

RECOVERY TOWNSHIP

MERCER COUNTY, OHIO

ZONING CODE

FILED
at 9:54 o'clock **AM**

FEB 3 1992

Patricia E. Grote
RECORDER - MERCER CO. OH

CERTIFICATION

The Recovery Township Board of Trustees and the Recovery Township Zoning Commission hereby certify that the above is a true and accurate copy of the Zoning Ordinance of Recovery Township, Mercer County, Ohio, as the Ordinance existed on December 31, 1991.

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Orville Dues, Trustee

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Harold L. Willman, Trustee

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Roger Lochtefeld, Trustee

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INTRODUCTION

Selecting the use of the land has historically been considered as an individual right of property ownership. In the past, land was developed by the owner in a manner to conform with his wishes. In some instances, the desire of the owner was in conflict with the rights of neighboring owners. The concept that a land owner may use his land as he sees fit is valid until the chosen use has an adverse or harmful effect on others. For example, a noisy factory located adjacent to a new residential subdivision could be harmful to homeowners.

Zoning is a locally enacted law that regulates and controls private property. Zoning involves dividing the countryside into districts of zones for agricultural, residential and conditional purposes. The zoning law or resolution then states which specific uses are permitted in each district and under what circumstances. Zoning also regulates the size of lots, distances buildings must be set back from road or property lines, and maximum height of buildings.

Zoning is one response to the complexities of modern day life. Zoning began in cities because, as people started living closer together, a means was required to accommodate the desires of individuals while also considering the common good for all individuals collectively. When cities expanded into rural area, the need for zoning by country and township governments was seen.

A major purpose of zoning is to put land to the use for which it is best suited. Determining the best use for land is a difficult task. Some land is best left to be cultivated because of unique soil characteristics. Other land may be ideally suited for commercial development because it is located near a major highway. Other land, located near a railroad or airport, for example, may be prime land for an industrial park. Another parcel of land, located in a flood plain, should be left for agriculture or other open uses that will not interfere with the natural process of an eventual flood.

The major problem that arises is to determine what is the best use of land in an area. A good future land use plan must consider economic and social factors, as well as physical characteristics of the land. Land in Ohio best suited for farming is often the best land for housing developments. In instances, it is necessary for local residents and decision-makers to determine what they want their area to be in the future and to conduct a program that will achieve this desire. In making decisions about the future of their area, local officials should consider the needs and characteristics of the larger region, as well as their immediate area.

Another important purpose of zoning is to protect or maintain property values. Zoning can protect the value of property by assuring that incompatible uses will be kept apart. Zoning can keep factories out of residential areas (which could lower the value of homes in the immediate vicinity), as well as keep residential uses from locating in industrial areas.

Zoning can also promote the public health and safety by requiring that lots be large enough to allow for the safe disposal of septic tank effluent and by requiring that homes are spaced far enough apart that fires will not spread easily. The promotion of public health and safety are the two basic purposes for which counties and townships are authorized to enact zoning. Both purposes are very broad and may include a wide variety of specific regulations.

Zoning also provides for more orderly development. Regulations pertaining to lot size, set back lines, building height, and population density can make areas more attractive. With zoning, local residents can insure that poor development will not occur.

Finally, zoning can be important in attracting business and industry to an area. Sufficient good land should be zoned for business and industry. The emphasis in zoning land for business and industry should be on a small amount of land that is uniquely suited for business and industry and has adequate access and public facilities.

Legally local governments have three broad types of power: taxation, eminent domain, and police power. Taxation is the legitimate taking of private wealth for public purposes by government. Eminent domain is the taking of land for public purposes. Under the concept of eminent domain, the property owner must be compensated for the market value of the appropriated land. The police power is action by government that protects or promotes the public health, safety, morals or general welfare of its citizens. Police powers for the promotion of the general welfare of its citizens. Police powers for the promotion of the general welfare include both the obvious one - law enforcement - and a wide range of other activities such as health law, pollution control law, building codes, subdivision regulations, and zoning.

For a zoning resolution to be legal, it must be wholly within the concept of the general welfare; that is (1) it must secure a public purpose; (2) it must be reasonable, and (3) it must not be confiscatory.

The public purpose of zoning is to prevent landowners from using their land to the detriment of the general welfare of the community at large. Any action of a landowner which has no bearing on the general welfare of the community such as the color of his house or the arrangement of his furniture is outside the scope of zoning.

Zoning regulations must also be reasonable. There must be a valid reason the furtherance of the general welfare for the regulation to exist, and it must bear at least some relationship to a public purpose. If a zoning resolution sets minimum floor areas for dwellings, the township must be able to show that the requirement bears a reasonable relationship to the general welfare of the area. If certain land uses are to be excluded or severely restricted in the township, the rationality for the general welfare - the health, safety, convenience, comfort, and prosperity - of the citizens.

Zoning must not be confiscatory. The confiscatory element means that the regulation should not prohibit all profitable uses from the land.

Zoning regulations that limit extremely valuable land to low-intensity uses may be confiscatory. A zoning regulation that prohibits golf courses on rolling, wooded land with farmed-out soils might also be confiscatory. If land is being regulated to the extent that the effect is to take the land, courts often rule that the regulation is beyond the scope of the police power and is unconstitutional as applied to the owner's property.

Most rural areas in Ohio, because they are not developed, need some form of zoning to protect their natural resources before they are developed unwisely. Once unplanned development occurs, it is present almost forever, and agricultural land cannot be returned to its former protective use.

The owners of rural land, and in many cases the individual farmer, have the most to gain from rural zoning. A township zoning resolution may not prohibit the use of any land for agricultural purposes.

In addition, a township zoning resolution necessarily excludes structures directly related to agricultural uses. Exempt agricultural structures can be either additions to existing structures or new construction. Examples of these buildings may be storage facilities, barns, feedlots, or equipment buildings.

A 1962 opinion of the Ohio Attorney General addressed the issue of zoning as it relates to agriculture. According to the opinion, a structure used as a dwelling unit by a person engaged in agriculture is not exempt from the provisions of a rural zoning resolution. The main reason for this opinion is that a dwelling is not necessarily directly related to the agricultural use of the land.

Agriculture is only one of several types of land uses which are exempt from county or township zoning resolutions. The Ohio Revised Code also exempts railroads and public utilities from compliance with township or county zoning regulations.

A motor freight carrier is exempt from rural zoning resolutions since it is classified as a public utility. Water and sewer systems are also exempt from zoning. An opinion by the Attorney General stated that a corporation which constructs, maintains, and operates a water system is a public utility, and property used by this corporation is exempt from the provisions of rural zoning resolution.

There are two other important exemptions from rural zoning resolutions. The Ohio revised Code states that "outdoor advertising (billboards) shall be classified as a business use and be permitted in all districts zoned for industry, business or trade, or lands used for agricultural purposes". The distinction between "districts zoned" and "land used" should be carefully noted. Also exempt from regulation is the sale or serving of alcoholic beverages in a zone where retail stores and restaurants are permitted.

ZONING RESOLUTION
RECOVERY TOWNSHIP
MERCER COUNTY, OHIO

BE IT RESOLVED BY THE BOARD OF TRUSTEES, RECOVERY TOWNSHIP, MERCER COUNTY, STATE OF OHIO:

ARTICLE I ENACTMENT CLAUSE, TITLE & PURPOSE

SECTION 100 Enactment Clause

The Board of Trustees of Recovery Township, Mercer County, Ohio in accordance with enabling legislation for township zoning as provided in the Ohio Revised Code hereby provides as follows:

SECTION 101 Title

This resolution shall be known and may be cited and referred to as the Recovery Township Unincorporated Area Zoning Code. The map which accompanies this resolution and is hereby incorporated herein and made a part hereof, shall be referred to as the Recovery Township Unincorporated Area Zoning District Map of Recovery.

SECTION 102 Purpose

A RESOLUTION, for the purpose of promoting public health, safety, morals, comfort, and general welfare; to conserve and protect property and property values; to secure the most appropriate use of the land; to facilitate adequate but economical provision of public improvements, the Board of Trustees of Recovery Township, Mercer County Ohio, finds it necessary and advisable to regulate the location, height, area, number and size of buildings and other structures, percentage of lot area which may be occupied, size of yards, courts and other open spaces, uses of buildings and other structures and the uses of land, in the unincorporated area of the township; and for such purposes dividing the unincorporated area of the township into districts and zones of such number, space and area as are deemed best suited to carry out said purposes, providing a method of administration and prescribing penalties and proceedings for the administration and enforcement of this resolution.

ARTICLE II DISTRICT & BOUNDARY THEREOF

SECTION 200 District

The unincorporated territory of Recovery Township, Mercer County, Ohio is hereby designated as an Agricultural/Residential District.

SECTION 201 Zoning District Map

201.1 The boundaries of the district are shown upon the map which is made a part of this resolution, which map is designed as the 'Zoning

District Map'. This map and other information shown thereon are part of this resolution. The original Zoning District Map is properly attested and is on file in the office of the Board of Township Trustees of Recovery Township, Mercer County, Ohio.

201.2 No amendment to this resolution which involves matter portrayed on the Zoning District Map shall become effective until after such change and entry has been made on said map. No changes of any nature shall be made in the Zoning District Map or matter shown thereon except in conformity with the procedures set forth in this resolution.

201.3 The Zoning District Map, which shall be located in the office of the Recovery Township Trustees, shall be the final authority as to the current zoning status of land and water area, buildings and other structures.

201.4 In the event that the Zoning District Map becomes damaged, destroyed or lost, the Board of Recovery Township Trustees may, by ordinance, adopt a new Zoning District Map which shall supersede the prior Zoning District Map. The new Zoning District Map may correct drafting or other errors or omissions in the prior Zoning District Map, but no such corrections shall have the effect of amending the original resolution or subsequent amendments thereof.

SECTION 202 District Boundaries

The district boundary lines on the Zoning District Map are intended to follow either centerline of streets or alleys, lot lines or roads, and where the districts designated on the map are bounded approximately by such street, alley, lot lines or roads, the street or alley, lot line or road shall be construed to be the boundary of the district unless such boundary is otherwise indicated on the map. In the case of un-subdivided property, the district boundary line shall be determined by the use of the scale appearing on the Zoning District Map or by dimensions.

SECTION 203 Compliance with Regulations

The regulations set forth by this resolution within the district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land except as hereinafter.

203.1 No building, structure or land shall hereinafter be used or occupied and no building or structure or part thereof shall hereinafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all the regulations herein specified for the district in which it is located.

203.2 No building or other structure shall hereinafter be erected or altered:

- (a) to exceed the height;

- (b) to accommodate or house a greater number of families
- (c) to occupy a greater percentage of lot area;
- (d) to have narrower or smaller rear yards, front yards, side yards or other spaces; then herein required; or in any other manner contrary to the provisions of this resolution.

203.3 No building, structure or lot shall be used for any purpose other than that which is permitted in the district in which such building, structure, or lot is located.

203.4 No yard or open space existing adjacent to any building or structure shall reduce in area or dimension to less than the minimum required by this resolution.

203.5 No lot at the time of the effective date of this resolution shall be reduced or subdivided in any manner below the minimum area and yard provisions stated in this resolution.

203.6 Yards or lots created after the effective date of this resolution shall meet at least the minimum requirements established by this resolution.

203.7 No accessory buildings shall be located in any front yard or side yard except under unusual circumstances where such activity shall not conflict with the intent and purpose of this resolution; or where enforcement shall result in extreme hardship. Either exception shall require approval of the Board. Accessory buildings such as garages may be located in the rear yard provided such buildings are set back at least twenty feet from the side lot lines and twenty feet from the rear lot lines.

203.8 Exceptions to these regulations in specific cases may be authorized by the Board of Zoning Appeals where there are practical difficulties or unnecessary hardships in carrying out the strict letter of this resolution providing such exception is in harmony with the general purpose and intent of the resolution and in accordance with the procedures and provisions specified in Article XII. Hardship shall be based on physical limitations of the land and does not encompass financial considerations.

SECTION 204 Interpretation and Conflict

In interpreting and applying the provisions of this resolution, they shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare. It is not intended by this resolution to interfere with, or abrogate or annul any easements, covenants, or other agreements between parties, not to interfere with, or abrogate or annul any ordinance, other than expressly repealed hereby, rules, regulations, or permits previously adopted or issued, or not in conflict with any of the provisions of this resolution, in conflict with any of the provisions of this resolution, or which shall be adopted or issued, pursuant to law, regarding the use of buildings or land; provided, however that where this resolution imposes a

greater restriction upon the use of buildings or land, or upon the height of buildings, or requires by or impose by such ordinances, rules, regulations, or permits, the provisions of this resolution shall control.

SECTION 205 Uses Exempted from Provisions of Resolution

205.1 The use of 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 shall be permitted in the district established by this resolution, and no zoning certificate shall be required for any such building or structure.

205.2 The location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement of any building 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 or the use of land for essential services as herein defined shall be permitted in the district established by this resolution and no zoning certificate shall be required for any land essential to the operations of a public utility or railroad.

ARTICLE III DEFINITIONS

SECTION 300 Definitions

Accessory Use or Buildings: A use or structure subordinate to the principal building, and serving a purpose customarily incidental to the use of the principal building.

Agriculture: The use of land for agricultural purposes, including farming, dairying, pasturage, agricultural, horticulture, floriculture, viticulture, and animal and poultry husbandry, and rabbitry, and the necessary accessory uses for packing, treating or storing the product; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

Airstrip: A strip of land used solely for landing aircraft for commercial or personal use.

Alley: A public or private way affording secondary means of access to abutting property.

Beginning of Construction: The incorporation of labor and material within the foundation of the building.

Basement: A story having part but not more than one-half (1/2) of its height above grade.

Billboard: Any sign or advertisement situated on private premises.

Board: The Board of Zoning Appeals of Granville Township.

Boarding House: A building or portion thereof, other than a hotel, where, for compensation and by arrangement, meals or lodging and meals are provided for three (3) or more persons but not exceeding six (6) persons.

Building: Structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or chattels.

Building, Height of: The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

Business or Business Services: Any activity conducted for gain which renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes or businesses.

Clubs and Lodges: A building or portion thereof or premises owned or operated by a corporation, association, person, or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Commercial: One who retails or wholesales a product or services.

Commercial Stable: A stable which boards more than six (6) horses.

Conditional Use: A use which is subject to conditional approval by the Board of Zoning Appeals. A conditional use may be granted by the Board only when there is a specified provision for such special exceptions made in this Resolution. A conditional use is not considered to be a nonconforming use.

District: A portion of the unincorporated territory of Recovery Township, Mercer County, within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this resolution.

Dump or Landfill: A place or premises used for dumping, storage, burying, reducing, disposing or burning garbage, refuse, scrap metal, scrap paper, rubbish, offal, dead animals, waste or other organic or inorganic material, except such as result from or are produced by the normal use of the premises by the occupation thereof as a residence.

Dwelling: Any building or portion thereof occupied or intended to be occupied exclusively for residence purposes only, but not including a tent, cabin, trailer or trailer coach.

Dwelling, Single Family: A building occupied or constructed to be occupied exclusively for residence purposes by one family or housekeeping unit.

Dwelling, Two Family: A building designed exclusively for occupancy by two (2) families living independently of each other, including a duplex, (one dwelling unit beside the other).

Family: A person living alone or two or more persons living together as a single housekeeping unit but not including a group occupying a boarding house, lodging house, or hotel.

Garage: A garage intended for, and used by the private motor vehicle of the families resident upon the premises.

Compost Site: A place for reduction and/or desiccation of solid and/or liquid waste material.

Home Occupation: An accessory use of a service character conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small sign. The office of a physician, surgeon, dentist or other professional person, including an instructor of musical instruments limited to a single pupil at a time, who is not professionally engaged in the purchase or sale of goods, shall be deemed home occupations. Beauty parlors, barber shops, dancing instruction, band instrument instruction in groups, tourist homes, convalescent homes, mortuary establishments, and stores, trades or business of any kind not herein excepted shall not be deemed home occupations. Borderline cases shall be ruled on by the Board of Appeals.

Industrial: A person, partnership or corporation which manufactures a product.

Institution: Buildings or land occupied by a nonprofit corporation or a nonprofit establishment for public use.

Junk Yard: Any lot, land or structure, or part thereof, used primarily for the collection, storage and sale of waste paper, rags, scrap metal or discarded material, or for the collecting, dismantling, storage or salvaging of machinery or two (2) or more vehicles not in operating condition.

kennel: Any lot or premises on which four (4) or more dogs, more than four (4) months of age, are kept.

Landfill: An area of land that is built up by deposits of solid refuse in layers covered by soil.

Lodging House: A building other than a hotel or motel where lodging and/or meals for two (2) or more persons is provided for compensation.

Lot: A piece or parcel of land occupied or intended to be occupied by a principal building and its accessory buildings and uses, including all open spaces required by this Resolution, and having frontage on a public street.

Lot Area: The total horizontal area within the lot lines of a lot.

Lot Line, Front: The line separating the lot from the street or road.

Lot Line, Rear: The lot line opposite and most distant for the front lot line.

Lot of Record: Any lot which individually or as part of a subdivision has been recorded in the office of the County Recorder.

Lot Line, Side: Any lot line other than a front or rear lot line.

Mineral Extraction: Any mining, quarrying or processing of limestone, shale, clay, coal, sand, gravel or other mineral resources.

Mobile Home: Any mobile structure more than forty (40) feet long, on wheels, skids, rollers, or blocks, designed to be pulled, pushed, or carried by a motor vehicle on a highway, and designed for living as a one-family dwelling, complete and ready for occupancy as such, except for minor and incidental packing and assembly operations, location on permanent foundations, connections to utilities, and the like.

Mobile Home Park: An area manifestly designed to accommodate mobile homes in a safe, sanitary and desirable manner.

Modular Housing: An assembly of materials or products comprising all part of a total residential structure which, when constructed, is self-sufficient, or substantially self-sufficient, containing plumbing, wiring, and heating at the point of manufacture, and which when installed, constitutes a dwelling unit, except for necessary on-site preparations for its placement.

Nonconforming Use: The use of land or a building, or portion thereof, which does not conform with the use regulations of the district in which it is situated. See Article X.

Nursing Home: A home for the care of babies, children, pensioners or elderly people, except those for correctional or mental cases.

Street: A public right-of-way affording the principal means of access to abutting property. The term street shall include avenue, drive, circle, road, highway, or similar term.

Structure: Anything constructed, the use of which requires permanent location on the ground, or attached to something having permanent location on the ground.

Structural Alteration: Any change in the structural members of a building, such as walls, columns, beams and girders.

Recycling Center: A place for the gathering and/or processing of used material for reuse.

Transfer Station: A place for the on and off loading of solid or liquid waste for transportation to a final destination.

Trailer: (Including automobile trailer, trailer coach, camping trailer and campers) - Any vehicle or structure constructed in such a manner as to permit occupancy thereof, as sleeping quarters of the conduct of any business, trade or occupation, or use as a selling or advertising business, trade or occupation, or use as a selling or advertising device, and so designed that it is or may be mounted on wheels and uses as a conveyance on highways and streets, propeller or drawn by its own or other motor power.

Unsightly Appearance: The presence of any unused and neglected items deemed by the board to be disagreeable and repulsive to the eye.

Yard, Front: An open space extending the full width of the lot between any part of a building not hereinafter excepted and the front lines unoccupied and unobstructed from the ground upward, except as hereinafter specified.

Yard, Rear: An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward, except as hereinafter specified.

Yard, Side: An open space extending from the front yard to the rear yard between a building and the side lot line, unoccupied and unobstructed from the ground upward, except as hereinafter specified.

Zoning Certificate: Written statement 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.

Zoning Commission: The Recovery Township Zoning Commission.

Zoning Inspector: The Zoning Inspector (Administrative Officer) or authorized representative, appointed by the Board of Township Trustees of Township, Mercer County.

Zoning Map: The Zoning Map of the unincorporated portion of Recovery Township, Mercer County, dated December 31, 1991.

SECTION 301 Principal Permitted Uses

TABLE I

A-1/R-1 DISTRICT

| <u>PRINCIPAL PERMITTED USE</u> | <u>LOT SIZE</u> | <u>FRONTAGE</u> | <u>SIDE YARD</u> | <u>REAR YARD</u> | <u>MAXIMUM % OF BLDG SIZE TO LOT SIZE</u> |
|--------------------------------|-----------------|-----------------|------------------|------------------|---|
| Single Family Dwelling | 1 acre | 150' | 20' | 30' | 35% |
| Two Family Dwelling | 1 acre | 150' | 20' | 30' | 35% |
| Mobile Home | 1 acre | 150' | 20' | 30' | 35% |

All setbacks shall be 75 feet from centerline of road for County & Township roads and 100 feet from centerline of road for Federal and State highways.

Note: Accessory buildings may be constructed up to three (3) feet from a side or rear lot line if the total square footage is less than one hundred (100) square feet and the height is less than twelve (12) feet.

SECTION 302 Conditional Commercial Uses

TABLE II

| <u>C-1 USES</u> <u>CONDITIONAL (C-1) USES</u> | <u>LOT</u> <u>SIZE</u> | <u>FRONTAGE</u> | <u>SET</u> <u>BACK</u> | <u>SIDE</u> <u>YARD</u> | <u>REAR</u> <u>YARD</u> | <u>MAXIMUM %</u> <u>OF BLD SIZE</u> <u>TO LOT AREA</u> |
|--|-----------------------------------|-----------------|---------------------------|----------------------------|----------------------------|--|
| Church | 2 acre | 150' | 100' | 20' | 30' | 35% |
| Hospital | 10 acre | 400' | 100' | 100' | 100' | 35% |
| Boarding House | 1 acre | 150' | 100' | 20' | 30' | 35% |
| Nursing Home | 2 acre | 150' | 100' | 20' | 30' | 35% |
| Private Club & Lodge | 2 acre | 150' | 100' | 20' | 30' | 35% |
| Commercial Stable | 5 acre | 200' | 100' | 100' | 100' | 35% |
| Veterinary Clinic | 2 acre | 200' | 100' | 100' | 100' | 35% |
| Mobile Home Park | Must conform to State Regulations | | | | | |
| Other Commercial Uses not listed | 1 acre | 150' | 100' | 50' | 35' | 35% |

Parking For each of the permitted uses there shall be provided sufficient space for the off-street parking or motor vehicles which will congregate as a result of the uses of such building or premises, subject also to the provisions of Article VII.

In addition, no commercial use shall be within 200' of a building lot in the A-1/R-1 District.

SECTION 303 Conditional Industrial Uses

TABLE III

| CONDITIONAL (I-1) USES | LOT SIZE | MINIMUM FRONTAGE | FRONT YARD | SIDE YARD | REAR YARD | MAXIMUM % OF BLDG SIZE TO LOT AREA |
|---------------------------------|----------|------------------|------------|-----------|-----------|------------------------------------|
| <u>Industrial Uses, General</u> | 1 acre | 150' | 100' | 50' | 35' | 35% |

In addition, no Industrial Use shall be within 200' of a building lot in the District.

Industrial Uses, Landfill, Dump

| | | | | | |
|--------------------|-------|-------|-------|-------|-----|
| 40 acre Maximum | 150'* | 200'* | 100'* | 100'* | 35% |
|--------------------|-------|-------|-------|-------|-----|

*Special requirements for this land use listed below under Note 1.

Industrial Uses, Compost Site, Recycling Center, Transfer Station

| | | | | | | |
|--------------------|-------------------|-------|-------|------|------|-----|
| 10 acre Maximum | 5 acre Minimum | 150'* | 150'* | 50'* | 35'* | 20% |
|--------------------|-------------------|-------|-------|------|------|-----|

*Special requirements for this land use listed below under Note 2.

NOTE 1.

Set back requirement of 200" pertains to the outside base of a screening mound, which shall be 15' in height and shall surround any excavation for a landfill or other use such as compost or recycling. The mound shall be seeded with grass and shall have windbreak trees planted at 10' centers along the crest. (The trees shall be of 4" caliber). The mound shall also screen the entrance to the site.

Set back is 200' from road right-of-way on any side of the lot bounded by a road or highway and 100' feet on any other side.

Additionally, there shall be and 8' chainlink fence erected surrounding the

mound describe above which shall be set back 100' from right-of-way or 50 from any other property line as required for the mound.

No excavation at a landfill site shall be greater than 15' below existing ground contours. No material shall be mounded 15' above existing ground contours. The same shall apply to compost sites or recycling centers. (A contour map shall be required as part of the conditional use application.)

The mound and set back shall be mowed 3 times between June 1 and October 15 each year.

In addition, no Industrial Use, Landfill, Dump shall have a mound or excavation within 1000 feet of water well.

NOTE 2.

All segments of the operation of a Compost Site, Recycling Center or Transfer Station shall be in an enclosed building. All structures and excavations on the premises shall be surrounded with chain link fence 6 feet in height.

ARTICLE IV USE REGULATION FOR THE A-1/R-1 DISTRICT

The permitted and conditional uses for the A-1/R-1 District are shown in the accompanying tabulation which shall constitute Article IV of the Zoning Resolution. The interpretation of uses given shall be as defined in Article III. Uses not specifically listed under this Article and Article III shall not be permitted except by amendment of this resolution.

SECTION 400 Principal Permitted Uses

1. Agriculture
2. Single Family Dwelling
Shall have a minimum lot size of one (1) acre.
3. Two Family Dwelling
Shall have a minimum lot size of one (1) acre.
4. Mobile Home
Shall have a minimum lot size of one (1) acre.

Any other use as determined by the Board to be of the same general character as the above permitted uses.

SECTION 401 Conditional Uses Requiring Board Approval

1. All Uses Considered Commercial (C-1)
2. All Uses Considered Industrial (I-1)

SECTION 402 Minimum Dimensional Requirements for Permitted Uses For A-1/R-1 District

Minimum dimensional requirements shall be as scheduled on Table I, page 10.

ARTICLE V CONDITIONAL COMMERCIAL USES REQUIRING BOARD APPROVAL (C-1)

SECTION 500 Regulations

The following regulations and the regulations contained in Article II shall be considered before issuing a conditional (C-1) use permit. In addition, the Board shall give due regard to the nature and condition of all adjacent uses and buildings; and in authorizing a conditional use permit, the Board may impose such requirements and conditions with respect to location, construction, maintenance and operation (in addition to those expressly stipulated in this Resolution for the particular conditional use) as the Board may deem necessary for the protection of adjacent properties and public interest. (See Article XII, Section 1206).

SECTION 501 Conditional Uses (C-1)

1. Public and Private Airport or Landing strip

2. Commercial Swimming Pool, including fishing lake, gun club and skeet shooting range
3. Commercial Hunting Preserve
4. Golf Course
5. Private Recreational area
6. Cemetery
7. Drive-in Theater
8. Public Park & Playground
9. Private Club & Lodge
10. Store and Shop for conducting any retail or personal service business, also food processing where products are for sale exclusively on the premises.
11. Drive-in Restaurant & Eating Establishment
12. Automobile, Trailer & Farm Implement Establishment for display, hire, sales and repair, including sales lot, provided that such establishment is not a junk yard.
13. Bowling alley, motel, skating rink, pool hall, carpentry, sheet metal and sign painting shop, bakery, laundry, clothes cleaning and dyeing establishment, wholesale business, storage or warehouse, and commercial greenhouse.
14. A building may be used for a combination of commercial and residential purposes and, if so used, shall be classified as a Commercial (C-1) use.
15. Church
Shall have a minimum lot size of two (2) acres.
16. School
17. Public Building
18. Hospital & Clinic (including dormitory for nurses and attendants) but not including those for the treatment of the insane, liquor or drug addicts or correctional institutions. Shall have a minimum lot size of ten (10) acres.
19. Lodging & Boarding House
Shall have a minimum lot size of one (1) acre.
20. Nursing & Convalescent Home
Shall have a minimum lot size of five (5) acres.

21. Commercial Stable
Shall have a minimum lot size of five (5) acres provided that such buildings shall be a distance of three hundred (300) feet from any lot in an A-1/R-1 District.
22. Veterinary Clinic & Commercial Dog Kennel
Shall have a minimum lot size of two (2) acres and provided that all buildings, including runways, shall be a distance of four hundred (400) feet from any lot in an A-1/R-1 District.
23. Temporary Sawmill
For cutting timber grown on the premises, provided that any power of power providing equipment is located at least one hundred (100) feet from an adjacent property line.
24. Mobile Home Park
Shall comply with all State Regulations.
25. Home Occupation
26. Other Accessory Use
Any other use as determined by the Board to be of the same general character as the above conditional uses (C-1).

SECTION 502 Yard Requirements
See Table II Page 11

SECTION 503 Distance From Other Uses

No Commercial Use (C-1) shall be located within two hundred (200) feet of a building lot in the District.

SECTION 504 Storage and Parking

There shall be provided off-street parking space for the use of employees and visitors sufficient to accommodate the motor vehicles of such employees and visitors.

NOTE: See ARTICLE VII on Parking Areas

ARTICLE VI CONDITIONAL INDUSTRIAL USES REQUIRING BOARD APPROVAL (I-1)

SECTION 600 Regulations

The following regulations and the regulations contained in Article II shall be considered before issuing a conditional (I-1) use permit. In addition, the Board shall give due regard to the nature and condition of all adjacent uses and buildings; and in authorizing a conditional use permit, the Board may impose such requirements and conditions with to location, construction, maintenance and operation (in addition to those already expressly stipulated in this resolution for the particular conditional use) as the Board may deem necessary for the protection of adjacent properties and public interest. (See Article XII).

SECTION 601 Conditional Uses (I-1)

1. Slaughter houses or stock yards.
2. Acid manufacture or wholesale storage of acids.
3. Cement, lime, gypsum or plaster of paris manufacture.
4. Distillation of bones.
5. Explosive manufacture of storage, or the use of fissionable material as the primary source of power.
6. Fat rendering, fertilizer, gas, or glue manufacture.
7. Petroleum products refining.
8. Smelting or reducing of ores or metallurgical products.
9. Race tracks and courses for the conduct of seasonal or periodic racing meets of aircraft, horses, dogs, automobiles, motorcycles and the like.
10. Any use which may be obnoxious or offensive by reason of emission of odor, dust, gas, smoke, vibration, noise or any other unsightly appearance.
11. Landfill, dump, compost site. (See special requirements Page 11 - Section 303 - Table III)
12. Junk Yards.
13. Mineral extractions and tile mills.
14. Any other use as determined by the Board to be of the same general character as the above conditional uses (I-1).
15. Recycling center or transfer station. (See special requirements Page 11)

SECTION 602 Required Conditions

A. The best practical means known for the disposal of refuse matter or water carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance, shall be employed.

B. All principal buildings or accessory buildings or structures, including loading or unloading facilities, shall be located at least two hundred (200) feet from any lot in the District.

SECTION 603 Yard Requirements (For I-1, Industrial Uses, Landfill, Compost Site, Recycling Center, Transfer Station, see yard requirements, Page 11)

A. On all roads, streets and highways, the building line shall be at least one hundred (100) feet from the right-of-way of the road, street or highway.

B. Side Yards: All Industrial (I-1) uses and accessory buildings shall have two side yards, the width of which shall be a minimum of fifty (50) feet each.

C. Front Yard: All Industrial (I-1) uses shall have a front yard, the width of which shall be minimum of one hundred and fifty (150) feet.

D. Rear Yard: The rear yard shall not be less than thirty-five (35) feet.

SECTION 604 Distance From Other Uses

No Industrial (I-1) uses shall be located within two hundred (200) feet of a building lot in the District.

SECTION 605 Required Lot Area

All lots used for Industrial (I-1) uses shall have a minimum area of one (1) acre.

SECTION 606 Storage and Parking

There shall be provided off-street parking for the use of employees and visitors sufficient to accommodate the motor vehicles of such employees and visitors. Note: See Article VII on Parking Areas.

ARTICLE VII PARKING AREAS

SECTION 700 Parking

In all areas, in connection with every industrial, commercial, business, trade, institution, recreational or dwelling use, space for parking and storage of vehicles shall be provided, and shall be of sufficient size to provide ample area for the parking and storage of vehicles.

A. Every parcel of land hereafter used as a public or private area shall be developed and maintained in accordance with the following requirements in the District.

1. No part of any parking area shall be closer than twenty (20) feet to any street or road right-of-way line except in the case of corner lots when such distance shall be determined by the Board of Appeals.

2. In case any parking area abuts a building lot in the District, then no part of the parking area shall extend beyond the front building line for a distance of not less than one hundred (100) feet measured from the building lot line.

3. Off-street parking areas for more than (10) vehicles shall be paved with asphaltic material or concrete so as to provide a durable, dust free surface.

4. Any lighting used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjoining or facing building lots.

SECTION 701 Modification or Waiver of Parking Requirements

The Board of 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 use, or the exceptional situation or condition, would justify such modification, reduction or waiver.

ARTICLE VIII SPECIAL PROVISIONS

SECTION 800 Billboards & Outdoor Advertising

A. Location: No billboard shall be located within 50' of a property or right-of-way line.

B. Size: No billboard shall exceed 300 square feet in size, and shall be erected no higher than 25' above the average grade.

C. Construction: All free standing billboards shall be constructed on wood or steel supports.

D. Exceptions: Home occupation, signs located on the premises of a commercial use and signs for religious organizations shall be exempt from the above regulations.

ARTICLE IX EXCEPTIONS TO REGULATIONS

SECTION 900 Existing Lots of Record

Any lot of record fifty (50) feet or wider existing at the effective date of this Resolution may be used for the erection of a single-family dwelling even though its area and width are less than the minimum requirements set forth herein. Each side yard shall be a minimum of ten (10) feet. Where two adjacent lots of record with less than the required area and width are held by one owner, the Board may require that the lot be combined and used for one (1) main building. In either case, the prevailing setback shall be met. Where three or more contiguous unimproved lots of record with less than the required replatting to fewer lots to permit compliance with minimum yard requirements.

ARTICLE X NONCONFORMING USES

SECTION 1000 Nonconforming Uses

1000.1 Any lawful uses of buildings or land existing at the effective date of this resolution may be continued, even though such use does not conform to the provisions hereof. The nonconforming use of a building may be extended throughout those existing parts of the building which were arranged or designed for such use. No nonconforming use of land shall be expanded for such use. No nonconforming use of land shall be expanded, except when authorized by the Board in accordance with the provisions of Article XII.

1000.2 Whenever the use of a building or land becomes nonconforming through a change in the amended Zoning Resolution or in the District boundaries, such use may be continued.

1000.3 A nonconforming use which is discontinued for a period of one (1) year shall not again be used except in conformity with the regulations of the District in which it is located.

1000.4 A nonconforming use which has been damaged by fire, explosion, act of God or the public enemy to the extent of ninety (90) percent or more of its reproduction value at the time of damage shall not be restored except in conformity with the regulations of the District in which it is located. When damaged by less than ninety (90) percent of its reproduction value a nonconforming use may be required or reconstructed, and used as before the time of damage, provided such repairs or reconstruction are started within one (1) year of the date of such damage.

1000.5 Nonconforming trailer or mobile home located on a lot, other than in an established mobile home park, once removed shall not be located on such lot unless the unit is a replacement for another unit. In this instance, the replacement shall be on-site within one week of the removal of the previous unit.

1000.6 It is not the intention herein to classify as nonconforming, a use or building allowed in a district as a conditional use under the regulations of this resolution.

1000.7 Any building arranged, intended or designed for a nonconforming use, the construction of which has been started at the time of the passage of this resolution, but not completed, may be completed and put into such nonconforming use, provided it is done within one (1) year after this resolution takes effect.

ARTICLE XI ENFORCEMENT

SECTION 1100 Zoning Inspector

1100.1 There is hereby established the office of Recovery Township Zoning Inspector, and for the purpose of this Resolution, the Inspector appointed by the Board of Township Trustees is hereby designated as such Zoning Inspector. It shall be the duty of the Zoning Inspector, as provided under

Section 519.01 et. seq. of the Ohio General Code, to enforce this Resolution in accordance with the provisions of this Resolution. For this purpose the Zoning Inspector shall have such powers as are conferred upon him or her by this Resolution and State Statutes. It shall be the duty of all officials and employees of the county and township affected by this Resolution to assist the Zoning Inspector by reporting to him or her upon new construction, reconstruction, or land uses or upon seeming violations.

SECTION 1101 Zoning Certificates

1101.1 It shall be unlawful for an owner to use or to permit the use of any structure, building or land, or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until a zoning certificate shall have been issued by the Zoning Inspector. It shall be the duty of the Zoning Inspector to issue a certificate, provided the Inspector is satisfied that the structure, building or premises, and the proposed use thereof conforms with all the requirements of this resolution. No permit for excavation, construction or reconstruction shall be issued by the Zoning Inspector unless the plans, specifications and the intended use conform to the provisions of this Resolution. All zoning certificates shall expire two (2) years after their issuance unless construction has reached twenty-five (25) percent of completion.

1101.2 Upon written request from the owner or tenant, the Zoning Inspector shall issue a zoning certificate for any building or premises existing at the time of enactment of this Resolution, certifying, after inspection, the extent and kind of use made of the buildings or premises and whether such use conforms to the provisions of this Resolution. No fee shall be charged for a zoning certificate for such existing use provided application therefore is made within six (6) months after the enactment of this Resolution. After such six (6) month period the fee for such zoning certificate shall be as hereinafter provided; all zoning permits will be charged a fee of \$25.00.

SECTION 1102 Application for Zoning Certificate

1102.1 Every application for a zoning certificate shall be accompanied by a plot plan in duplicate, and such other plans as may be necessary to show the location and type of buildings to be erected or alterations to be made. Where construction or physical improvement of the land is involved, the lot and location of the buildings to be erected, and all dimensions shown on filed plans shall be based on an actual survey.

(a) Each plan shall show:

1. The street providing access to the lot and the exact location of the lot in relation to the nearest cross street.
2. The name of the concerned lot plan, if any, and the lot numbers of the concerned and abutting properties.
3. The actual dimensions of the lot, the yard and other open space dimensions thereof, and the location and size of any existing structure thereon.

4. The location and size of the proposed structure, and/or the proposed enlargement of the existing structure.
5. Any other information which in the judgment of the Zoning Inspector may be necessary to provide for the enforcement of this resolution.

(b) Each plan shall bear statements declaring:

1. That no part of the land involved in the application has been previously used to provide required yard space or lot area for another structure.

(c) Where complete and accurate information is not readily available from existing records, the Zoning Inspector may require the applicant to furnish a survey of the lot by a registered engineer or surveyor.

(d) Each property owner or authorized agent shall be required to attest to the correctness of the statements and data furnished with the application.

(e) A file of such applications and plans shall be kept in the office of the Recovery Township Buildings.

SECTION 1103 Violations and Penalties

1103.1 It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use, any building or land violation of any regulation in or any provisions of this Resolution or any amendment or supplement thereto adopted by the Board of Township Trustees of Recovery Township, Mercer County, under Section 519.01 et. seq. of the Ohio General Code. Any person, firm, partnership or corporation, violating any regulation or any provision of this Resolution or any amendment or supplement thereto shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred (\$100.00) dollars. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues, may be deemed a separate offense.

SECTION 1104 Violations: Who May Bring Action

1104.1 In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land is or is proposed to be used in violation of this Resolution or any amendment or supplement thereto, said Board of Township Trustees, the Prosecuting Attorney of Mercer County, said Township 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, proceeding, or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

ARTICLE XII BOARD OF ZONING APPEALS

SECTION 1200 Organizations and Procedures

1200.1 Appointment: There is hereby established a Board of Zoning Appeals which shall consist of five (5) electors appointed by the Township Trustees. The Trustees shall choose a successor to fill any vacancy. The five (5) electors first appointed shall serve terms of one (1), two (2), three (3), four (4), and five (5) years, respectively; thereafter appointments shall be for five (5) year terms, beginning January 1. Each member shall serve until his successor is appointed and qualified. Vacancies shall be filled by the Township Trustees and shall be for the respective unexpired term. The members of the Board of Zoning Appeals may receive such compensation as the Board of Township Trustees provides.

1200.2 Proceedings: The Board of Zoning Appeals shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this resolution. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths, compel the attendance or witnesses, punish for contempt, or may require the production of documents. Three members shall constitute a quorum; however, three affirmative votes shall constitute a quorum; however, three affirmative votes shall be required on any resolution overruling an action under or interpretation of the Zoning Resolution by any administrative officer of the township.

1200.3 Hearing, Rules etc: The hearings of the Board of Zoning Appeals shall be public. However, the Board may go into executive session for discussion but not for vote on any case before it. The board shall organize annually and elect a President, Vice-President and Secretary. The Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this resolution.

The Board shall hear any owner of property adjacent to the lot for which the granting of any zoning permit is pending, and shall also hear any other parties having substantial interest as determined by the Board.

1200.4 Minutes and Records: The Board shall keep minutes of its proceedings, showing the vote of each member upon each question; or, if absent or failing to vote, indicating such fact; and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Township Trustees and shall be a public record.

1200.5 Department Assistance: The Board may call upon the various departments of the township for assistance in the performance of its duties and it shall be the duty of such departments to render such assistance to the Board as may reasonably be required.

SECTION 1201 Applications and Appeals

1201.1 Applications: An application, in cases in which the Board has original jurisdiction under the provisions of this resolution, may be taken by any person aggrieved, including a tenant, or by a governmental officer,

department, board, or bureau. Such application shall be filled with the Zoning Inspector who shall transmit same to the Board. A fee of \$25.00 shall be paid to the zoning Inspector at the time notice of appeal is filed, for the purpose of defraying the costs of the proceedings describe herein. The Zoning Inspector shall forthwith pay this fee over to the Township to the credit of the Township General Fund.

1201.2 Appeals:

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

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

(c) The Board may, in conformity with the provisions of this resolution, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises; and to that end, shall have all powers of the Zoning Inspector from whom the appeal is taken. Any party adversely affected by a decision of the Board may appeal to the court of Common Pleas of the county, on the ground that the decision was unreasonable or unlawful.

SECTION 1202 Hearings

1202.1 The Board shall fix a reasonable time for the hearing of an appeal, give at least ten (10) days public notice thereof in a newspaper of general circulation in the township and at least ten (10) days notice to parties having proprietary interest in land within two hundred (200) feet and decide upon the appeal within a reasonable time after it is submitted. Each application or notice of appeal shall be accompanied by the fee hereinafter specified. At this hearing, any party may appear in person or by attorney.

1202.2 Upon the day for hearing any application or appeal, the Board may adjourn the hearing in order to permit the obtaining of additional information to to cause such further notice as it deems proper to be served upon such other property owners as it decides may be substantially interested in said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the Board so decides.

SECTION 1203

Decisions of the Board

1203.1 The Board shall decide all applications and appeals within thirty (30) days after the final hearing thereon.

1203.2 A certified copy of the Board's decision shall be transmitted to all parties in interest. Such decision shall be binding upon the Zoning Inspector and observed by him, and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant, whenever a permit is authorized by the Board.

1203.3 A decision of the Board shall not become final until the expiration of five (5) days from the date such decision is made, unless the Board shall find the immediate taking effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.

1203.4 The Board may reverse or affirm wholly or partly or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises; and to that end, shall have all powers of the Zoning Inspector from whom the appeal is taken. Any party adversely affected by a decision of the Board may appeal to the Court of Common Pleas of the County on the ground that the decision was unreasonable or unlawful.

SECTION 1204 Powers and Duties

The Board of Zoning Appeals shall have the following powers and duties:

1204.1 To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Zoning Inspector in the enforcement of this resolution or any amendments thereto.

1204.2 In hearing and deciding appeals, the Board shall have the power to grant an exception in the following instances:

(a) Permit the extension of a district where the boundary line of a district divides a lot or tract held in a single ownership at the time of the passage of this resolution.

(b) Interpret provisions of this resolution in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several districts, accompanying and made part of this resolution where the street layout actually on the ground varies from the street layout as shown on the map aforesaid.

(c) Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than ninety (90) percent of its fair market value, where the Board finds some compelling necessity requiring a continuance of the nonconforming use is not to continue a monopoly.

(d) The substitution for a nonconforming use existing at the time of enactment of this resolution of another nonconforming use, if no structural

alterations except those required by law or resolution are made.

(e) 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, provided that such use be of a temporary nature and does not involve the erection of a substantial structure. A zoning certificate for such use shall be granted in the form of a temporary and revocable permit, for not more than a twelve (12) month period, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

SECTION 1205 Variances

The Board shall have the power to hear and decide appeals and authorize such variances from the provisions or requirements of this resolution as will not be contrary to the public interest. In authorizing a variance, the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objectives of this resolution. On appeal where there is unnecessary hardship, the Board may grant a variance in the application of the provisions of the Zoning Resolution only if all of the following findings are made:

(a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions generally created by the provisions of the Zoning Resolution in the neighborhood or district in which the property is located.

(b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning resolution and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(c) That such unnecessary hardship has not been created by the appellant.

(d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

(e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

1205.2 The Board shall have the authority to grant an extension or permit completion of a building devoted to a nonconforming use upon a lot occupied by such building, or on a lot adjoining, provided that such lot was under the same ownership as the lot in question on the date such building became nonconforming, and where such extension is necessary and incidental to the existing use of such building; provided, however, that the floor area of such extension shall not exceed in all thirty-five (35) percent of the floor area of the existing

building or buildings devoted to a nonconforming use and provided further that such extension of extensions shall be undertaken within five (5) years of the date when the use of such building became nonconforming.

SECTION 1206 Special Exceptions and Conditional Uses

Special Exceptions: Applications for special exceptions shall be filed with the Zoning Inspector and transmitted by him to the Board. The Board of Zoning Appeals, in addition to its power heretofore specified, is hereby authorized to hear and decide, in accordance with the provisions of this Resolution, requests or applications for special exceptions or for interpretations of the Zoning Maps or for decisions upon other special questions.

Conditional Uses: The Board may authorize the issuance of a Zoning Certificate, after public hearing, for any in considering an application for and of the conditional uses, the Board shall give due regard to the nature and condition of all adjacent uses and buildings; and in authorizing a conditional use, the Board may impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Resolution for the particular conditional uses as the Board may deem necessary for the protection of adjacent properties and public interest.

SECTION 1207 Amendments or Supplements to Zoning Resolution

1207.1 General: Whenever the public necessity, convince, general welfare or good zoning practice require, the Board of Township Trustees may by resolution, after recommendation thereon by the Zoning Commission and subject to the procedure provided in this section, amend, supplement or change the regulations, district boundaries or classifications of property, now or hereafter established by this Resolution or amendments thereof. Such amendment may be made without the vote of the electors, except as hereinafter provided in Section 1207 (f). It shall be the duty of the Zoning Commission to submit its recommendations regarding all applications or proposals for amendments to the Board of Township Trustees.

An amendment, supplement, reclassification or change may be initiated by:

1. Resolution of the Board of Township Trustees
2. Motion of the Township Zoning Commission
3. Application to the Zoning Commission by one (1) or more of the owners of lessees of property within the area proposed to be changed or affected by this Resolution.

1207.2 Procedure for Change

A. Application: Applications for change of district boundaries or classifications of property as shown on the Zoning Map, shall be submitted to the Township Zoning Commission at their office upon such forms and shall be

by the Zoning Commission so as to assure the fullest practicable presentation of facts for the permanent record. Applications for amendments initiated by the Board of Township Trustees shall be accompanied by their Resolution setting forth such proposed amendments. Amendments initiated by the Zoning Commission shall be accompanied by their motion setting forth such proposed amendment.

(1) Names and Addresses of Adjacent Property Owners: All applications for changes in zoning classifications of property shall be accompanied by a statement giving the names and addresses of the owners of all adjacent properties and of all premises proposed to be changed.

(2) Fees: Each applicant for an amendment, except those initiated by the Board of Township Trustees, or the Zoning Commission, shall be accompanied by a fee in the amount of \$ 25.00 to cover the cost of publication and mailing notices as hereinafter required.

B. Public hearing by Zoning Commission: Upon Receipt of application, the Zoning Commission shall set a date for a public hearing on such application. Such date for the public hearing shall not be less than twenty (20) days or more than forty (40) days from the date of receipt of the application. Notice of the public hearing shall be given by one publication at least fifteen (15) days prior to the date of such hearing. The notice shall state the time and place at which the proposed amendment to the Resolution, including text and maps, may be examined.

C. Recommendation By Zoning Commission: Within thirty (30) days of the required hearing the Zoning Commission shall recommend approval or disapproval of the application and all pertinent records, together with the Zoning Commission's recommendations, to the Board of Township Trustees.

D. Public Hearing By Board of Township Trustees: Upon receipt of the application and the recommendation of the Zoning Commission, the Board of Township Trustees shall set a time and place for a public hearing. The date for such public hearing shall not be more than thirty (30) days after receipt of the recommendations of the Zoning Commission. Notice of the public hearing shall be given by one publication in one or more newspapers of general circulation in the township at least (15) days prior to the date of such hearing. The notice shall state the time and place at which the proposed amendment to the Resolution, including text and maps, may be examined.

1. In addition to the published notice, the Board of Township Trustees shall give notice of the time and place and purpose of the public hearing to be held by the Board of Township Trustees by mailing notice not less than ten (10) days prior to the date of the hearing to the owners of all adjacent properties and of all premises lying within three hundred (300) feet of any part of the property proposed to be changed.

E. Action by Board of Township Trustees: With in twenty (20) days of the public hearing in accordance with the paragraph above, the Board of Township Trustees shall adopt or deny the recommendations of the Zoning Commission. The recommendations of the Zoning Commission shall not be modified or denied by the Board of Township Trustees except by a favorable vote of the entire membership of the Board of Township Trustees.

recommendations of the Zoning Commission shall not be modified or denied by the Board of Township Trustees except by a favorable vote of the entire membership of the Board of Township Trustees.

F. Effective Date of Amendment: If the proposed amendment is adopted by the Board of Township Trustees, the amendment shall automatically become effective within thirty (30) days of its adoption, unless within said thirty (30) days after the adoption of the amendment there is presented to the Board of Township Trustees, a petition signed by a number of qualified voters in the unincorporated area of the township included in the zoning plan and affected by the amendment or supplement equal to not less than eight (8) percent of the last preceding general election at which a Governor was elected, requesting the Board of Township Trustees to submit the amendment to the electors of such area for approval or rejection at the next primary or general election. (See also Section 519.12 of the Ohio Revised Code.)

ARTICLE XIII EFFECTIVE DATE

Section 1300 Effective Date

The zoning code for the unincorporated areas of Recovery Township, Mercer County, Ohio, became effective on November 20, 1991.