

Article VIII **Conditional Zoning Certificates**

Sec. 801 **Purpose**

To provide for the issuance of Conditional Zoning Certificates where provided for in this Resolution.

Sec. 801-1 **Procedure For Making Application**

Any application for a conditional zoning certificate for any land use or structure permitted under this Resolution shall be submitted in accordance with the following procedures:

A. Application Submitted to the Board of Zoning Appeals.

Any application shall be submitted to the Board of Zoning Appeals on a special form for that purpose. Each application shall be accompanied by the payment of a fee as indicated by these regulations.

B. Data Required With Application

1. Form supplied by Board of Zoning Appeals through Zoning Inspector completed by applicant.
2. Site plan, as specified in **Article III, Section 301-5.**
3. Complete plans and specifications for all proposed development and construction, and where appropriate, reclamation.
4. A statement supported by substantiating evidence regarding the requirements enumerated in **Section 801-2.**
5. Applicant shall state a reasonable time to complete development plans or proposed structure.
6. The recommendations of the Appearance Review Commission as specified in **Article XI** hereof.

C. Review by Board of Zoning Appeals

Hearing required upon the submission of an application for a conditional zoning certificate. The Board of Zoning Appeals shall review the proposed development in terms of the standards established in this Resolution.

The Board of Zoning Appeals shall hold a public hearing within thirty (30) days following the submission of such application. A public notice of such hearing shall be made by at least one (1) publication in a newspaper of general circulation in the Township at least ten (10) days prior to the date of the hearing. Such notice shall indicate the place, time, and subject of the hearing. The Board of Zoning Appeals shall make a determination within a reasonable time following such public hearing.

D. Issuance and Revocation of Conditional Zoning Certificate - Violation and Penalty

Only upon conclusion of hearing procedures relative to a particular application may the Board of Zoning Appeals issue a conditional zoning certificate. The breach of any condition, safeguard, or requirement shall automatically invalidate the certificate granted, and shall constitute a violation of the Zoning Resolution.

E. Reapplication

No application for a conditional zoning certificate which has been denied wholly or in part by the Board of Zoning Appeals shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions which would be sufficient to justify reconsideration by the Board of Zoning Appeals.

F. Termination

The conditional zoning certificate shall become void at the expiration of one (1) year, after the date of issuance, unless the structure or alteration thereof is started.

Sec. 801-2 Basis of Determination

A. General Standards

The Board of Zoning Appeals shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use of the proposed location:

1. Will be harmonious with and in accordance with the general objectives or with any specific objective of the Comprehensive Plan of current adoption;
2. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
3. Will not be hazardous or disturbing to existing or future neighboring uses;

4. Will not be detrimental to property in the immediate vicinity or to the community as a whole;
5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
6. ¹Will be in compliance with all Federal, State, County, and Township regulations, resolutions, and rules;
7. Will have vehicular approaches to the property, which shall be so, designed as not to create an interference with traffic on surrounding public streets or roads.

Sec. 802 Regulations Pertaining to Conditionally Permissible Uses.

- A. All structures and activity areas shall be located at least one hundred feet (100') from all property and street right-of-way lines.
- B. Loud speakers which cause a hazard or annoyance shall not be permitted.
- C. All points of entrance or exit shall be located no closer than two hundred feet (200') from the intersection of two (2) thoroughfares.
- D. There shall be no more than one (1) advertisement oriented to each abutting road identifying the activity.
- E. No lighting shall constitute a nuisance and shall in no way impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- F. Elementary school structures shall be located on a collector thoroughfare.
- G. Such developments shall be located on major thoroughfares or at intersections of major and/or collector thoroughfares.
- H. Such developments shall be located adjacent to nonresidential uses such as churches, parks, industrial, or commercial districts.

¹ May 19, 2003

- I. Such uses shall not require uneconomical extension of utility services at the expense of the community.
- J. Site locations shall be preferred that offer natural or man-made barriers that would lessen the effect of intrusion into a residential area.
- K. Such uses shall be properly landscaped to be harmonious with surrounding residential uses.
- L. Such uses shall be enclosed by a fence six feet (6') or more in height for the entire periphery of the development. Fences shall be adequate to prevent trespass and shall be placed no closer than fifty feet (50') to the top or bottom of any slope. No sand or gravel shall be removed or stored or overburden stored within one hundred feet (100') of any lot line not owned or controlled by the developer or operator of said business or his agent nor shall such mineral extraction business be conducted closer to any lot line or street so that the area contiguous or adjacent thereto does not have adequate lateral support.

All work conducted in connection with such operations shall be done between the hours of 7:30 AM and 5:00 PM.

- M. No rehabilitated slope shall exceed an angle of forty-five (45) degrees.
- N. Such structures shall be located adjacent to parks and other non-residential uses such as schools and shopping facilities where use could be made of joint parking facilities.
- O. All areas within any single development shall be rehabilitated progressively as they are worked out or abandoned to a condition of being entirely lacking in hazards, inconspicuous, and blended with the general surrounding ground form so as to appear reasonably natural. Areas shall be completely and continually drained of water when not in use or not supervised by a watchman. All slopes and banks shall be reasonably graded and treated to prevent erosion or any other potential deterioration. Such operations shall be conducted so as not to leave or cause to exist soil banks.
- P. Truck routes shall be established for movement in and out of the development in such a way that it will minimize the wear on public streets and prevent hazards and damage to other properties in the community.
- Q. All permitted installation shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual, or to the community in general.

- R. Home occupations shall be permitted subject to the following conditions:
 - 1. Such use shall be conducted entirely within the dwelling unit and no use of any accessory building or yard space shall be permitted.
 - 2. Such use shall be clearly incidental and secondary to the use of the building or dwelling for dwelling purposes.
 - 3. Such use shall be conducted only by persons residing in the dwelling unit.
 - 4. There shall be no display nor stock in trade or commodities sold except those that are produced on the premises.
 - 5. The use shall not involve the use of more than thirty three and one third percent (33 1/3%) of the floor area of only one (1) story.
 - 6. One (1) unlighted nameplate not more than one (1) square foot in area announcing the name and home occupation shall be permitted.
 - 7. Such use shall not create a nuisance by reason of noise, odor, dust, vibration, fumes, smoke, electrical interference, vehicular traffic, or other causes.
 - 8. Off-street parking and traffic visibility shall be provided.

- S. To guarantee the restoration, rehabilitation, and reclamation of mined-out areas, and that such work will be done in a satisfactory manner, within one (1) year from the termination date as contained within the decision of the Board of Zoning Appeals granting such variance, every applicant granted a conditional zoning certificate as herein provided shall furnish to the Township of Bath a performance bond of ten thousand dollars (\$10,000.00).

- T. Such developments shall be located on or immediately adjacent to state highways.

- U. Gasoline service stations shall be permitted under the following conditions:
 - 1. Provided that such facilities be located at the extremity of the business districts so as not to interfere with the pedestrian interchange between stores in the district and provided further that it would not limit expansion of the pedestrian-oriented facilities.
 - 2. All activities, except those required to be performed at fuel pumps, shall be carried on inside a building; if work is performed on a vehicle, such vehicle shall be entirely within a building.

3. No more than two (2) driveway approaches shall be permitted directly from any thoroughfare and shall not exceed thirty feet (30') in width at the property line.
 4. If the property fronts on two (2) or more streets, the driveways shall be located as far from the street intersection as is practical.
 5. At least a six-inch (6") high pedestrian safety curb shall be installed at street right-of-way lines except at driveway approaches.
- V. A combined total of a minimum of five hundred (500) lineal feet of auto space shall be provided on site for patrons waiting for drive-up and/or drive-in and pickup services.
- W. Conformance with Site Plan - The use, placement, and dimensions of all buildings, sidewalks, parking areas, curb cuts, and recreation areas and the installation of landscaping, fences, and walls shall conform to the approved site plan.
- X. All activities, programs, and other events shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents, or to the community in general.
- Y. Restaurants built as part of a grouping of retail and service businesses or restaurants proposed to create unique facilities or to take advantage of unique sites or location criteria which may have exterior dining courts, plazas, gardens and/or terraces, shall be subject to the following and other specific conditions:
1. Exterior dining spaces and facilities shall be designed for and limited to pedestrian use separate from vehicular parking, access, and service areas.
 2. Exterior dining spaces and facilities shall be designed and landscaped to be compatible with adjacent land uses and natural conditions.
 3. Spaces, facilities, utensils, dining accessories, and services and maintenance provisions shall be designed to prevent to the greatest degree possible the blowing and scattering of paper, napkins, and other items outside of the dining area.

¹ item Z deleted January 3, 2001

Sec. 802-1 Additional Conditions

The Board of Zoning Appeals shall have the power to impose additional conditions where it deems it necessary to safeguard the health, safety, and welfare of the community. These types of conditions may include, but are not necessarily limited, to the following:

- A. Hours of operation may be limited.
- B. Any development standard contained in the Zoning Resolution (such as building setback, sizes of signs, landscaping requirements, lighting requirements) may be made more strict.
- C. Future development of the site may be all or partially restricted.
- D. Approval may be given for a specific period of time, subject to subsequent review by the Board of Zoning Appeals.

¹Sec. 803 Purpose - Oil & Gas Regulations

To provide for the regulation of drilling and operation of wells for oil, gas or other hydrocarbons in gaseous or liquid form within the boundaries of Bath Township, Summit County, Ohio.

Sec. 803-1 Application Procedures - Oil & Gas Wells

- A. Exploration for, drilling of, and production of oil or gas or oil and gas wells may be conducted in the R-1, R-2 Residential Districts², B-1, B-2, B-3, and B-4 Business Zoning Districts, subject to the location standards contained herein, if the owner of the well or wells holds a valid permit for said well or wells from the Division of Oil and Gas, State of Ohio, Department of Natural Resources (the “Division” herein). No zoning permit shall be required for the drilling, operation, production, plugging or abandonment of any gas or oil well. However, the permit holder must complete an application for registration of the well or wells and submit the application to the Township Zoning Inspector. Said application shall be revised and approved or denied by the Board of Zoning Appeals.
- B. Prior to drilling, any driller or operator shall provide to the Township Zoning Inspector, in written form, pertinent information regarding the well or wells for which registration is sought, including the name, address and telephone number of each signatory on the application, and the same information for each operator and contractor responsible for ownership, drilling, operation, and all maintenance of each well site. Said information shall be provided in such form as the Township Zoning Inspector may require, shall include a copy of the Division permit for the proposed well or wells, and shall be amended prior to commencement of drilling if any information changes.
- C. The Board of Zoning Appeals shall schedule and advertise a public hearing to give adjoining property owners and Township residents an opportunity to obtain information from the Division permit holder regarding the health and safety aspects of each well, including, without limitation, the following: drilling and fracturing procedures; precise location of wells, tank batteries, separators and roadways; provisions for disposal of brine, drilling muds and other waste; and such other matters as may be raised during the public hearing. Each well location shall be reviewed by the Zoning Inspector and authorized representative of the Bath Township Fire Department before the public hearing and an on-site inspection may be required for review of the areas involved. Twenty four (24) hours’ notice must be given to the Zoning Inspector before drilling is commenced.

¹ December 25, 1991

² “where the drilling parcel is no less than five (5) acres” DELETED May 24, 1995

- D. Any applicant for a gas and oil well whose proposed well shall be within five hundred feet (500') of any lake or pond, whether natural or manmade, river, stream, creek, or other body of surface water within Bath Township, or within one thousand feet (1000') of any potable water well as defined by the Ohio Division of Natural Resources Division of Water, and requiring a Wellhead Protection Plan as decreed by the National and/or Ohio Environmental Protection Agencies shall indicate the same on such form as the Zoning Inspector may require. It shall be the responsibility of the applicant to assure that any said body of water shall not be exposed during drilling, fracturing and production of the well to any danger of erosion, siltation, pollution, contamination, or alteration. In addition, environmentally protected zones in the Township of Bath as identified by the Ohio Department of Natural Resources, Division of Natural Areas and Preserves, as the habitat of endangered species of flora, fauna, or aquatic life, and the Army Corps of Engineers designated wetlands or significant geological formations must be identified by the applicant. The registration application for any oil and gas well proposed to be drilled within five hundred feet (500') of such areas shall include measures to be taken to avoid any danger of injury to such endangered species or their habitat. Adequate contingency plans shall be taken to avoid contamination of such areas in the event that any oil, gas, brine, waste, toxic materials or other such contaminate spills during drilling, production, or abandonment of any oil and gas well. Whenever any well site is proposed to be located within five hundred feet (500') of such areas, the applicant shall submit with the application a proposed procedure to control spills and reduce the risk of contamination to such areas.
- E. The applicant shall submit information to the Zoning Inspector with satisfactory proof that applicant has the ability to remove all brine, drilling material, sludge, and other materials required to be removed. Applicant shall submit evidence to the Zoning Inspector that the applicant has available a brine injection well with sufficient capacity to accept all materials to be removed and that said injection well or wells have been inspected and approved by the State of Ohio. Records of the disposal of all brine and waste water during the operating life of the well shall be reported to the Bath Township Zoning Inspector at the time such disposal occurs.
- F. The applicant shall provide the Zoning Inspector with a plat of all buried transmission lines, for which the applicant must have written and recorded easements or leases. All buried transmission lines crossing or intersecting any Township road shall be marked by a permanent marker on both sides of the road in a location and format acceptable to the Township Road Superintendent. The minimum depth of such lines below roads, perennial or intermittent streams, and ditches shall be established by the Township Road Superintendent and Zoning Inspector prior to the excavation to install such lines. No transmission lines intended for burial under Township roads shall be covered until the installed line is inspected by the Township Road Superintendent. The applicant also shall

coordinate the laying of transmission lines with all public utilities servicing the Township.

Sec. 803-2**Conditions For Drilling Oil & Gas Wells**

- A. All well drilling, production and transmission operations and facilities for oil and gas shall comply and conform will all requirements of this Zoning Resolution, Ohio Revised Code Chapter 1509, the Rules of the Division, and all other applicable and relevant Ohio Revised Code sections and administrative regulations, and requirements of the Ohio and United States Environmental Protection Agencies and National Pollution Discharge Elimination System regulations and permit provisions, if applicable, and statutes and regulations promulgated thereunder, all anti-degradation statutes and regulations for the State of Ohio and all other applicable and relevant federal laws and regulations. In case of any conflict between any local, state or federal laws, regulations, or standards, the greater restriction or more stringent provision shall apply and control. No person, firm, corporation, or any other entity shall violate any provision of any law, regulation, or standard applicable to gas and oil well drilling, production and/or transmission.
- B. At no time shall an operator move drilling equipment or any equipment onto a Township road without prior approval of the Township Board of Trustees and issuance of proper permits and bonds, and road maintenance bonds in the amounts specified by the Bath Township Board of Trustees and shall be in effect from the time drilling commences until the oil/gas well is unproductive and plugged.
- C. Prior to commencing drilling operations, applicant shall test the water in all fresh water wells situated on parcels of land contiguous to the drilling unit or within a radius of one thousand feet (1000') of the proposed wellhead, whichever is greater, for calcium (Ca), chloride (Cl), magnesium (Mg), and total hardness (TH), such tests to be conducted by testing laboratories approved by the Ohio Department of Health or the Ohio EPA, provided the owner of such water well does not refuse permission to perform such tests. Copies of such tests shall be sent to the Township Zoning Inspector and each property owner.
- D. Storage tanks, separators and well installations shall be entirely enclosed by a six foot (6') high chain link type fence, with three (3) strands of barbed wire above. The fence shall be located a minimum of five feet (5') outside of all tanks, pumps, separators, and any related miscellaneous apparatus. Sites larger than three hundred square feet (300 sq. ft.) shall have two (2) exits remote from each other and all existing gates shall have a minimum opening of four feet (4'). All gates shall be made up of two (2) sections, each being one half of the exit opening size to facilitate orderly and safe fire fighting operations. All fences and gate installations shall be inspected by the authorized inspector before the producing operation commences. All gates, including the drive entrance gate, shall be locked and keyed the same and a key shall be given to the Bath Township Fire Department. Fences

and gates shall be kept in a good state of repair until the well is abandoned and tanks, separators, and pump equipment are removed.

Access roads shall be paved with suitable road materials to prevent mud deposits on public roads and to provide emergency vehicular access during inclement weather. Access roads shall have a gate with a locking device, keyed as required above, installed at or near the public road entrance to prevent unauthorized entry from the public road. Before any drilling equipment moves onto the property, the Zoning Inspector shall be notified to make an inspection of the drive area.

Before the start of drilling operations, a metal sign shall be posted at the access road entrance by the public road showing the street or road numbers, name of company, and all twenty four (24) hour emergency telephone numbers.

- ¹E. No new habitable structure or dwelling, place of resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, or occupancy by the public shall be constructed within one hundred fifty feet (150') of an existing gas and oil well, oil tank battery, separators or similar equipment.

No new habitable structure shall be constructed within twenty-five feet (25') of a plugged well. All distance requirements shall apply to capped wells as if they are fully operational.

The distance requirements stated herein shall not apply to platted allotments with existing oil and gas wells approved by the Summit County Planning Commission prior to the adoption of the amendment.

- F. The name of the company, address, names of responsible individual, all twenty four (24) hour emergency telephone numbers for each well, tank, and separator sites shall be given to the Zoning Inspector, who in turn shall advise the Fire and Police Departments. Before production starts, a sign shall be affixed to the access road gate and all fenced-in areas stating the owner, lease name, well number, permit number, county, all emergency telephone numbers and street or road address of site. If multiple wells are being produced into a common tank(s), each wellhead shall be identified as to owner, permit number, well number and lease name.

Any change of ownership shall be shown at the wellhead, storage tank(s) and access road gate no later than sixty (60) days after the date of the assignment or transfer.

- G. The applicant shall at all reasonable hours and at any time during the site preparation and drilling stages allow the Township Zoning Inspector to enter onto the applicant's premises where said gas and oil well will be drilled to ensure that all

¹ Paragraph 1 and Paragraph 4 deleted effective July 30, 1997

applicable laws, regulations, resolutions, and rules are being complied with by the applicant. In the event that the Township Zoning Inspector determines that the applicant is violating any of the terms of the Zoning Resolution, and upon the applicant receiving either oral or written notice of the same, the applicant shall immediately cease all activities in furtherance of the development of the well site until in compliance with the Zoning Resolution.

- H. The applicant shall provide ingress and egress roads to all well sites and all storage tank sites. Roads to the well site shall be constructed, in accordance with plans submitted to the Township Zoning Inspector, prior to drilling, and roads to storage tank sites shall be installed prior to installation of said tanks. All access roads shall be maintained so as to be passable in all seasons and weather conditions. The drive entrance gate shall be set back from the road right-of-way a distance sufficient to permit trucks servicing the well or tank battery to pull completely off the road right-of-way when entering the property or stopping to close the gate when exiting. Not more than two (2) access points shall be established from any public road to any well site. Access roads shall have a turnaround of sufficient size to accommodate fire and rescue and other emergency vehicles servicing the Township. Where access roads connect with Township roads, culvert construction and ditching shall be done under the supervision of the Bath Township Road Superintendent, who shall be notified before construction or ditching operations begin. The Road Superintendent shall conduct a final inspection after completion of all such work and the Superintendent's approval of such work shall be required before production at the well or wells begin.
- I. When drilling any well for oil/gas, the drilling rig shall have a "Blow-Out" preventer in good working order attached to the drilling equipment to prevent gas or oil from blowing out of control and causing damage to surrounding areas.
- J. All storage tanks shall be above ground, and shall be painted to prevent corrosion and to eliminate leakage. Prior to commencing production, all permanent producing and storage facilities shall be enclosed entirely by a chain link fence as provided in 803-F above, adequate to prevent trespassing at all times. A temporary fence shall be constructed prior to commencement of drilling to prevent unauthorized access to drilling equipment and any excavations. All shut off valves shall be painted in fluorescent orange. All power, storage, and transmission line shut off valves outside of the fenced area shall be secured by locks or similar devices to prevent unauthorized access or usage.
- K. During drilling of wells, casing shall be cemented to a minimum depth below the surface as specified on the Drilling Permit as granted by the Oil and Gas Division of the Ohio Department of Natural Resources. The applicant shall insure that the cement provided shall be sufficiently adequate to case the required annular volume and shall fill the annular space entirely for the minimum depth required by ODNR.

A record of the depth of the cemented casings shall be filed with the Zoning Inspector.

- L. For the health and safety of Township residents, a system of dikes shall be installed around all tank sites and separators. The size and design of such dikes shall be sufficient to contain at least one hundred and thirty three percent (133%) of the material stored in the tanks and separators within the dike. Before production begins, the Zoning Inspector and Fire Chief must approve the installation of the completed dike system.
- M. Prior to drilling, the applicant shall cause steel pits to be located at the site sufficient in size to contain all liquids produced as a result of anticipated drilling procedures. The steel pit shall have a capacity not to exceed ten thousand (10,000) gallons. Each pit shall be constructed of steel and regardless of whether or not said steel pits are buried in the ground or entirely on the surface, there shall be a minimum one inch (1”) clay seal underneath said steel pit. During drilling, the drilling fluids and other materials in said steel pits shall not be permitted to exceed a level of eighteen inches (18”) from the top of said steel pit and shall be removed from the steel pit prior to being placed back into use. Further, said steel pits shall not become filled to a capacity that will cause a substantial probability of overflowing. Earthen pits for the containment of drilling cuttings shall be lined with a State approved non-permeable liner and the contents solidified with hydrogenated lime, cement, or similar material approved by the State for such purposes.
- N. During drilling of a well, the applicant shall install a blowout preventer with a remote manual preventer control for use in shutting down the system. The blowout preventer must be in good working condition and of sufficient size and rating to control such hydrostatic pressure as would be expected for the deepest pool to be penetrated. Such blowout preventer must be installed on the surface casing prior to drilling below the surface casing. The applicant also shall install a gas detector meter on the drilling apparatus to determine if a gas pocket has been hit during drilling. The applicant or his agents shall be on site during all phases of drilling and the applicant shall insure that knowledgeable and experienced drillers will be on site during all phases of drilling.
- O. After conclusion of the drilling stage, and upon the date when notice is required to be given to the Township of the commencement of production, the applicant shall remove all drilling equipment, temporary tanks and other materials not intended to be permanently placed at the well site.

Sec. 803-3**Conditions For Operating Oil & Gas Wells**

- A. All disturbed areas are to be fine graded, seeded, and mulched upon completion of drilling operations.

- B. The following buffer plantings or such plantings as approved by the Appearance Review Commission shall be located around the perimeter of the oil and gas well as deemed appropriate by the Appearance Review Commission and Board of Zoning Appeals.
1. An evergreen screen shall be planted and maintained that consists of either a hedge, planted three feet (3') on center maximum, or a row of evergreen trees planted five feet (5') on center maximum.
 2. All new landscaping shall be a minimum of six feet (6') in height at planting.
- C. During production of a well, the applicant shall make periodic fluid level checks of all oil, gas, brine, waste, and other elements removed from any well and shall also check on the condition of all equipment, and shall ensure that all equipment required to be secured or locked is so secured or locked and any joint or connection under pressure and above ground which carried fluids or gases under pressure shall be inspected to ensure no leakage. During the first year of operation the Zoning Inspector shall be provided with quarterly reports of the disposition of brine, and each year thereafter be provided with a copy of the report required in March of each year by the Division of Oil and Gas of oil, gas, and brine removed from the well.
- D. All storage tanks, apparatus, and other equipment located above ground at a well site shall be removed and abandonment completed within one hundred eighty (180) days after a well stops producing and the ground shall be restored, to the extent possible, to its original condition prior to drilling of said well, within said one hundred eighty (180) day period.
- E. In the event an applicant at any time determines to cap a producing well, the applicant shall notify the Zoning Inspector. The applicant shall advise the Zoning Inspector of the length of time said well shall be capped and shall further notify the Zoning Inspector in advance when the capped well will again be made productive.
- F. Section Deleted.¹
- G. Applicant shall at all times maintain, repair, repaint, and replace any storage tank on the drilling unit and shall adequately maintain, repair and replace all fences required under this Zoning Resolution. In the event that the applicant fails to maintain, repair, or replace any fence, tank, dike, or any other structure or apparatus contained on the drilling unit for the purpose of oil and gas well drilling, production, or transmission, the same shall be a violation of this Zoning Resolution

¹ Effective August 21, 1996

and the Zoning Inspector may order the applicant to shut down and cap any producing well or seek any remedies otherwise available to the Township.

Sec. 803-4 Additional Conditions

The Board may add additional conditions as may be required at each site for the protection of the health and safety of Township residents.

¹Sec. 804 Purpose - Wireless Telecommunications Facilities

To provide regulations for the installation, maintenance, and removal of wireless telecommunication facilities within the boundaries of Bath Township, County of Summit, State of Ohio.

These criteria are in place to minimize adverse health, safety, public welfare or visual impacts through buffering, siting, design, construction, removal and minimization of the need for separate wireless telecommunication facilities.

Wireless telecommunication facilities are permitted under varying conditions dependent upon their form, current uses of the property, and the zoning district in which they are to be located.

²Sec. 804-1 Application Procedure

Except as may otherwise be provided in this Resolution, the following requirements apply to all wireless telecommunication facilities in R-1, R-2, R-3, and R-4 Zoning Districts.

- A. A wireless telecommunications provider is required to complete a Conditional Zoning Permit application obtained from the Zoning Inspector and pay the required fees or deposits.
 - 1. The Conditional Zoning Permit application shall include as a minimum:
 - a. A plot plan at a scale of not less than one inch (1”) is equal to one hundred feet (100’) which must show:
 - 1) Topography at two-foot (2’) intervals for the proposed tower site.
 - 2) Existing vegetation of the proposed tower site.
 - 3) Existing water courses, i.e. lakes, ponds, streams, and wetlands on the proposed tower site.
 - 4) Existing buildings, land uses and property lines within three hundred feet (300’) of the site.
 - b. A site plan at a scale of one inch (1”) equals ten feet (10’) indicating at a minimum:
 - 1) Ingress and egress from facility site.

¹ Section 805 added July 30, 1997

² Section added July 30, 1997

- 2) All structure locations (existing and proposed).
 - 3) Landscape plan and plant list.
 - 4) Security provisions.
 - 5) All easements.
 - 6) Utility service, i.e. electric, telephone, etc.
 - 7) Tower, equipment shelter and/or antenna locations.
- c. The applicant shall supply a map of the township and all contiguous townships and municipalities indicating the location of all existing facilities (towers, buildings, etc.) within the township and within three (3) miles of the borders of the township, which are technically suitable and capable of supporting the antenna requirements of the applicant. The applicant must show that it has requested to locate or collocate on an existing tower, building, or other technically suitable facility indicated on the above referenced map and the location of the collocation request was rejected by the owner/operator of the tower, building or other technically suitable facility. In all circumstances, owners of existing wireless telecommunication facilities located in the township shall promptly respond to requests for collocation, but in no event shall they respond more than thirty (30) days from the date of receipt of a written request for collocation.
- d. The applicant shall supply a map of the township and all contiguous townships and municipalities indicating the location of all the applicant's existing and proposed wireless telecommunication facilities and projects for a five (5) year build out service projection if known.
- B. The Conditional Zoning Permit application shall be reviewed and approved by the Bath Township Appearance Review Commission prior to any action taken by the Bath Township Board of Zoning Appeals.
- C. As a condition of issuing a zoning certificate to construct and operate a wireless telecommunications tower in the township, the owner/operator of the tower is required to allow, under commercially reasonable terms, collocation until said tower has reached full antenna capacity, but in no event fewer than two (2) additional antenna platforms for two (2) additional providers unrelated to the

owner/operator. Agreement to this provision must be included in the applicant's lease with the property owner, if different from the owner/operator of the tower.

- D. The minimum distance from any tower to any residential zoning district shall be two hundred feet (200') except as permitted in **Sections 401-2 and 3, 402-2 and 3, 403-2 and 3, 404-2, 406-2, 408-2, and 409-2.**
- E. The minimum distance from any tower to a residential dwelling unit shall be three hundred feet (300').
- F. There shall be a separation of at least one-half (1/2) mile between wireless telecommunication towers.
- G. All wireless telecommunication towers shall comply with the minimum front, side and rear yard requirements for the nonresidential zoning district within which it will be located. However, no facility shall be located in front of a principal building on the lot.
- H. The wireless telecommunication facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance (except during construction or an emergency).
- I. The location of all wireless telecommunication facilities shall comply with all natural resource protection standards established in the Zoning Resolution or by all other federal or state agencies including those for flood plain, wetlands, steep slopes and endangered flora and fauna species.
- J. Wireless telecommunication facilities may be located on a lot with another use subject to the following conditions:
 - 1. The existing use on the property may be any permitted or conditionally permitted use in the district or any lawful nonconforming use and need not be affiliated with the wireless telecommunication provider.
 - 2. The wireless telecommunication facility will not be considered an addition to the structure or the value of a nonconforming use or be included in the green space calculations of such uses.
- K. Security fencing eight feet (8') in height shall surround the wireless telecommunication tower and equipment shelter either completely or individually as determined by the Board of Zoning Appeals. A metal sign of no great than four square feet (4') shall be posted on the fence showing the street or road number, names of companies with facilities at the site, and all twenty-four (24) hour emergency telephone numbers.

- L. Vehicular access to the facility shall be integrated with the parking and vehicular circulation on the site for the principal use, if any, to the maximum extent possible.
- M. In the event a separate access road is necessary, it shall be constructed of suitable road materials to prevent mud deposits on public roads. Access roads shall have a gate with a locking device, installed at or near the public road entrance to prevent unauthorized entry from the public road. After construction, a metal sign of no greater than four square feet (4') shall be posted at the access road entrance by the public road showing the street or road numbers, name of company, and all twenty-four (24) hours emergency telephone numbers.
- N. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
- O. All disturbed areas are to be fine-graded, seeded and mulched upon completion of construction. Between November 1st and March 1st, fine mulch only shall be utilized, temporary mulch is to be removed in such areas dressed, seeded and mulched after March 1st. Weather permitting, all grading and landscaping required herein shall be completed within sixty (60) days after completion of construction. In no event shall grading and landscaping required herein in this section be completed in excess of one hundred fifty (150) days after completion of construction.
- P. The following buffer plantings or such plantings as approved by the Appearance Review Commission shall be located around the perimeter of the security fence as deemed appropriate by the Appearance Review Commission and Board of Zoning Appeals.
 - 1. An evergreen screen shall be planted and maintained that consists of either a hedge, planted three feet (3') on center maximum, or a row of evergreen trees planted five feet (5') on center maximum.
- Q. All utility lines directly or in such a manner as may be reasonably necessary from the utility source to the wireless telecommunications equipment shall be run underground.
- R. An applicant shall provide evidence of legal access to the wireless telecommunication facility site thereby maintaining the access regardless of other developments that may take place on the site.
- S. Underground equipment shelters are encouraged and may be requested by the Board of Zoning Appeals, where an aboveground equipment shelter would substantially diminish the use and enjoyment of an adjoining property.

- T. All towers shall be of a self-supporting monopole design, as opposed to a lattice or guy wire design. Wireless telecommunication towers incorporated into the structure of an electric high-tension power line are also permitted.
- U. A report prepared by a licensed professional engineer shall be included with the submitted application and shall contain the height, design, structural loading capacity to comply with Subsection C herein, and proof of compliance with all County of Summit Building Department requirements.
- V. The wireless telecommunication tower shall be less than two hundred feet (200') in height as measured from the average ground level at the base of the tower. No equipment building facility shall exceed ten feet (10') in height from building grade.
- W. The color of the tower/antenna/equipment shelter shall be as required by the Appearance Review Commission, who are instructed to minimize the facility's visibility, unless otherwise required by the Federal Aviation Administration (FAA).
- X. Except as required by law, an antenna or a tower shall not be illuminated and lighting fixtures or signs shall not be attached to the antenna or tower. If lighting is required by the Federal Aviation Administration (FAA) regulations, white strobe lights shall not be permitted at night unless no other alternative is permitted by the FAA. Lighting for security purposes shall be permitted, if necessary, at the facility with prior approval of the Board of Zoning Appeals.
- Y. An application, prior to receiving a zoning certificate, shall submit certification that the wireless telecommunication facility complies with all current FCC regulations for non-ionizing electromagnetic radiation (NIER).
- Z. No advertising shall be permitted on the facility.
- AA. The owner or operator of the wireless telecommunication facility shall agree to remove a non-functioning facility within six (6) months of ceasing its use. The owner or operator of the antenna and/or tower shall, on no less an annual basis from the date of issuance of the zoning certificate, file a declaration with the Zoning Inspector as to the continuing operation of the facility.
- BB. The owner or operator shall be required, as a condition of issuance of a zoning certificate, to post a cash or surety bond acceptable to the Board of Trustees, of not less than one hundred dollars (\$100.00) per vertical foot from natural grade of the tower, which bond shall insure that an abandoned, obsolete or destroyed facility shall be removed within six (6) months of cessation of use and/or abandonment. Any collocator shall be required to additionally execute such bond, as principal, to ensure that the bond will be in place during the period of time the collocator occupies a facility.

¹Sec. 804-2 Application Fees or Deposits

- A. The fees or deposits for applications for zoning certificates for wireless telecommunication facilities shall be as specified by Resolution of the Board of Township Trustees.
- B. The application for a wireless communication tower and/or antenna facility shall be responsible for all expenses incurred by the Township for any technical and/or engineering services deemed necessary by the Zoning Inspector, the Board of Zoning Appeals, or the Board of Township Trustees to perform the reviews and/or inspections set forth in this Article which are not covered by the application fees or deposits established by the Board of Township Trustees.

²Sec. 804-3 Additional Conditions

The Board of Zoning Appeals may add additional conditions as may be required at each site for the protection of the health and safety of township residents.

¹ Section added July 30, 1997

² Section added July 30, 1997