engineer licensed by the State of Ohio.

**3.14 Equipment Shelter.** The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

**3.15 FAA.** The Federal Aviation Administration and any legally appointed, designated or elected agent or successor.

**3.16 Facility Site.** A property, or any part thereof, which is owned or leased by one or more Personal Wireless Service Providers and upon which one or more Personnel Wireless Facility(ies) and required landscaping are located.

**3.17 FCC.** The Federal Communications Commission and any legally appointed, designated or elected agent or successor.



**3.18 Grade of Service.** A measure of percentage of calls which are able to connect to the Base Station, during the busiest hour of the day. Grade of Service is expressed as a number, such as p.05, which means that 95% of callers will connect on their first try. A lower number (p.04) indicates a better Grade of Service.

**3.19 Monitoring Protocol.** An approved testing protocol as defined in the most current FCC regulations. As of August 15, 1997 the most current practice is referenced in FCC Regulations, Title 47, Part 1, Section 1.1307 as IEEE C95.1-1992.

**3.20 Monopole.** A support structure constructed to a single, self-supporting hollow tube securely anchored to a foundation.

**3.21 Person.** Any individual, firm, partnership, association, corporation, or other legal entity, private or public, whether for profit or not-for-profit.

**3.22 Personal Wireless Service.** Commercial Mobile Services, unlicensed wireless services, and common carrier wireless exchange access services. These services include: cellular services, personal communications services (PCS), Specialized Mobile Radio Services, and Paging Services.

**3.23 Radiation Propagation Studies or Radial Plots.** Computer generated estimates of the radiation emanating from Antennas or Repeaters sited on a specific Tower or Structure. The height above ground and above mean sea level, power input and output, frequency output, type of antenna, antenna gain energy dispersion characteristics, and topography of both the site and its surroundings are all taken into account to create these simulations. They are the primary tools for determining whether a site will provide Adequate

Coverage for the Personal Wireless Telecommunications Service Facility proposed for that site.

**3.24 Tower.** A self-supporting lattice, guyed, or monopole structure constructed from grade which supports wireless telecommunications facilities. The term tower shall not include amateur radio operator equipment, as licensed by the FCC.

**3.25 Wireless Telecommunication Facility.** Any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications as authorized by the FCC which a person seeks to locate or have installed upon a tower antenna support structure. However, the term wireless telecommunications facilities shall not include:

- Any satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned industrial or commercial.
- Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category.
- Antennas used by amateur radio operators.

**3.26 Zoning Resolution.** The Zoning Resolution of Miami Township.

## **SECTION IV**

### **STANDARDS APPLICABLE TO ALL WIRELESS TELECOMMUNICATION FACILITIES**

#### **4.1 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 Ohio Basic Building Code, all local applicable building and electrical codes, CABO, and others.

#### **4.2 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, including those for flood plains, wetlands, groundwater protection, and steep slopes.

#### **4.3 PROHIBITED SITES**

Due to the unique nature of the areas and the need to protect their visual beauty, the following sites will not have wireless telecommunication facilities zoning permits issued.

- John Bryan State Park
- Clifton Gorge State Park
- Glen Helen Nature Preserve
- Orton State Park

#### **4.4 COLOR AND APPEARANCE STANDARDS**

All wireless telecommunication facilities shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communications Commission, Federal Aviation

Administration. All appurtenances shall be aesthetically and architecturally compatible with the surrounding environment by the means of camouflage deemed acceptable by the Board of Trustees of Miami Township.

#### **4.5 ADVERTISING PROHIBITED**

No advertising is permitted anywhere upon or attached to the wireless telecommunication facility, and tower.

#### **4.6 CO-LOCATION**

All wireless telecommunication facilities shall be subject to the co-location requirements set forth in Section V of this Zoning Resolution.

#### **4.7 ABANDONMENT**

All wireless telecommunication facilities shall be subject to the abandonment requirements set forth in Section VII of this Wireless Telecommunication Supplement.

#### **4.8 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 antennas 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.

#### **4.9 SECURITY ENCLOSURE**

A fence approved in design by the Miami Township Board of Zoning Appeals and not less than six (6) feet in height shall fully enclose the base of the wireless telecommunication facility including anchors for guy wires. Gates shall be locked at all times when the facility is unattended by an agent of the wireless telecommunication provider.

#### **4.10 LANDSCAPING REQUIREMENTS**

A landscaped buffer area of not less than fifteen (15) feet in depth shall be placed between the fence surrounding the wireless telecommunication facilities and the public right-of-way and any adjacent properties with a direct view of the facilities, other than the tower itself. The fifteen (15) foot landscaped buffer shall be of hardy evergreen shrubbery not less than six (6) feet in height and of a density to obstruct the view. The landscaping shall be continuously maintained and promptly restored, if necessary.

#### **4.11 EXISTING VEGETATION AND BUFFER PLANTINGS**

Existing vegetation (trees, shrubs, etc.) shall be preserved to the maximum extent possible. The landscaping shall be continuously maintained and promptly restored, if necessary.

#### **4.12 ACCESS CONTROL AND EMERGENCY CONTACT**

“No Trespassing” signs shall be posted around the wireless telecommunication facility. A permanent sign with a minimum size of two (2) square feet and an maximum size of six (6) square feet shall be posted on the site as well as the emergency telephone number of the owner/operator, base elevation, Long./Lat., tower height, tip elevation, of each platform. The owner/operator shall also provide the Miami Township Fire Department and the Greene Co. Sheriff’s Department with information on who to contact in the event of an emergency.

#### **4.13 LIGHTING**

Unless specifically prohibited by FAA requirements, identification lights on any tower issued a zoning permit will be mandatory and will be the color red and shielded from view beneath the light.

#### **4.14 JURISDICTION**

All height and setback requirements for wireless telecommunication facilities found in this document will be applied to all areas in Miami Township including any other political subdivision’s easements or right-of-ways.

#### **4.15 INSURANCE**

Towers and Personal Wireless Service Facilities shall be insured by the owner(s) against damage to persons or property. The owner(s) shall provide a Certificate of Insurance to the Zoning Inspector on an annual basis in which Miami Township shall be an additional named insured for an amount no less than \$1,000,000.00 (one million dollars).

# **SECTION V**

## **CO-LOCATION REQUIREMENTS:**

### **5.1 JURISDICTION STUDY OF POTENTIAL PUBLIC SITES**

In order to encourage the location of a wireless telecommunication facility on publicly-owned property. The Miami Township Zoning Inspector shall undertake an identification of publicly-owned properties that Miami Township determines are suitable for such use. The Miami Township Zoning Inspector shall update once each year such identification and make the results of such identification available to the public.

### **5.2 EXEMPTION FROM PROOF OF CO-LOCATION AVAILABILITY**

Persons locating a wireless telecommunication facility upon a publicly-owned property identified in the study mentioned in Section 5.1 above shall be exempted from the requirements herein regarding presentation of proof that co-location is not available. However, persons locating wireless telecommunication facility on publicly-owned properties shall continue to be subject to the requirements contained in Section 5.4 below.

### **5.3 CO-LOCATION DESIGN REQUIRED**

No new tower shall be constructed in Miami Township unless such tower is capable of accommodating at least two (2) additional wireless telecommunication facility owned by another person.

### **5.4 CO-LOCATION AGREEMENT**

The applicant shall present signed statements indicating that:

1. The applicant agrees to allow for the co-location of additional wireless telecommunication facilities, at market cost, by other providers on the applicant structure or within the same site location. A copy of any co-location agreement between the applicant and another provider shall be given to the land-owner upon which the wireless telecommunication facility is sited.

## **SECTION VI**

### **WIRELESS TELECOMMUNICATION FACILITIES IN R-1a, R-1b, R-2, R-3, PUD, IN DISTRICTS ZONED FOR RESIDENTIAL USE**

#### **6.1 PERMITTED PRINCIPAL USE**

The erection, construction or replacement of a wireless telecommunication antenna(s), and antenna support structures, on lawfully existing wireless telecommunication tower(s) and with the necessary wireless telecommunications equipment shelter may be a permitted use as a co-location only on a lawfully existing wireless telecommunication tower.

#### **6.2 ACCESSORY USE**

The following wireless telecommunication facilities are permitted as an accessory use upon a lot, subject to the following requirements:



- Tower. No wireless telecommunication tower is permitted as an accessory use within a district zoned for residential use without a conditional use approval under the guidelines of Section 6.3.
- Antenna. An antenna for a wireless telecommunication facility may be attached to an existing residential building two (2) or more stories or 35' in height or to an existing nonresidential structure, excluding residential accessory structures, subject to the following conditions:
  - Maximum Height. The antenna shall not extend more than twenty (20) feet above the roof of the existing building or top of the existing structure.
  - Separate Equipment Shelter. If the applicant proposes to locate the telecommunications equipment in a separate equipment shelter, not located in or attached to the building, the equipment shelter shall comply with the accessory building regulations of the district and not be located above ground within any required front yard. The maximum cumulative total size of all equipment buildings accessory to a wireless telecommunication tower or antenna on a parcel shall be six hundred (600) square feet and its maximum height shall be fifteen (15) feet from existing grade.

### **6.3 CONDITONAL USE**

The following wireless telecommunication facilities are permitted as a conditional use upon a lot, subject to the following requirements:

- Freestanding Tower

A freestanding wireless telecommunications tower may be an accessory use to an institutional use within a district zoned for residential use provided the Board of Zoning Appeals finds the following standards have been met:

- Minimum Setback From Property Lines and Structures

The minimum setbacks and yard requirements shall be determined to be 1:1 ratio in height from the nearest lot line and any structure.

- Minimum Lot Size For Principal Use

The minimum lot size for principal use for which the tower is accessory shall comply with the parcel requirements of the district.

- Maximum Height

The maximum height shall be less than two hundred (200) feet from the existing grade to the highest point of the wireless telecommunication facility.

- Equipment Shelter

The minimum setbacks, height limits, bulk requirements, and screening standards shall be established by the Board of Zoning Appeals during the conditional use process. Such shelter shall not be located above ground in any required front or side yard. The maximum cumulative total size of all equipment buildings accessory to a wireless telecommunication tower or antenna on a parcel shall be six hundred (600) square feet and its maximum height shall be fifteen (15) feet from existing grade.

- For purposes of this section, the institutional category will include land uses such as colleges, universities, schools kindergarten through twelfth (K-12) grades, seminaries, churches, places of worship, public or governmental libraries, hospitals and medical centers, museums, governmental services, military installations, governmental institutions, cemeteries, utilities and/or uses of similar character.

- Antenna

The Board of Zoning Appeals may approve the location of an antenna extending more than twenty (20) feet above the roof of an existing building or structure.

- Attachment to Existing Building

An antenna for a wireless telecommunication facility may be attached to an existing residential building two (2) or more stories or 35' in height or to an existing nonresidential structure subject to the following conditions:

- Roof Setback.

The pole structure supporting such antenna shall be set back one (1) foot distance from the edge of such roof for each one (1) foot of height above such roof. This requirement shall not apply to antennas two (2) inches or less in thickness without a supporting pole structure.

- Separate Equipment Shelter. If the applicant proposes to locate the telecommunications equipment in a separate equipment shelter, not located in or attached to the building, the equipment shelter shall comply with the accessory building regulations of the district. Such shelter shall not be located above ground in any required front or side yard. The maximum cumulative total size for all equipment buildings accessory to a wireless telecommunication tower or antenna on a parcel shall be six hundred (600) square feet and its maximum height shall be fifteen (15) feet from existing grade.

## **SECTION VII**

### **ABANDONMENT OF TOWER**

## **7.1 FEES**

The owner/operator of the wireless telecommunication facility shall, on or before January 1 of every year from the date of issuance of the zoning certificate, file a declaration with the Zoning Inspector with the appropriate fee(s) as to the continuing operation of its facility.

## **7.2 ABANDONMENT AGREEMENT**

The owner/operator of the wireless telecommunication facility along with the property owner of the land the facility is located on shall be required to provide a notarized Abandonment Agreement. This document shall state that both parties are in agreement as to the procedures set forth in Section VII when and if the use of the telecommunication facility ceases. In addition, this document shall contain an agreement that any abandoned telecommunication facility will be returned to its original condition (or better) and that a third party, hired by the Township, will inspect the site to ensure compliance.

## **7.3 REQUIRED NOTIFICATION**

All providers utilizing towers shall present a report to Miami Township notifying it of any tower facility located in Miami Township whose use will be discontinued and the date this use will cease. Such report shall be filed with Miami Township thirty (30) days prior to the cessation date. If at any time all the uses of the facility are 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(s)/operator(s) of the

facility will receive written notice from the zoning inspector and be instructed to either reactivate the uses of the facility within one hundred and eighty (180) days, or dismantle and remove the facility.

#### **7.4 REQUIRED NOTICE TO OWNER**

Miami Township must provide the tower owner thirty (30) day notice and an opportunity to be heard before the Board of Zoning Appeals before initiating action to remove the facility. After such notice has been provided, Miami 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.

#### **7.5 RIGHT TO PUBLIC HEARING BY OWNER**

Miami 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 7.4. All interested parties shall be allowed an opportunity to be heard at the public hearing.

#### **7.6 ORDER OF ABATEMENT OR DEMOLITION**

After a public hearing is held pursuant to Section 7.5, Miami Township may order the abatement or demolition of the tower. Miami Township may require licensee to pay for all expenses necessary to acquire or demolish the tower.

#### **7.7 DEMOLITION BOND**

Upon approval of a Zoning Permit, the applicant is required to provide, the Board of Trustees of Miami Township, a separate Demolition Performance Bond in the amount approved by the Board of Trustees. The bond must be in the form of a bank or certified check or an insurance bond, made payable to Miami Township, the premium of which has been paid in advance for five years and which is renewed in the same manner.

## **SECTION VIII**

### **MONITORING AND EVALUATION OF COMPLIANCE**

The monitoring protocols of monitoring the emissions from existing and new Personal Wireless Facilities shall be based on generally recognized industry standards, using broadband EFR detectors. Any required testing shall take place at the closest publicly accessible point of the equipment shelter.

#### **8.1 POST TESTING.**

After transmission begins, the owner(s) of any Personal Wireless Service Facility(s) located on any Facility site shall pay for an Independent Consultant, hired by the Township, to conduct testing and Monitoring, as follows:

- Within 60 days of activation of a New or Modified Facility or additional permitted channels. A report of the monitoring results shall be submitted to the Miami Township Zoning Commission, the Greene Co. Combined Health District, and the Greene Co. Building Inspector.
- At least once every twelve months, starting from the date of activation. A report of the monitoring results shall be submitted to the Miami Township Zoning Commission, the Greene Co. Combined Health District, and the Greene Co. Building Inspector.

## **8.2 EXCESSIVE EMISSIONS.**

Should the monitoring of a Facility Site reveal that the site exceeds the most current FCC regulations regarding emissions of electromagnetic radiation, currently found in FCC Regulations, Title 47, Part 1, Section 1.1307 and all other relevant sections, the owner(s) of all Facilities utilizing that Site shall be so notified. The owner(s) shall submit to the Miami Township Zoning Commission and the Greene Co. Building Inspector, a plan for the reduction of emissions to a level that complies with the FCC standard within 10 business days of notification of non-compliance. That plan shall reduce emissions to the standard within 15 days of initial notification of non-compliance. Failure to accomplish this reduction of emission within 15 business days of initial notification of non-compliance shall be a violation of the Zoning Permit and subject to a penalty and fines as specified in Section 16.6 of the Miami Township Zoning Regulations. Such fines shall be payable by the owners(s) of the Facilities with Antennas on the Facility Site, until compliance is achieved.

## **8.3 STRUCTURAL INSPECTION.**

Tower owner(s) shall pay for an Independent Consultant, (a licensed professional structural engineer), hired by the Township, to conduct inspections of the Tower's structural integrity and safety. Guyed towers shall be inspected every three years. Monopoles and non-guyed lattice towers shall be inspected every five years. A report of the inspection results shall be prepared by the Independent Consultant and submitted to the Miami Township Zoning Commission, and the Greene Co. Building Inspector.

# **SECTION IX**

## **APPLICATION AND REVIEW REQUIREMENTS**

### **9.1 REVIEW BY INDEPENDENT CONSULTANTS.**

In all cases in which the Township feels that a peer review of the applicant's application is warranted, the applicant shall be required to pay for the cost of the peer review. This payment shall be made to the Township prior to the review commencing and the decision being rendered on the application. Copies of the consultant's findings and reports shall be made available to the applicant not less than seven (7) days prior to any meeting of the Miami Township Board of Trustees to consider the consultant's report, and the applicant shall be given the opportunity to respond to said report in writing and at the next meeting of the Miami Township Board of Trustees when the consultant's report will be considered. The consultants shall each be qualified professionals in one of the following fields:

- a) telecommunications engineering.
- b) structural engineering.
- c) monitoring of electromagnetic fields.
- d) others and determined necessary by the Miami Township Board of Trustees.

Applicants requesting approval to add Repeaters to operate with a tower or Personal Wire Service Facility that has already received a Zoning Permit are not required to pay for an independent review.

### **9.2 IDENTIFICATION OF CARRIER.**



The proposed carrier should be identified as the applicant.

### **9.3 ADEQUATE COVERAGE, ADEQUATE CAPACITY, AND JUSTIFICATION OF NEED**

A) The applicant shall provide written documentation of all Facility Sites in Miami Township and Facility Sites outside of Miami Township that are within five (5) miles of the proposed site, in which it has a legal interest, whether by ownership, leasehold or otherwise. From each such Facility Site, it shall demonstrate with written documentation that these Facility Sites are not already providing, or do not have the potential by adjusting the Site, to provide Adequate Coverage and/or Adequate Capacity to Miami Township. The documentation shall include, for each Facility Site examined, the exact location in latitude and longitude, to degrees, minutes and seconds, ground elevation, height of tower or structure, type of antennas proposed, proposed output frequency, proposed number of channels, proposed power input and proposed maximum power output per channel. Radial Plots from each of these Facility Sites, as proposed, shall be provided as part of the Application.

B) The applicant shall demonstrate with written documentation that it has examined all Facility Sites located in Miami Township and all Facility Sites outside of Miami Township that are within five (5) miles of the proposed site, in which the applicant has no legal or equitable interest, whether by ownership, leasehold or otherwise, to determine whether those existing Facility Sites can be used to provide Adequate Coverage and/or Adequate Capacity for Miami Township. The documentation shall include, for each Facility Site examined, the exact location in latitude and longitude, to degrees, minutes and seconds, ground elevation, height of Tower or structure, type of antennas proposed, proposed output frequency, proposed

number of channels, proposed power input and proposed maximum power output per channel. Radial Plots from each of these Facility Sites, as proposed, shall be provided as part of the Application.

C) Distance from Existing Tower: The applicant must certify that existing towers within 1000' of the proposed new tower do not meet the applicant's structural specifications or technical requirements or that a co-location agreement could not be obtained at reasonable terms and conditions, including price.

D) The applicant shall demonstrate with written documentation that it has analyzed the feasibility of Repeaters in conjunction with all Facility Sites listed in compliance with subsections A & B (above) to provide Adequate Coverage and/or Adequate Capacity for Miami Township. Radial Plots of all Repeaters considered for use in conjunction with these Facility Sites shall also be provided as part of the application.

#### **9.4 REQUIRED DOCUMENTATION**

- Copies of all submittals and showings pertaining to: FCC licensing; Environmental Impact Statements; FAA Notice of Construction or Alteration; Aeronautical Studies and, all data, assumptions and calculations relating to service coverage and power levels, regardless of whether categorical exemption from Routine Environmental Evaluation under FCC rules are claimed.
- Copies of all information submitted in compliance with requirements of the Ohio Department of Public Utilities.
- The exact legal name, address or principal place of business and phone number of the Applicant.

- The name, title, address and phone number of the person to whom correspondence or communications in regard to the application are to be sent. Notice, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon the applicant.

## **9.5 FOR NEW PERSONAL WIRELESS TELECOMMUNICATION FACILITIES AND TOWER CONSTRUCTION**

- The applicant shall provide a written, irrevocable commitment valid for the duration of the existing tower, to rent or lease available space for co-location on the tower at fair-market prices and terms, without discrimination to other Personal Wireless Service Providers.
- If the applicant is not simultaneously applying for approval to construct, install and/or operate a Personal Wireless Service Facility, it shall provide a copy of its existing lease/contract with a Personal Wireless Service Provider. A Zoning Permit shall not be granted for a tower to be built on speculation.
- The applicant shall provide the following plans and maps:
  - Location Map; Copy of a portion of the most recent U.S.G.S. Quadrangle Map, 7.5 Minute Series, at a scale of 1:24,000, and showing the area within at least two miles for the proposed tower site. Indicate the tower location and the exact latitude and longitude (degrees, Minutes and seconds).
  - Vicinity Map at a scale of 1"=200' with contour intervals no greater than 10 feet showing the entire vicinity within a 1,000' radius of the property lines within which the Tower site is located, including topography, public and

private roads, buildings, bodies of water, wetlands, historic sites, and habitats for endangered species. Indicate the property line of the proposed Tower Site Parcel (from assessors maps or available surveys). Include the names of all abutters within 1,000' of the Tower Site Parcel. Indicate any access easement(s) or right(s) of way needed for access from a public way to the Tower, and the names of all abutters or property owners along the access easement(s) or who have deeded rights to the easement.

- Existing Conditions Plan: A recent survey of the Tower Site at a scale no smaller than 1"=40' with topography drawn with a minimum of 5' contour intervals, showing existing utilities, property lines, existing buildings or structures, stone walls or fence lines, and wooded areas within a 200' radius from the base of the proposed Tower. Show the boundary of any wetlands, floodplains, or watercourses within 200' from the Tower or and related facilities or access ways or appurtenances. The survey plan must have been completed, on the ground, by a licensed land surveyor within two years prior to the application date.
- Proposed Site Plans: Proposed Facility Site layout, grading and utilities at the same scale or larger than the existing Conditions Plan.
  - A) Proposed tower location and any appurtenances, including supports and guy wires, if any, and any accessory building (Communication Equipment Shelter or other). Indicate property boundaries and setback distances to the base(s) of the tower and to the nearest corners of each of the appurtenant structures.
  - B) Indicate proposed spot elevations at the base of the proposed tower and at the base of any guy wires, and the corners of all appurtenant structures.
  - C) Proposed utilities, including distance from source of power, sizes of services available and required, locations of any proposed utility or

communication lines, and whether underground or above ground.

D) Plans of proposed access driveway or roadway and parking area at the tower site. Include grading, drainage, traveled width. Include a cross section of the access drive indicating the width, depth of gravel.

- Proposed Tower and Appurtenances.

A) Plans, elevations, sections details at appropriate scales but no smaller than 1"=10'.

B) Two cross sections drawn a right angles to each other, and showing the ground profile to at least 100 feet beyond the limit of clearing, and showing any guy wires or supports. Dimension the proposed height of tower above average grade at the tower base. Show all proposed antennas, including their location on the Tower.

C) Typical detail of tower foundation, including cross sections and details. Show all ground attachments, specifications for anchor bolts and other anchoring hardware.

D) Indicate the relative height of the tower to the tops of surrounding trees as they presently exist.

E) Illustration of the modular structure of the proposed tower, indicating the heights of sections which could be removed or added in the future to adapt to changing communication conditions or demands, and the maximum structurally allowable design height of the proposed tower.

F) A Structural Professional Engineer's written description of the proposed tower and structure and its capacity to support additional antennas or other communications facilities at different heights and the ability of the tower to be shortened if future communications facilities no longer require the original height, and that the tower is designed to withstand winds in accordance with the ANSI/EIA/TIA 222 standards (latest revision).

G) A description of available space on the tower, providing illustrations and

examples of the type and number of Personal Wireless Service Facilities which could be mounted on the structure.

- Sight Lines.

A) A minimum of eight (8) view lines in a zero (0) to two (2) mile radius from the site, shown beginning at True North and continuing clockwise at forty-five degree intervals.

B) A plan map of a circle of two (2) miles radius of the Facility Site on which any visibility of the proposed Tower from a public way shall be indicated.

C) Applicant shall utilize the U.S.G.S. Quadrangle Map, 7.5 Minute Series, at a scale of 1:24,000, and submit profile drawings on a horizontal scale of 1"=400', with a vertical scale of 1"=40'. Trees shall be shown at existing heights.

D) The applicant shall submit scaled overlays on photographs of the existing site to demonstrate any potential visual or aesthetic impacts on any adjacent residential districts.

Proposed Communications Equipment Shelter.

A) Floor Plans, elevations and cross sections at a scale of no smaller than 1/4"=1' of any proposed appurtenant structure.

B) Number of Antennas and Repeaters, as well as the exact locations, of Antenna(s) and of all Repeaters (if any) located on a map as well as by degrees, minutes and seconds of Latitude and Longitude.

C) Mounting locations on tower(s) or structure(s), including height above ground.

D) Antenna type(s) manufacture(s) model number(s).

E) For each antenna, the antenna gain and antenna radiation pattern.

F) Number of channels per antenna, projected and maximum.

G) Power input to the antenna(s).

H) Power output, in normal use and at maximum output for each antenna and all antennas as an aggregate.

I) Output frequency of the transmitter(s).

## **9.6 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.

## **9.7 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.

## **9.8 DENIAL BY JURIS**

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.

## **10.9 FEES**

The fees for application for zoning certificates as required by this Article shall be as specified by the Miami Township Board of Trustees.

## **SECTION X**

### **VARIANCES**

Any request to deviate from any of the requirements of this Resolution shall require approval of a variance in conformance with the procedures set forth in the Miami Township Zoning Resolution.

## **SECTION XI**

### **SEPARABILITY**

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

## **SECTION XII**

### **PUBLIC UTILITY EXEMPTION**

- In the event a wireless telecommunications facility is to be owned or principally used by a public utility engaged in the provision of wireless telecommunication services, the regulations of the Section do not apply when the proposed location of the wireless telecommunication facility is in



an area of the Township which is not zoned for residential use(s). The applicant of the proposed wireless telecommunication facility must file a written application with the Miami Township Zoning Inspector supported in writing by substantial evidence that the wireless telecommunication facility will be owned or principally used by a public utility engaged in the provision of wireless telecommunication services. The applicant must also demonstrate by substantial evidence that it possesses a sufficient degree of the following attributes associated with being a public utility to be considered a “public utility” for purposes of this exemption:

- Whether the applicant devotes an essential good or service to the general public which has a legal right to demand or receive this good or service;
- Whether the applicant provides its good or service to the public indiscriminately and reasonably;
- Whether the applicant has an obligation to provide the good or service which cannot be arbitrarily or unreasonably withdrawn;
- Whether the applicant conducts its operations in such a manner as to be a matter of public concern;
- Whether the good or service is vital;
- Whether there is a lack of competition in the local marketplace for the good or service;
- Whether there is regulation by a government authority and the extent of that regulation; and
- Whether the applicant possesses the power of eminent domain.
- This section does not apply in respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of any public utility, whether publicly or privately owned, or the use of land by any public utility, for the operation of its business. However, subject to Ohio Revised Code (R.C.) 519.211(B), the provisions of this Supplement shall apply with respect

to the location, erection, construction, reconstruction, change, alteration, or enlargement of a wireless telecommunication facility.

- If the Miami Township Zoning Inspector determines to deny the applicant such “public utility” status, he/she shall do so in writing, and state the reasons therefor. Any determination by the Miami Township Zoning Inspector that the applicant is not a public utility engaged in the provision of wireless telecommunications services may be appealed to the Miami Township Board of Zoning Appeals within twenty (20) days pursuant to the procedures set forth in Section 18.47 of this Zoning Resolution. The decision of the Miami Township Board of Zoning Appeals shall be the final determination on the request, unless overturned by the Court of Common Pleas.
- In the event a wireless telecommunication facility is proposed to be located in the Township, in an area zoned for residential use, and is to be owned or principally used by a public utility engaged in the provision of wireless telecommunication services, the public utility shall be exempt from the requirements of this Zoning Resolution and a certificate of exemption will be issued if it meets all of the criteria in A,B, and C below, as follows:
  - All of the requirements of Section XII 1 through 3 are met;
  - The public utility provided each of the following by certified mail:
    - Written notice to each owner of property, as shown on the County Auditor’s current tax list, whose land is contiguous to or directly across a street or roadway from the property on which the wireless telecommunication facility is proposed to be constructed and to any owner and resident whose residential dwelling is within one hundred feet of a proposed wireless telecommunication facility, stating all of the following in clear and concise language:
      - (a) The public utility’s intent to construct the wireless telecommunication facility; and

(b) A description of the property sufficient to identify the proposed location; and

(c) That no later than fifteen (15) days after the date of mailing of the notice, any such property owner/occupant may give written notice the Miami Township Board of Trustees requesting that the provisions of this Zoning Resolution apply to the proposed location of the 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; and

- Written notice to the Miami Township Board of Trustees of the information specified in Section XII.4.B.1; and
- If the Miami Township Board of Trustees receives notice from a property owner under Section XII.4.B.1.(c) within the time specified in that Section, or if a Trustee makes an objection to the proposed location of the wireless telecommunication facility within fifteen (15) days after the date of mailing of the notice sent under Section XII.4.B.2., the Board of Trustees shall request the Clerk of the Township send the person proposing to construct the wireless telecommunication facility written notice that the wireless telecommunication facility is subject to the regulations of this Zoning Resolution. The notice shall be sent no later than five (5) days after the earlier of the date the Board of Trustees first receives such a notice from a property owner or the date upon which a Trustee makes an objection. Upon the date of mailing of the notice to the person, the provisions of this Zoning Resolution shall apply to the wireless telecommunications facility without exception. If the Miami Township Board of Trustees, however receives no notice under Section XII.4.B.1 within the time prescribed by that Section or no Trustee has an objection as provided under the Section XII.4.C within the time prescribed by this Section, the applicant will be exempt from the regulations of this Zoning Resolution.