

MIDDLEBURY TOWNSHIP
KNOX COUNTY, OHIO
ZONING RESOLUTION

Revised 2018

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ARTICLE I: PURPOSE AND SCOPE

1.0 PREAMBLE: This Resolution of the Township of Middlebury, Knox County, Ohio, enacted for the purpose of promoting public health, safety, morals, comfort and general welfare; to conserve and protect property values; to secure the most appropriate use of land; and to facilitate adequate but economical provision of public improvements, all in accordance with a comprehensive plan and the provisions of Chapters 519.1 - 519.99 Ohio Revised Code. The Board of Trustees of Middlebury Township finds it necessary and advisable to regulate the location, bulk, number of stories and sizes of buildings and other structures, percentages of lot areas which may be occupied, set-back building lines, sizes of yards, courts and other open spaces, providing for adequate light, air, the density of population, the uses of buildings and other structures including mobile homes and the uses of land for trade, industry, residence, recreation, or other purposes and for such purposes divide the unincorporated area of the Middlebury Township into districts or zones. All in accordance with a comprehensive plan for the desirable future development of Middlebury Township, and to provide a method of administration and to prescribe penalties for violation of provisions hereafter described in this Resolution-All as authorized by the Ohio Revised Code.

ARTICLE II: TITLE

2.0 MIDDLEBURY TOWNSHIP, KNOX COUNTY, OHIO, ZONING RESOLUTION: This Resolution shall be known and may be cited and referred to as the "Zoning Resolution of Middlebury Township, Knox County, Ohio."

ARTICLE III : REQUIREMENTS AS MINIMUMS

3.0 REQUIREMENTS AS MINIMUMS: In their interpretation and application, the provisions of this zoning resolution shall be held to be the minimum requirements, adopted for the promotion of the public health, safety, comfort, morals, and general welfare. Nothing herein shall repeal, abrogate, annul, or in any way impair or interfere with any provision of law or any rule or regulation, other than zoning regulations, adopted or issued pursuant to law relating to the construction and use of buildings or premises. Where the zoning resolution imposes a greater restriction upon the use of buildings or premises or requires larger yards than are imposed or required by other provisions of law, rules, regulations, covenants, deed restrictions or agreements, the provisions herein shall control, but nothing herein shall interfere with, abrogate or annul any easements, covenants, deed restrictions of agreements between parties which impose restrictions greater than those imposed herein.

SEPARABILITY CLAUSE: Should any section or provision of this resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or .invalid.

ARTICLE IV: DEFINITIONS

4.0 INTERPRETATION: Certain terms are herein defined for convenience and clarity and shall be used in the interpretation of this resolution.

1. In all instances, the word “shall” is mandatory and not directory.
2. The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as individuals.
3. The words “used” or “occupied” include the words “intended, designed, or arranged to be used or occupied.”
4. The word “lot” includes the words “plot” or “parcel.”

ACCESSORY USE OR STRUCTURE: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principle use of structure. The dwelling must be under construction or in place before accessory structures are placed in use

ADULT BOOK STORE: An establishment which utilizes 15 percent or more of its retail selling area for the purpose of retail sale or rental, or for the purpose of display by coin or slug operated electronically or mechanically controlled still or motion picture machines, projectors, or other image producing devices, or both, books, magazines, other periodicals, films, tapes and cassettes which are distinguished by their emphasis on adult materials as defined in this Resolution.

ADULT ENTERTAINMENT FACILITY: An adult bookstore, adult motion picture theater, adult motion picture drive-in theater, or any adult-only entertainment establishment as defined by this Resolution.

ADULT MATERIAL: Any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure, description, motion picture film, phonographic record or tape, other tangible thing, or any service capable of arousing interest through sight, sound, or touch, and, which material is distinguished or characterized by emphasis on matter displaying, describing, or representing sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination.

ADULT MOTION PICTURE DRIVE-IN THEATER: An open-air, drive-in theater that is regularly used or utilized 15 percent or more of its total viewing time for presenting, describing, or related to adult material as defined in this Resolution.

ADULT MOTION PICTURE THEATER: An enclosed motion picture theater which is regularly used or utilizes 15 percent or more of its total viewing time for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or related to adult material as defined in this resolution

ADULT ONLY ENTERTAINMENT ESTABLISHMENT: An establishment where the patron directly or indirectly is charged a fee where the establishment features entertainment or services

which constitute adult material as defined in this Resolution; or which features exhibitions, dance routines, or gyration choreography or persons totally nude, topless or bottomless; or strippers (male or female); or female impersonators; or similar entertainment or services which constitute adult material.

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

ALLEY: An alley is a public right-of-way providing secondary access to abutting property.

ALTERATIONS, STRUCTURAL: Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

AUTOMOTIVE REPAIR: The repair, rebuilding, or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

AUTOMOTIVE, MOBILE HOME, TRAVEL TRAILER, AND FARM IMPLEMENT SALES: The sale or rental of new and used motor vehicles, mobile homes, travel trailers, or farm implements, but not including repair work except incidental warranty repair of same, to be displayed and sold on the premises.

AUTOMOTIVE WRECKING: The dismantling or wrecking of used motor vehicles, mobile homes, trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

BASEMENT/CELLAR: A story all or partly underground, but having at least one-half of its height below the average level of the adjoining ground.

BEGINNING CONSTRUCTION: The beginning of construction is the incorporation of labor and materials within the walls of a building or buildings; the incorporation of labor and materials at the site, lot or parcel where a building is to be constructed; the incorporation of labor and material where land is to be used for purposes other than construction of a building.

BOARD: The Board of Zoning Appeals of Middlebury Township.

BUILDING: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattel or property.

BUILDING, ACCESSORY: A subordinate building detached from, but located on the same lot as the principle building, the use of which is incidental and accessory to that of the main building or use.

BUILDING HEIGHTS: The height of a building is the vertical distance from the top of the foundation to the highest point on the building roof.

BUILDING PRINCIPAL: A building in which is conducted the main or principal use of the lot on which said building is situated.

BUSINESS, GENERAL: Commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend, in addition to serving day to day needs of the community, also supply the more durable and permanent needs of the whole community. General business uses include, but need not be limited to, such activities as supermarkets; stores that sell hardware, apparel, footwear, appliances, furniture, department stores and discount stores.

CEMETERY: Land used or intended to be used for the burial of humans and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

CONDITIONAL USE: A use permitted within a district other than a principally permitted use, requiring a conditional use permit and approval of the Board of Zoning Appeals. Conditional uses permitted in each district are listed in the official schedule of district regulations.

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

COMMISSION: The Middlebury Township Zoning Commission.

CORNER LOT: See lot types.

COURT: A court is an open, unoccupied and unobstructed space, other than a yard, on the same lot with a building or group of buildings.

DENSITY: A unit of measurement; the number of dwelling units per acre of land.

1. GROSS DENSITY: The number of dwelling units per acre of total land to be developed.
2. NET DENSITY: The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

DISTRICT: A district is a portion of the unincorporated territory of Middlebury Township governed by uniform regulations and requirements.

DWELLING: A dwelling is any building or portion thereof occupied or intended to be occupied for residence purposes only, but not including a tent, cabin. (Except a house trailer or mobile home as defined by Ohio Revised Code 4501.1)

DWELLING UNIT: Space with a dwelling; comprising living, dining, sleeping room or rooms, storage closets, as well as, space and equipment for; cooking, bathing, and toilet facilities; all used by only one family and its household employees.

DWELLING, SINGLE FAMILY: A single family dwelling is a building occupied or constructed to be occupied for-residence purposes by one family or housekeeping unit.

DWELLING, TWO FAMILY: A two-family dwelling is a building occupied or constructed to be occupied by not more than two families or housekeeping units, and each unit having a separate entrance.

DWELLING, MULTIPLE FAMILY: A multiple-family dwelling is a building or portion thereof occupied, or constructed to be occupied by more than two families or housekeeping units.

EASEMENT: Authorization by a property owner for the use by another, and for a specific purpose of any designated part of his property.

ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies of underground gas, electrical, steam, or water transmission, or distribution systems, collection, communication, supply or disposal systems or sites, including poles, wires, mains, drains, sewers, pipes, traffic signals, hydrants, or other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

FAMILY: One or more persons occupying a single dwelling unit provided that unless all members are related by blood, adoption, or marriage, no such family shall contain over (5) five persons.

FENCE: A structure erected to separate two (2) (or more) areas of land. Fences built on agricultural property to separate agricultural areas from each other (such as two farm fields) or to separate an agricultural area from a non-agricultural area (such as a farm field next to a residence

or business) are considered agricultural in nature and are not regulated by any part of these Resolutions. Fences built on residential or commercial business properties are considered non-agricultural and are bound by the conditions of these Resolutions.

FENCE FABRIC or FACE: The side opposite that which is attached to the posts or other supporting structures. When looking at the fabric side of a fence, if the posts or supports are visible through the fence, they are on the side opposite the viewer.

FLOOR AREA -GROSS GROUND SPACE: The sum of the gross horizontal area of the first floor of a residential building or commercial building, excluding basement floor areas. All dimensions shall be measured on exterior walls.

FLOOR AREA-USABLE: Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

FOOD PROCESSING: The preparation, storage, or processing of food products. Examples of these activities include bakeries, dairies, canneries, and other similar businesses.

FRONTAGE: All the property fronting on one (1) side of a street between the two nearest intersecting streets, or other natural barriers.

GARAGE, PRIVATE: A private garage is a garage intended for, and used by, the private motor vehicles of the families residing upon the premises.

GARAGE, PUBLIC: A public garage is a space or structure for the: storage, sale, hire, care, repair, or refinishing of self-propelled vehicles.

GARAGE, SERVICE STATION: Buildings and premises where gasoline, oil, grease, batteries, tires, motor vehicles accessories may be supplied, and dispensed at retail, and is a conditional use.

GRAIN ELEVATOR: A tower containing a bucket elevator which scoops up, elevates, and then uses gravity to deposit grains in a silo or other storage facility. Includes any facilities attached to the elevator itself and shall include receiving and testing offices, weightbridges, storage facilities and/or complexes of such buildings, primary elevators, process elevators, terminal elevators, transfer elevators, hopper tanks, or dryers.

HOME OCCUPATION: Any use conducted (1) entirely within a dwelling structure by the occupant of the dwelling and as a secondary use that is clearly incidental to the use of the structure as a dwelling; or (2) within a separate building on the residential property that is clearly incidental to the residential use of the property. Such a use shall employ not more than one (1) person outside the family residents of the property, and is considered a conditional use. In case (1) the floor area devoted to the HOME OCCUPATION shall not exceed twenty-five percent (25%) of the total floor area occupied by the dwelling on the lot.

HOSPITAL: A building or portion thereof used for the accommodation of sick, injured, or infirm persons, including sanitarium.

INDUSTRY: Storage, repair, manufacture, preparation or treatment of any article, substance or commodity.

JUNK YARD: Any open area where waste, discarded, abandoned, or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, or handled, including auto wrecking yards, house wrecking yards, used lumber yards. (Refer to Ohio Revised Code Chapter 4737).

KENNEL: Any structure or premises on which four (4) or more dogs over four (4) months of age are kept.

LIVESTOCK-LARGE: Equine: regardless of the purpose for which they are raised; swine; cattle; goats; sheep; alpacas; llamas; other animals of similar or larger size.

LIVESTOCK-SMALL: Medium and small fowl such as chickens, geese, turkeys, or ducks; rabbits; or animals of similar size.

LOADING SPACE, OFF STREET: An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street or other appropriate means of access.

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

1. LOT CORNER: A corner lot is a lot abutting upon two (2) or more streets at their intersection.
2. LOT DOUBLE FRONTAGE: A double frontage lot is a lot having a frontage on two (2) non-intersecting streets.
3. LOT DEPTH: Lot depth is the mean horizontal distance between the front and the rear lot lines.
4. LOT LINE, FRONT: The front line is the line separating the lot from a street.
5. LOT LINE, REAR: The rear lot line is the line opposite and most distant from the front lot line.
6. LOT LINE, SIDE: The side lot line is any line other than a front or rear lot line.
7. LOT WIDTH: The distance between the lines connecting front and rear lot lines at each side of the lot. The minimum lot width must be maintained throughout the entire parcel.

LOT, MINIMUM AREA OF: The area of a lot is computed exclusive of any portion of the right-of-way of any public or private street.

LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the County Recorder, Knox County, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

MANUFACTURING LIGHT: Manufacturing or other industrial uses which are usually: controlled operations, relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor or dust; operating and storing within enclosed structures, and generating little industrial traffic and no nuisances.

MANUFACTURING EXTRACTIVE: Any mining, quarrying, excavating, processing, storing, separating, cleaning, or marketing, of any mineral or natural resource.

MOBILE HOME: A structure designed to be used for human habitation or storage of property, not having a permanent foundation, being able to be easily equipped with wheels or other devices to be transported from place to place (Exceeding a gross weight of four thousand five hundred (4,500) pounds and an overall length of thirty (30) feet).

MOBILE HOME BECOMING A PERMANENT RESIDENCE: Structure shall meet square footage requirements and be placed on foundation or pillars as stated in ARTICLE VII with wheels and tongue removed and title turned in to the County of Knox Clerk of Courts, meeting all regulations as set forth in this resolution.

MOBILE HOME TEMPORARY RESIDENCE: Structure, meeting square footage requirements and other regulations of this resolution, issued to the occupant and/or resident as Temporary housing, for a period of two (2) years.

MOBILE HOME PARK: Any site or tract of land upon which two (2) or more mobile homes used for habitation are parked, either free of charge or for revenue purposes including any roadway, building structure, vehicle or enclosure used or intended for use as a part of the facilities of such park.

NON-CONFORMITIES: A building, structure or use of land existing at the time of enactment of this resolution, which does not conform to the regulations of the district or zone in which it is situated.

1. NON-CONFORMING USE OF BUILDING: The non-conforming use of a building or structure devoted to or occupied by a use that does not conform to the provisions of this resolution for the district in which it is located.
2. NON-CONFORMING USE OF LAND: Is a tract, parcel or site devoted to or occupied by a use that does not conform to the provisions of this resolution for the district in which it is located.

NUDE OR NUDITY: The showing, presentation, or depiction of human male or female genitals, pubic area, or buttocks with less than full, opaque covering of any portion thereof, or female breast(s) with less than a full, opaque covering of any portion thereof below the top of the nipple, or covered male genitals in a discernibly turgid state.

NURSERY, NURSING HOME: A home or facility for the care and treatment of babies, children, pensioners, or elderly people.

OPEN SPACE: An area substantially open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, water areas, swimming pools, and tennis courts; any other recreational facilities that the Zoning Commission deems permissive. Streets, parking areas, structures for habitation and the like shall not be included.

PARKING LOT, COMMERCIAL: A commercial parking lot is an area of one (1) or more "parking spaces" designed or used for the parking of self-propelled vehicles and horse drawn vehicles and available to the public whether for a fee or as an accommodation to clients or customers.

PARKING SPACE: Is a surfaced area of not less than two hundred (200) square feet either within a structure or in the open, exclusive of driveways or access drives for the parking of a motor vehicle or horse drawn vehicle.

PUBLIC SERVICE FACILITY: The erection, construction, alteration, operation, or maintenance of buildings power plants, or substations, water treatment plants or pumping stations, sewage disposal or public utility, by a railroad, whether publicly or privately owned, or by a municipal or other governmental agency, including the furnishing of electrical, gas, rail transport, communication, public water and sewage services.

PUBLIC USES: Public parks, schools, administrative and cultural buildings and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.

PUBLIC WAY: An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk, bicycle path; or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.

QUASIPUBLIC USE: Churches, Sunday schools, parochial schools, colleges, hospitals, and other facilities of an educational, religious, charitable, philanthropic, or non-profit nature.

RECREATION CAMP: An area of land on which two or more travel trailers, campers, tents or other similar temporary recreational structures are regularly accommodated with or without charge, used or intended to be used in connection with providing such accommodations.

RECREATIONAL VEHICLES/TRAILERS: A trailer or recreational vehicle is any vehicle or structure, constructed in such a manner as to permit occupancy thereof as sleeping quarters or the

conduct of any business, trade or occupation, or use as a selling of advertising device, and so designed that it is or may be mounted on wheels and used as a conveyance on streets, propelled or drawn by its own or other motor power.

RIGHT-OF-WAY: A strip of land taken or dedicated for use as a Public Way. In addition to the street, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

ROADSIDE STAND: A temporary structure designed exclusively for or used for the display or sale of agricultural products or related products produced on the premises upon which such stand is located.

SET-BACK LINE: A line established by the Zoning Resolution, generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building, or structure, may be located above ground, except as may be provided in said code.

SEWERS, CENTRAL OR GROUP: An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community or region.

SEWERS, ON-SITE: A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials of Knox County having jurisdiction.

SEXUAL ACTIVITY: Sexual conduct or sexual contact, or both.

SEXUAL CONTACT: Any touching of an erogenous zone of another, including without limitation to the thigh, genitals, buttocks, pubic region, or if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

SEXUAL EXCITEMENT: The condition of the human male or female genitals, when in a state of sexual stimulation or arousal.

SIDEWALK: That portion of the street right-of-way outside the street, which is improved for the use of pedestrian-traffic.

SIGN: Any device designed to inform or attract the attention of persons not on the premises on which the sign is located.

1. **SIGN, ON-PREMISES**: Any sign related to a business or profession conducted, or a commodity or service sold or offered upon the premises where such sign is located.

2. SIGN, OFF-PREMISES: Any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered upon the premises where such a sign is located.
3. SIGN, ILLUMINATED: Any sign illuminated by electricity, gas, or other artificial light including reflecting or phosphorescent light.
4. SIGN, LIGHTING DEVICE: Any light, string of lights, or group of lights located or arranged so as to cast illumination on a sign.
5. SIGN, PROJECTING: Any sign which projects from the exterior of a building.

STORY: That portion of a building, other than a cellar/basement including between the surface of any floor and the surface of the floor above it; if there be no floor above it, then the space between the floor and the ceiling next above it.

STORY, HALF: A half-story shall mean a partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story.

STREET: A street is a public right-of-way sixty (60) feet in width which provides a public means of access to an abutting property; any public right-of-way not less than thirty (30) feet in width which existed prior to the enactment of this resolution. The term "street" shall include avenue drive, circle, road, highway, or similar term.

STREET, THOROUGHFARE, OR ROAD: The full width between property lines bounding every public way or whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:

1. ALLEY: See Alley
2. ARTERIAL STREET: A general term denoting a highway primarily for through traffic, carrying heavy loads and large volume of traffic, usually in a continuous route.
3. COLLECTOR STREET: A thoroughfare, whether within a residential, industrial, commercial, or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
4. CUL-DE-SACS: A local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.
5. DEAD-END STREET: A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.

6. LOCAL STREET: A street primarily for providing access to residential or other abutting property.

STRUCTURE AND STRUCTURE ALTERATION: A structure and structure alteration is anything constructed, the use of which requires permanent location on the ground, or attached to something having a permanent location on the ground among other things, structures including buildings, mobile homes, walls, fences, and billboards.

SUPPLY YARDS: A commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain and similar goods.

TOPLESS: The showing of a female breast with less than a full opaque covering of any portion thereof, below the top of the nipple.

TOURIST HOME/MOTEL: A tourist home/motel is a group of attached or detached cottages, cabins, or similar buildings containing individual sleeping or living units for the accommodation of transient guest. The term shall be interchangeable with auto courts, motels, and motor lodges.

USE: The specific purposes for which land or building is designated, arranged, intended, or for which it is or may be occupied or maintained.

VARIANCE: A variance is a modification of the strict terms of the relevant regulations where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

YARD: An open space on the same lot with a principal building open, unoccupied, and unobstructed by buildings except as other wise provided in this Resolution.

1. FRONT YARD: Is an open space extending in full width of the lot between any part of a building and the front lot line.
2. REAR YARD: A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.
3. SIDE YARD: The side yard is an open space extending from the front yard to the rear yard between a building and the side lot line. The width of a side yard is the shortest distance measured horizontally between any part of a building and nearest side lot line.

ZONING CERTIFICATE/PERMIT: A document or written statement issued by the Zoning Inspector authorizing the use of lots, the construction of buildings, structures, uses of land and structures and the characteristics of the uses or the establishment of uses permitted in this Resolution.

ZONING INSPECTOR: Is the Administrative Officer or his/her authorized representative, as appointed by the Board of Township Trustees of Middlebury Township to enforce and carry on the provisions of this Resolution.

ZONING MAP: The zoning map or maps of the Township together with all amendments, subsequently adopted.

ARTICLE V: DISTRICTS AND GENERAL PROVISIONS

- 5.0 DISTRICTS: The Township is hereby divided into 3 districts known as:
- | | |
|------|------------------------------|
| Ag-R | Ag-Residential District |
| B-1 | General Business District |
| M-1 | Light Manufacturing District |
- 5.1 ZONING MAP: The districts and boundaries thereof are established as shown on the Zoning Map, which map, together with all notations, references, data, district boundaries, and other information shown thereon, shall be part of these regulations. The Zoning Map, properly attested shall be and remain on file in the office of the Township Clerk.
- 5.2 DISTRICT BOUNDARIES: The district boundary lines on said map are intended to follow either streets or alleys or lot lines; and, where the districts designated on the Map are bounded approximately by such street, alley, or lots lines, the street or alley or lot .line shall be construed to be the boundary of the district, unless such is otherwise indicated on the map. In case of sub-divided property, the district boundary lines shall be determined by the use of the scale appearing on the Zoning Map or by dimensions.
- 5.3 COMPLIANCE WITH REGULATIONS: No buildings shall be erected, converted, or altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located, except as herein after provided. No building shall be erected, enlarged or altered except in conformity with the area regulations, minimum yard requirements of this Resolution for the district in which such building is located.
- 5.4 STREET FRONTAGE REQUIRED: Except as permitted by other provisions of these regulations, no lot shall contain any building used in whole or part for residential purposes unless such lots are at least one hundred seventy-five (175) feet of continuous road frontage; and there shall not be more than one single-family dwelling for such frontage.
- 5.5 TRAFFIC VISIBILITY ACROSS CORNER LOTS: In all districts on any corner lot, no fence, structure or planting shall be erected or maintained within twenty (20) feet of the corner (the point of intersection of the right-of-way lines), which interferes with traffic visibility across the corner.
- 5.6 OFF STREET PARKING AND LOADING: In any district spaces for off-street parking and off-street loading shall be provided in accordance with the provisions of Article XI.
- 5.7 ESSENTIAL SERVICES: Essential services shall be permitted as authorized and regulated by law and other Resolutions of the Township, it being the intention hereof to exempt such essential services from the application of these regulations.
- 5.8 UNSAFE BUILDINGS: Nothing in these regulations shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by proper authority.
- 5.9 VACATED STREET OR ALLEY: Whenever any street, alley, or other public way is vacated by official action as provided by law, the zoning district adjoining the side of such public way shall

be extended automatically, depending on the sides to which such lands revert, to include the right-of-way thus vacated, which shall thenceforth be subject to all regulation of the extended district or districts.

- 5.10 TEMPORARY HOUSING: A recreational vehicle or motor home, garage, basement or temporary structure may be temporarily used as a residence on a lot while a dwelling is being constructed thereon, but such use shall not be continued for more than two (2) years. The temporary occupancy permit shall be renewed at six (6) month intervals for a maximum of one (1) year initial issuance and three (3) renewals totaling two (2) years, or two (2) months after the completion and occupancy of the dwelling, whichever is the shorter time period. At that time, the temporary dwelling permit shall automatically become void and the temporary dwelling shall revert to its prior use as something other than a dwelling.
1. A separate zoning certificate shall be required for the use of a temporary structure subject or renewal by an approval of the Zoning Inspector.
 2. Issued to and applied for by the Occupant/Resident.
 3. Fees: shall be charged in accordance with the orders and direction of the Middlebury Township Board of Trustees. (See Article XIV)
 4. Water system and sanitary sewer facilities, whether community or individual must be approved by the County of Knox and/or the state of Ohio Health Department and a certificate posted.
 - a. Concrete slab, (minimum thickness 4") with footers full perimeter.
 - b. And/or Cement block pillars set on concrete, 30" or below frost line, place 8' on center.
 - c. Tie-downs per State of Ohio standards
 - d. Siding to ground of approved non-flammable building material.
- 5.11 AGRICULTURAL: Agriculture may be conducted on lots less than 5.00 acres providing any such use is not noxious, dangerous, or offensive by reason of odor, dust, smoke, gas, noise, fumes, flames or vibration, and providing any such used does not constitute an annoyance to the surrounding property owners. No zoning permit is required for buildings incidental for such use. (see Agriculture definition)
- 5.12 PUBLIC UTILITIES AND RAILROADS: The regulations shall not apply to public utilities or railroads except for cellular or wireless communications towers as stated in ARTICLE X.
- 5.13 ACCESSORY BUILDINGS: All detached buildings except garages shall be located at least fifteen (15) feet from any dwelling.
- 5.14 SANITARY SYSTEM AND WATER SUPPLY: Must show and receive the approval of Knox County Health Department for the design location, and capacity of the sanitary system and method of water supply.

- A. Water system and sanitary sewer facilities, whether community or individual, must be approved by the County of Knox and/or the State of Ohio Health Department and a certificate posted. Construction will not be allowed until completion of Central Sewer and Water Systems.

ARTICLE VI: NON-CONFORMING USES

- 6.1 EXISTING NON-CONFORMING USES: A non-conforming use existing at the time the zoning resolution or amendment takes effect may be continued, although such use, building or structure does not conform to the provisions of this Resolution for the district in which it is located.
- 6.2 NON-CONFORMING USES OR BUILDINGS --ENLARGEMENT, SUBSTITUTIONS ETC.:
A building or structure devoted to a non-conforming use at the time the Zoning Resolution takes effect may not be altered or enlarged so as to extend said non-conforming use.
1. SUBSTITUTIONS: Furthermore a different non-conforming use may not be substituted for another non-conforming use existing on the effective date of the Zoning Resolution
 2. NON-CONFORMING USE MADE TO CONFORM: Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted or non-conforming use.
- 6.3 DISCONTINUANCE OF A USE: A use that is discontinued for two (2) years or more shall then be deemed abandoned and any further use must be in conformity with the uses permitted in such district.
- 6.4 CONSTRUCTION STARTED --NON-CONFORMING USE: Any building arranged, intended or designed for a non-conforming use, the construction of which has been started at the time of the passage of the Zoning Resolution, but not completed, may be completed and put to such non-conforming use, providing it is done within one (1) year after the zoning takes effect.
- 6.5 REPLACING DAMAGED BUILDINGS: Any building or structure existing as a non-conforming use at the time Zoning Resolution takes effect, which is destroyed by fire or the elements may be reconstructed and restored providing the same is done within one (1) year from the date of said destruction.
- 6.6 REPAIRS AND MAINTENANCE: Repairs and maintenance work as required to keep it in sound condition may be made to a nonconforming building or structure, providing that the cubic content existing when it became non-conforming shall not be increased.

ARTICLE VII: AGRICULTURAL-RESIDENTIAL DISTRICT

7.0 Purpose: The purpose of the Agricultural-Residential District is to provide an area for agricultural pursuits and residential uses protected from infringement or unguided urban development; and to conserve areas physically unsuitable for intensive development.

7.1 Uses permitted in the Ag-Residential District:

1. Agricultural uses.
2. One-family and two-family residential dwellings.
3. Utility and service system buildings and lands, public buildings, picnic grounds, religious and educational institutions.
4. Accessory use or Structures.
5. Unlighted signs notifying of sale, rental, or lease of land or sale of farm goods on the premises on which the sign is maintained having not over six (6) square feet of sign area; signs announcing meeting time and place of civic organizations subject to the provisions of Article XII.
6. Real estate, professional and small announcement signs.

7.2 Conditional Uses in the Ag-Residential District:

1. Uses of land including quarrying, and removing of natural resources.
2. Cemeteries, golf courses, and similar uses.
3. Mobile homes:
 - a. Shall be equipped with a foundation.
 - 1) Basement
 - 2) Or concrete slab, minimum thickness four (4) inches with footers full perimeter.
 - 3) And/or cement block pillars set on concrete, thirty (30) inches or below frost line, placed eight (8) feet on center.
 - b. Shall have tie-downs per State of Ohio standards.
 - c. Shall have tongue and wheels removed.
 - d. Shall comply with all zoning regulations as stated in this Resolution.

- e. Shall comply with Knox County Health Department regarding water and sewer system and certificate posted.
- f. Shall have siding to ground of approved non-flammable building material.
- g. The conditional housing permit shall expire when the permit holder ceases to use the mobile home as his primary residence.

4. Home Occupations

- a. Advertising for this business shall conform to Article XII.
- b. Limitations of the number of home occupation facilities:
 - 1) There shall be no more than one (1) area, either located in the dwelling or in a stand-alone building, used for home occupations.
 - 2) Agricultural use of properties and facilities shall be considered independent of these regulations and shall not be considered in the application of these by regulations.
 - 3) Agricultural facilities that are converted to non-agricultural use under these regulations shall be required to meet permitting obligations or pay fees levied by the Township, County or State of Ohio.
- c. An occupation conducted in a dwelling unit provided that:
 - 1) No more than one person other than members of the family residing on premises shall be engaged in such occupation.
 - 2) The use of the dwelling unit for the Home Occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of floor area of the dwelling unit shall be used in conduct of the Home Occupation.
 - 3) 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.
 - 4) Advertising sign does not exceed fifteen (15) square feet in total area and does not extend higher or wider than ten (10) feet above ground level, providing such use is not objectionable due to location, appearance, and is in accordance with Article XII.
 - 5) No traffic shall be generated by such Home Occupation in greater volume than would normally be expected in a residential neighborhood and such Home

Occupation shall meet the off street parking requirements as specified in Article XI.

- 6) Such use is not objectionable due to noise, hours of operation, traffic generation, vibration, glare, odors, or hazardous or noxious process, electrical interference, visual or audible interference in radio or television receivers or cause fluctuations in line voltage off the premises.

d. Home occupation in a building separate from the residence:

- 1) The building used for home occupation shall be located on property owned by the homeowner and the property shall be physically adjacent to the home, i.e., the business must be located on property so as to not be separated from the home by a road or by property owned by someone else. This does not require that the business building use the same driveway as the home, but the additional driveway may need to be permitted by appropriate Township, County or State of Ohio permitting authorities.
- 2) There shall be no stand-alone buildings for home occupations on lots for which the owner is not the resident of the adjacent dwelling, or for which there is no adjacent dwelling.
- 3) No more than one person, other than members of the family residing on premises, shall be engaged in such occupation.
- 4) The property around the home occupation building shall be maintained to the same level of maintenance and cleanliness as the property around the dwelling itself.
- 5) The building for the stand-alone home occupation use shall meet all required lot-line set-back requirements as detailed in Article VII of this document.
- 6) The business shall not open for public use until all necessary permits, from the Township, the County or the State of Ohio permitting authorities, have been obtained.

e. Occupations such as seamstress, office of an architect, attorney-at-law, minister, physician or realtor, related arts and crafts, small engine mechanic, hair dresser, barber, and personal services are included but need not be limited to.

f. Such use is permitted after issuance of a conditional use permit by the Board of Appeals in accordance with the procedure specified in Article XVIII.

7.3 REQUIRED LOT AREA AND LOT WIDTH IN THE AG-RESIDENTIAL DISTRICT FOR AGRICULTURAL USES: No dwelling shall be erected or building altered to accommodate a combined agricultural residential use on a lot of not less than five (5) acres in area and a lot width of not less than two hundred fifty (250) feet of continuous road frontage. The lot depth shall not exceed three (3) times the lot width in lots of five (5) to ten (10) acres. In lots of 10.001 acres or more, the 3 to 1 will not apply if the lot has at least two hundred seventy (270) feet of continuous road frontage. Lots that are non-conforming as to the width and depth requirements prior to the time the zoning amendment takes effect need not conform if lot cannot practicably be enlarged or if lot is transferred in its entirety according to the lot's legal description.

7.4 REQUIRED LOT AREA AND LOT WIDTH IN THE AG-RESIDENTIAL DISTRICT FOR RESIDENTIAL USE: No dwelling shall be erected or building altered to accommodate a residential use on a lot of not less than one (1) acre and a lot width of not less than one hundred seventy-five (175) feet of continuous road frontage. In lots of one (1) to ten (10) acres, the lot depth shall not exceed three (3) times the lot width. In lots of 10.001 acres or more, the 3 to 1 will not apply if the lot has at least two hundred seventy (270) feet of continuous road frontage. Lots that are non-conforming as to the width and depth requirements prior to the time the zoning amendment takes effect need not conform if lot cannot practicably be enlarged or if lot is transferred in its entirety according to the lot's legal description. On lots of one (1) acre used as residential in the Ag/Residential District, no large livestock shall be permitted. Small livestock and pets such as for a 4H project shall be permitted.

7.5 Height Regulation in the Ag-Residential District:

No dwelling shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.

7.6 Minimum Set-Backs for Buildings and Structures:

No building or structure except steps and uncovered porches less than ten (10) feet in width, shall be erected within fifty (50) feet of the edge of the road right of way nor within twenty (20) feet of the side and rear property line. Thus providing the following minimums:

Front Yard	fifty (50) feet
Side Yard	twenty (20) feet (each side)
Rear Yard	twenty (20) feet

Corner lots shall provide the minimum front yard requirements on each side of the lot with the road frontage.

7.7 REOUIRED FLOOR AREA IN THE AG-RESIDENTIAL DISTRICT: Any building intended in whole or part for residential purposes provide a minimum floor area, exclusive of breezeways, porches, terraces, and garages, as herein specified:

Single-Family Dwelling

With full basement one thousand (1,000) square feet

Without basement one thousand two hundred fifty (1,250) square feet

Two-Family Dwelling/One Bedroom per Unit

With full basement eight hundred (800) square feet per unit

Without basement one thousand (1,000) square feet per unit

Residential Building Width: Any building intended in whole or part for Residential purposes shall be a minimum (20) feet in width with the entire length of the structure. Pre-manufactured or factory built homes must arrive on site to conform to minimum standards of width, depth, and square feet prior to further modification.

7.8 Intentionally left blank.

7.9 Intentionally left blank.

7.10 REAR DWELLINGS: No building in the rear of a principal building on the same lot shall be used for residential purposes unless it conforms to all the yard and open space and off-street parking requirements. For the purpose of determining the front yard in such cases, the rear lot line of the required rear yard for the principal building in front shall be considered the front lot line for the building in the rear. In addition, there must be provided for any such rear dwelling, an occupied and unobstructed access way not less than twenty (20) feet wide to a public street for each dwelling in such dwelling, or not less than fifty (50) feet for three (3) or more dwelling units.

7.11 Prohibited Uses:

The following uses shall be deemed to constitute a nuisance and shall not be permitted in an Ag-Residential District:

1. Bulk petroleum station with tanks above ground.
2. Distilling of bones, fat or glue, glue or gelatin manufacturing.
3. Manufacture, storage or sales of explosives, gun powder or fireworks.
4. Dumping, storing, buying, reducing, disposing of, or burning garbage, (except for normal residential use), refuse, scrap metal, rubbish, offal of dead animals, except such as results from normal use unless such dumping is done at a place of premises provided by the Township Trustees for such specific purpose.

5. Slaughter houses.
6. Commercial aviation fields.
7. Race tracks, except a race track that is part of a fairgrounds.
8. Mobile home parks, tourist camps, campgrounds, cabins for transient use.
9. Brewery and distillery.
10. Junk yards, automobile graveyards, auto storage, 2 or more outside, unlicensed vehicles (2 years from date of expired license, refer to Ohio Revised Code Chapter 4737).
11. Manufactory of fertilizer.
12. Dumping industrial chemicals, toxic waste, or radioactive materials.
13. Drilling of a salt water disposal well.
14. Any uses not listed as permitted or conditional are prohibited.
15. **Industrial purposes as defined in this Resolution.**

7.12 Residential Fencing, also known as Privacy Fencing

1. The fabric face of the fence must face outward from the area being enclosed. (The posts or support structures for the fabric of the fence will be on the side of the enclosed area.
2. The maximum height for the fabric is eight (8) feet. A space of up to two (2) inches between the bottom of the fabric and the ground below it may be left open for maintenance purposes. The two (2) inch spacing may be larger in small areas to allow for natural terrain features, such as areas lower than the average ground around them.
3. Erection of a fence with fabric more than eight (8) feet in height will require a variance.
4. Fences shall not be erected within ten (10) feet of an area designated as a right-of-way.
5. There is no minimum set-back from a property line required for a fence, but the owner must allow sufficient space on the fabric side of the fence to perform proper maintenance while remaining on the property on which the fence is built.
6. The fence must be sited such that all parts of it are on or over the property on which it is built.
7. A permit from the Middlebury Township Zoning Inspector is required before construction of the fence begins.

ARTICLE VIII: PROVISIONS GOVERNING GENERAL BUSINESS DISTRICT

- 8.0 Purpose: The purpose of the B-1 General Business District is to provide for a wide range of retail facilities and services of such a nature they will be fully compatible and will not adversely affect the adjacent agricultural and residential land uses.

The purpose of the Conditional Use Provision is to provide for those retail businesses and services which require a location other than in a centralized business district being either highway oriented, requiring larger tracts of land not normally available, or to provide local neighborhood retail shopping facilities to that residential area immediately adjacent.

8.1 Uses Permitted in the B-1 General Business District:

1. Any uses permitted in an Ag-Residential District.
2. Major Retail Outlets: furniture, department, clothing shoe and variety stores, hardware, appliance, paint and wallpaper stores.
3. Food, Drug and Beverage: grocery stores, convenience stores, supermarkets, meat markets, drug stores, bakery in conjunction with retail sales and restaurants.
4. Specialty Shops: gift shops, magazine, book and stationery outlets, florist shops, camera and photography shops, sporting goods.
5. Service and Recreation: laundromats, dry cleaning and laundry pick-up stations, barber and beauty shops, shoe repair and tailor shops, mortuaries, printing shop, and places of amusement and recreation businesses employing not more than ten (10) full time employees.
6. Business and Professional Offices: medical and dental offices and clinics; law offices; insurance and real estate offices; banks, finance and utility companies.
7. Automotive and related uses: new and used car sales, service and repair, gasoline service stations, and motorcycle and bicycle shops.
8. Accessory uses or buildings.
9. Business and advertising signs pertaining to the business on the property on which the sign is located provided that a) illumination of all signs shall be diffused so as not to reflect rays of light into adjacent residential districts or into the public way, and b) that any sign located in the direct line of vision of traffic control signal shall not have flashing intermittent red, green, or amber illumination.

8.2 Conditional Uses Permitted in the B-1 General Business District:

1. Any conditional use permitted in the Ag-Residential district

2. Building Trades or Equipment: building, concrete, electrical masonry, sheet metal, plumbing and heating shops, building material establishments (providing no assembly, construction, millwork, or concrete block manufacture is done on the premises.)
3. Vehicle Drive-in and Heavy Vehicle Services: drive-in theaters, drive-in restaurants and refreshment stands, express, cartage and trucking facilities; large item machinery or bulk sales and storage not including outdoor unfenced storage.
4. Heavy Service and Processing Facilities: laundry and dry cleaning plants, linens, towels, diaper and similar supply services; animal pounds, kennels and veterinary establishments; frozen food lockers; seed and food processing plants, dairies.
5. Service businesses and recreation businesses employing more than 10 full time employees.
6. Retail outlets, service businesses and recreational businesses which are not included in the specifically listed permitted uses by which will be compatible with the stated purpose of the B-1 General Business District and which will not have a greater impact upon land values, land uses, parking and traffic patterns than the specifically permitted uses in this district.
7. Accessory Uses or Building.
8. Business and advertising signs must adhere to Article XII.

- 8.3a. Residential Uses: Each residential use to be accommodated in the B-1 District shall meet the minimum lot area and minimum lot width requirements of the Ag-Residential Districts.
- 8.3b. General Business Uses: No minimum lot area or minimum lot width is required for general uses.

8.4 Building Height Regulation in the B-1 District:

B-1 General Retail District: In the B-1 General Retail District, no building shall exceed two (2) stories or thirty (30) feet in height, except as provided in Article XXI.

8.5 General Business Uses:

- Front Yard: fifty (50) feet.
- Side Yard: twenty (20) feet.
- Rear Yard: twenty (20) feet. Where a lot line abuts an alley, one-half of the alley may be considered in meeting the rear yard requirement.

8.6 Off-Street Parking and Loading Requirements:

There shall be provided in the 3-1 District off-street parking and loading In accordance with the provisions of Article XI.

8.7 Landscaping or Screening Provisions in the B-1 District:

The Board of Zoning Appeals may require as part of a conditional use permit that the applicant provide acceptable landscaping or screening. Upon appeal by a proper party, the Board may also require a non-residential user in the B-1 District to provide acceptable screening and landscaping. Such screening shall be masonry or solid fence between four (4) and six (6) feet in height maintained in good condition and free of all advertising or other signs. Landscaping provided in lieu of such wall or fence shall consist of a strip of land not less than fifteen (15) feet in width planted with evergreen hedge, or dense planting of evergreen shrubs not less than four (4) feet in height.

ARTICLE IX: PROVISIONS GOVERNING MANUFACTURING DISTRICTS

9.0 Preamble: The purpose of the M-1 Manufacturing District is to provide for commercial uses, storage, and those manufacturing uses not normally creating a nuisance discernible beyond its property.

The purpose of the Conditional Use Provision is to provide for industrial uses not allowed in any other district, providing that, within this district, uses of a hazardous nature or those producing extensive smoke or odor shall not be located so that general hazard or nuisance affects a large segment of the community.

9.1 Uses Permitted in the M-1 Manufacturing District:

1. Any use permitted in the B-1 General Business District except residential uses.
2. Warehousing and Storage: indoor and outdoor storage of goods and materials including warehousing, pole-yards, building material storage, supply yards, and trucking storage, however, not including junk yards or similar uses.
3. Manufacturing: manufacture or processing of small items including gloves, shoes, boots, boxes and cartons, hardware, toys; electric batteries, motors or generators, textile products manufacturing electronic components, glass, cement, and stone products; manufacture or processing including canning, freezing, and storage and bottling.
4. Contractors equipment storage yard or plant, retail of equipment commonly used by contractors.
5. Other manufacturing uses of a light nature, free from any objectionable odors, fumes, dirt, vibration, or noise detectable at the lot lines. Such use shall not be established without an affidavit attached to the application for a building use permit by registered engineer or architect indicating that every reasonable provision will be taken to eliminate or minimize gas fumes, odors, dirt, vibration, or noise.

In the event of the denial of such permit, an applicant shall have a right of appeal to the Zoning Board of Appeals; in accordance with Article XVI.

9.2 Conditional Uses Permitted in the M-1 General Manufacturing District

All uses not otherwise prohibited by law except residential uses, such as bag cleaning, boiler and tank works; central mixing plant for cement, mortar, plaster or paving materials; coke oven; curing, tanning and storage of raw hides and skins; distillation of bones, coal, wood or tar fat rendering, forge plant, foundry of metal fabrication plant; gasoline or oil storage above ground in excess of five hundred (500) gallons; slaughter house or stockyards smelting plants; and the manufacture of acetylene, acid, alcohol or alcoholic beverages, ammonia, bleaching powder chemicals, brick, pottery, taro cotta or tile; candles; disinfectants; dyestuffs; fertilizers, linseed oil, paint, oil, turpentine, varnish, soap and tar products or any other use which would emit detrimental or obnoxious noise, vibrations, smoke, odors dust or other objectionable conditions

beyond the confines of its property but not beyond the limits of the Manufacturing District, as stated in the preamble and as shown on the Township Zoning Map.

9.3 Required Lot Area and Lot Width in Manufacturing Districts:

Each use to be established in the M-1 District shall provide a minimum lot area of one (1) acre and a minimum lot width of one hundred twenty-five (125) feet.

9.4 Building Height Regulation in the Manufacturing Districts:

No building in the M-1 District shall exceed fifty (50) feet in height.

9.5 Yards Required in Manufacturing Districts:

All structures to be constructed, altered, or moved in the M-1 District shall provide yards of the following minimum depths:

Front Yard:	fifty (50) feet
Side Yard:	twenty (20) feet
Rear Yard:	twenty (20) feet

9.6 Screening Required Between Manufacturing and Residential Districts:

Newly established manufacturing uses adjacent to or backing on a residential district shall provide on that adjacent property line a dense hedge, tree row, or other suitable landscape device adequate to visually screen the industrial area.

9.7 Off-Street Parking and Loading:

There shall be provided in the M-1 District adequate off street parking and loading in accordance with the provisions of Article XI.

ARTICLE X: SPECIAL PROVISIONS

10.0 PERFORMANCE STANDARDS:

No land or building in any district shall be used or occupied in any manner so as to create any dangerous injurious, noxious or otherwise objectionable element or condition unless the following performance standards are observed.

1. Fire Hazards: Any activity involving the use of flammable or explosive materials shall be protected by adequate fire fighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
2. Radioactivity or Electrical Disturbances: No activity shall emit dangerous radioactivity at any point, or electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.
3. Noise: Noise which is objectionable as determined by the Board due to volume, frequency or beat shall be muffled or otherwise controlled, except during construction operations. Air raid sirens and related apparatus used solely for public purposes are exempt from this requirement.
4. Vibration: No vibration shall be permitted which is discernible on any adjoining lot or property.
5. Smoke: Smoke shall be controlled as much as economically possible as determined by the Township Trustees.
6. Odors: No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.
7. Air Pollution: No pollution of air by fly ash, dust, vapor, or other substance shall be permitted which is harmful to health, animals, vegetation or other property or which can cause soiling.
8. Glare: No direct or reflected glare shall be permitted which is visible from any property or from any public street, road or highway.
9. Erosion: No erosions, by either wind or water shall be permitted which will carry objectionable substances onto neighboring properties.
10. Water Pollution: Pollution of water shall be subject to the requirements and regulations established by the Ohio Environmental Protection Agency.

CELLULAR OR WIRELESS COMMUNICATIONS TOWERS:

1. Co-location: The cellular or wireless communication tower applicant is required to provide evidence that it has investigated and exhausted all other possible options for co-location with another facility or attachment to another structure. The applicant is required to provide written proof that it has contacted the owners of all other possible locations including those of other tall structures (smoke stacks, water towers, buildings antenna support structures of other cellular or wireless communication companies, other communication towers and roadway light poles) within a one (1) mile radius of the proposed site and asked for permission to install the cellular communications equipment on those structures and was denied for reasons other than economic ones.

The township may deny the application to construct a new cellular or wireless communications tower if the applicant has not made a good faith effort to mount the antenna on existing structures.

2. Setbacks from the Base of the Tower: If a new cellular or wireless communications tower is to be constructed, the minimum distance between the base of the tower or any guy wire anchors and any existing off-site residence or previously platted residential lot lines shall be the greater of the following:
 - a. The minimum setback required in the township zoning district.
 - b. A distance equal to the height of the tower.
3. Lot Size: The minimum lot size requirement shall be the greater of the following:
 - a. The minimum size required by the township zoning district.
 - b. The minimum lot required to accommodate the setback requirements for the tower height and supports.
4. Site Plan And Proposal Requirements: A full site plan shall be required for all proposed cellular or wireless communication sites, at a scale of one (1) inch to one hundred (100) feet (1" = 100'), indicating the following:
 - a. Total site area.
 - b. The existing zoning of the property and all adjacent properties.
 - c. All public and private right-of-way and easement lines located on or adjacent to the property and the proposed plan for these lines whether they are to be continued, created, relocated or abandoned.

- d. Existing topography with a maximum of five (5) foot contour intervals and proposed grading plan with a maximum of five (5) foot contour intervals.
- e. The location of all existing buildings and structures and the proposed location of the cellular or wireless communications tower and all support structures including all dimensions, heights, and the floor area of any support buildings or structures.
- f. The locations and dimensions of all curb cuts, roads, parking and loading areas including number of spaces, spot grades, materials list, drainage, and lighting plans.
- g. A landscape plan to include all proposed sidewalks, open space, screening, fences, walls, and vegetation.
- h. All existing and proposed utilities including types and grades.
- i. The project schedule.
- j. A written statement by the cellular or wireless communications company as to the visual and aesthetic impacts of the proposed cellular communications tower on all adjacent properties and that all FCC and FAA requirements will be met and addressed.
- k. A summary explanation of why the proposed facility cannot be located on any other existing structure or tower, and use sound engineering evidence to demonstrate that the proposed location is necessary in the interest of public safety or a practical necessity to satisfy the necessary function in the cellular or wireless communication grid system.
- l. Evidence that the proposed communications tower is structurally designed to support at least one additional user, and that the applicant provides a statement that the owner of the tower is willing to permit other user(s) to attach communication facilities, on a commercially reasonable basis, which do not interfere with the primary purpose of the tower. Priority for co-location on the proposed tower shall be given to antennas that will serve a public safety need for the community.

Upon submission of a complete application for a site plan review to the zoning inspector, it will be determined if the plan meets the purpose and requirements as established in the ordinance and the requirements of the township zoning district. No public notice or public hearing shall be required in conjunction with the review, approval, approval with modifications or disapproval of the site plan and proposal.

5. Maintenance:

- a. Any owner of a cellular or wireless communications tower shall maintain such property and all structures in good condition, maintain landscaping and keep the site free from trash, outdoor storage, weeds, and other debris.

- b. Any tower found through inspection by the owner or the township zoning inspector to be structurally unsafe and cannot be brought into compliance within one hundred eighty (180) days must be removed at the tower owner's expense.
 - c. Notice shall be provided to the zoning inspector when the tower service has been discontinued. Towers which are not used for a period of six (6) continuous months or more shall be removed by the tower owner within one hundred twenty (120) days of the receipt of notification to that effect. Discontinued shall include to mean the structure has not been properly maintained, has been abandoned, become obsolete or has ceased the daily activities or operations which had occurred.
6. Tower Safety:
- a. The tower owner shall demonstrate that the proposed cellular or wireless communications tower and its antenna are safe and that the surrounding properties will not be negatively affected by tower failure or radio frequency interference. All cellular and wireless communication towers shall be fitted with anti-climbing devices as approved by the manufacturers.
 - b. A fence shall be required around the cellular or wireless communications tower and its support structure(s), unless the antenna is mounted on an existing structure. The fence shall be a minimum of eight (8) feet in height and shall be erected to prevent access to non-authorized personnel.
7. Appearance:
- a. No commercial advertising shall be allowed on the tower or its related facilities.
 - b. The color of the tower shall be neutral, except to the extent required by federal law, so as to minimize visual impact.
 - c. Existing vegetation on and around the site shall be preserved to the greatest extent possible.
 - d. A landscape buffer and screen shall be installed to provide separation and create a visual block from adjacent properties and roads. A buffer shall be installed around the perimeter of the tower site and all improvements on the site including the tower and guy anchors, any ground buildings or equipment, and security fencing.

10.2.0 ADULT ENTERTAINMENT FACILITIES

10.2.1 - Sexually Oriented Business Use Inspector

The Township Trustees, or their designee, designated the Sexually Oriented Business Use Inspector (hereinafter referred to as "The Inspector"). The Inspector shall have the following powers and duties:

- A. To administer and rule upon the applications for, and the issuance, renewal, suspension, and revocation of sexually oriented business licenses as set forth in this Article.
- B. To conduct or provide for such inspection of sexually oriented businesses as shall be necessary to determine and ensure compliance with the provisions of this Article and other applicable provisions of law.
- C. To review at least annually the provisions of this resolution and the conduct and operation of sexually oriented business establishments, and to make such related reports and recommendations to the Zoning Commission as the Inspector shall deem necessary.
- D. To conduct such hearings, studies, and reports on sexually oriented businesses as the Inspector shall deem necessary; and to conduct such hearings on the revocation or suspension of a sexually oriented business license as required pursuant to this Article.
- E. To take such further actions as the Inspector deems necessary to carry out the purpose and intent of this Article and to exercise such additional powers in furtherance thereof as are implied by the powers and duties expressly set forth in this Article.

10.2.2 - Sexually Oriented Business Licenses Generally

- A. Sexually Oriented Business License Required: A sexually oriented business license shall be required to establish, operate, or maintain a sexually oriented business within the Township.
- B. Operation without License is Prohibited: It shall be unlawful for any person not having a current and valid sexually oriented business license to operate or maintain a sexually oriented business within the township at any time after the effective date of this Article.
- C. Operation in Violation of License Prohibited: It shall be unlawful for any licensee to establish, operate, or maintain a sexually oriented business within the township except in the manner authorized by, and in compliance with, the provisions of this chapter and the licensee's sexually oriented businesses license.
- D. Content and Display of License: Every sexually oriented business license shall be provided by the township and shall, at a minimum, prominently display on its face the name of the licensee, the expiration date, and the address of the sexually oriented business. Every licensee shall display the license at all times in plain view in a conspicuous place on the licensed premises so that it can be easily seen and read at any time by any person entering the licensed premises.

- E. License Term: Sexually oriented business licenses shall be operative and valid, unless first terminated, suspended, or revoked, for a term of one year commencing on the date of issuance and may be renewed only by making an application. Application for renewal should be made at least sixty (60) days before the expiration date.

10.2.3 - Form and Submittal of License Application

- A. Required Form: An application for a sexually oriented businesses license, or the renewal thereof, shall be made in writing to the Inspector on a form prescribed by the Inspector and shall be signed by (1) the applicant, if the applicant is an individual; (2) at least one of the persons entitled to share in the profits of the organization and having unlimited personal liability for the obligations of the organization and the right to bind all other such persons, if the applicant is a partnership (general or limited), joint venture, or any other type of organization; or (3) by a duly authorized agent, if the applicant is a corporation. Each application shall specifically identify the applicant and the licensed premises for which a sexually oriented business license is sought. Each initial or renewal application shall be accompanied by ten (10) identical copies.
- B. Administrative Processing Fee: Every applicant for a sexually oriented business license, initial or renewal, shall pay an administrative processing fee in the amount of five-hundred dollars (\$500.00). The administrative processing fee shall in all cases be nonrefundable.
- C. Required Information and Documents: Each application shall include the following information and documents:
 - 1. Names of applicants:
 - a) Individuals. The applicant's legal name, all of the applicant's aliases, the applicant's business address and social security number, written proof (driver's license) of the applicant's age (date of birth) - proof that applicant is at least 18 years of age, the citizenship and place of birth of the applicant, and, if a naturalized citizen, the time and place of the applicant's naturalization, and the applicant's federally issued tax identification number.
 - b) Corporations. The applicant corporation's complete name and official business address; the legal name, all aliases, the ages, business addresses, and social security numbers of all directors, officers, and managers of the corporation and of every person owning or controlling more than twenty percent (20%) of the voting shares of the corporation; the corporation's date and place of incorporation and the object(s) for which it was formed; proof that the corporation is a corporation in good standing and authorized to conduct business in the State of Ohio; and the name of the registered agent and the address of the registered office for service of process.
 - c) Partnerships (general or limited), joint ventures, limited liability companies, or any other type of organization where two or more persons share in the profits and liabilities of the organization. The applicant organization's complete name and

official business address; the legal name, all aliases, and the ages, business addresses, and social security numbers of each partner (including limited partners), or any other person entitled to share in the profits of the organization, whether or not any such person is also obligated to share in the liabilities of the organization.

2. The general character and nature of the business of the applicant.
3. The location, including street address and legal description, and telephone number of the premises for which the sexually oriented business license is sought.
4. The specific name of the business that is to be operated under the sexually oriented business license.
5. The identity of each fee simple owner of the licensed premises.
6. A diagram showing the internal and external configuration of the licensed premises, including all doors, windows, entrances, exits, and the fixed structural internal features of the licensed premises, plus the interior rooms, walls, partitions, stages, performance areas, and restrooms. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required, providing that each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions to an accuracy of plus or minus six (6) inches, and sufficient to show clear compliance with the provisions of this subsection of Article 10. The requirements of this subsection of Article 10 shall not apply to renewal applications if the applicant presents a diagram that was previously submitted for the license for which renewal is sought and if the licensee certifies that the licensed premises has not been altered since the immediately preceding issuance of the license and that the previous diagram continues to accurately depict the exterior and interior layouts of the licensed premises. The approval or use of the diagram required pursuant to this subsection shall not be deemed to be, and shall not be interpreted or construed to constitute, any other approval otherwise required pursuant to applicable regulations of Middlebury Township.
7. The specific type or types of sexually oriented business that the applicant proposes to operate in the licensed premises.
8. A copy of each sexually oriented business license, liquor license, and gaming license currently held by the applicant or by all of the individuals identified in the application.
9. The name of the individual or individuals who shall be the day-to-day on-site manager(s) of the proposed sexually oriented business.
10. Whether the applicant has been convicted of a specified criminal activity as defined in this resolution, and if so, the specified criminal activity involved, and the date, place, and jurisdiction of each.

11. Whether the applicant has had a previous license under this ordinance or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this ordinance whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension, or revocation.
12. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within three thousand (3,000) feet of the property to be certified; the property lines of any established residential use district; school; preschool; daycare; place of worship; synagogue; park; library; federal, state, county, township or city building; cemetery; or other civic use or public use (within Middlebury Township or other adjacent jurisdiction), any commercial establishment selling beer or alcohol for consumption on the premises; or any hotel or motel within one thousand (1,000) feet of the property to be certified. For the purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
13. Any application for a sexually oriented business license that does not include all of the information and documents required pursuant to this section shall be deemed to be incomplete and shall not be acted on or processed by the Zoning Commission. The Inspector shall, within thirty (30) days of such submittal, return the incomplete application to the applicant along with a written explanation of the reasons why the application is incomplete.

10.2.4 - Processing of License Application.

- A. Upon the filing of an application for a sexually oriented business license, the Inspector shall refer the application to the appropriate township/county departments for investigation to be made on the information contained in the application. The application process for a license shall be completed within thirty (30) days from the date of the completed application. After the investigation, the sexually oriented business use Inspector shall issue a license unless the requirements set forth above are not met.
- B. Appeal: Judicial review may be made pursuant to Chapter 2505 of the Ohio Revised Code. All parties shall comply with the Inspector's decision pending appeal.

10.2.5 - Standards for Issuance or Denial of License

- A. The Inspector shall issue a sexually oriented business license to an applicant if, and only if, the Inspector finds and determines all of the following based on the reports, investigations,

and inspections conducted by himself/herself and any reviewing departments, and on any other credible information on which it is reasonable for him/her to rely:

1. All information and documents required by this Article for issuance of a sexually oriented business license have been properly provided and the material statements made in the application are true and correct.
 2. No person identified in the application has been convicted of, or pleaded nolo contendere to, any criminal act within five (5) years immediately preceding the date of the application.
 3. No person identified in the application is overdue on payment of taxes, fees, fines, or penalties assessed against or imposed on any such individual in connection with any sexually oriented business.
 4. The sexually oriented business and the licensed premises comply with all then-applicable building, health, and safety codes and has received all necessary zoning approvals required by the then-applicable provisions of the Middlebury Township Resolutions.
 5. The applicant has confirmed in writing and under oath as part of the application that the applicant has read this chapter and all provisions of the Middlebury Township zoning resolution applicable to sexually oriented business, that the applicant is familiar with their terms and conditions, and that the licensed premises and the proposed sexually oriented business establishment and its proposed operation are and shall be in compliance therewith.
- B. Denial: If the Inspector determines that the applicant has not met any one or more of the conditions set forth herein, then he shall deny issuance of the sexually oriented business license and shall give the applicant a written notification and explanation of such denial. The inspector will only accept and process to completion one (1) application per location at a time. No new applications for any location will be accepted while an application for that location is the subject of any appeal process.
- C. License Deemed Issued: If the Inspector does not issue or deny the sexually oriented business license within sixty (60) days after the properly completed application is submitted, then the sexually oriented business license applied for shall be deemed to have been issued.

10.2.6 - Inspection by MIDDLEBURY TOWNSHIP

- A. Authority: The Inspector and other Township representatives and departments with jurisdiction shall periodically inspect all sexually oriented business establishments as shall be necessary to determine compliance with the provisions of this resolution and all other applicable law.

- B. Licensee Cooperation: A licensee shall permit representatives of Middlebury Township to inspect the licensed premises and the sexually oriented business establishment for the purpose of determining compliance with the provisions of this Article and all other applicable law at any time during which the licensed premises is occupied or the sexually oriented business establishment is open for business.
- C. Interference or Refusal Illegal: It shall be unlawful for the licensee, any sexually oriented business employee, or any other person to prohibit, interfere with, or refuse to allow, any lawful inspection conducted by Middlebury Township pursuant to this Article or any other authority.
- D. Suspension or Revocation: Any such prohibition, interference, or refusal shall be grounds for suspension or revocation of the sexually oriented business license.

10.2.7 - Changes in Information

During the pendency of any application for, or during the term of, any sexually oriented business license, the applicant or licensee shall notify the Inspector in writing within ten (10) days of any change in any material information given by the applicant or licensee in the application for such license; including specifically, but without limitation, any change in managers of the sexually oriented business establishment or in the individuals identified in the application pursuant to this resolution, or if any of the events constituting grounds for suspension or revocation pursuant to this resolution occur.

10.2.8 - Regulations Applicable to All Sexually Oriented Business Establishments

- A. General Compliance: All licensed premises and sexually oriented business establishments shall comply with the provisions of this resolution and with the provisions of all other applicable township resolutions, rules, and regulations and all other applicable federal, state, and local laws.
- B. Prohibited Uses: No person shall cause or permit the establishment of an adult entertainment business within one thousand (1,000) feet of any established single or multifamily dwelling; school; preschool; daycare; church; synagogue or other place of worship; park; library; federal, state, county, township, or city building; cemetery; or other civic use or public use (within Middlebury Township or adjacent jurisdictions); any commercial establishment selling beer or alcohol for consumption on the premises; or any hotel or motel; nor within three thousand (3,000) feet of another adult entertainment business. For purposes of this Article, distances shall be measured in a straight line without regard to intervening structures or objects, from the nearest portion of the building within which the adult entertainment business is located to the nearest property line or the premises of a single, two or multifamily dwelling, church, park, preschool or school, or other adult entertainment business.
- C. Zones Which Permit Adult Entertainment: The area zoned General Commercial District and Light Manufacturing.

D. Hours of Operation:

1. No sexually oriented business establishment shall be open for business at any time on any Sunday or State of Ohio or Federal holiday.
2. No sexually oriented business establishment shall be open for business between the hours of 12:00 AM (Midnight) and 11:00 AM on any day.

E. Animals: No animals, except seeing-eye dogs required to assist the blind, shall be permitted at any time in any sexually oriented business establishment or licensed premises.

F. Restrooms: All restrooms in sexually oriented business establishments shall be equipped with standard toilets, sinks, and other traditional lavatory facilities. No adult materials or live performances shall be provided or allowed at any time in the restrooms of a sexually oriented business establishment. Separate male and female restrooms shall be provided for and used by sexually oriented business establishment employees and patrons.

G. Restricted Access: No sexually oriented business establishment patron shall be permitted at any time to enter into any of the nonpublic portions of any sexually oriented business establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of sexually oriented business employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the licensed premises. These persons shall remain in the nonpublic areas only for the purposes and to the extent and time necessary to perform their job duties.

H. Specific Prohibited Acts:

1. No sexually oriented business employee or any other person at any sexually oriented business establishment, other than a sexually oriented business employee employed to provide adult entertainment in accordance with the regulations in this resolution shall appear, be present, or perform while nude or seminude.
2. No sexually oriented business employee or any other person at any sexually oriented business establishment shall perform or conduct any specified sexual activity with or for any sexually oriented business patron or any other person at any sexually oriented business establishment, or any other sexually oriented business employee, or any other person. No sexually oriented business establishment patron or any other person at any sexually oriented business establishment shall perform or conduct any specified sexual activity with or for any sexually oriented business establishment employee, patron or any other person.
3. Straddle dances shall be prohibited at all sexually oriented business establishments.

I. Exterior Display: No sexually oriented business establishment shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material, or any entertainment depicting, describing, or relating to specified sexual activities or

specified anatomical areas, from any sidewalk, public or private right-of-way, or any property other than the lot on which the licensed premises is located. No portion of the exterior of a sexually oriented business establishment shall utilize or contain any flashing lights, searchlights, spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations. This subsection shall apply to any advertisement, display, promotion material, decoration, or sign; to any performance or show; and to any window, door, or other opening.

- J. Noise: No loudspeakers or sound equipment audible beyond the licensed premises shall be used at any time.
- K. Gambling and Related Devices Prohibited: No sexually oriented business establishment shall contain any video, pinball, slot, bagatelle, pigeon-hole, pool, or any other games, machines, tables, or implements.
- L. Manager's Station: Each sexually oriented business establishment shall have one or more manager stations. The interior of each sexually oriented business establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one manager's station to every part of each area, except restrooms, of the establishment to which any sexually oriented business establishment patron is permitted access for any purpose.
- M. Alcohol Prohibition: No sexually oriented business establishment shall sell, serve, provide, or permit the consumption of beer or alcohol on the licensed premises or the lot on which the licensed premises is located.
- N. Parking: Each sexually oriented business establishment shall have a paved, marked, lighted parking lot capable of holding one vehicle for every three (3) authorized occupants permitted by fire regulations.
- O. Light and Sound Blockage: Each sexually oriented business establishment shall be landscaped to provide light and sound blockage to adjoining properties.

10.2.9 - Special Regulations for Adult Booths

- A. Prohibited Except in Adult Stores: Adult booths shall be prohibited in all sexually oriented business establishments except adult stores.
- B. Occupancy and Prohibited Acts: Only one individual shall occupy an adult booth at any time. No individual occupying an adult booth shall engage in any specified sexual activities. No individual shall damage or deface any portion of an adult booth.
- C. Open Booth Requirement: In addition to satisfying the manager station requirements of this chapter, all adult stores containing adult booths shall be physically arranged in such a manner that the entire interior portion of each adult booth shall be visible from the common area of the adult store. To satisfy this requirement, there shall be a permanently open and unobstructed entranceway for each adult booth and for the entranceway from the area of the

adult store that provides other adult materials to the area of the adult store containing the adult booths. Each of these entranceways shall not be capable of being closed or obstructed, entirely or partially, by any door, curtain, partition, drapes, or any other obstruction whatsoever that would be capable of wholly or partially obscuring the area of the adult store containing the adult booths or any person situated in an adult booth. It shall be unlawful to install adult booths within a sexually oriented business establishment for the purpose of providing secluded viewing of adult materials or live performances.

- D. Aisle Required: There shall be one continuous lighted main aisle alongside the adult booths provided in any adult store. Each person situated in a booth shall be visible at all times from the aisle.
- E. Holes Prohibited: Except for the open booth entranceway, the walls and partitions of each adult booth shall be constructed and maintained of solid walls or partitions without any holes or openings whatsoever.
- F. Signage: A sign shall be posted in a conspicuous place at or near the entranceway to each adult booth that states (I) that only one person is allowed in an adult booth at any one time, (II) that it is unlawful to engage in any specified sexual activities while in an adult booth, and (III) that it is unlawful to damage or deface any portion of an adult booth.
- G. Age Limitations:
 - 1. No sexually oriented business establishment employee or sexually oriented business establishment patron at an adult booth or a licensed premises that includes an adult booth shall be under the age of 18.
 - 2. No person under the age of 18 shall be admitted to any adult booth or any licensed premises that includes an adult booth.
 - 3. No person under the age of 18 shall be allowed or permitted to remain at any adult booth or at any licensed premises that includes an adult booth.
 - 4. No person under the age of 18 shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any adult booth or any licensed premise that includes an adult booth.

10.2.10 - Special Regulations for Adult Cabaret

- A. Performance Area: The performance area of an adult cabaret shall be limited to one or more stages or platforms permanently anchored to the floor (a "Cabaret Stage"). Each Cabaret Stage shall be elevated above the level of, and separate from, the patron seating areas. Each Cabaret Stage shall be separated by a distance of at least three (3) feet from all areas of the premises to which sexually oriented business establishment patrons have access. A continuous barrier at least two (2) feet in height and located at least three (3) feet from all points of each Cabaret Stage shall separate each Cabaret Stage from all patron seating areas. No patron shall be allowed at any time on any Cabaret Stage.

- B. Lighting: Sufficient lighting shall be provided and equally distributed throughout the public areas of the adult cabaret so that all objects are plainly visible at all times. A minimum lighting level of not less than thirty (30) lux horizontal, measured at thirty (30) inches from the floor and on ten (10)-foot centers shall be maintained at all times for all areas of the adult cabaret where sexually oriented business establishment patrons are admitted.
- C. Tipping: No sexually oriented business establishment patron shall offer, and no sexually oriented business establishment employee having performed on any Cabaret Stage shall accept, any form of tip or gratuity offered directly or personally to the employee by the sexually oriented business establishment patron. Rather, all tips and gratuities to sexually oriented business establishment employees performing on any Cabaret Stage shall be placed into a receptacle provided for receipt of such tips and gratuities by the sexually oriented business establishment or shall be placed by the sexually oriented business establishment patron on the Cabaret Stage on which the sexually oriented business establishment employee is performing.
- D. Notice of Select Rules: A sign at least two (2) feet by two (2) feet, with letters of at least one (1) inch high shall be conspicuously displayed on or adjacent to every Cabaret Stage stating the following:

**THIS ADULT CABARET IS REGULATED BY MIDDLEBURY TOWNSHIP.
ENTERTAINERS ARE:**

- (1) NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT.
 - (2) NOT PERMITTED TO ACCEPT ANY TIPS DIRECTLY OR PERSONALLY FROM PATRONS. ANY SUCH TIPS MUST BE PLACED INTO THE RECEPTACLE PROVIDED BY MANAGEMENT OR MUST BE PLACED DIRECTLY ON THE CABARET STAGE.
- E. Age Limitations:
 - 1. No sexually oriented business establishment employee or sexually oriented business establishment patron at an adult cabaret or a licensed premises used for an adult cabaret shall be under the age of 21.
 - 2. No person under the age of 21 shall be admitted to any adult cabaret or to any licensed premises used for an adult cabaret.
 - 3. No person under the age of 21 shall be allowed or permitted to remain at any adult cabaret or any licensed premises used for an adult cabaret.
 - 4. No person under the age of 21 shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any adult cabaret or any licensed premises used for an adult cabaret.

10.2.11 - Special Regulations for Adult Stores

- A. Windows: Window areas for adult stores shall not be covered or obstructed in any way.
- B. Age Limitations:
 - 1. No sexually oriented business establishment employee or sexually oriented business establishment patron at an adult store or a licensed premises used for an adult store shall be under the age of 18.
 - 2. No person under the age of 18 shall be admitted to any adult store or to any licensed premises used for an adult store.
 - 3. No person under the age of 18 shall be allowed or permitted to remain at any adult store or any licensed premises used for an adult store.
 - 4. No person under the age of 18 shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any adult store or any licensed premises used for an adult store.

10.2.12 - Special Regulations for Adult Theater

- A. Seating: Each adult theater shall provide seating only in individual chairs with arms or in seats separated from each other by immovable arms and not on couches, benches, or any other multiple person seating structures. The number of seats shall equal the maximum number of persons who may occupy the adult theater as permitted by fire regulations.
- B. Aisle: Each adult theater shall have a continuous main aisle alongside the seating area in order that each person seated in the adult theater shall be visible from the aisle at all times.
- C. Sign: Each adult theater shall have a sign posted in a conspicuous place at or near each entrance to the auditorium or similar area that lists the maximum number of persons who may occupy the auditorium area, which number shall not exceed the number of seats in the auditorium area.
- D. Age Limitations
 - 1. No sexually oriented business establishment employee or sexually oriented business establishment patron at an adult theater or a licensed premises used for an adult theater shall be under the age of 18.
 - 2. No person under the age of 18 shall be admitted to any adult theater or to any licensed premises used for an adult theater.
 - 3. No person under the age of 18 shall be allowed or permitted to remain at any adult theater or any licensed premises used for an adult theater.

4. No person under the age of 18 shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any adult theater or any licensed premises used for an adult theater.

10.2.13 - Licensee Responsibility for Employees

Every act of omission by a sexually oriented business establishment employee constituting a violation of the provisions of this Article shall be deemed to be the act of omission of the licensee if such act of omission occurs with either the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the sexually oriented business establishment employee. The licensee shall be punished for any such act or omission in the same manner as if the licensee committed the act or caused the omission. Accordingly, any such act or omission of any such employee constituting a violation of the provisions of this Article shall be deemed, for purposes of determining whether the licensee's sexually oriented business establishment license shall be revoked, suspended, or renewed, to be the act of omission of the licensee.

10.2.14 - License Revocation or Suspension

- A. Grounds: Pursuant to the procedures set forth in this section, the Inspector may suspend for not more than thirty (30) days, or revoke, any sexually oriented business establishment license if the Inspector, based on credible and reasonably reliable information and evidence, determines that any one or more of the following has occurred:
 1. The licensee has violated any of the provisions or requirements of this Article or sexually oriented business establishment license pursuant hereto, or the provisions of Middlebury Township zoning resolution applicable to the licensed premises or the sexually oriented business establishment.
 2. The licensee (I) knowingly or negligently furnished false or misleading information or withheld information on any application or other document submitted to the Township for the issuance or renewal of any sexually oriented business establishment license, or (II) knowingly or negligently caused or suffered any other person to furnish or withhold any such information on the licensee's behalf.
 3. The licensee has committed or knowingly or negligently allowed a felony or specified criminal act to take place on the licensed premises.
 4. The licensee authorizes, approves, or, as a result of the licensee's negligent failure to supervise the licensed premises or the sexually oriented business establishment, allows a sexually oriented business establishment employee, sexually oriented business establishment patron, or any other person to (I) violate any of the provisions or requirements of this Article or of the provisions or requirements of the sexually oriented business establishment license issued pursuant hereto, or (II) commit any felony or specified criminal act on the licensed premises. The licensee, or any person identified in this Article, becomes disqualified for the issuance of sexually oriented business establishment license at any time during the term of the license at issue.

- B. Procedure: A sexually oriented business establishment license may be suspended for not more than sixty (60) days or revoked pursuant to the terms and conditions set forth herein:
1. Notice: Upon determining that one or more of the grounds for suspension or revocation under 10.14 A of this Article may exist, the Inspector shall serve a written notice on the licensee in person or by certified mail, postage prepaid, return receipt requested, addressed to the licensee's address as set forth in the licensee's application. The written notice shall, at a minimum, (I) state that the Inspector has determined that the sexually oriented business establishment license may be subject to suspension or revocation pursuant to this resolution, (II) identify the specific grounds for the Inspector's determination; and (III) set a date for a hearing regarding the Inspector's determination as to the possibility of suspension or revocation of the sexually oriented business establishment license. The date of the hearing shall be no less than five (5) days after service of the Inspector's notice, unless an earlier or later date is agreed to by the licensee and the Inspector.
 2. Hearing: The hearing shall be conducted by the Inspector. At the hearing, the licensee may present and submit evidence and witnesses to refute the grounds cited by the Inspector for suspending or revoking the license and the Middlebury Township and any other persons may submit evidence to sustain such grounds. The administrative record compiled on the sexually oriented business establishment pursuant to this chapter shall be made part of the hearing record. Within three days after the close of the hearing, the Inspector shall, having considered the record made at the hearing, render a decision in writing, setting forth the reasons for the decision. The action taken by the Inspector shall be final and shall be subject to judicial review pursuant to Chapter 2506 of the Ohio Revised Code. The sexually oriented business establishment may remain in operation pending the outcome of the appeal.
 3. Notice and Effective Date of Suspension or Revocation: The Inspector's written decision shall be served on the licensee in person or by certified mail, postage prepaid, return receipt requested, addressed to the licensee's address as set forth in the licensee's application. Any suspension or revocation, as the case may be, shall take effect on the day that the Inspector's written decision is delivered in person or three (3) days after it is placed in the U.S. Mail.
 4. Surrender of License: Upon the suspension or revocation of sexually oriented business establishment license pursuant to this chapter, the Inspector shall take custody of the suspended or revoked license.

10.2.15 - Administrative Record.

The Inspector shall cause to be kept in the zoning inspector's office an accurate record of every sexually oriented business establishment license application received and acted on, together with all relevant information and material pertaining to such application, any sexually oriented business establishment license issued pursuant thereto, and any sexually oriented business establishment operated pursuant to such sexually oriented business establishment license.

10.2.16 - Record Keeping by Licensee.

The licensee of every sexually oriented business establishment shall maintain a register of all of its sexually oriented business establishment employees. For each such employee, the register shall include the following information:

- A. Legal name;
- B. Any and all aliases;
- C. Date of birth;
- D. Gender;
- E. Social security number;
- F. Date of commencement of employment;
- G. Date of, and cause for, employment termination, if applicable;
- H. Specific job or employment duties; and
- I. Convictions for any specified criminal activities as defined in this Article, and the specified criminal activities involved, the date, place, and jurisdiction of each.

The register shall be maintained for all current employees and all employees employed at any time during the preceding 36 months. The licensee shall make the register of its sexually oriented business establishment employees available for inspection by the Inspector immediately upon demand at all reasonable times.

10.2.17- Penalty.

Any person who violates, neglects, refuses to comply with, or assists or participates in any way in the violation of any of the provisions or requirements of this Article, or of any of the provisions or requirements of any sexually oriented business establishment license, shall be fined not more than five hundred dollars (\$500) for each violation. Each day such violation continues shall constitute a separate offense. The Inspector shall give written notice to any such person of any such violation and the fine imposed by serving a citation in person or by certified mail, postage prepaid, return receipt requested, addressed to the licensee's address as set forth in the licensee's application.

10.2.18 - Nuisance Declared.

Any sexually oriented business establishment established, operated or maintained in violation of any of the provisions or requirements of this Article or of any sexually oriented business establishment license shall be, and the same is, declared to be unlawful and a public nuisance. Middlebury Township may, in addition to or in lieu of any other remedies set forth in this Article, commence an action to enjoin, remove, or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts, as may have jurisdiction to grant

such relief as will abate or remove such public nuisance, and restrain and enjoin any person from establishing, operating, or maintaining a sexually oriented business establishment contrary to the provisions of this Article.

10.2.19 - Computation of Time.

Unless otherwise specifically set forth in this Article, the time within which any act required by this Article is to be done shall be computed by excluding the first day and including the last day, unless the last day is Saturday, Sunday or a Federal or State of Ohio holiday, in which case it shall also be excluded. If the day immediately following such Saturday, Sunday, or holiday is also a Saturday, Sunday, or holiday, then such succeeding day shall also be excluded.

10.2.20- Township Zoning

All other portions of the Middlebury Township Zoning Resolutions shall remain in effect.

ARTICLE XI: PARKING FACILITIES

- 11.1 All dwellings and apartment houses shall provide parking space off the road or street and outside of public right-of-way together with means of ingress and egress thereto for not less than one motor vehicle per dwelling unit or apartment. Not less than two hundred (200) square feet of area shall be necessary for each such vehicle.
- 11.2 Every theater, auditorium, stadium arena, building or grounds used for the assembling of persons to attend theatrical performances, shows, exhibitions, contests, concerts, lectures, entertainment, and similar activities shall provide off the street or road and outside of the public right-of-way not less than two hundred (200) square feet of space, suitable for parking automobiles and other vehicles, for every four (4) persons to be accommodated. Such parking space shall be within three hundred (300) feet of the main entrance to such use, shall provide adequate means of ingress and egress and shall be available for use of such patrons.
- 11.3 All general business and manufacturing shall submit adequate plans for parking facilities and off street loading and unloading when applying for permit.
 1. No less than two (2) or more motor vehicles or horse-drawn vehicles parking spaces of two hundred (200) square feet for each vehicle.
 2. Shall provide for off-street loading and unloading.

ARTICLE XII: SIGNS

12.0 PURPOSE: To promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, and preserve the scenic and natural beauty of designated areas. It is further intended to reduce sign or advertising distraction and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, curb the deterioration of natural environment, and enhance community development.

12.1 GOVERNMENTAL SIGN EXCLUDED: For the purpose of the Resolution, "Sign" does not include signs erected and maintained pursuant to and in discharge of any governmental function, or required by any law, ordinance, or governmental regulation.

12.2 GENERAL REQUIREMENTS FOR ALL SIGNS AND DISTRICTS: The regulations contained in this section shall apply to all signs and all use districts.

1. Any illuminated sign or lighting device shall employ only light emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. In no event shall an illuminated sign or lighting device be placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public thoroughfare, highway, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
2. Providing such use is not objectionable due to location, appearance, glare, vibration, electrical interference.

12.3 COMMERCIAL, INSTITUTIONAL, AND REAL ESTATE SIGNS

1. All signs advertising goods or services provided on the premises or advertising the availability of property along any road, including state or county roads, shall be set back from right-of-way line (existing or as established) at least five (5) feet, or twenty (20) feet if on a corner at the intersection of two roads. Such signs shall not be lighted in any way nor shall they exceed twenty (20) square feet in size or extend more than ten (10) feet above ground level or be more than ten (10) feet wide; nor shall any sign be designed to provide more than two (2) surfaces for display, e.g., no round or multi-sided signs are permitted.
2. No sign shall be placed in any public right-of-way except publicly owned signs, such as traffic control signs and directional signs, signs directing and guiding traffic and parking on private property, but bearing no advertising matter shall be permitted on any property.
3. When a business or other operation which has maintained a sign, has permanently closed or vacated the premises, the signs relating to that use or business shall be removed by the land owner within sixty (60) days of the termination of the use of business.

4. All signs hung and erected shall be plainly marked with the name or the person, firm, or corporation responsible, for maintaining the sign.
5. All signs shall be maintained in a sightly and safe condition, as described below:
 - a. The sign will not exhibit peeling paint, paper, or other materials in a state of deterioration;
 - b. The sign will be secured to its post or other mounting and is not loose or at risk of falling from its intended position;
 - c. The area around the sign is maintained: trash or litter removed and weeds/brush trimmed back regularly.
 - d. Should any sign be or become unsafe or be in danger of falling, the owner thereof or the person maintaining the same, shall upon receipt of written notice from the Zoning Inspector proceed at once to put such sign in a safe and secure condition or to remove the sign.
6. No sign shall be placed in any public right-of-way except publicly owned signs, such as traffic control signs and directional signs, signs directing and guiding traffic and parking on private property, but bearing no advertising matter shall be permitted on any property.

12.4 SIGNS ON RESIDENTIAL PROPERTY

No commercial signs are permitted on any property used primarily for residential purposes, except that one (1) sign for home occupations or professional activities (when permitted) shall not exceed fifteen (15) square feet and shall conform with all other provisions of this Article.

12.5 TEMPORARY SIGNS

The Zoning Inspector may authorize the installation of temporary signs (as defined by this Resolution) in accordance with the requirements of this Article. Signs advertising the sale of lots in an undeveloped Planned Unit Development may be erected and displayed in said PUD, provided that not more than one such sign facing on any one street shall be permitted for each PUD; and provided that each sign shall be removed at the expiration of one year after its erection or when 60% of the lots fronting or abutting on the street which such sign faces have been built upon and occupied as residences, whichever occurs first. Signs announcing the names of contractors and material suppliers participating in the construction of a building shall be permitted during the actual construction period, provided that such signs shall be located only on the parcel of land being improved.

12.6 OUTDOOR ADVERTISING

Outdoor advertising shall be classified as business use and shall be permitted in all districts zoned for industry, business, or trade, or lands used for agricultural purposes. Cross reference: O.R.C. 519.20

12.7 SIGN PERMIT APPLICATION REQUIRED

Any person desiring to construct a sign governed by sections 12.3 through 12.6 shall first apply for a sign permit from the Zoning Inspector.

ARTICLE XIII: EXTRACTION OF MINERALS

- 13.0 GENERAL REQUIREMENTS: Any owner, lessee or other person, firm, or corporation having an interest in mineral lands, in any district may file with the Board an application for authorization to mine minerals therefrom, provided, however, that he/she shall comply with all requirements of the District in which said property is located, and with the following additional requirements.
1. **Distance from Property Lines**: No quarrying operation shall be carried on or any stockpile placed closer than one hundred (100) feet to any property line unless a greater distance is specified by the Board where such is deemed necessary for the protection of adjacent property; provided that this distance requirements may be reduced to twenty-five (25) feet by written consent of the owner/owners of the abutting property.
 2. **Distance from Public Right-of-Way**: In the event that the site of the mining or quarrying operation is adjacent to the right-of-way of any public street or road no part of such operation shall take place closer than twenty-five (25) feet to the nearest line of right-of-way.
 3. **Fencing**: Fencing shall be erected and maintained around the entire site or portions thereof where in the opinion of the Board such fencing is necessary for the protection of the public safety, and shall be of a type specified by the Board.
 4. **Equipment**: All equipment and machinery shall be operated and maintained in such manner as to minimize dust, noise, and vibration. Access roads shall be maintained to minimize dust by surfacing or other treatment.
 5. **Processing**: The crushing, washing, and refining or other similar processing shall not be in conflict with the use regulations of the District in which the operation is located.
- 13.1 APPLICATION-FINANCIAL ABILITY:
In accepting such plan for review, the Board must be satisfied that the proponents are financially able to carry out the proposed mining operation in accordance with the plans and specifications submitted.
- 13.2 APPLICATION, CONTENTS, PROCEDURE:
An application for such operation shall set forth the following information:
1. Name of the applicant making the request for such permit.
 2. Name of the person or corporation conducting the actual removal operation.
 3. Name of the owner or owners of land from which removal is to be made.
 4. Location, description, and size of the area from which removal is to be made.

5. Type of resources or materials to be removed.
6. Location of processing plant used.
7. Proposed method of removal and whether or not blasting or other use of explosives will be required.
8. Description of equipment to be used.
9. Method of rehabilitation and reclamation of the mined area.

13.3 PUBLIC HEARING:

Upon receipt of such application, the Board shall set the matter for a public hearing in accordance with the provisions of Article XVI.

13.4 REHABILITATION:

To guarantee the restoration, rehabilitation, and reclamation of the mined out area, every applicant granted a mining permit as herein provided, shall furnish a performance bond running to the Township in an amount of not less than two hundred dollars (\$200) per acre as a guarantee that such applicant, in restoring, reclaiming, and rehabilitating such land, shall within a reasonable time and to the satisfaction of the Board meet the following minimum requirements.

1. Surface Rehabilitation: All excavations shall be made either to a water producing depth, such depth to be not less than five (5) feet below the low water mark, or shall be graded or backfilled with non-noxious, nonflammable and noncombustible solids, to secure:
 - a. That the excavated area shall not collect and permit to remain there stagnant water; or
 - b. that the surface of such area which is not permanently submerged is graded or backfilled as necessary as to reduce the peaks and depressions thereof--so as to produce a gently running surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.
2. Vegetation: Vegetation shall be restored by appropriate seeds or grasses or planting of shrubs or trees in all parts of said mining area where such area is not to be submerged under water as hereinafter provided.
3. Banks of Excavations not Backfilled: The banks of all excavations not backfilled shall be sloped to the water line at a foot vertical and said bank shall be seeded.

- 13.5 Additional Requirements: In addition to the foregoing the Board may impose such other conditions, requirements or limitations concerning the nature, extent of the use and operation of such mines, quarries, or gravel pits as the Board may deem necessary for the protection of adjacent properties and the public interest. The said conditions and amount of the performance bond shall be determined by the Board prior to issuance of the permit.

13.6 Gas and Oil Wells: In any and all districts of the Township, a well may be drilled for the exploration for or production of natural oil or gas only after or-when the following conditions have been complied with:

1. Compliance with all applicable laws of the State of Ohio.
2. Surety Bond in the amount of twenty thousand dollars (\$20,000) has been obtained and is attached to the drilling permit application to be filed with said application conditional upon the faithful performance of each and every condition set forth in the permit and guaranteeing the repair of all damage to public property resulting from such well or the drilling of the well including damage to the streets, pavements, curbs, gutters, sidewalks, waterlines, sewer lines, bridges, culverts, tiles, fire plugs, street light, street or traffic signs or signals, drainage facilities, but not necessarily limited thereto. Such bond is to be held by the Township Clerk until released or reduced and released by the Township Trustees upon satisfaction that all such damage has been repaired or ordered paid for such repairs.
3. No tanks or reservoirs erected for or intended for the storage of petroleum products shall be located within fifty (50) feet of any public right-of-way, or one hundred (100) feet of a residential lot line.

ARTICLE XIV: ADMINISTRATION

14.0 ZONING INSPECTOR:

He/She shall keep records of all applications for zoning certificates and the action taken thereon. The Zoning Inspector shall be a resident of Knox County and the unincorporated areas of Middlebury Township or bordering Knox County Townships. First preference should be given to Middlebury Township residents.

14.1 DUTIES OF ZONING INSPECTOR:

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

1. Upon finding that any of the provisions of this Resolution are being violated, he/she shall notify in writing the person responsible for such violation(s), ordering the action necessary to correct such violation.
 - a. Shall physically inspect lot lines, footers, and any other essential information necessary for the approval or disapproval of a permit.
2. Order discontinuance of illegal uses of land, buildings, or structures.
3. Order removal of illegal buildings or structures or illegal additions or structural alterations.
4. Order discontinuance of any illegal work being done.
5. Take any other action authorized by this Resolution to ensure compliance with or to prevent violation(s) of this Resolution. This may include the issuance of action on zoning and certificate of occupancy permits and such similar administrative duties as are permissible under the law.
6. Shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. All department; officials and public employees of the Township vested with the duty or authority to issue permits and licenses shall conform to the provisions of this Resolution and shall issue no permit or licenses for any use, building, or buildings, or purpose in conflict with the provisions of this Resolution. Any permit or license issued in conflict with the provisions of this Resolution shall be null and void.

14.2 FILING PLANS: Every application for a Zoning Certificate shall be accompanied by plans drawn to scale, showing (on the basis of a survey):

(In duplicate)

1. The exact location, size, and height of any building/structure to be erected or altered.
2. Submit a plot plan showing the proposed location, dimensions, and the proposed use.
3. The existing and intended use of each building/structure or any part thereof.

4. The number of families or housekeeping units the building is designed to accommodate.
 5. Must show and receive the approval (permit) of the Knox County Health Department for the design, location, and capacity of the sanitary system and method of water supply.
 - a. Water systems and sanitary sewer facilities, whether community or individual, must be approved by the County of Knox and/or the State of Ohio Health Department and a certificate posted before construction will be allowed.
 6. When no buildings are involved, the location of the present use and proposed use to be made of the lot; such other information with regard to the lot and neighboring lots may be necessary to determine and provide for the enforcement of this Resolution.
 7. The lot and location of the building thereon shall be staked out on the around before construction is started.
 8. One copy of such plans shall be returned to the owner when such plans have been approved by the Zoning Inspector together with such zoning certificate as may be granted.
 9. Any Zoning Certificate approved by the Zoning Inspector shall conform to the Middlebury Township Zoning Ordinance.
 10. Name, address, and phone number of applicant included.
 11. The Zoning Inspector shall physically inspect lot lines, footers, and any other essential information necessary for the approval or disapproval of a permit.
 12. Shall apply to buildings two hundred (200) square feet or larger in area.
 13. Shall apply only to structures having solid walls, floors and roofs, which are habitable or useable year-around.
 14. Except for a statement of the overall size of the structure, building plans shall not be required for small structures, such as storage sheds.
 15. For the purpose of permit fees the square footage of a multi-level structure shall include the square footage of each level of the structure, excluding attics, crawl spaces, basements, exterior decks, and porches.
- 14.3 ZONING CERTIFICATE: No building or other structure shall be: erected, moved, added to, structurally altered, nor shall any building, structure, or land be established or changed in use without a permit therefore issued by the Zoning Inspector (excluding buildings used for agricultural purposes.) Application shall be made to the Township Zoning Inspector (Ohio Revised Code 519.17).

Zoning permits shall be issued only in conformity with the provisions of this Resolution unless the Zoning Inspector receives a written order from the Board of Zoning Appeals deciding an Appeal, Conditional Use or Variance.

Any zoning certificate approved by the Zoning Inspector shall conform to the Middlebury Township Zoning Ordinance. No permit for the excavation and construction shall be issued by the zoning inspector unless the plans, specifications, and the intended use conform to the provisions of this Resolution.

- 14.4 TIME LIMIT TO ACT ON ZONING CERTIFICATE: The Zoning Inspector shall act upon all such applications on which he/she is authorized to act within the provisions of this Resolution within thirty (30) days after the date they are filed in full compliance with all the applicable requirements. He/She shall either issue a zoning certificate within said thirty (30) days or shall notify the applicant in writing of his/her refusal of such certificate and the reasons therefore. Failure to notify the applicant within the said thirty (30) days shall constitute a refusal and will enable the applicant to appeal directly to the Board of Zoning Appeals for the purpose of obtaining a zoning certificate.
- 14.5 ZONING CERTIFICATE FOR EXISTING BUILDING OR PREMISES: 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 the enactment of this Resolution certifying, after inspection, the extent and kind of use made of the building or premises and whether such conforms to the provisions of this Resolution.
- 14.6 EXPIRATION OF ZONING PERMIT: If the work described in any zoning permit has not begun within one (1) year from the date of issuance thereof, said permit shall expire. It shall be revoked by the zoning inspector; and written notice thereof shall be given to the persons affected. If the work described in any zoning permit has not been substantially completed within two and one-half (2 1/2) years of the date of issuance thereof, said permit shall expire and be revoked by the zoning inspector, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new Zoning Permit has been obtained or extension granted.
- 14.7 FEES: Fees shall be charged in accordance with the orders and directions of the Middlebury Township Trustees.
- 14.8 VIOLATIONS AND PENALTIES: It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of the provisions of this Resolution or any amendment or supplement thereto adopted by the Board of Township Trustees. Any person, firm or corporation violating any of the provisions 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 dollars (\$100.00). (Ohio Revised Code sections 303.99 & 519.99) Each and every day during which illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues may be deemed a separate offense.
- 14.9 VIOLATIONS-REMEDIES: In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used or any land is or is proposed to

be used in violation of law or of the Zoning Resolution or any amendment thereto, the Board of Middlebury Township Trustees, the Prosecuting Attorney of the County of Knox, the Township Zoning Inspector or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute an injunction, mandamus abatement, other appropriate action, actions, or proceeding(s) to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use.

The Township Trustees may employ special counsel to represent it in any proceeding to prosecute any action brought under this Article.

ARTICLE XV: DUTIES

15.0 DUTIES OF ZONING INSPECTOR, BOARD OF ZONING APPEAL, BOARD OF TOWNSHIP TRUSTEES AND COURTS ON MATTERS OF APPEAL: It is the intent of this Resolution that all questions of interpretation and enforcement shall be first presented to the Zoning Inspector, and that such questions shall be presented to the Board only on appeal from the decision of the Zoning Inspector, and that recourse from the decisions of the Board shall be to the courts as provided by law. It is further the intent of this Resolution that the duties of the Board of Township Trustees in connection with this Resolution shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this Resolution.

Under this Resolution the Board of Township Trustees shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this Resolution as provided by law, and of establishing a schedule of fees and charges as stated in Section XIV, 14.7 of this Resolution.

Nothing in this Resolution shall be interpreted to prevent any official of the Township from appealing a decision of the Board to the courts as provided in Chapters 2505 and 2506 of the Ohio Revised Code. Any such appeal shall be made within twenty (20) days of the Board's written decision.

ARTICLE XVI: BOARD OF ZONING APPEALS

- 16.1 APPOINTMENT: There is hereby created a Township Board of Zoning Appeals of five (5) members, to be appointed by the Board of Township Trustees, who shall be residents of the unincorporated area of the township included in the area zoned. The terms of each member shall be five (5) years beginning January 1st, except that the terms of the original members shall be of such length and so arranged that the term of one (1) member will expire each year. Each member shall serve until his successor is appointed and qualified. Vacancies shall be filled by the Board of Middlebury Township Trustees and shall be for the respective unexpired term. The members of the Board of Zoning Appeals shall serve without compensation. Members of the Board may be removed from office by the Board of Township Trustees for cause upon written charges and after public hearing.
- 16.2 PROCEDURE: The Township Board of Zoning Appeals shall organize, and adopt rules in accordance with the provisions of the Zoning Resolution. Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such times as the Board may determine. The Chairman, or in his/her absence, the Acting Chairman may administer oaths and the Township Board of Zoning Appeals may compel the attendance of witnesses. All meetings of the Board of Zoning Appeals shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, 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 Middlebury Township Trustees and shall be a public record. The Board of Zoning Appeals has appellate jurisdiction relative to appeals and variances.
- 16.3 DUTIES OF THE BOARD OF ZONING APPEALS: In exercising its duties the Board may, as long as such action is in conformity with the terms of this Resolution, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Zoning Inspector from whom the appeal is taken. A quorum of three (3) members, voting in majority, shall be necessary to reverse any order, requirement, decision or determination of the Zoning Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this Resolution or to effect any variation in the application of this Resolution. For the purpose of this Resolution the Board has the following specific responsibilities:
1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, or determination made by the Zoning Inspector.
 2. To authorize such variance from the terms of this Resolution as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this Resolution will result in unnecessary hardship, and so that the spirit of this Resolution shall be observed.
 3. To grant conditional use permits as specified in the Official Schedule of District Regulations and under the conditions specified in this Resolution and such additional safeguards as will uphold the intent of this Resolution.

- 16.4 APPEALS: Appeals to the Board of zoning Appeals concerning interpretation or administration of this Resolution may be taken by any person aggrieved or by any officer or bureau of the legislative authority of the Township affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decisions by filing, with the Zoning Inspector and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Inspector shall transmit to the Board of Appeals all the papers constituting the record on which the action appeal was taken.
- 16.5 STAY OF PROCEEDINGS: An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Inspector from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal is filed with him, that by reason of factor stated in the application, a stay would, in his/her opinion, cause imminent peril to life and property. In such a 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, on notice to the Zoning Inspector from whom the appeal is taken of due cause shown.
- 16.6 POWERS OF THE BOARD OF ZONING APPEALS:
1. Conditional Uses, Specified, Exceptions and Interpretation of Zoning Map: The Board shall have the power to hear and decide, in accordance with the provisions of this Resolution, applications filed as herein before provided for conditional uses, special exceptions, or for interpretations of the Zoning Map, or for decisions upon other special questions upon which the Board is authorized by this Resolution to pass. In considering an application for a conditional use, a special exception, or interpretation of a zoning map, the Board shall give due regard to the nature and condition of all adjacent land and structures; and in authorizing a conditional use or special exception, 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 particular conditional use or special exception which the Board may deem necessary for the protection of adjacent properties and public interest.
 2. Non-conforming uses-SUBSTITUTION: The substitution of a non-conforming use existing at the time of enactment of this Resolution by another non-conforming use, if no structural alterations, except those required by law or Resolution, are made, provided, however, that any use so substituted shall be of the same or of a more restricted classification.
 3. Performance Standards Procedure: The Board shall have the power to authorize, upon application in specific cases, filed as hereinbefore provided, issuance of a Zoning Certificate for uses that are subject to Performance Standards procedures as provided in this Resolution.
 4. Temporary Structures and Uses: The temporary use of a structure on 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 12 month period, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

- 16.7 INTERPRETATION OF ZONING MAP: Where the street or lot layout actually on the ground, or as recorded, differs from the streets and lot lines as shown on the Zoning Map, the Board, after notice to the owner of the properties or property concerned, and after public hearing, shall interpret the Map in such a way as to carry out the intent of this Resolution. In case of any questions as to the location of any boundary line between zoning districts, a request for interpretation of the Zoning Map may be made to the Board and a determination shall be made by the Board.
- 16.8 APPLICATIONS: When and by whom taken: An application, in cases on which the Board has original jurisdiction under the provision of this Resolution, may be filed by a property owner, including a tenant or by a governmental official department, Board or Bureau. Such application shall be filed with the Zoning Inspector who shall transmit the same to the Board.
- 16.9 PUBLIC HEARING: The Board of Zoning Appeals shall hold a public hearing within twenty (20) days after the receipt of an application for an appeal or variance from the Zoning Inspector or an applicant.
- 16.10 NOTICE OF PUBLIC HEARING: Before holding the public hearing required in the above section, notice of such hearing shall be given in one or more newspapers of general circulation of the Township at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed appeal or variance.
- 16.11 NOTICE TO PARTIES IN INTEREST: Before holding the public hearing required in section above, written notice of such hearing shall be mailed by the Chairman of the Board of Zoning Appeals by first class mail, at least ten (10) days before the day of the hearing to all parties in interest. The notice shall contain the same information as required of notices published in newspapers.
- 16.12 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS: Under no circumstances shall the Board of zoning Appeals grant an appeal or variance to allow a use not permissible under the terms of this Resolution in the district involved, or any use expressly or by implication prohibited by the terms of this Resolution in said district. In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards, in conformity with this Resolution. Violations of such conditions and safeguards when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this Resolution and punishable.
- 16.13 ACTION BY BOARD OF ZONING APPEALS: Within thirty (30) days after the public hearing required, the Board of Zoning Appeals shall either: approve, approve with supplementary conditions, or disapprove the request for appeal or variance. The Board of Zoning Appeals shall further make a finding that the reasons set.
- 16.12 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS: Under no circumstances shall the Board of zoning Appeals grant an appeal or variance to allow a use not permissible under the terms of this

Resolution in the district involved, or any use expressly or by implication prohibited by the terms of this Resolution in said district. In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards, in conformity with this Resolution. Violations of such conditions and safeguards when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this Resolution and punishable.

- 16.13 ACTION BY BOARD OF ZONING APPEALS: Within thirty (30) days after the public hearing required, the Board of Zoning Appeals shall either: approve, approve with supplementary conditions, or disapprove the request for appeal or variance. The Board of Zoning Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building, or structure. Appeals from the Board decisions shall be made through the Court of Common Pleas set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building, or structure. Appeals from the Board decisions shall be made through the Court of Common Pleas.

ARTICLE XVII: VARIANCE

17.0 The Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this Resolution as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Resolution, would result in unnecessary hardship. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming uses of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this resolution would result in unnecessary hardship.

17.1 APPLICATION AND STANDARDS FOR VARIANCES: A variance from the terms of this Resolution shall not be granted by the Board of Zoning Appeals unless and until a written application for variance is submitted to the Zoning Inspector and the Board of Zoning Appeals containing:

1. Name, address, and phone number of applicants
2. Legal description of property
3. Description of the nature of the variance requested
4. A narrative statement demonstrating that the requested variance conforms to the following standards:
 - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands structures, or buildings in the same district.
 - b. That a literal interpretation of the provisions of this Resolution would deprive the applicant of rights commonly enjoyed by other properties in the same districts under the terms of this Resolution.
 - c. That special conditions and circumstances do not result from the actions of the applicant.
 - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Resolution to other lands, structures, or buildings in the same district.

A variance shall not be granted unless the Board makes specific findings of fact based directly on the particular evidence presented to it, which support conclusions that the standards and conditions imposed by subsection 4 of this section have been met by the applicant.

17.2 DECISION OF THE BOARD: The Board shall decide all applications and appeals within a reasonable time after the final hearing thereon. A certified copy of the Board's decision shall be transmitted to the applicant or appellant and to the Zoning Inspector. Such decisions shall be binding upon the Zoning Inspector and observed by him, and he shall incorporate the times and conditions of the same in the certificate to the applicant whenever a certificate is authorized by the Board.

A decision of the Board shall not become final until after the expiration of five (5) days from 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.

- 17.3 VARIANCES: Literal Enforcement would create undue hardship. The board shall have the power to authorize upon appeal in specific cases, filed as hereinbefore provided, such variance from the terms, provisions or requirements of this Resolution as will not be contrary to the public interest; provided however that such variance shall be granted only in such cases where, owing to a special and unusual condition pertaining to a specific piece of property the literal enforcement of the provisions or requirements of this Resolution would result in practical difficulty or undue hardship, so that the spirit of the Resolution shall be upheld, public safety and welfare secured and substantial justice done.
- 17.4 VARIANCE-Conditions Prevailing: Where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date of this Resolution, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this Resolution would involve practical difficulty or would cause unnecessary hardship necessary to carry out the spirit and purpose of this Resolution. The board shall have power to authorize a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purposes of the Resolution and in the public interest.
- 17.5 VARIANCE-Findings of the Board: No such variance of the provisions or requirements of this Resolution shall be authorized by the Board unless the Board finds, beyond reasonable doubt that all the following facts and conditions exist:
1. EXCEPTIONAL CIRCUMSTANCES: That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or classes of use *in* the same district.
 2. PRESERVATION OF PROPERTY RIGHTS: That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.
 3. ABSENCE OF DETRIMENT: That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this Resolution or the public interest.
 4. NOT OF GENERAL NATURE: No grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property or the intended use of said property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations.
 5. VARIANCE-BOARD MAY REVERSE ORDERS, ETC.: In exercising its power, the Board may, in conformity with the provisions of statute and of this Resolution, reverse or affirm, wholly or partially, or may modify an order, requirements, decisions or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Office from whom the appeal is taken.

ARTICLE XVIII: CONDITIONAL USES

- 18.0 LOCATION USES: Wherever it is stated in this Resolution, certain conditional uses may be permitted in a District. Where such uses are deemed essential or desirable to the public convenience or welfare, and are in harmony with the various elements or objectives of the Comprehensive Plan. Before the Board of Appeals makes its final determination, it shall hold a public hearing as specified in this subsection.
- 18.1 PROCEDURE: A written application for approval of Conditional Use shall be filed with the Board of Appeals upon forms prescribed for that purpose by the Commission. A deposit shall be paid upon the filing of each application for the purpose of defraying the actual cost of the proceedings described herein. A written receipt shall be kept in such manner as prescribed by law. Checks shall be made out: CLERK, MIDDLEBURY TOWNSHIP ZONING.
- 18.2 CONTENTS OF APPLICATION FOR CONDITIONAL USE PERMIT: An application for a conditional use permit shall be filed with the Chairman of the Board of Zoning Appeals by at least one owner or lessee of property for which such conditional use is proposed. At a minimum, the application shall contain the following information:
1. Name, address, and phone number of applicant
 2. Legal description of property
 3. Description of existing use
 4. Zoning district
 5. Description of proposed conditional use
 6. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards, and such other information as the Board may require to determine if the proposed conditional use meets the intent and requirements of this Resolution.
 7. A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor, fumes and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the comprehensive plan.
 8. Such other information as may be required or relevant.
- 18.3 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS: In granting any conditional use, the Board may prescribe appropriate conditions and safeguards in conformity with this Resolution. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Resolution and punishable.
- 18.4 ACTION OF THE BOARD OF ZONING APPEALS: Within thirty (30) days after the public hearing required, the Board shall approve, approve with supplementary conditions as specified, or disapprove the application as presented.

If the application is approved or approved with supplementary conditions, the Board shall direct the Zoning Inspector to issue a Conditional Use Permit listing the specific conditions specified by

the Board for approval. If the application is disapproved by the Board the applicant may seek relief through the Court of Common Pleas.

- 18.5 EXPIRATION OF CONDITIONAL USE PERMIT: A conditional use permit shall be deemed to authorize only one particular conditional use and said permit shall automatically expire if, for any reason, the conditional use shall cease for more than two (2) years.

ARTICLE XIX: ZONING COMMISSION

- 19.0 There is hereby created a Township Zoning Commission of five (5) members, to be appointed by the Middlebury Township Board of Trustees, who shall be a resident of the unincorporated area of the Township included in the area zoned. The terms of each member shall be five (5) years beginning January 1, except that the terms of the original members shall be of such length and so arranged that the term of one member will expire each year. Each member shall serve until his successor is appointed and qualified. Vacancies shall be filled by the Board of Township Trustees and shall be for the respective unexpired term. The members of the Zoning Commission shall serve without compensation. Members of the Commission may be removed from office by the Board of Township Trustees for cause upon written charges and after a public hearing.
- 19.1 MEETINGS: The Township Zoning Commission shall meet quarterly and may initiate amendments to the Zoning Resolution from time to time. All meetings shall be open to the public.
- 19.2 DUTIES OF PLANNING (ZONING) COMMISSION: For the purpose of this Resolution the Commission shall have the following duties:
1. Initiate proposed amendments to this Resolution.
 2. Review all proposed amendments to this Resolution and make recommendations to the Board of Township Trustees as specified in Article XX.
- 19.3 PROCEEDINGS OF ZONING COMMISSION: The Commission shall adopt rules necessary to the conduct of its affairs 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 Commission may determine. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which will be public record and be immediately filed in the office of the Middlebury Township Trustees.
- 19.4 AUTHORITY: The authority for the creation and establishing of the Zoning Commission is contained in the provisions of Section 519.02 and 519.25 inclusive of the Revised Code of the State of Ohio.

ARTICLE XX: AMENDMENTS OR SUPPLEMENTS

- 20.0 INITIATION OF AMENDMENTS OR SUPPLEMENTS: Amendments or supplements to the Zoning Resolution may be initiated by a motion of the Zoning Commission, by passage of a Resolution by the Township Trustees, or by the filing of an application by one (1) or more of the owners or lessees of property within the area proposed to be changed or affected by the proposed amendment or supplement with the Zoning Commission. The Township Trustees shall upon the passage of such Resolution certify it to the Zoning Commission.
- 20.1 PROCEDURE FOR CHANGE: Applications for amendments or supplements to this Resolution shall be submitted to the Zoning Commission upon such forms, and shall be accompanied by such data and information, as may be prescribed for that purpose by the Zoning Commission, so as to assure the fullest practicable presentation of facts for the permanent record. Each such application shall be verified by at least one of the owners or lessees of property within the area proposed to be changed or affected, attesting to the truth and correctness of all facts and information presented with the applications.
- 20.2 NAMES AND ADDRESSES OF PROPERTY OWNERS: Any person or persons desiring amendments or supplements to this Zoning Resolution shall file with the application for such change a statement giving the names of all owners of property within and on the area proposed to be reclassified or redistricted, and the addresses of such owners appearing on the current tax roll.
- 20.3 PUBLIC HEARING BY THE ZONING COMMISSION: Upon the adoption of such motion, or the certification of such Resolution or the filing of such application, the Zoning Commission shall set a date for a public hearing thereon which date shall not be less than twenty (20) days, nor more than forty (40) days from the date of the certification of such Resolution or the date of adoption of such motion or the date of the filing of such application. Notice of hearing shall be given by the Zoning Commission by one (1) publication in one (1) or more newspapers of general circulation in the Township at least fifteen (15) days before the date of such hearing.
- 20.4 WRITTEN NOTICE: Written notice of the hearing shall be mailed by the Zoning Commission to all owners of property within and contiguous to the area proposed to be reclassified or redistricted by certified mail fifteen (15) days before the date of such hearing to the addresses of such owners appearing on the current tax roll list or duplicate of the County or to the address of the property. The failure of delivery of such notice shall not invalidate any amendment or supplement.
- 20.5 TRANSMITTAL TO REGIONAL PLANNING COMMISSION: Within five (5) days after the adoption of such motion or the certification of such Resolution or the failure of such application the Zoning Commission shall transmit a copy thereof together with a text and a map pertaining thereto to the Regional Planning Commission.
- 20.6 ACTION BY REGIONAL PLANNING COMMISSION: The Regional Planning Commission shall recommend the approval or denial of the proposed amendment or supplement, or the approval of some modification thereof and shall submit such recommendation to the Township Zoning Commission. Such recommendation shall be considered at the public hearing held by the Zoning Commission on such proposed amendment or supplement.

- 20.7 PUBLIC HEARING BY TOWNSHIP TRUSTEES: The Township Trustees shall, upon receipt of such recommendation, set a time for a public hearing on such proposed amendment or supplement, which date shall be not more than thirty (30) days from the date of the receipt of such recommendation from the Zoning Commission. Notice of such public hearing shall be given by the Trustees by one (1) publication in one (1) or more newspapers of general circulation in the Township at least fifteen (15) days before the date of such hearing.
- 20.8 WRITTEN NOTICE: Written notice of the hearing shall be mailed by the Zoning Commission to all owners of property within and contiguous to the area proposed to be reclassified or redistricted by certified mail fifteen (15) days before such hearing to the addresses of such owners on the current tax roll list or duplicate of the County or to the address of the property. The failure of delivery of such notice shall not invalidate any amendment or supplement.
- 20.9 VOTE BY TOWNSHIP TRUSTEES: Within twenty (20) days after the public hearing the Township shall either adopt or deny the recommendation thereof. In the event the Trustees deny or modify the recommendation of the Zoning Commission, the unanimous vote of the Township Trustees shall be required.
- 20.10 EFFECTIVE DATE OF AMENDMENT OR SUPPLEMENT: REFERENDUM: Such amendment or supplement adopted by the Trustees shall become effective thirty (30) days after the date of such adoption unless within thirty (30) days after the adoption of the amendment or supplement, there is presented to the Township Trustees a petition, signed by a number of qualified voters residing in the unincorporated area of Middlebury Township equal to not less than eight percent (8%) of the total vote cast for all candidates in such area at the last preceding general election at which a governor was elected, requesting the Township Trustees to submit an amendment or supplement to the electors of such area for approval or rejection at the next primary or general election.
- 20.11 RESULT OF REFERENDUM: No amendment or supplement for which such referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the amendment. Upon certification by the Board of Elections that the amendment has been approved by the voters it shall take immediate effect.
- 20.12 FEES: Each application for a zoning amendment except those initiated by the Zoning Commission, shall be accompanied by a check or cash payment sufficient in the amount to cover the cost of publishing, posting, and/or mailing the notices of the hearing by the forgoing provisions.

ARTICLE XXI: EXCEPTIONS AND MODIFICATIONS

- 21.0 LOT OF RECORD: When a lot which is an official lot of record at the time of adoption of this Resolution does not comply with the area, yard, or other requirements of this Resolution, such lot may be used as a building site provided, however, that the yard and other requirements of the district are complied with as closely as possible in the opinion of the Board of Zoning Appeals.
- 21.1 EXCEPTION TO HEIGHT LIMITS: The height limitations of this Resolution shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy; monuments, water towers, transmission towers, chimneys, smoke stacks, derricks, conveyors, flagpoles, radio towers, masts, aerials and grain elevators.

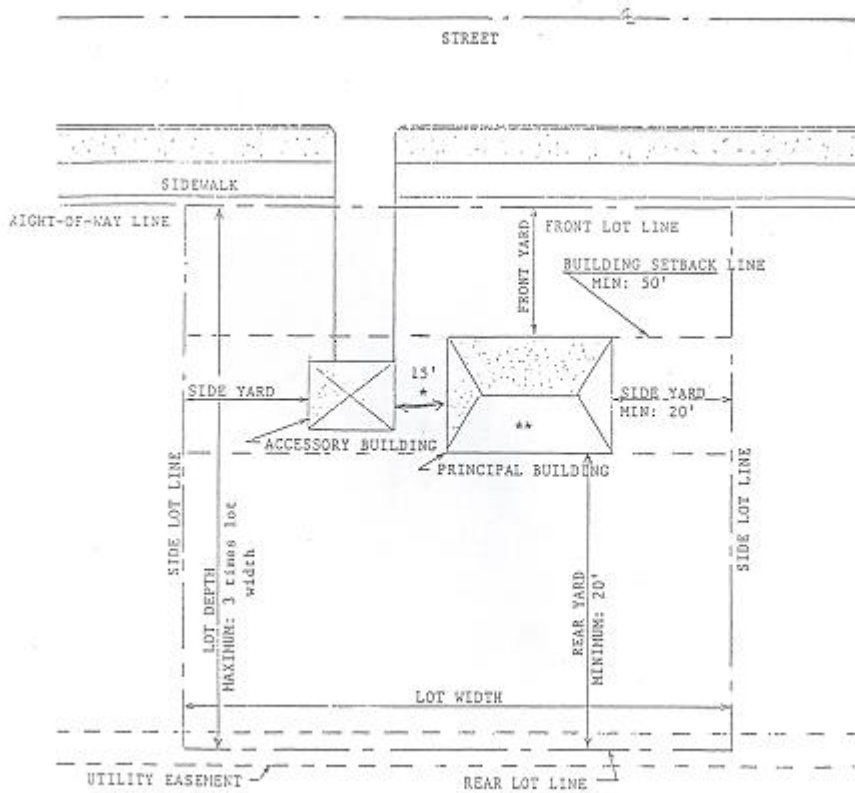
ARTICLE XXII: VALIDITY

- 22.0 Each section, subsection, provision, requirement, regulation or restriction established herein or any amendment thereto, is hereby declared to be independent, and the holding of any part to be unconstitutional, invalid, or ineffective for any cause shall not affect nor render invalid the Zoning Resolution or amendments thereto as a whole or any other part thereof except the particular part so declared to be invalid.
- 22.1 AUTHENTICATION: The Township Clerk of the Township is hereby ordered and directed to certify the passage of the Resolution. This Resolution shall be in effect and be in force from and after its passage, approval and publication.

Adopted this 17th day of November 1986
Board of Township Trustees
Middlebury Township
Knox County, Ohio

Attest, Leland Hathaway, Clerk

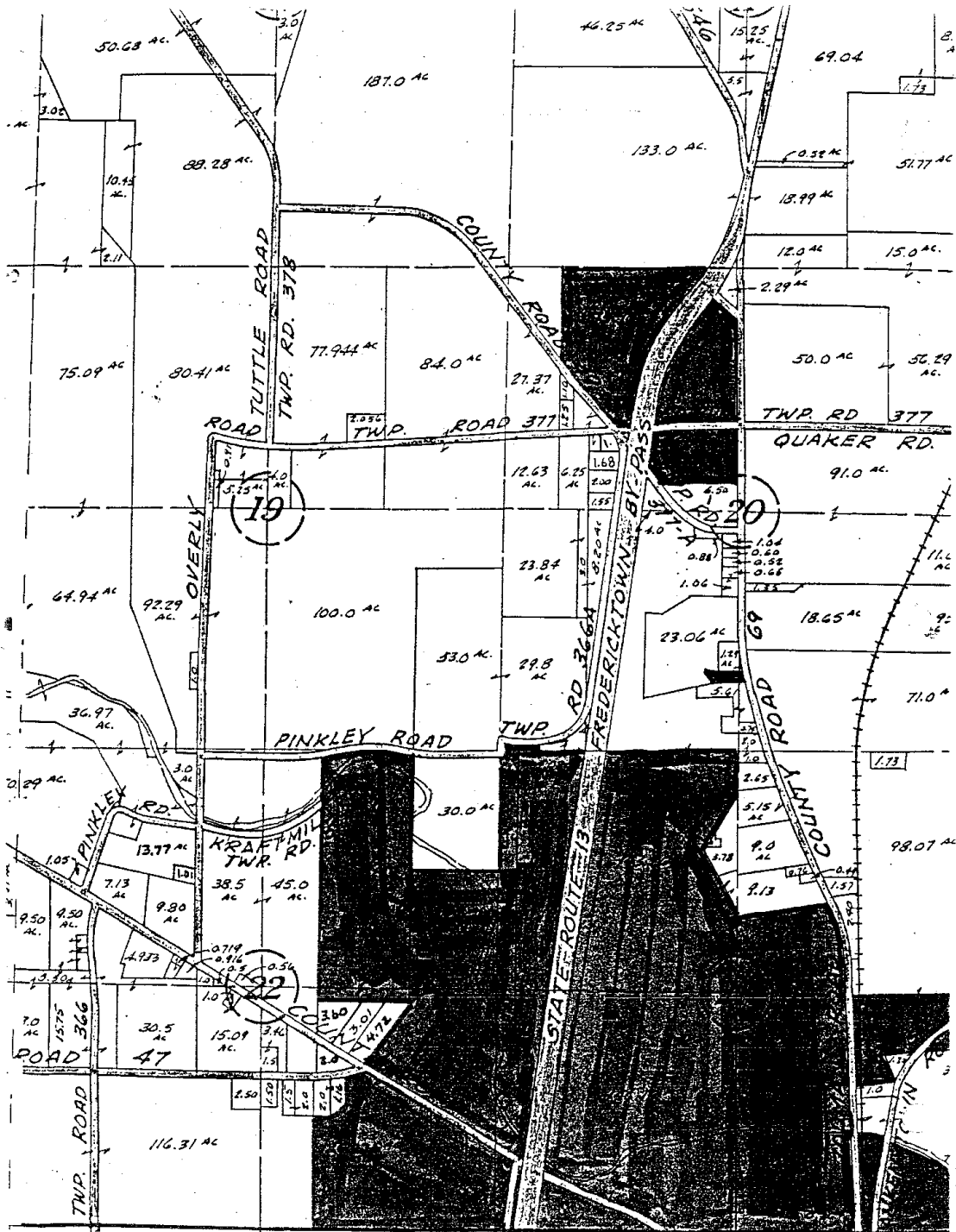
LOT TERMS: AG RESIDENTIAL



LOT AREA = TOTAL HORIZONTAL AREA

- Minimum: one (1) acre for Residential
- * All detached buildings except garages shall be at least fifteen (15) feet from any dwelling.
- ** Minimum floor space for single dwelling:
 - With full basement: one thousand (1,000) square feet.
 - Without basement: one thousand two hundred fifty (1,250) square feet.

ZONING DISTRICT MAP:



AG/Residential – Non-shaded areas
 B1 – None currently as of 2/1/19
 M1 – Shaded areas

EFFECTIVE DATE
February 11, 2019

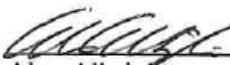
This Resolution shall be in full force and take effect and be in full force and effect from and after the earliest date allowed by law.

Adopted by the Board of Trustees of Middlebury Township, Knox County, Ohio, on this 11 day of February, 2019.


- | | |
|---|----------------|
| 1. Date of Public Hearing by Zoning Commission | <u>2/06/19</u> |
| 2. Date of Publication | <u>2/05/19</u> |
| 3. Date of Public Hearing by Board of Township Trustees | <u>2/11/19</u> |
| 4. Date of Adoption by Board of Township Trustees | <u>2/11/19</u> |
| 5. Date Resolution shall take effect | <u>2/11/19</u> |



Kim Hathaway
Township Trustee




Alan Albright
Township Trustee



Mike Gearheart
Township Trustee

Attest by Fiscal Officer



Cale Grubb
Fiscal Officer