

**ARTICLE 7  
SUPPLEMENTAL REGULATIONS**

**7.01 JUNK YARDS, JUNK BUILDINGS, JUNK SHOPS, SALVAGE YARDS**

No junk yard, junk building, junk shop or junk salvage yard shall be operated within Batavia Township.

**7.02 JUNK**

The accumulation or storage of junk, junk vehicles, disabled or inoperative machinery or equipment, vehicles or machinery parts, rags or any other discarded objects or debris defined as junk in the Ohio Revised Code, or other items which, due to their condition, can no longer serve their intended purpose, shall be prohibited in order to protect residents from conditions conducive to the infestation and breeding of vermin, insects, and rodents which leads to disease.

**7.03 QUARRIES, MINING AND GRAVEL PITS**

Quarries, mines and gravel pits shall be permitted only in the I Industrial and M-I Major Industrial Districts, only when a Conditional Use is approved by the Board of Zoning Appeals. In addition to the other requirements imposed by this Resolution, the following requirements shall be met.

A. Submission of Additional Information

Six (6) copies of the additional information required shall be submitted with the Conditional Use application and shall include:

1. Name of the owner or owners of land from which the operation is being carried on.
2. Name of the applicant making request for such a permit.
3. Name of the person or corporation conducting the actual operation.
4. Location, description and size of the area from which the removal is to be made.
5. Location of the processing plant to be used and any accessory or kindred operations that may be utilized in connection with the operation of the processing plant by the mining processor or any other firm, person or corporation. The processing plant shall be located as to minimize the problems of dust, dirt and noise, insofar as reasonably possible.
6. Type of resources or materials to be removed.

7. Proposed method of removal and whether or not blasting or other use of explosives will be required.
8. General description of the equipment to be used.
9. Method of rehabilitation and reclamation of the mined-out area, including a grading plan showing existing contours in the area to be excavated and the proposed future contours showing the topography of the area after completion. Such plan shall include the surrounding area within five hundred (500) feet of the property boundary line, drawn to an appropriate scale with contour lines at intervals of five (5) feet or less.

B. Development Standards

1. No part of a quarrying, mining operation or gravel pit shall be closer than 500 feet to any property line, road, street, residence district, residence, educational institution, religious place of worship or institution for human care.
2. For the protection of public safety, the individual, firm or corporation in charge of the operation shall erect and maintain a metal fence at least 8 feet in height around the entire area and said fence shall be suitably posted advising the public of the operation contained therein and stating that no trespassing is permitted. Such fence shall be buffered from public view as per the requirements of Article 9, Buffering and Landscaping.
3. Roads leading into the quarry, mine or pit shall be kept free of dust and mud and in adequate condition for the traffic carried. Roads exiting the quarry, mine or pit shall be paved with a durable and dustless surface, adequate for the traffic carried, at least one hundred (100) feet from the public right-of-way to prevent mud and gravel from entering onto the roadway.
4. Any excavated area adjacent to a right-of-way of any public street or road shall be backfilled for a distance of one hundred fifty (150) feet from the right-of-way line.
5. All equipment and machinery shall be operated and maintained in such manner as to minimize dust, noise and vibration.
6. The Board is authorized to impose such requirements with respect to providing additional adequate barriers as it may feel necessary to protect the public safety, welfare and property values.

### C. Rehabilitation Requirements

All mined-out areas shall, within a reasonable length of time, be reclaimed and rehabilitated and the Board, at its discretion, may fix a bond in a reasonable amount to assure that such rehabilitation and reclamation will be carried out. The Board shall be guided by the following standards with respect to rehabilitation and reclamation of mined-out areas:

1. All excavation shall be made either to a water producing depth, such depth to be not less than five (5) feet below the water mark, or shall be graded or backfilled with non-noxious, noncombustible and nonflammable solids, to secure:
  - a. That the excavated area shall not collect and permit to remain therein, stagnant water; or
  - b. That the surface of such area which is not permanently submerged is graded or back-filled as necessary so as to reduce the peaks and depressions thereof so as to produce a gently rolling surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.
2. The banks of all sand and gravel excavations in a water producing excavation, shall be sloped to the water line, at a slope which will not be less than three (3) feet horizontal to one (1) foot vertical and said banks shall be restored with vegetation in a manner set forth in Subsection 3.
3. Vegetation shall be restored by the spreading of sufficient soil and by appropriate seeding of grasses or planting of shrubs and trees in all parts of said mining area where the same is not submerged under water.
4. Proper drainage shall be provided for the mined-out area.
5. All equipment and structures shall be removed from the mined-out area within six (6) months of the completion of the mining therefrom.
6. The Board may impose such other reasonable conditions and restrictions as it may deem necessary for the protection of the public and to encourage the mining and processing of the sand and gravel from the authorized area.
7. Due to the inherent difficulties in reclaiming and rehabilitating areas from which stone has been quarried, or mined, the Board is hereby empowered, in the issuance of a Conditional Use permit for quarrying operations, to impose such reasonable standards for reclamation as may be necessary to protect the public interest, without unduly restricting the operations of the mine owner.

## 7.04 AUTOMOTIVE FILLING STATIONS, PARKING LOTS AND GARAGES

The following regulations and standards shall apply to Automotive Filling Stations, Parking Lots and Garages:

- A. Entrances and exits to automotive filling stations, automotive service and repair garages, public parking garages and parking lots shall be located not closer than 200 feet from any school, residence, public playground, church, hospital, public library or institution for children.
- B. On corner lots, entrances and exits shall be not closer to the corner than fifty (50) feet. Curb openings shall not exceed forty (40) feet along the curb line.
- C. No repairing of motor vehicles shall be done within fifty (50) feet of any residence.
- D. Petroleum or its derivatives may not be stored above ground in excess of 150 gallons and no appliance for dispensing gasoline or for oiling or for greasing an automobile shall be located within twenty (20) feet of any street line; provided, however, that whenever in the course of construction of any public works project or in connection with the repair, extension, widening, or other improvement to any public thoroughfare, the effect of which will be to bring the street or alley line of the Township within twenty (20) feet of any existing appliances for dispensing gasoline or for the oiling or for the greasing of automobiles, the Zoning Administrator shall have the right upon the finding of fact by him that the proximity of said appliances for dispensing gasoline or for the oiling or for the greasing of automobiles does not constitute any menace to the public health, safety and welfare, to issue upon application therefore a modified Zoning Certificate for said appliances so used in dispensing gasoline or for the oiling or for the greasing of automobiles.
- E. Canopies may be erected over service station pump islands provided that no canopy shall be closer than five (5) feet to the right-of-way and provided that the vertical supports for the canopy shall not be closer than twelve (12) feet to the right-of-way. The top of such canopy shall not exceed eighteen (18) feet above the ground level and shall be at least fourteen (14) feet above the ground level. On corner lots, no canopy shall be closer than fifteen (15) feet to the right-of-way of the intersection. All setbacks are taken from the rights-of-way as shown on the Official Thoroughfare Plan for Clermont County, Ohio.

**7.05 SANITARY LANDFILLS, GARBAGE, WASTE DUMPS AND DISPOSAL SITES AND INCINERATORS**

- A. No use of facilities or real estate as a sanitary landfill, garbage or waste dump, disposal site, or incinerator shall be allowed unless conditionally permitted by the Board of Zoning Appeals.
- B. Before such permission is granted, proof must be shown that all state, federal and county regulations and rules have been complied with and that approval has been given by the appropriate Boards of Health.
- C. It shall be shown to the satisfaction of the Board of Zoning Appeals that no pollution of the air, ground, or water shall result from said use. The Board of Zoning Appeals shall require the applicant to obtain a permit from the Ohio EPA for the proposed use.
- D. No such use shall be permitted on a tract of land less than 250 acres in size.
- E. The area of operation, within the tract of land, shall be completely surrounded by a chain link fence, 8 feet high and suitably posted as to warn the public of the operation contained therein. Such fence shall be buffered from public view as per the requirements of Section 7.07 Bufferyard and Landscaping.
- F. All streets and roadways leading into such use shall be free of dust and mud and adequate to accommodate the traffic which they carry. Roads exiting the facility shall be paved with a durable and dustless surface, adequate for the traffic carried, at least one hundred (100) feet from the public right-of-way to prevent mud and gravel from entering onto the roadway.
- G. No such use shall be within 1,000 feet of any residence, educational institution, sanitarium, hospital, rest home, convalescent care facility, assisted care living facility, religious place of worship, public or private park, or dwelling.
- H. No such operation shall be conducted within one-half mile of any water treatment facility.
- I. A green belt of 100 feet shall be maintained around the perimeter of the site.

**7.06 TEMPORARY USES REQUIRING CONDITIONAL USE APPROVAL**

Conditional Use approval by the Board of Zoning Appeals shall be required for specific temporary uses as follows:

- A. Promotional or temporary ventures such as, but not limited to, coffee and beverage stands, food vending carts, and seasonal flower sales. If temporary seasonal sales are considered by the Zoning Administrator to be in conjunction

with or an extension of an established commercial use on the property, conditional approval from the Board of Zoning Appeals will not be required.

B. Temporary living quarters.

1. The Zoning Administrator may issue a Zoning Certificate for temporary living quarters for a period of up to 60 days in response to major calamity conditions. Such issuance shall be limited to zoning districts where dwellings are permitted.
2. The Zoning Administrator may establish conditions for the temporary living quarters as part of the Zoning Certificate.
3. A Conditional Use approval by the Board of Zoning shall be required for temporary living quarters for more than 60 days.

C. Amusement parks/carnivals, subject to the following conditions:

1. Temporary amusement parks, including but not limited to fairs, carnivals and circuses, shall be permitted in all districts but only after conditional approval by the Board of Zoning Appeals, with such approval being guided by the requirements of this Section and by the general purposes of this Resolution.
2. Temporary amusement parks shall be allowed only when it is demonstrated that no danger would result to the public from their erection and usage. If applicable, certification of the safety of the equipment must be made in writing to said Board of Zoning Appeals.
3. Hours of operation shall be determined by the Board of Zoning Appeals.
4. No usage shall be allowed to continue for a period in excess of ten (10) days.
5. Activities by a non-profit organization, such as a festival by a religious place of worship, are exempt from this permit process and do not require a Conditional Use approval.

## **7.07 BUFFERYARD AND LANDSCAPING**

A. Purpose

The purpose of this Article is to provide minimum standards involving the development of land to provide attractive views from roads and adjacent properties; to screen from view visually undesirable uses; to require screening between incompatible land uses and to protect the health, safety and welfare of

the community through the reduction of noise, air and visual pollution, and headlight glare.

B. Applicability

This Section shall apply to new property development and any collective substantial expansion of existing structures, except for individual single-family dwellings and two-family dwellings (duplexes). Substantial expansion of existing structures shall be defined based on the criteria established below:

When Existing Structure is....	A Substantial Expansion is...
0 - 1,000 Square feet	50% or Greater
1,001 - 10,000 Square feet	40% or Greater
10,001 - 25,000 Square feet	30% or Greater
25,001 - 50,000 Square feet	20% or Greater
50,001 Square feet and larger	10% or Greater

C. General Requirement for Submission

Any property to which this Section applies shall submit a bufferyard plan to the Zoning Administrator as part of the Zoning Certificate process required in Section 5.08. Bufferyard plans shall be prepared by a nursery and/or certified by a design professional practicing within their areas of competence unless it is determined by the Zoning Administrator that the limited scale of the project does not warrant the intricacy of professional design submittals. The site plan shall contain the following information:

1. Plans must be at a reasonable scale to indicate all types of proposed landscaping improvements at a minimum of 1" = 20' and shall include the following minimum information:
  - a. North arrow and scale.
  - b. The name of applicant/owner.
  - c. The name, address and phone number of the person or firm responsible for the preparation of the buffering plans.
  - d. The dates the plans are submitted or revised.
  - e. All existing and proposed buildings and other structures, paved areas, planted areas, utility poles, fire hydrants, light standards, signs, fences and other permanent features to be added and/or retained on the site.

- f. All existing plant material to be removed or retained and all new landscaping materials to be installed.
  - g. All existing and proposed streets, sidewalks, curbs and gutters, railroad tracks, drainage ditches and other public or semi-public improvements within and immediately adjacent to the site.
  - h. All property lines and easements.
  - i. Any other information which is deemed appropriate by the Zoning Administrator.
2. Details shall be shown for the planting of the types of trees, shrubs and ground cover within the bufferyard or landscaped area.

D. Approval

1. No site or development plan required under this Zoning Resolution shall receive final approval unless a landscaping plan has been submitted and approved.
2. No final approval of the Zoning Certificate shall be granted unless the following criteria are fully satisfied with regard to the approved landscape plan:
  - a. Such plan has been fully implemented on the site; or
  - b. Such plan, because of seasonal conditions, cannot be implemented immediately, but has been guaranteed by a postponed improvement agreement between the developer and the Township.

E. Bufferyard Standards

1. Maintenance of Landscaping and Bufferyards

All landscaping materials shall be installed and maintained according to accepted nursery industry procedures. The Owner of the property shall be responsible for the continued property maintenance of all landscaping materials, and shall keep them in a proper, neat and orderly appearance, free from refuse and debris at all times. All unhealthy or dead plant material shall be replaced within one year, or by the next planting period, whichever comes first. Violation of these installation and maintenance provisions shall be grounds for the Zoning Department to: find the owner of the property in violation of the conditions of the Zoning Certificate; require replacement of the landscape material; or institute legal proceedings to enforce the provisions of this Section.

2. Bufferyard Establishment

Once a bufferyard has been approved by the Zoning Administrator and established by the owner, it may not be used, disturbed or altered in any way that would decrease its effectiveness for any purpose.

F. Bufferyard Requirements

WHEN...	IS PROPOSED TO ABUT...	A MINIMUM BUFFERYARD OF...
Any commercial land use	Any A, E-R, R-1, R-3, O-B zone or residential PD	10 feet in width containing a wall or fence four to eight feet in height, and/or landscape screen. The landscape screen shall contain evergreens such as spruce, pine or firs at least five feet in height at the time of planting, or a continuous hedge at least four feet high to provide a permanent visual buffer. The buffer shall be placed adjacent to the property line in order to maximize screening of the adjacent use while allowing any required maintenance of the buffer to be performed without encroaching on the adjacent property. Fences in the I and M-I Districts may be 10 feet in height.
Any office land use	Any A, E-R, R-1, or R-3 zone or residential PD	
Any industrial land use	Any A, E-R, R-1, R-3, PD, O-B, B-1, or B-2 zone	
Any multi-family land use	Any A, E-R, or R-1 zone or residential PD	
Any institutional land use (including assisted living facilities, educational institutions and religious places of worship)	Any A, E-R, R-1 or O-B zone or residential PD	

G. Screening and Buffering

In order to provide protective screening and buffers for residentially zoned areas adjacent to non-residential areas, the Zoning Administrator shall require a wall, fence or greenbelt to be provided by the non-residential property owner in accordance with the following:

1. Screening areas shall be provided for the purpose of minimizing the friction between incompatible land uses and improving the aesthetic and functional quality of new development.
2. Where vegetative and/or topographic conditions that provide a natural screening and buffer exist prior to development of properties in question, every effort shall be made to retain such conditions. In such cases, additional screening may not be required, provided that provision is made for maintenance of such areas.
3. The Zoning Administrator may waive the requirement for a wall, fence or greenbelt if equivalent screening is provided by existing or planned parks, parkways, recreation areas or by topography or other natural conditions.

H. Modification

The Board of Zoning Appeals shall have the authority to modify any of the aforementioned requirements in this Article in considering an individual site with respect to changes in elevation, environmental impact, durability of plant material, aesthetic appeal, and any other factor that will provide a compatible buffer or screen with the surrounding neighborhood at the time of application.

**7.08 SWIMMING POOLS**

A. Private Swimming Pools

No private swimming pool, exclusive of portable swimming pools including hard side and soft side pools with a diameter no greater than twelve (12) feet or with an area no greater than one hundred (100) square feet, shall be permitted in any commercial or residential district, except as an accessory use and unless it complies with the following conditions and requirements:

1. The pool is intended and is to be used solely for the enjoyment of the occupants, and their invited guests, of the principal building on the property on which it is located.
2. The pool may not be located closer than ten (10) feet to any rear property line and ten (10) feet from the side property line and shall be located behind the building setback line.
3. The swimming pool and all of the area used by the bathers shall be walled or fenced to prevent uncontrolled access by persons from the street or adjacent properties. Said fence or wall shall not be less than four (4) feet in height, must be solidly constructed of a substantial material permanently affixed to the ground or a solid foundation with openings not greater than six (6) inches, be a minimum of five (5) feet from the edge of the pool walls, and shall be maintained in good condition with a gate and lock except for aboveground pools with fencing which meets the provisions of subsection 4 below.
4. The fencing for an above ground pool under four (4) feet in depth may be located on the outer pool walls. The combined height of the pool wall and fence shall be a minimum of four (4) feet above ground at all points; the four (4) foot wall of the aboveground pool shall fulfill the requirement of a four (4) foot fence. All pool access points are to be provided with a lockable fence gate, or a removable or retractable ladder to prohibit access to the pool when not in use. If decking is attached to or used in conjunction with the pool facility, all points of access must be securely maintained as described above.

5. Installation of an automatic, mechanical swimming pool cover over an inground pool in lieu of the required fencing shall require approval of a Conditional Use by the Board of Zoning Appeals. In addition to the criteria in Section 5.07, the Board of Zoning Appeals shall consider whether the proposed swimming pool cover complies with ASTM F1346-91, or the latest regulation, regarding safety standards.

**B. Community or Club Swimming Pools**

Community or club swimming pools, where permitted, shall comply with the following conditions and requirements:

1. The pool is intended solely for the enjoyment of the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated.
2. The pool and accessory structures, thereto, including the areas used by the bathers, shall not be closer than fifty (50) feet to any property line.
3. The swimming pool and all of the area used by the bathers shall be walled or fenced to prevent uncontrolled access by persons from the street or adjacent properties. The fence or wall must be constructed of a substantial material with openings not greater than six (6) inches. Said fence or wall shall not be less than six (6) feet in height and maintained in good condition.

**7.09 ENVIRONMENTAL PERFORMANCE STANDARDS**

**A. Purpose**

It is the purpose of the Environmental Performance Standards to provide for the peaceful and quiet enjoyment of property and to set forth regulations so that no use shall be constructed or operated so as to create a nuisance or to create any noxious, objectionable or other undesirable effect on persons or property outside said uses' lot line. Materials used and products produced shall be adequately housed, shielded or screened so that the health, safety and welfare of persons occupying the property or adjacent properties are not jeopardized.

**B. Applicability and Compliance**

The Environmental Performance Standards are applicable to all land uses in all zoning districts in the Township, and both initial and continued compliance is required. Any condition or land use falling under the jurisdiction of the standards of this Resolution and not in conformance with these standards shall be brought in full compliance immediately upon discontinuance of the existing use of land,

structure or building. Any change in the principal use of land, structure or building shall constitute a discontinuance and be fully subject to these standards and provisions.

C. Noise

No activity on private property shall emit noise in excess of sound levels indicated in the table below that creates a nuisance to surrounding properties. Sound levels shall be determined by the use of a sound level meter designed to give measurements designated as dBA or dB(A). Measurements may be taken, at the discretion of the Zoning Administrator, at the property line or anywhere beyond the property line of the source property. The maximum noise levels will be established by the receiving property or zoning district regardless of the proximity of the source property to it. The source property need not be contiguous to the receiving property.

**MAXIMUM PERMITTED EXTERIOR SOUND LEVELS**

<i>SOURCE PROPERTY</i>		<i>RECEIVING PROPERTY</i>		
<i>NOISE SOURCE</i>	<i>TIME</i>	<i>RESIDENTIAL</i>	<i>COMMERCIAL</i>	<i>INDUSTRIAL</i>
Residential	Daytime <sup>1</sup> Nighttime <sup>2</sup>	65 dBA 55	65 dBA 55	65 dBA 55
Commercial	Daytime <sup>1</sup> Nighttime <sup>2</sup>	65 55	70 60	70 60
Industrial	Daytime <sup>1</sup> Nighttime <sup>2</sup>	65 55	70 65	75 75

<sup>1</sup> Daytime shall be considered as the hours between 7:00 a.m. and 10:00 p.m.  
<sup>2</sup> Nighttime shall be considered as the hours after 10:00 p.m.

D. Exemptions

1. The following noise levels shall be exempt from the noise provisions during the daytime only:
  - a. Firearms discharge.
  - b. Legal blasting.
  - c. Temporary construction activity and equipment.
  - d. Installation of utility equipment.
  - e. Lawn mowers, chain saws and garden equipment.
2. The following noise sources shall be exempt from the noise provisions at all times:

- a. Aircraft.
- b. Railroads.
- c. Emergency vehicles and equipment.
- d. Weather or other natural disaster warning devices.
- e. Bells, chimes or carillons operating continuously for not more than five minutes.
- f. The repair of essential utility services.
- g. Officially sanctioned parades or other events.
- h. Agricultural related activities.

E. Vibrations

Every use shall be so operated that ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on or outside the property line of the property on which the use is located.

F. Glare

Any operation producing intense light or heat, including high temperature processes such as combustion or welding shall not be visible beyond any lot line bounding the property wherein the use is conducted. All exterior lighting on private property shall be positioned as to extend glare away from adjacent properties or right-of-way. Furthermore, no activity on private property shall generate light that creates a nuisance to surrounding properties, as determined by the Zoning Administrator.

G. Odor

The emission of noxious odors beyond the lot line shall not violate the standards and regulations of any local, state or federal agency having jurisdiction in this matter.

H. Air and Water Pollutants

The emission of air and water pollutants shall not violate the standards and regulations of any local, state or federal agency having jurisdiction in this matter.

I. Hazardous Materials

The storage, utilization and manufacture of solid, liquid and gaseous chemicals and other materials shall be permitted subject to the standards and regulations of any local, state or federal agency having jurisdiction in this matter.

J. Electrical Disturbances

No activity will be permitted which emits electrical disturbances adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance and, shall comply with all applicable FCC regulations and standards.

K. Radioactivity

No activity shall emit dangerous radioactivity at any point or electrical disturbance adversely affecting the operation of any equipment at any point other than that of the creator of such disturbances.

#### **7.10 PORTABLE STORAGE UNITS AS A TEMPORARY USE**

A portable storage unit is permitted as a temporary, accessory use in any district and shall be regulated as follows:

- A. Portable storage units are only permitted as a temporary use for a period not to exceed 90 days within a 1-year period. A permit is required to place a portable storage unit on any premises for a period longer than 30 days, with the permit expiring after 60 days.
- B. Portable storage units must be located on a paved surface and a minimum of 10 feet from the right-of-way.
- C. Portable storage units may not exceed 1,200 cubic feet on the interior.
- D. If the portable storage unit is being used to store personal property as a result of a major calamity (e.g. fire, flood, or other event where there is significant property damage) for more than 30 days, a temporary zoning permit is required. The Zoning Administrator may extend the 60-day time period allowed by Section (A) above.
- E. In addition to the standards above, the following standards apply to portable storage units for nonresidential uses:
  - 1. Vertical stacking of portable storage units or the placement or stacking of other materials, or the stacking of merchandise on top of any portable storage unit is prohibited.

2. Shall not be located in a way that interferes with the property ingress or egress or creates a traffic hazard for neighboring property owners.
4. Shall be placed at the rear of the property in such a manner as to minimize/screen their visibility from any public street and adhere to side and rear yard setback requirements, except that a temporary portable storage container for construction or remodeling may be located in another reasonable location not otherwise prohibited herein.
5. Shall not be used for retail sales, office space or business operations, or to store waste.
6. Shall be kept in good condition, free from evidence of deterioration, weathering, discoloration, rust, damage, and graffiti, and shall be properly maintained at all times.

#### **7.11 YARD SALE, GARAGE SALE AND PORCH SALE**

The temporary sale of housewares, clothing or other personal property sold by persons or residents on the property from which the sale is conducted. Such sales are limited to a period of three (3) consecutive days and twice in any calendar year. A permit is required for all such sales. At the conclusion of the sale, all evidence of such sale must be immediately removed from site. The sale of motor vehicles on residentially zoned property shall be permitted but shall be limited to twice in one calendar year with each occurrence being limited to a three (3) week duration. There shall be no more than one car offered for sale at a time.

#### **7.12 WIRELESS TELECOMMUNICATION TOWERS**

The purpose of this section is to regulate the placement, construction, and modification of telecommunication facilities and their support structures in order to protect the public health, safety, welfare, and morals, while at the same time not unreasonably interfering with the competitiveness in the wireless telecommunications industry in the region.

This Section shall only apply to the review of wireless telecommunication facilities in residential zoning districts pursuant to Section 519.211 of the Ohio Revised Code.

##### **A. Procedure for Telecommunication Towers in Residential Districts**

1. Any person who plans to construct a telecommunications tower in a residential zoning district shall provide written notice in accordance to Section 519.211 of the Ohio Revised Code.

If the Batavia Township Board of Trustees receives notice from a property owner in accordance with ORC Section 519.211 or if a board member makes an objection to the proposed location of the telecommunications tower within 15 days after the date of mailing of the notice sent under ORC Section 519.211, the Batavia Township Board of Trustees shall request that the township fiscal officer send the person proposing to construct the facility written notice that the tower is subject to the power conferred by and in accordance with ORC. The notice shall be sent no later than five days after the earlier of the date the Batavia Township Board of Trustees first receives such a notice from a property owner or the date upon which a board member makes an objection. Upon the date of mailing of the notice to the person, Sections 519.02 to 519.25 of the ORC shall apply to the facility. Such tower or facility shall be subject to a Conditional Use review pursuant to Section 5.07.

2. If the Batavia Township Board of Trustees receives no notice under ORC Section 519.211 within the time prescribed by that division or no board member has an objection as provided under ORC Section 519.211 within the time prescribed by that subsection, the tower shall be permitted as-of-right pursuant to the applicable Sections of this zoning resolution.

B. Review Standards for Conditional Use Towers

The Board shall approve a telecommunications tower as a Conditional Use if the Board finds that the applicant has satisfied all of the following standards:

1. The proposed site meets the minimum site development standards for the applicable zoning district.
2. The maximum height of the tower shall be 200 feet.
3. The lot on which the tower is to be located shall be owned or leased by the telecommunications tower company, and the parcel shall be of sufficient size to allow the minimum setback from this parcel's lot line to the base of the telecommunication tower. The minimum setback shall be a 1:1.1 ratio (for every foot in tower height there shall be 1.1 feet of distance from the tower base to the nearest lot line and/or closest unrelated structure). The equipment shelter shall comply with minimum setback requirements for the established zoning district. New structures not related to the telecommunication facility cannot be added within the area of the tower's parcel. If the parcel on which the tower is located has road frontage, the tower must be located 300 feet from the right-of-way.
4. The application shall comply with the general standards for a Conditional Use as established in Section 5.07.

5. Proof shall be provided by the applicant in a form satisfactory to the Board that the proposal has been approved by all agencies and governmental entities with jurisdiction, including but not limited to the Ohio Department of Transportation, the Federal Aviation Administration (FAA), the Federal Communication Commission (FCC), or the successors to their respective functions.
6. In order to minimize tower proliferation, the applicant shall provide documentation regarding efforts to exhaust all possible avenues to share space on existing towers. This shall include, but not be limited to, a certified mail announcement to all other tower users in the vicinity stating siting needs and/or sharing capabilities. Applicants shall not be denied, nor shall they deny space on a tower, unless available space, structural capacity, radio frequency interference, geographic service area requirements, mechanical or electrical incompatibilities, comparative costs of co-location versus new construction and any FCC limitations on tower sharing preclude co-location.
7. The Board shall require a bond to cover tower removal and full site restoration after discontinued use.
8. The applicant shall demonstrate that the proposed tower is the least aesthetically intrusive facility for the neighborhood and function. Monopole installations are recommended.
9. No telecommunication facility shall be located within a "wetland" as defined by federal law.
10. A telecommunication facility shall not be located upon a property listed on a federal, state, or local historic register, or be mounted on a building or structure listed on a federal, state, or local historic register.
11. A balloon test, if requested by the Board, shall be conducted at the height of the application request. Photographs shall be taken up to one-half mile away from the site from a minimum of four opposing directions.
12. No advertising sign(s) shall be permitted anywhere on a telecommunication tower, equipment building, and appurtenances or on the site.
13. There shall be no outdoor storage of equipment or other items on the site except during the facility construction period or to supply emergency power to the facility only during a power outage.

14. The owner/operator of the telecommunication facility shall, by January 15th of every year from the date of issuance of the Zoning Certificate, file a declaration with the zoning inspector, including verification that the radio frequency (electromagnetic) emissions are in compliance with the current FCC regulations. The appropriate fee(s) will be included to permit the continuing operation of every facility, which is subject to these regulations.
15. The maximum cumulative total size of all equipment buildings accessory to a telecommunication tower or antenna on a parcel shall be 800 square feet. All telecommunication equipment shelters shall be configured to appear as one building on any one parcel.
16. The applicant shall demonstrate to the township that it is licensed by the FCC, and shall notify the township of any special conditions conveyed by the license.
17. One fence, in accordance with Section 7.07, and not less than six feet in height, shall fully enclose all parts of the facility, including but not limited to, the base of the tower, guy wires, base of guy wires, and building. Gates shall be locked at all times when the facility is unattended by an agent of the telecommunication provider.
18. A landscaped buffer area, in accordance with Section 7.07 of not less than 15 feet in depth shall be placed between the fence surrounding the 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 15 feet landscaped buffer shall be of hardy evergreen shrubbery not less than six feet in height and of a density to obstruct the view. The landscaping shall be continuously maintained and promptly restored, if necessary.
19. Telecommunication towers shall not be artificially lighted unless required by the FAA or other applicable federal or state authority. When so required, it shall be oriented inward, so as not to project onto surrounding residential properties. In any case, overall site illumination shall be such that measurements along the perimeter of the site shall not exceed 0.20 footcandles.
20. The applicant (or its successors) shall, within 30 days of ceasing operation at the site of a telecommunication tower, give notice of such ceasing of operation to the Board. Facilities shall be removed from the site within 12 months of ceasing operations. Resale or renting of facilities is permissible only to other cellular communications systems subject to obtaining a Zoning Certificate.

C. Permitted Accessory Uses Associated with Telecommunication Towers

An antenna for a telecommunication facility may be attached to an existing residential building two and one-half (2 1/2) stories in height or to an existing non-residential structure, excluding residential accessory structures, subject to the following conditions:

1. The antenna shall not extend more than 10 feet above the roof of the existing building or top of the existing structure.
2. If the applicant proposes to locate the telecommunications equipment in a separate telecommunications equipment shelter, not located in or attached to the building, the equipment shelter shall comply with the accessory building regulations of the district.
3. Vehicular access to the equipment shelter shall be via the existing road circulation system and subject to Article 8 Off-Street Parking and Loading.

**7.13 FENCES, WALLS AND HEDGES**

Fences, walls, and hedges are permitted in all districts, subject to the following conditions:

A. Exemptions

1. If engaged in agricultural operations or activities, properties which are five acres or more in size shall be exempt from these provisions, however the provisions of 7.21 in regard to maintaining a safe sight triangle must be adhered to.
2. Small portions of fences, such as decorative fencing used for landscaping, that are not longer than 20 feet in length, but which comply with the height, yard and maintenance requirements set forth in this section, shall not require a zoning certificate.

B. Location

No fence, wall or hedge shall be closer than two (2) feet to any right-of-way line.

C. Height

Fences and walls shall not exceed eight (8) feet in height in the rear and side yards and shall not exceed four (4) feet in height in any required front yard, including corner lots. Within the Industrial and the Major Industrial Districts, fences may be up to ten (10) feet in height in the front, side and rear yards, however fences located in the front yard must be set back from the right of way no less than a

distance equal to the required front yard setback of such district unless the fence is designed to be no more than fifty percent (50 %) opaque.

D. Materials

1. Fences shall not contain an electric charge except when located in the A Agricultural District or on properties with an agricultural use.
2. Barbed wire shall only be permitted in the A Agricultural District, the I Industrial District, the MI Major Industrial Districts or on properties with an agricultural use or sharing an adjacent lot line with an agricultural use and then only on the top of a perimeter fence. Such fence shall be in accordance with the provisions of Section 971 of the Ohio Revised Code.
3. The smoothly finished side of the fence or wall shall be the side that faces outward from the lot or yard being fenced.
4. Fences shall be constructed of wood, masonry, stone, wire, metal or other manufactured materials or combination of materials and shall be maintained in a neat and orderly manner. Fence materials shall be of a neutral color palette. Examples of neutral colors include beige, taupe, gray, cream, brown, white, and black.

E. Opacity

No fence located in a required front yard shall be greater than fifty (50%) percent opaque. This restriction also applies to fences located within required front yard setbacks on corner lots.

F. Sight Distance Requirements

No fence, wall, or hedge shall violate the sight distance requirements found in Section 7.21.

G. Permits

The construction of fences, walls and similar permanent structures require the issuance of a zoning certificate.

1. The planting of hedges shall not require a zoning certificate but shall comply with the provisions of this section.
2. The applicant shall be responsible for assuring that the fence is legally erected on his/her property.

3. A building permit from Clermont County Permit Central is required for fences that exceed six (6) feet in height.

## 7.14 SATELLITE DISH

Satellite dishes, where permitted as an accessory use, are subject to the following conditions:

### A. Exemptions

Any satellite dish twenty-four (24) inches or less in diameter shall be exempt from these regulations.

### B. Location

1. Satellite dishes may be erected or installed on the ground of any property; provided that in the O-B, B-1, B-2, C-I, I and MI Districts, roof mounting shall also be permitted.
2. Satellite dishes shall be set back a minimum ten (10) feet from all side and rear property lines and shall not be located closer to the street than the nearest foundation line of the principal use structure on the lot, but in no case shall this distance be required to be greater than two (2) times the front yard setback line required for the district in which the property is located.

### C. Height and Size

1. The maximum height of any ground-mounted earth satellite station/satellite dish shall not exceed fifteen (15) feet above the finished grade and its diameter shall not exceed twelve (12) feet.
2. The maximum height of any roof-mounted earth satellite station/satellite dish shall not exceed the roof height it is mounted on by more than four (4) feet and its diameter shall not exceed three (3) feet.

### D. Advertising

The satellite dish apparatus shall bear no advertising, lettering, picture or visual image.

### E. Maintenance

The satellite dish apparatus shall be properly maintained to prevent both unsightly and unsafe conditions.

F. Permit

No person, firm or corporation shall undertake the construction, erection, or installation of any satellite dish over twenty-four (24) inches in diameter without a Zoning Certificate issued in accordance with the provisions of this Resolution. In addition to the requirements of this Resolution, the application for such permit shall include the following:

1. A description of the type of satellite dish proposed;
2. A plot plan of the lot, premises, or parcel of land showing the location of the proposed satellite dish and all other buildings thereon;
3. Plans depicting the specifications and elevations of the proposed location.

**7.15 HOME OCCUPATIONS**

Home occupations shall be subject to the following conditions in addition to use regulations in various districts:

- A. Not more than one additional person who is not residing on the premises shall be engaged in such home occupation.
- B. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one sign, not exceeding seventy-two (72) inches in area, non-illuminated, and mounted flat against the wall of the principal building.
- C. No home occupation shall be conducted in any accessory building or structure outside of the dwelling.
- D. There shall be no sales of products on the premises.
- E. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood.
- F. No equipment or process shall be used in such home occupations which creates noise, vibration, glare, fumes, odors, or electrical interference detectible to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio, television receivers off the premises, or causes fluctuations in line voltage off the premises.
- G. Said home occupations shall be clearly incidental and subordinate to the use of the property for residential purposes.

- H. No more than the equivalent of twenty-five (25%) percent of the gross floor area of the dwelling shall be utilized for a home occupational use.
- I. There shall be no outside storage of any kind related to the home occupational use.
- J. No heavy equipment such as bulldozers, front loaders, tractors, dump trucks, tractor trailers, semi-trucks, etc., or no more than two business vehicles used in such home occupation shall be parked or stored outside of a garage in a residential area. Equipment utilized for agricultural purposes shall be exempt.
- K. No home shall serve as a gathering point for employees engaged in the business that takes place off the premises. This may include, but it is not limited to, landscape business offices, construction offices, or a trucking business where drivers or employees gather at the home before being dispatched from the home.
- L. The following are examples of permitted home occupations:
  1. Clerical and other similar business services;
  2. Instruction in music, dance or other type of teaching that does not require an expansion in parking;
  3. The office of a professional accountant, attorney, broker, consultant, insurance agent, realtor, architect, engineer, sales representative, and similar office oriented occupations;
  4. Artists, sculptors, photographers, and other providers of home crafts;
  5. Barber shop/beauty salon with a maximum of one chair;
  6. A licensed massage therapist who provides massage therapy for a maximum of one client at any given time; or
  7. Any similar use as determined by the Zoning Administrator.

**7.16 ADULT ENTERTAINMENT ESTABLISHMENT**

An adult entertainment establishment is a Conditional Use within the M-I or the I Industrial Districts. The purpose of these regulations is to regulate the potential secondary effects that are often caused by adult entertainment establishments, and not to regulate the content of the message promoted by the business. Distances shall be measured in a straight line from the nearest wall of the proposed adult entertainment establishment to the property line of the potentially restrictive structure. A Conditional Use for such facilities shall not be approved unless the following minimum conditions are complied with:

- A. No adult entertainment establishment shall be established within 1,000 feet of any area that principally permits residential use.
- B. No adult entertainment establishment shall be established within a radius of 2,000 feet of any school, library or teaching facility, whether public or private, governmental or commercial, which school, library or teaching facility is attended by persons under eighteen years of age.
- C. No adult entertainment establishment shall be established within a radius of 1,000 feet of any park or recreational facility attended by persons under eighteen years of age.
- D. No adult entertainment establishment shall be established within a radius of 1,000 feet of any other adult entertainment establishment.
- E. No adult entertainment establishment shall be established within a radius of 2,000 feet of any religious place of worship or permanently established place of religious services.
- F. Displays or other promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other areas public or semi-public.
- G. All building openings, entries, windows, etc. for adult entertainment establishment shall be located in such a manner as to prevent a view into the interior from any public or semi-public area, sidewalk or street. For new construction, the building shall be oriented so as to minimize any possibility of viewing the interior from any public or semi-public areas.
- H. No employees of the subject establishment shall conduct themselves outside the confines of the structure in such attire and/or by actions, in a manner distracting, distasteful and/or detrimental to adjacent business interests, residents or passersby.
- I. No screens, loudspeakers or sound equipment shall be used for adult entertainment establishment (enclosed or drive-in) that can be seen or discerned by the public from public or semi-public areas.
- J. In granting any such Conditional Use, the Board of Zoning Appeals may prescribe additional conditions it deems necessary in the public interest. However, no Conditional Use shall be approved by the Board of Zoning Appeals unless it finds that the use for which such approval is sought is not likely to be dangerous or detrimental to nearby properties, that the use will not be contrary to any program of conservation or improvement, either residential or non-residential, or be contrary to the public health, safety, morals and general welfare of the Township.

- K. An adult entertainment establishment shall also comply with the regulations established by Township Resolution 5-2-96 regarding cabaret establishments, Township Resolution 5-3-96 regarding massage establishments, and any other superseding legislation.

**7.17 ACCESSORY USE STANDARDS IN RESIDENTIAL DISTRICTS AND FOR RESIDENTIAL USES**

It is the purpose of this Section to permit accessory uses to be utilized and maintained in a manner which make them compatible with principal uses and harmonious with uses upon adjacent properties. Accessory use standards in residential districts and for residential uses shall be as follows:

- A. The total lot coverage permitted for all accessory buildings and accessory structures shall not exceed thirty (30%) percent of the area of the side and rear yard and the total square footage of all accessory buildings and accessory structures on any lot shall be as established in this section.
  - 1. There shall be no more than two (2) accessory buildings or structures on a lot, excluding swimming pools, fences, and small utility sheds totaling 50 square feet or less, unless the lot is more than one (1) acre. One (1) additional accessory building or structure will be permitted for each additional acre with a maximum of four (4) per lot.
  - 2. Accessory buildings, other than detached garages and carports with minimum eight (8) foot wide vehicular access doors, shall not exceed 200 square feet unless the lot on which the building is located is 20,000 square feet or more, but in no case shall such building exceed 300 square feet in size.
  - 3. The maximum height of accessory buildings shall be as specified in each zoning district.
  - 4. The calculation of the square footage of accessory buildings and accessory structures shall include all roof and wall extensions, whether enclosed or open air, such as covered porches and carports.
  - 5. Detached garages and carports shall be subject to the following maximum square footages.
    - a. Lots less than one (1) acre 600 square feet
    - b. Lots one (1) acre but less than two (2) acres 900 square feet
    - c. Lots two (2) acres but less than three (3) acres 1,200 square feet

- d. Lots three (3) acres but less than four (4) acres 1,500 square feet
- e. Lots four (4) acres but less than five (5) acres 2,000 square feet
- f. Lots five (5) acres or more 3,000 square feet

6. The total square footage of all accessory buildings and accessory structures on any lot shall be as follows:

- a. Lots less than one (1) acre 900 square feet
- b. Lots one (1) acre but less than two (2) acres 1,200 square feet
- c. Lots two (2) acres but less than three (3) acres 1,800 square feet
- d. Lots three (3) acres but less than four (4) acres 2,300 square feet
- e. Lots four (4) acres but less than five (5) acres 3,000 square feet
- f. Lots five (5) acres or more 4,500 square feet

7. All accessory buildings, including garages and carports, shall be subject to the following minimum setbacks from side and rear property lines.

- a. Buildings 200 square feet or less 5 feet
- b. Buildings greater than 200 square feet 10 feet

8. No detached accessory building shall be placed closer to the street than the nearest foundation line of the principal use structure on the lot, but in no case shall this distance be required to be greater than two (2) times the front yard setback required for the district in which the property is located.

9. In the case of a corner lot, no accessory building shall be erected or altered so as to project beyond the front yard required on any adjacent lot, nor shall it be located closer to either street line than the main building constructed on the lot, but in no case shall this distance be required to be greater than two (2) times the front yard setback required for the district in which the property is located.

10. Any accessory building shall be located no less than ten (10) feet from another accessory or principal structure.

B. Containers formerly used for transporting sea-going cargo, railroad cars, cabooses, semi-trailers, shipping containers, camper shells, or other units which slide off a chassis or frame including a body, box or unit which is removed from a chassis are prohibited as storage facilities or accessory buildings in residential districts and for residential uses. Also see Section 7.10 Portable Storage Units As Temporary Use.

## **7.18 ACCESSORY USE STANDARDS IN BUSINESS AND INDUSTRIAL DISTRICTS**

In a Business or Industrial District, any use which is customarily found in conjunction with and required for the full utilization and economic viability of the principal use which meets the definition of accessory use in Chapter 2, and which complies to the applicable standards of the district in which it is located, is permitted.

All accessory buildings shall be required to have a setback distance of not less than one half (½) the required setback for principal structures in side and rear yards. With the exception of corner lots, no detached accessory building shall be placed closer to the street than the nearest foundation line of the principal use structure on the lot, but in no case shall this distance be required to be greater than two (2) times the front yard setback required for the district in which the property is located.

## **7.19 SECONDARY DWELLING UNITS**

An additional dwelling on a lot may be permitted on lots used for single-family residential purposes, subject to the following conditions:

- A. An attached secondary dwelling unit may be permitted if it conforms and is pursuant to the Conditional Use procedures set forth in Section 5.07.
- B. The secondary dwelling unit shall be occupied only by members of the family occupying the primary dwelling on the lot.
- C. The secondary dwelling unit shall not exceed 40% of the footprint of the principal dwelling and shall be designed in such a way as to make its future inclusion as part of the principal structure acceptable.

## **7.20 MINIMUM DWELLING SQUARE FOOTAGES**

The minimum square footage for all single-family dwellings shall be 1,400 square feet exclusive of basements and garages. The minimum floor area for two-family dwellings shall be 1,000 square feet for each unit. The minimum floor area for multi-family dwellings shall be 560 square feet for efficiency dwellings; 680 square feet for one bedroom dwellings; 770 square feet for two bedroom dwellings; and 980 square feet for three bedroom dwellings.

## **7.21 SIGHT TRIANGLES**

No building, signs, planting, or other obstruction shall be erected within the sight triangle unless otherwise specified in this Resolution. The sight triangle shall be identified as follows:

- A. Driveway intersection sight triangle

At intersections of driveways with streets, the sight triangle shall be established by locating the intersection of the street curb with the driveway edge, and by measuring from this point a distance of twenty (20) feet along the driveway to a point, and a distance of twenty (20) feet along the street curb to a point, and connecting these points.

B. Street intersection sight triangle

At street intersections, the sight triangle shall be formed by measuring at least thirty-five (35) feet along curb lines and connecting these points.

## 7.22 ROADSIDE STANDS

Roadside stands shall be regulated per ORC 519.21 and as follows:

- A. Roadside stands shall meet the setback requirements of the district in which they are permitted and shall be limited to the sale of agriculturally related products.
- B. Roadside stands shall provide for an off-street area which can accommodate a minimum of five (5) vehicles.
- C. Signage for roadside stands, shall not be illuminated and shall be limited to thirty-two (32) square feet in size. The sign shall be setback no less than ten (10) feet from the public road right-of-way.

## 7.23 RECREATIONAL VEHICLE PARKS AND CAMPGROUNDS

Recreational vehicle parks and campgrounds shall be Conditional Uses and shall be further regulated as follows:

A. Location and Access

No recreational vehicle park or campground shall be located without direct access to an arterial highway and with sufficient frontage of at least 80 feet, to permit appropriate design of entrance and exits. No entrance or exit from a recreational vehicle park or campground shall be permitted through a residential district nor require movement of traffic from the park or campground through a residential district.

B. Spaces for Occupancy, Uses Permitted and Length of Stay

Spaces in recreational vehicle parks or campgrounds may be used by travel trailers, equivalent vehicles, constructed in or on automotive vehicles, tents, or other short-term housing arrangements or devices. Spaces shall be rented by the day only, and occupants of such space shall remain in the same recreational vehicle park not more than fourteen (14) consecutive days.

C. Accessory Uses to Recreational Vehicle Parks and Campgrounds

Management headquarters, recreational facilities, laundry facilities and other uses and structures customarily incidental to the operation of recreational vehicle parks or campgrounds are permitted as accessory uses, provided that such uses are restricted in their use to the occupants of the park or campgrounds. Such uses shall present no visible evidence of their commercial character that would attract customers other than the occupants of the park or campground.

D. Sanitary Facilities

Toilets, showers and other essential plumbing fixtures shall conform to all applicable Ohio and County plumbing and health codes.

E. Design of Access to Park

Entrances and exits to recreational vehicle parks and campgrounds shall be designed for safe and convenient movement of traffic and to minimize friction with the free movement of traffic on adjacent streets. All traffic into and out of the park or campground shall be through such entrances and exits. No material impediment to visibility shall be created or maintained that obscures the view of an approaching driver in the right lane of the street within: (1) 100 feet, where the speed limit is less than 45 M.P.H., or (2) 150 feet where the speed limit is 45 M.P.H. or more, of any portion of the approach line of the access way is within twenty-five (25) feet of its intersection with the right hand lane of the street.

F. Off-Street Parking, Loading and Maneuvering Space

In connection with a recreational vehicle park or campground, no parking, loading or maneuvering incidental to parking or loading shall be permitted on any public street, sidewalk, right-of-way, or public grounds that is not a part of the recreational vehicle park or campground.

G. Minimum Recreational Vehicle Site or Campground Area

Each recreational vehicle site shall be one thousand five hundred (1,500) square feet in area. Each site shall contain a stabilized vehicular parking pad or space made of paving or other suitable material.

H. External Yard Requirements

A fifty (50) foot setback with protective screening or fencing shall be required on property boundaries adjacent to a public right-of-way. Those property boundaries adjoining private property shall have a setback of twenty-five (25) feet with protective fencing.

I. Lighting

Any lighting associated with the recreational vehicle park or campground shall not cause glare on adjoining property or public rights-of-way.

**7.24 BUSINESS AND OFFICE STRUCTURES**

Any structures utilized for commercial, business, office or a service use shall be affixed to a permanent foundation unless otherwise approved by the Township Board of Zoning Appeals. Temporary construction or sales trailers are permitted for a period of up to six (6) months upon issuance of a Zoning Certificate by the Township.

**7.25 OUTDOOR SALES AND DISPLAY**

Temporary and permanent facilities for outdoor sales and displays (e.g., garden supply sales, news and flower stands, and similar uses) may be permitted upon compliance with the following standards:

- A. Outdoor sale and display areas are prohibited on vacant lots with the exception of temporary seasonal agricultural sales.
- B. Outdoor sale and display areas may be permitted provided that the merchandise is displayed along the sidewalk, the walkway adjacent to the building, or in the side yard.
- C. The placement of the merchandise shall not interfere with customer movement on any sidewalk or walkway. A minimum of five feet of the sidewalk or walkway shall be clear of merchandise to allow for safe pedestrian movement.
- D. The outdoor display and sale of bulk or large products that exceed 20 pounds, including, but not limited to, mulch (bag or bulk), concrete, salt, or other similar products that cannot be easily carried into the store for purchase, shall be required to meet the requirements of Section 7.26 D. Outdoor Storage.
- E. Temporary outdoor sales and display areas may be authorized in a parking lot under the following provisions:
  - 1. The maximum time the temporary outdoor sales and display areas shall be authorized is for 90 days per year; and
  - 2. In no case shall the outdoor sales or display area reduce the amount of off-street parking spaces to a number below the minimum number of required spaces.

- F. Outdoor display areas shall be located upon concrete, asphalt, or adequately compacted aggregate base.

## 7.26 OUTDOOR STORAGE

### A. Purpose and Applicability

The purpose of these regulations is to ensure the proper use of land for outdoor storage so as to minimize impacts on surrounding property owners and uses. The provisions of this Section shall apply to all uses except single-family, two-family dwellings, and roadside markets that are accessory to an agricultural use that is exempt from these regulations pursuant to Section 7.22 unless otherwise noted, and in accordance with Section 519.21 of the Ohio Revised Code.

### B. Exemptions

The following uses where outdoor storage is the permitted principal use of the lot shall be exempt from these regulations:

1. Outdoor display, sales, and storage areas approved as part of a site plan or Final Development Plan prior to the effective date of this Resolution;
2. Automotive sales or rental;
3. Plant nurseries;
4. Tool rental or sales facilities;
5. Self-service storage facilities; and
6. Similar uses as determined by the Zoning Administrator.

### C. General Standards

1. All outdoor storage areas shall require a Zoning Certificate and shall be illustrated on the corresponding site plan. The site plan shall indicate the materials to be stored and proposed storage heights.
2. Outdoor storage areas shall not be located in any required parking and circulation area, right-of-way, or required landscape or buffer area.
3. Outdoor storage areas shall be prohibited if they will create any safety hazard for pedestrians. A minimum pathway in areas used for outdoor storage shall be provided to allow for the flow of pedestrian traffic outside of designated vehicular traffic drives. Such pathways shall have a minimum clearance width of 5 feet, or the width required to meet the

minimum standards of the Clermont County Building Department, whichever is greater.

4. Where screening or security fencing is provided or required, decorative cast iron, aluminum, wood or vinyl material shall be used.
5. Chain link fencing, barbed wire fencing, and other wire mesh fencing shall be permitted only where the fencing is not visible from any public right-of-way, except in the C-I Campus Industrial, I Industrial, or M-I Major Industrial Districts.
6. All outdoor storage areas shall be maintained free of garbage and other debris.
7. Outdoor storage areas shall be limited to twenty-five (25%) percent of the gross floor area of the principal structure.
8. Outdoor storage of materials shall not include junkyards or similar storage.

D. Standards for Outdoor Storage Areas

Outdoor storage areas may be permitted where such storage areas comply with the following regulations:

1. Outdoor storage shall be prohibited on vacant lots, unless approved as a Conditional Use in the I District or M-I District. To be considered an occupied site, the principal use structure must be permanently connected to all public utilities and must be used on a regular basis for the conducting of business. Placement of a temporary office structure, trailer or storage building on the site shall not fulfill the requirement of, nor constitute, the establishment of a principal use structure.
2. Only those goods and materials associated with the existing on-site use may be stored or sold in outdoor storage areas.
3. Outdoor storage areas shall meet the setback requirements of the principal use.
4. The placement of outdoor storage shall not interfere with customer movement on any sidewalk or walkway. A minimum of 5 feet of the sidewalk or walkway shall be clear to allow for safe pedestrian movement.
5. All outdoor storage areas shall be screened from view of the public right-of-way by a wall or fence a minimum of 6 feet high in conformance with

Section 7.25 C. Screening shall not be required if the outdoor storage area is located out of view from any public right-of-way, unless abutting a Residential District. If abutting a Residential District, the outdoor storage area shall be screened on all sides adjacent to the Residential District by use of a 6 foot or higher fence or site obscuring shrubs and trees.

6. If the wall or fence needs to exceed 8 feet in height to conceal the storage of materials, such wall or fence shall be constructed of materials similar to the principal building so that it appears to be an extension of the principal structure.
7. Outdoor storage shall be located upon concrete, asphalt, or adequately compacted aggregate base.

## **7.27 DUMPSTERS AND TRASH HANDLING AREAS FOR NON-SINGLE-FAMILY DISTRICTS**

Dumpsters and trash handling areas shall comply with the following standards:

- A. They shall be located in compliance with the same minimum setbacks as a main building as determined by the district in which such accessory structure is constructed, however only a 10 foot rear and side yard minimum setback is required if the abutting property is within a district of the same zoning classification.
- B. Any such accessory structure shall be screened on no less than three sides by a fence or wall. The trash recovery side shall be directed away from the public street unless fitted with closeable gates that are opaque enough to shield from view the interior service area.
- C. The fence or wall shall have a height of no less than five feet (5) feet or no more than eight feet (8) feet and must be constructed in a durable fashion of wood, brick, stone, or other masonry materials. .

## **7.28 OUTDOOR STOVES AND FURNACES**

Outdoor stoves and furnaces shall be considered accessory uses to permitted residential uses. Due to the potential for the emission of excessive smoke and noxious odors beyond the property line, and in an attempt to prevent such nuisance situations, outdoor stoves and furnaces shall be prohibited on lots totaling less than three (3) acres unless Conditional Use approval is granted by the Board of Zoning Appeals. Setbacks and Guidelines shall be as follows:

- A. The outdoor stove or furnace shall be situated no closer than 100 feet to any property line. If located within 200 feet of any residential dwelling on an

adjoining property, the stove's chimney must be no less than 2 feet higher than the peak of the roof of the neighboring residence(s).

**B. Permitted and Prohibited Fuels**

Fuel burned in any new or existing outdoor stove or furnace shall be only natural untreated wood, wood pellets, corn products, biomass pellets, or other listed fuels specifically permitted by the manufacturer's instructions such as fuel oil, natural gas, or propane backup. The following fuels are strictly prohibited in new or existing outdoor wood furnaces:

1. Wood that has been painted, varnished or coated with similar material and/or has been pressure-treated with preservatives and contains resins or glues as in plywood or other composite wood products.
2. Rubbish or garbage, including but not limited to food wastes, food packaging, or food wraps.
3. Any plastic materials, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
4. Rubber, including tires or other synthetic rubber-like products.
5. Any other items not specifically allowed by the manufacturer or this Section.

**C. Non-conforming Use**

Outdoor stoves or furnaces that were installed prior to the effective date of this amendment shall be permitted to continue. However, if the existing outdoor stove or furnace does not meet the standards of this Section, the outdoor stove or furnace shall be considered a non-conforming use subject to the non-conforming use provisions of this zoning resolution (See Article 6 Non-conforming Uses).

**7.29 SMALL WIND ENERGY CONSERVATION SYSTEMS**

It is the purpose of these regulations to allow the safe, effective and efficient use of small wind energy conservation systems installed to reduce the on-site consumption of utility supplied electricity while continuing to provide adjoining properties protection from any undesirable effects of such installation. Small wind energy conservation systems shall be considered accessory uses and shall be subject to Conditional Use approval by the Board of Zoning Appeals unless the lot on which they are located is three (3) acres or more. The following shall be minimum requirements for all small wind energy systems:

- A. The base of the tower shall be setback from all property lines, public rights-of-way and public utility lines a distance equal to one and one half (1 ½) times the extended height of the tower and turbines. In no case shall the tower be located in

the front yard and shall not extend into the other required yard setbacks for the district in which it is located.

- B. Sound produced by the system under normal operating conditions, as measured from the property line, shall not exceed the noise regulations per Article Section 7.09 of this Resolution, however such guidelines may be exceeded during short term events such as power outages or severe wind storms.
- C. The height of the system shall not exceed 120 feet, except that greater limits may be imposed by FAA regulations. The height of a wind turbine shall be measured from natural grade to the tip of the rotor blade at its highest point, or blade tip height.
- D. No illumination of the turbine or tower shall be allowed unless required by the FAA.
- E. All climbing foot pegs or rungs below 12 feet shall be removed to prevent unauthorized climbing of the tower.
- F. If a wind energy system is inoperable for six (6) consecutive months the owner shall be notified in writing that they must, within six (6) months, restore the system to an operating condition. Failure of the property owner to do so shall be deemed a violation of this Zoning Resolution and subject to the violation remedies of Article 99.
- F. No advertising shall be permitted on the wind energy system.

Wind Energy Systems that exceed the power generation definition for a Small Wind Energy Conservation System or that are the principal use of the property may be permitted if approved as a Planned Development in accordance with Article 36 Planned Development.

### **7.30 SOLAR PANELS**

It is the purpose of this regulation to allow the safe, effective and efficient use of solar panels installed to reduce the on-site consumption of utility supplied electricity while continuing to provide adjoining properties protection from any undesirable effects of such installation. Solar panels shall be considered accessory uses and shall be permitted as of right if attached or located on the roof or wall of a building that lie flat on the surface or not more than six inches from the surface and are exempt from obtaining a Zoning Certificate. Other installations of accessory solar panels shall be subject to Conditional Use approval by the Board of Zoning Appeals. Setbacks and guidelines shall be as follows:

- A. The solar panels detached from the principal structure shall not be located in the front or side yard.

- B. Sound produced by any solar facility under normal operating conditions, as measure from the property line, shall not exceed the noise regulations per Section 7.09 of this Resolution. However, such guidelines may be exceeded during short term events such as power outages.
- C. Solar panels located on the roof of a residential structure may not extend above the highest point of the existing roof.
- D. Solar panels detached from the principal structure shall not exceed 14.5 feet in height.
- E. Solar panels detached from the principal structure shall not occupy more than thirty (30%) percent of the rear yard.

Solar Energy Systems that are small solar facilities or large solar facilities or that are the principal use of the property may be permitted if approved as a Planned Development in accordance with Article 36 Planned Development.

### **7.31 AGRICULTURAL USE GUIDELINES**

- A. Except as otherwise provided in this Section, Sections 519.02 to 519.25 of the Revised Code confer no power on any Township Zoning Commission, Board of Township Trustees, or Board of Zoning Appeals to prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, including buildings or structures that are used primarily for vinting and selling wine and that are located on land any part of which is used for viticulture, and no Zoning Certificate shall be required for any such building or structure.
- B. A Township Zoning Resolution, or an amendment to such Resolution, may, in any platted subdivision approved under Section 711.05, 711.09, or 711.10 of the Revised Code, or in any area consisting of fifteen or more lots approved under Section 711.131 of the Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road regulate:
  - 1. Agriculture on lots of one acre or less;
  - 2. Buildings or structures incident to the use of land for agricultural purposes on lots greater than one acre but not greater than five acres (5) by: set back building lines; height; and size;

3. Dairying and animal and poultry husbandry on lots greater than one acre but not greater than five (5) acres when at least 35% of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured and mobile homes under Section 4503.06 of the Revised Code. After 35% of the lots are so developed, dairying and animal and poultry husbandry shall be considered nonconforming use of land and buildings or structures pursuant to Section 519.19 of the Revised Code.
  4. Subsection (B) of this Section confers no power on any Township Zoning Commission, Board of Township Trustees, or Board of Zoning Appeals to regulate agriculture, buildings or structures, and dairying and animal and poultry husbandry on lots greater than five (5) acres.
- C. This Section confers no power on the Township Zoning Commission, Board of Township Trustees, or Board of Zoning Appeals to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for:
1. A farm market where fifty per cent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. However, a board of township trustees, as provided in section [519.02](#) of the Revised Code, may regulate such factors pertaining to farm markets as size of the structure, size of parking areas that may be required, set back building lines, and egress or ingress, where such regulation is necessary to protect the public health and safety.
  2. Biodiesel production, biomass energy production, or electric or heat energy production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections [5713.30](#) to [5713.37](#) of the Revised Code for real property tax purposes. As used in division (C)(2) of this section, "biodiesel," "biomass energy," and "electric or heat energy" have the same meanings as in section [5713.30](#) of the Revised Code.
  3. Biologically derived methane gas production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections [5713.30](#) to [5713.37](#) of the Revised Code for real property tax purposes and if the facility that produces the biologically derived methane gas does not produce more than seventeen million sixty thousand seven hundred ten British thermal units, five megawatts, or both.
  4. Agritourism. However, the Board of Township Trustees, as provided in section [519.02](#) of the Revised Code, may regulate such factors pertaining to agritourism. except farm markets as described in (C)(1) of this Section, as size of a structure used primarily for agritourism, size of parking areas

that may be required, setback building lines for structures used primarily for agritourism, and egress or ingress where such regulation is necessary to protect public health and safety.

- a. Nothing in division (C)(4) of this Section confers power on the Zoning Commission, Board of Township Trustees, or Board of Zoning Appeals to require any parking area to be improved in any manner, including requirements governing drainage, parking area base, parking area paving, or any other improvement.
  - b. Nothing in division (C)(4) of this Section confers power on the Zoning Commission, Board of Township Trustees, or Board of Zoning Appeals to prohibit the use of any land or the construction or use of buildings or structures that are used primarily for vinting and selling wine that are located on land any part of which is used for viticulture as provided in division (A) of this Section.
  - c. As used in division (C)(3) of this Section, "biologically derived methane gas" has the same meaning as in section [5713.30](#) of the Revised Code.
  - d. As used in division (C)(4) of this Section, "agritourism" has the same meaning as in section [901.80](#) of the Revised Code.
- D. Nothing in this Section prohibits the Zoning Commission, Board of Township Trustees, or Board of Zoning Appeals from regulating the location of medical marijuana cultivators, processors, or retail dispensaries or from prohibiting such cultivators, processors, or dispensaries from being located in the unincorporated territory of the township. See Section 7.35 Marijuana Businesses Prohibited.
- E. All agricultural buildings and structures used for dairying and animal husbandry on parcels less than five (5) acres shall be located no closer than 75 feet to an adjoining property line. Poultry shall be excluded from this regulation.
- F. Agricultural uses that are located in an "improved platted subdivision" shall comply with the requirements of this section and all other applicable provisions of this resolution.
1. No agricultural uses except the growing of crops, fruits, vegetables, flower, and plants are permitted on lots of less than one (1) acre located within an improved platted subdivision.
  2. All buildings or structures incidental to the use of land for agricultural purposes on lots located in improved platted subdivision that are one (1) acre, but less than five (5) acres, shall comply with the following:

- a. Any building or structure in which five (5) or fewer animals that are owned or used for agricultural purposes are housed shall be set back a minimum of 75 feet from any other lot in an improved platted subdivision.
  - b. Any building or structure in which more than five (5) animals that are owned or used for agricultural purposes are housed shall be set back a minimum of 200 feet from any lot in an improved platted subdivision.
  - c. No structure shall exceed 35 feet in height.
3. In any improved platted subdivision where at least 35% of the lots in the improved platted subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation (or that is subject to the tax on manufactured homes under ORC 4503.06) or on any lot used for residential purposes, dairying, animal husbandry, or poultry husbandry shall be regulated as follows:
- a. Dairying, animal husbandry, or poultry husbandry is prohibited on lots of less than one (1) acre.
  - b. Lots of less than five (5) acres shall be limited to two (2) head of livestock, excluding poultry.
  - c. On any lot less than five (5) acres, any building or structure used for dairying, animal husbandry, or poultry husbandry shall be set back a minimum of 75 feet from any other lot in any improved platted subdivision or lot in any residential district, recorded residential subdivision, or any lot occupied by a dwelling (other than a farm dwelling), religious place of worship, educational facility, or any convalescent care facility not located on the same lot as the said uses or buildings.
4. For purposes of this resolution, the keeping, breeding, raising, or caring of any animal constitutes animal husbandry except that the keeping of not more than four (4) household pets shall not constitute animal husbandry. The keeping, breeding, raising or care of more than four (4) of any one or more kinds of animals, including household pets, does constitute animal husbandry.

**7.32 EXEMPTIONS FOR PUBLIC UTILITIES AND RAILROADS**

Per Section 519.211 of the ORC, no part of this Zoning Resolution shall confer any power on the Board of Township Trustees, Zoning Commission, or Board of Zoning Appeals, to regulate the location, erection, construction, reconstruction, change,

alteration, maintenance, removal, use, or enlargement of any buildings or structures of any public utility or railroad, whether publicly or privately owned, or the use of land by any public utility or railroad, for the operation of its business.

### **7.33 OUTDOOR DINING AREAS**

Outdoor dining areas accessory to a restaurant is a Conditional Use requiring approval by the Board of Zoning Appeals and are subject to the following standards:

- A. Outdoor dining areas in a public right-of-way shall be prohibited.
- B. Outdoor dining areas on a private property shall be regulated as follows:
  - 1. An outdoor dining area may be allowed as an accessory use to a restaurant with an indoor eating area on the same site; provided, the outdoor dining area shall not replace any off-street parking, loading, or landscaping areas as may be required by this resolution.
  - 2. If no grade separation is provided between vehicular traffic and the outdoor dining area, permanent railings or fencing shall be provided around the dining area. If the outdoor dining area is adjacent to a street or area that is closed to vehicular traffic, no railing or fencing shall be required.
  - 3. Umbrellas, or other protective elements, that shelter diners from the elements shall be secured so as not to create a hazard.
  - 4. Enclosing an outdoor dining area either by a permanent roof or to expand the existing structure shall meet all the requirements of a building within the applicable zoning district and shall require the issuance of a Zoning Certificate.
  - 5. There shall be no use of electronics (e.g., televisions, radios, or speakers) in the outdoor dining areas that generate noise at levels exceeding the standards in Section 7.09 Environmental Performance Standards.
  - 6. The location of outdoor dining areas shall ensure that access to the building and pedestrian walkways are not obstructed.

**7.34 KENNELS AND VETERINARY HOSPITALS OR CLINICS**

Kennels and veterinary hospitals or clinics with outdoor runs shall be located no closer than 200 feet to an adjoining property line unless a variance is approved by the Board of Zoning Appeals.

**7.35 MARIJUANA BUSINESSES PROHIBITED**

In accordance with Resolution 01-02-2020, marijuana businesses shall be prohibited in Batavia Township. As specified in Resolution 01-02-2020, marijuana processing, cultivation and retail dispensaries are prohibited.

**7.36 SHIPPING CONTAINERS NOT ALLOWED FOR HUMAN OCCUPANCY**

Containers formerly used for transporting sea-going cargo, railroad cars, cabooses, semi-trailers, shipping containers, camper shells, or other units which slide off a chassis or frame including a body, box or unit which is removed from a chassis are not allowed for human occupancy in any district.

**7.37 SELF-SERVICE STORAGE FACILITIES**

Self-service storage facilities are permitted as a Conditional Use requiring approvals by the Board of Zoning Appeals and are subject to the following standards:

- A. The minimum lot size is two acres.
- B. Facilities shall be a minimum of 20 feet in height but shall not exceed 35 feet in height.
- C. All storage units within the facility shall gain access from the interior of the building or interior of the site. No unit doors shall face an exterior property line.
- D. All storage shall take place within a structure unless outdoor storage is approved by the Board of Zoning Appeals. Outside storage of vehicles, recreational vehicles, boats, trailers or similar items requires Board of Zoning Appeals approval.
  - a. Any outdoor storage shall be screened from view from the public right of way and adjacent residential uses to the extent feasible, using landscaping, berms, fencing, walls or other material determined appropriate by the Board of Zoning Appeals.
  - b. No outdoor storage shall encompass more than 35% of the site.
- E. All buildings on the site shall be setback a minimum of 200 feet from a residential zoning district or use and 3,000 feet from any other self-service storage facility.

- F. No activities other than rental of storage units and pickup and deposit of dead storage shall be permitted on the premises. Examples of activities that are not permitted include auctions, commercial or wholesale sales, repair services, manufacturing or makerspace, and recreational uses.