

**VILLAGE OF OCTA
FAYETTE COUNTY, OHIO
ZONING ORDINANCE # 005**

Adopted

November 13, 1992

Effective Date Of Amended

Zoning Ordinance

September 12, 2001

Village Of Octa Mayer

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AMENDMENT DATES

March 12, 2001
September 12, 2001

EFFECTIVE DATE OF AMMENDMENTS

March 12, 2001
September 12, 2001

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ARTICLE I**PURPOSE**

- 1.00 This Resolution is enacted for the purpose of promoting public health, safety, morals and general welfare; to secure the most appropriate use of land and to facilitate adequate provision for public improvements; to provide a method of administration and the enforcement of the provisions hereinafter described.

ARTICLE 2**TITLE**

- 2.0 This Resolution shall be known and may be cited and referred to as the "Village of Octa, Ohio, Zoning Ordinance."

ARTICLE 3**INTERPRETATION OF STANDARDS**

- 3.0 In their interpretation and application, provisions of this Resolution shall be held to be the minimum requirements. Where this Resolution imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or resolutions the provisions of this Resolution shall control.

ARTICLE 4

DEFINITIONS

- 4.0 Unless the context otherwise requires, the following definitions shall be used in the interpretation of this Ordinance. Words used in the present tense includes the future; the singular number shall include the plural and the singular; the word "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used; and the word "shall" is mandatory, not directory.
- 4.01 Accessory Use or Structure: A use or structure subordinate to the principal use of a building or to the principal use of land which is located on the same lot and serving a purpose customarily incidental to the use of the principal building or use of land.
- 4.02 Agriculture: The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessories used for packing, treating or storing the produce; provided, however, that the operation of any accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals or the sale of products not produced on the premises.
- 4.03 Basement: A story whose floor is more than twelve (12) inches but not more than one-half (1/2) its story in height below the average level of the adjoining ground (as distinguished from a "cellar" which is a story more than one-half (1/2) below such level). A basement when used as a dwelling should be counted as a story for purposes of height measurement.
- 4.04 Board: Board of Zoning Appeals, Fayette County, Ohio.
- 4.05 Board or Lodging House: A dwelling or part thereof where meals and/or lodging are provided for compensation for five (5) or more persons not transient.
- 4.06 Building: Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more un-pierced walls extending from the ground up each part is deemed a separate building, except as regards minimum side yard requirements as hereinafter provided.
- 4.07 Building, Height of: The vertical distance from the average ground level at the front wall of the building to the highest point of the coping of a flat roof or to the

deck line of a mansard roof or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.

- 4.08 Cellar: A story, the floor of which is more than one-half (1/2) of its story height below the average level of the adjoining ground. A cellar when used as a dwelling shall be counted as a story for purposes of height measurement.
- 4.09 Commercial Sign or Billboard: Any structure, surface or portion thereof, situated on private premises on which lettered, figured, or pictorial matter is displayed for advertising purposes other than the name and occupation of the user of the premises or the nature of the business conducted thereon, or the products primarily sold or manufactured thereon, or any structure, surface or portion thereof, the area of which devoted to advertising purposes exceeds one hundred (100) square feet. This definition shall not be held to include any billboard, sign or surface used to display any official notices issued by any court or public office or posted by a public officer in the performance of a public duty, or bulletin boards used to display announcements of meetings to be held on the premises wherein such bulletin boards are located, nor shall it be held to include a real estate sign advertising for sale or lease the property upon which it stands.
- 4.10 Commission, Planning: Planning Commission of Village of Octa, Ohio.
- 4.11 Commissioners, County: County Commissioners, Fayette County, Ohio.
- 4.12 Conditional Use: A use that is permitted, but only, in each specific instance, after determination by the Board that the applicable regulations and standards of this Resolution will be adhered to, and after the designation by the Board of the additional safeguards and conditions that in the specific circumstances shall be adhered to in order to prevent harm or injury to the public health, safety, morals and general welfare.
- 4.13 District: A portion of the territory of Village of Octa within which certain uniform regulations and requirements or various combinations thereof apply to the provisions of this Ordinance.
- 4.14 District, More Restricted or Less Restricted: Each of the districts in the following listing shall be deemed to be more restricted than any of the districts succeeding it and each shall be deemed to be less restricted than any of the other districts preceding it: A, R, C, HS, M.
- 4.15 Dwelling: Any building or portion thereof designed or used as the residence or sleeping place of one or more persons but not including a tent, cabin, room in a hotel or motel, trailer or trailer court.
- 4.151 Dwelling, Single-Family: A dwelling designed for or used exclusively for resident purposes by one family as a housekeeping unit.

- 4.152 Dwelling-Two-Family: A dwelling designed for or used exclusively by two families as housekeeping units.
- 4.153 Dwelling- Multiple Family: A dwelling designed for or used by three or more families as housekeeping units.
- 4.154 Dwelling, Unit: One room or suite of two or more rooms designed for or used by one or more families for living or sleeping purposes and having only one (1) kitchen or kitchenette.
- 4.16 Family: A person living alone, or two or more persons living together as a single housekeeping unit in a dwelling unit as distinguished from a group occupying a boarding house, lodging house, hotel or motel, fraternity or sorority house.
- 4.17 Garage, Private: A detached accessory building or a portion of the principal building used only for the storage of self-propelled passenger vehicles or trailers by families resident on the premises; provided that not more than one-half (1/2) of the space may be rented for private passenger vehicle for persons not resident on the premises.
- 4.18 Garage, Public: A structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of self-propelled vehicles or trailers; except that a structure or part thereof used only for storage or display of self-propelled passenger vehicle but not for transients, and at which automobile fuels and oil are not sold and motor driven vehicles are not equipped, repaired or hired shall not be deemed a public garage.
- 4.19 Gross Floor Area: In the case of offices, merchandising or service types of use, the area used or intended to be used by tenants, or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment, storage areas, offices, rest rooms, utility rooms, and other floor space.
- 4.20 Junk Yard: A place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where uses are conducted entirely within a completely enclosed building, and not including pawn shops and lots for the sale of used cars in operable condition, or salvaged materials incidental to manufacturing operations
- 4.21 Loading Space: A space not less than ten (10) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height, for the accommodation of vehicles servicing industrial, wholesale and/or retail business uses.

- 4.22 Lot: A piece or parcel of a tract of land occupied or intended to be occupied by a principal builder, or a group of such buildings and accessory buildings or utilized for a principal use and uses accessory thereto, together with such open spaces as required by this Resolution and having frontage on public roads or streets.
- 4.221 Lot Corner: A lot abutting on two (2) or more roads or streets at their intersection or upon two parts of the same road or street, such road or street or parts of the same forming an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the road or street lines is the "corner."
- 4.222 Lot, Interior: A lot, other than a corner lot.
- 4.223 Lot, Area: The computed area contained within the lot lines.
- 4.224 Lot, Depth: The mean horizontal distance between the front and the rear lot lines.
- 4.225 Lot, Double Frontage: A lot having frontage on two- (2) non-intersecting streets, as distinguished from a corner lot.
- 4.226 Lot, Lines: The property lines bounding the lot.
- 4.2261 Lot Line, Front: The line separating the lot from a road or street.
- 4.2262 Lot Line, Rear: The lot line opposite and the most distant from the front lot line.
- 4.2263 Lot Line, Side: Any lot line other than a front or rear lot line, A side lot line separating a lot from a road or street is called a side road lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.
- 4.2264 Lot Line, Road: A lot line separating the lot from a road or street.
- 4.227 Lot of Record: A lot, which is a part of a subdivision, the map of which has been recorded in the office of the County Recorder of Fayette County.
- 4.228 Lot Width: The mean width of the lot measured at right angles to its depth.
- 4.229 Motel or Tourist Court: A building or group of buildings comprising individual sleeping or living units for the accommodation of transient guests.

- 4.23 Motor Vehicle Service Station: Any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles and including such products as kerosene, fuel oil, packaged naphtha, lubricants, tires, batteries, antifreeze, motor vehicle accessories and other items customarily associated with the sale of such products; for the rendering of services and making of adjustments and replacements to motor vehicles, and the washing, waxing, and polishing of motor vehicles as incidental to other services rendered; and the making of repairs to motor vehicles except those of a major type. Repairs of a major type are defined to be spray-painting, body, fender, clutch, transmission, differential, spring and frame repairs, major overhauling of engines requiring the removal of engine, cylinder, head or crank case pans; repairs to radiator requiring the removal thereof; or complete recapping and re-treading of tires.
- 4.24 Nonconforming Use: A building, structure or premises legally existing or used at the time of adoption of this Resolution, or any amendment thereto which does not conform with the use regulations of the district in which located. Any such building, structure or premises conforming in respect to use but not in respect to height, area, yards or distance requirements from more restricted districts or uses shall not be considered a nonconforming use.
- 4.25 Outdoor Storage Yard: Any area not a junkyard, used for the storage or sale of goods or products.
- 4.26 Parking Area, Private: An open area for the same uses as a private garage.
- 4.27 Parking Area, Public: An open area for other than a road or other public way used for the parking of automobiles available to the public whether for a fee, free, or as an accommodation for clients or customers.
- 4.28 Parking Space: A permanently 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.
- 4.29 Road or Street: A public right-of-way fifty (50) feet or more in width which provides a public means of access to abutting property, or any such right-of-way less than fifty (50) feet in width provided it existed prior to the enactment of this Resolution. The terms "road or street" shall include avenue, drive, circle, parkway, boulevard, highway, thoroughfare, or any other similar term.
- 4.30 Road Plan: The official Major Road Plan of The Village of Octa as adopted by the Village Council.
- 4.31 Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it then the space between the floor and the ceiling next above it.

- 4.311 Story, Half: A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story; provided, however, that any partial story used for residence purposes shall be deemed a full story.
- 4.32 Structure: Anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.
- 4.321 Structural Alteration: Any change in the structural members of a building such as walls, columns, beams, or girders.
- 4.33 Trailer: Any vehicle or structure constructed in such a manner as to permit occupancy thereof as sleeping and eating quarters or for the conduct of any business, trade or occupation, or use as a selling or advertising device, or use for storage or conveyance of tools, equipment or machinery, and so designed that it is or may be mounted on wheels and used as a conveyance on roads or streets, customarily propelled or drawn by motor power other than its own.
- 4.34 Trailer Park: A lot or portion of any parcel of land which is used as a location for THREE (3) or more trailers used for the purposes set forth in Paragraph 4.33 above.
- 4.35 Use: The purpose for which land or a building or structure is arranged, designed or intended, or for which either land or a building or structure is or may be occupied or maintained.
- 4.36 Variance: A modification of the requirements of this Resolution granted by the Village Council, in a specific situation, in order to alleviate practical difficulty or undue hardship owing to exceptional narrowness, shallowness or shape of the lot, to difficult topography or other peculiar conditions of the lot, or to the nature of existing uses or structures immediately adjoining a lot. Such modifications shall not include the approval for a use not permitted in the district in which the lot is located.
- 4.37 Village Council: The legislative authority of the Incorporated Village of Octa, Fayette County, Ohio.

- 4.38 Yard: An open space on the same lot with a building unoccupied and unobstructed by any portion of a structure from the ground upward except as otherwise provided herein. In measuring a yard for the purpose of determining the depth of a front yard, or the depth of a rear yard the least distance from the lot line and the main building shall be used.
- 4.381 Yard Front: A yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof except as otherwise provided herein.
- 4.382 Yard, Rear: A yard extending across the full width of the lot and measured between the rear lot line and the building or any projection thereof except as otherwise provided herein.
- 4.383 Yard, Side: A yard extending from the front yard to the rear yard and measured between the side lot line and the building.
- 4.39 Zoning Certificate: A document issued by the Zoning Inspector authorizing buildings, structures or uses consistent with the terms of this Resolution and for the purpose of carrying out and enforcing its provisions.
- 4.40 Zoning Inspector: The Zoning or Building Inspector of the County of Fayette, Ohio, or his authorized representative.
- 4.41 Zoning Map: The Zoning Map of the Village of Octa, Fayette County, Ohio dated October 12, 1992, together with all amendments subsequently adopted.

ARTICLE 5
DISTRICTS AND BOUNDARIES THEREOF

- 5.0 For the purpose of this Ordinance, the Incorporated Village of Octa, Fayette County, Ohio, is and may be hereafter divided into the following types of districts:
- A - Agricultural District
- R - Residential District
- HS - Highway Service District
- C - Community Business District (Commercial)
- M - Industrial District
- 5.1 Said districts and boundaries thereof are hereby adopted and established as shown on the Zoning Map, by Districts, of the Incorporated Village of Octa, Fayette County, Ohio, which map, together with all notations, references, data, district boundaries and other information shown thereon shall be and are hereby made a part of this Ordinance. Said Zoning Map, by Districts, properly attested shall be and remain on file in the office of the County Commissioners of Fayette County, Ohio.
- 5.2 Except where referenced on said Zoning Map to a road or street line or other designated line by dimensions shown on said Map, the district boundary lines are intended to follow lot lines or the center lines of roads or streets as they existed at the time of the adoption of this Resolution; but where a district line obviously does not coincide with such lines or where it is not designated by dimensions it shall be determined by scaling.
- 5.3 Where a district boundary line as established in this Article or as shown on the Zoning Map divides a lot which was single ownership at the time of the adoption of this Resolution, the use authorized thereon and the other district requirements applying to the least restricted portion of such lot under this Resolution shall be considered as extending to the entire lot provided that the more restricted portion of such is entirely within one hundred (100) feet of said dividing district boundary line. The use so extended shall be deemed to be conforming.
- 5.4 All questions concerning the exact amount of district boundary lines shall be determined by the Board in accordance with rules and regulations which may be adopted by it.

- 5.5 Whenever any road or street is vacated by official action as provided by law, the zoning district adjoining the side or sides of such road or street shall be extended automatically depending on the side or sides to which such lands revert to include the right-of-way thus vacated which shall thenceforth be subject to all regulations of the extended district or districts.
- 5.6 In every case where territory has not been specifically included within a district or where a territory becomes a part of the Incorporated Village of Octa of Fayette County, such territory shall automatically be classified as an "A" District until otherwise classified.
- 5.7 The districts encompassed and established by this Ordinance will be shown on the Official Zoning Map. If a district as designated by Section 5.0 above, and other sections of this Ordinance, is not included on the Zoning Map, it shall not be considered as a current zoning district until hereinafter established as such in accordance with the provisions of Article 16 herein.

ARTICLE 6**GENERAL PROVISIONS**

- 6.01 Conformance Required: Except as hereinafter specified, no land, building, structure or premises shall hereafter be used and no building or part thereof or other structure shall be located, erected, moved, reconstructed, extended, enlarged, or altered except in conformity with the regulations herein specified for the district in which it is located.
- 6.02 Continuing Existing Uses: Except as hereinafter specified, any use, building or structure existing at the time of the enactment of this Resolution may be continued even though such use, building or structure may not conform with the provisions of this Resolution or the district in which it is located.
- 6.03 Nonconforming Uses: No existing building or premises devoted to a use not permitted by this Resolution in the district in which such building or premises is located, except when required to do so by law or order, shall be enlarged, extended, reconstructed, substituted or structurally altered unless the use thereof is changed to a use permitted in the district in which such building or premises is located, except as follows:
- 6.031 Substitution or Extension:
- 6.0311 When authorized by the Board, the substitution for a nonconforming use of a similar nonconforming use may be made.
- 6.0312 Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.
- 6.0313 When authorized by the Board, a nonconforming use may be extended throughout those parts of the building which were manifestly designed or arranged for such use prior to the date when the use of such building became nonconforming if no structural alterations except those required by law are made therein.
- 6.032 Discontinuance: No building, structure or premises of a nonconforming use which has ceased for two (2) years or more shall again be put to a conforming use.
- 6.033 Replacing Damaged Buildings: Any nonconforming building or structure damaged or destroyed by fire, flood, explosion, wind, earthquake, war, riot or

other calamity, or act of God, may be restored, reconstructed or used as before, provided that it is done within twelve (12) months of such occurrence.

- 6.034 Repairs and Alterations: Such repairs and maintenance work as required to keep it in sound condition may be made to a nonconforming building or structure, provided no structural alterations shall be made except as may be required by law or authorized by the Village Council.
- 6.04 Conversion of Dwellings: The conversion of any building into a dwelling or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families shall be permitted only in the district in which a new building for similar occupancy would be permitted under this Resolution and only when the resulting occupancy will comply with the requirements governing new construction in such district.
- 6.05 Rear Dwellings: No building in the rear of a principal building on the same lot therewith shall be used for residential purposes unless it conforms with all the yard and other open space and off-street parking requirements of this Resolution; and, for the purpose of determining the front yard in such case, the rear 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 unoccupied and unobstructed accessway not less than twenty (20) feet wide to a public street for each such dwelling unit, or not less than fifty (50) feet wide for three (3) or more dwelling units.
- 6.06 Accessory Buildings in the R-District:
- 6.061 An accessory building may be erected detached from the principal building or, except when a stable, may be erected as an integral part of the principal building or it may be connected therewith by a breezeway or similar structure. No accessory buildings shall be erected in any required yard except a rear yard and shall not occupy more than thirty-five (35) per cent of a required rear yard. Accessory buildings shall be a distance of at least six (6) feet from any dwelling situated on the same lot unless an integral part thereof, and at least six (6) feet from any other accessory building and at least three (3) feet from all lot lines of all adjoining lots.
- 6.062 Where a corner lot adjoins in the rear the lot fronting on a side road, no part of an accessory building on such corner lot within twenty-five (25) feet of the common lot line shall be nearer the side road lot line than the least depth of the front yard required along such road for a dwelling on such adjoining lot, and in no case shall any part of such accessory building be nearer the side road lot line than the least width for the side yard required for the principal building to which it is accessory.
- 6.063 An accessory building, if not located in the rear yard, shall be an integral part of or connected with the principal building to which it is accessory, and shall be so placed to meet all yard requirements for the principal building.

- 6.07 Street Frontage Required: Except as permitted by other provisions of this Resolution, no lot shall contain any building used in whole or part for residential purposes unless such lot abuts for at least fifty (50) feet on a street, and there shall be not more than one single-family dwelling for such frontage.
- 6.071 For corner lots, the side road yard shall be equal in width to the front yard required for the lots to the rear having frontage on the side road.
- 6.072 On any corner lot, no fence, structure, or planting shall be erected or maintained within twenty (20) feet of the "corner" so as to interfere with traffic visibility across the corner.
- 6.08 Required Area or Space Can Not be Reduced: No lot, yard, parking area or other space shall be reduced in area or dimensions so as to make said area or dimensions less than the minimum required by this Ordinance; and if already less than the minimum required by this Ordinance said area or dimensions shall not be further reduced. No part of a yard, parking area or other space provided about or for a building or structure for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard, parking area or other space required under this Ordinance for another building or structure.
- 6.09 Higher Health Board Requirements to Prevail: Lot size and family area requirements required by this Ordinance are deemed to be the minimum necessary for preserving the health of the community. If, in particular instances, the Health Department finds that larger areas are necessary to achieve this end, such shall prevail over the minimums stipulated by this Resolution.
- 6.10 Areas Subject to Flooding: No structure for permanent or constant human occupancy or habitation shall be constructed within areas subject to flooding as determined by the County Engineer unless and until measures satisfactory to the County Engineer and the Health Department have been taken to prevent hazard to the health and safety of the occupants.
- 6.11 Unsafe Buildings: Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any structure declared unsafe by proper authority.
- 6.12 Pending Applications for Zoning Certificates: Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof for which official approvals and required certificates have been granted before

the enactment of this Resolution, the construction of which, conforming with such plan, shall have been started prior to the effective date of this Resolution and completion thereof carried out in a normal manner within the subsequent twelve (12) month period and not discontinued until completion except for reasons beyond the builder's control

6.13 Agriculture: Nothing contained in this Ordinance shall prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incidental to the use for agricultural purposes of the land on which such buildings or structures are located, and no zoning certificate shall be required for any such use, building or structure.

6.13(a) Section 303.21(b) as prescribed under H.B. 582 effective 3/5/87 allows for regulation of agriculture in platted areas in less than five (5) acres. In this resolution under Residential Districts, agriculture is a conditional use requiring Board authorization.

6.14 Public Utilities and Railroads: Nothing contained in this Ordinance shall prevent the location or construction, reconstruction, change, alteration, maintenance, removal, use or enlargement of any building or structure of any public utility or railroad, whether publicly or privately owned, or the use of land by any public utility or railroad for the operation of its business, but a zoning certificate for such structure or building shall be required in accordance with this Ordinance.

6.15 Outdoor Advertising: Outdoor advertising shall be classified as a business use and shall be permitted in all districts zoned for industry and business, trade or lands used for agricultural purposes, subject to the provisions of Section 12.31 and the applicable district regulations.

6.16 Retail Establishments and Places of Entertainment: Nothing contained in this Resolution shall prohibit the use of any land for the construction of a building or the reconstruction, change, alteration, maintenance, enlargement or use of any building for the maintenance and operation of any mercantile or retail establishment, drug store, hotel, lunch room, or restaurant, or place of entertainment in any area zoned for trade or industry, but a zoning certificate for such uses shall be required in accordance with the provisions of this Ordinance.

ARTICLE 7**A - AGRICULTURAL DISTRICT****7.1 Principal Permitted Uses:**

7.11 Agriculture, including Animal and Poultry Husbandry

7.12 Single-Family Dwellings

7.13 Churches

7.14 Private and Public Schools

7.15 Private Noncommercial Recreation Facilities

7.16 Noncommercial Clubs, Fraternities and Lodges

7.17 Commercial Signs and Billboards, subject to the requirements of Section 12.31.

7.18 Public Utility Facilities

7.2 Conditional Uses Requiring Board Authorization:

7.210 Trailers

7.211 Oil and Gas Drilling: Subject to the requirements of Section 15.4112, plus additional conditions which the Board may impose.

7.212 Public or Private Airports or Landing Fields

7.213 Hospitals, Nursing and Convalescent Homes

7.214 Commercial Recreation Facilities

7.215 Cemeteries for humans

7.216 Agricultural Oriented Commercial Uses including, but not limited to, feed dealers, grain elevators, farm implement dealers and surplus commodity storage facilities; subject to the requirements of Section 15.4115, plus additional conditions which the Board may impose.

7.217 Kennels

7.3 Accessory Uses:

- 7.31 Living Quarters for Persons Employed on the Premises.
- 7.32 Private Garage or Parking Area.
- 7.33 Customary Home Occupation or Professional Office Conducted Exclusively by the Resident Family with not more than two (2) Employees.
- 7.34 Keeping of Roomers or Boarders by a Resident Family.
- 7.35 Roadside Stands for the Sale of Agriculture Products Produced on the Premises.
- 7.36 Temporary Buildings for Uses Incidental to Construction.
- 7.4 Minimum Lot Width and Area: One hundred forty (140) feet; thirty-five thousand (35,000) square feet.
- 7.5 Maximum Building Height: Two and one-half (2-1/2) stories or thirty (30) feet; except farm and utility structures.
- 7.6 Minimum Yards: Front, thirty (30) feet (measured from right-of-way line as existing; or, if wider right-of-way has been established, from the latter line); rear, thirty-(30) feet; side, thirty (30) feet.

ARTICLE 8**R - RESIDENTIAL DISTRICT**

- 8.1 Principal Permitted Uses
- 8.11 Single-Family & 2 Family Dwellings:
- Trailers are not permitted in a Residential District which is a platted subdivision and consists of lots under FIVE (5) acres.
- 8.12 Public and Private Schools
- 8.13 Churches
- 8.2 Conditional Uses Requiring Board Authorization
- 8.21 Agriculture
- 8.22 Multiple Family Dwellings
- 8.23 Trailer Parks: subject to Health Department requirements and the requirements stipulated in Section 15.4111 plus additional conditions which the Board may impose.
- 8.24 Private Noncommercial Recreation Facilities
- 8.25 Noncommercial Clubs, Fraternities and Lodges
- 8.26 Public Utility Facilities
- 8.27 Hospitals, Nursing and Convalescent Homes
- 8.3 Accessory Uses: Same as for the A District
- 8.4 Minimum Lot Width and Area:
- 8.41 One hundred (100) feet frontage and twenty thousand (20,000) square feet if both public water and public sewer are available; one hundred thirty (130) feet and thirty-two thousand five hundred (32,500) square feet with public water and no public sewer; one hundred twenty (120) feet frontage and twenty-four thousand (24,000) square feet with public sewer available and no public water; one hundred forty (140) feet frontage and thirty-five thousand (35,000) square feet with neither public water nor public sewer available.
- 8.42 Minimum Lot Area Per Family: Ten thousand (10,000) square feet.

- 8.5 Maximum Building Height: Same as for the "A " District
- 8.6 Minimum Yards: Front, thirty (30) feet (measured from right-of-way line, as existing; or, if wider right-of-way has been established, from the latter line); rear, thirty (30) feet; side, ten (10) feet.
- 8.7 ¹Communication Tower Structures: Any structure used to facilitate radio, cellular, microwave or other commercial wireless communications or other structures that service or facilitate these communications are prohibited.

¹ 2001 – Ordinance 2001-01 Effective 3-12-01

ARTICLE 9

C - COMMERCIAL

- 9.1 Principal Permitted Uses:
- 9.11 Single-Family, Two Family and Multiple-Family Dwellings.
- 9.12 Churches
- 9.13 Public and Private Schools
- 9.14 Any retail business, service establishment or office serving primarily the needs of the community and not including hotels, motels, junk yards, auto wrecking yards, outdoor storage yards, or stables.
- 9.15 Commercial Signs and Billboards, subject to the requirements of Section 12.31
- 9.16 **Public Utility Facilities**
- 9.2 Conditional Uses Requiring Board Authorization:
- 9.21 Any retail business, service establishment or office that is not a principal permitted use.
- 9.3 Accessory Uses:
- 9.31 Any use customarily accessory to a principal permitted use.
- 9.4 Minimum Lot Width and Area:
- 9.41 Residential Uses: same as for the R. District.
- 9.42 Nonresidential Uses: None.
- 9.5 ²Maximum Building Height: Two and one-half (2-1/2) stories or thirty-five (35) feet, except public utilities structures.
- 9.6 Minimum Yards:
- 9.7 Residential Uses: Same as for the " R" District
- 9.8 Nonresidential Uses: Front, twenty (20) feet (measured from right-of-way line as existing; or, if wider right-of-way has been established, from the latter line); rear twenty-five (25) feet; side, none, except twelve (12) feet, if provided.

² 2001-Ordinance 2001-01 Effective 3-12-01

ARTICLE 10

HS - HIGHWAY SERVICE DISTRICT

10.1 Principal Permitted Uses:

10.11 Any retail business, service establishment or office serving primarily the highway traveler, such as hotels, motels, service stations, gift shops or restaurants.

10.12 Commercial Signs and Billboards, subject to the requirements of Section 12.31.

10.13 Public Utility Facilities10.2 Conditional Uses Requiring Board Authorization:

10.21 Any retail business, service establishment or office that is not a principal

10.3 Accessory Uses:

10.31 Any use customarily accessory to a principal permitted use.

10.32 A single dwelling unit for the exclusive occupancy of the owner or operator of a principal permitted use.

10.33 Temporary buildings for uses incidental to construction.

10.4 Minimum Lot Width and Area: One hundred forty (140) feet, thirty-five thousand (35,000) square feet.

10.5 Maximum Building Height: same as for the "C" District.

10.6 Minimum Yards: Front, fifty (50) feet (measured from right-of-way line as existing; or, if wider right-of-way has been established, from the latter line); rear, fifty (50) feet; side, twenty (20) feet.

ARTICLE 11

M - INDUSTRIAL DISTRICT

11.1 Principal Permitted Uses:

11.11 The manufacturing, compounding, processing, packaging and or assembling of:

Bakery goods, candy, cosmetics, pharmaceuticals, toiletries and food products; except fish or meat products, sauerkraut, vinegar, yeast and the rendering or refining of fat or oils.

Products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals or stones, sheet metal (except where presses over twenty (20) tons rated capacity are employed), shell, textiles, tobacco, wax, wood (except where saw and planing mills are involved), yarns.

Musical instruments, toys, novelties, rubber or metal stamps and other small rubber products.

Electrical appliances, instruments, devices and equipment, television sets, radios, phonographs.

11.12 **Public utility facilities.**

11.13 Commercial signs and billboards, subject to the requirements of Section 12.31.

11.2 Conditional Uses Requiring Board Authorization:

11.21 Any commercial or industrial use not a principal permitted use and not detrimental to the health, welfare or safety of the community and not objectionable due to smoke, smell, glare, noise or vibration.

11.3 Accessory Uses:

11.31 Any use customarily accessory to a principal permitted use.

11.32 Temporary buildings for uses incidental to construction.

11.4 Minimal Lot Width and Area: Two hundred (200) feet; two (2) acres.

11.5 Maximum Building Height: same as for the "C" District.

11.6 Minimum Yards: Front, fifty (50) feet (measured from right-of-way line as existing; or, if wider right-of-way line has been established, from the latter); rear, fifty (50) feet; side, twenty(20) feet.

ARTICLE 12

SPECIAL PROVISIONS

12.1 Off-Street Parking and Loading Areas Required:

12.11 In all districts in connection with every use, space for the off-street parking of vehicles shall be provided in accordance with the following schedule:

1. Dwelling Units - one (1) space for each family or dwelling unit.
2. Church, Auditorium or Assembly Hall - one (1) space for each eight (8) seats.
3. Schools - one (1) space for each three (3) employees, plus one (1) space for each ten- (10) students at the high school or college level.
4. Hospitals - one (1) space for each four (4) beds.
5. Hotels - one (1) space for each two- (2) bedrooms.
6. Retail Business and Office Uses under two thousand (2,000) square feet in gross floor area - one hundred (100) percent of such floor area.
7. Retail Business and Office Uses two thousand (2,000) square feet or over in gross floor area - two hundred fifty (250) percent of such floor area.
8. Wholesale, Commercial and Industrial Uses - one (1) space for each three- (3) employees on the maximum shift.
9. Trailer Parks - one (1) space for each trailer unit.

12.12 Each Industrial Use, Wholesale Commercial Use, and Retail Business Use two thousand (2,000) square feet or over in gross floor area, shall provide one (1) off-street loading space for each ten thousand (10,000) square feet or fraction thereof of gross floor area.

12.13 Required parking and loading spaces shall be in addition to necessary driveways for ingress and egress, and all parking and loading areas (including driveways) shall be improved and maintained for all-weather use.

12.2 Motor Vehicle Service Stations, Public Garages and Parking Lots:

12.21 No motor vehicle service station, parking lot for twenty-five (25) or more vehicles or parking garage or automobile repair shop shall have an entrance or exit for vehicles within two hundred (200) feet along the same side of the street of any school, playground, library, church, hospital,

residence, or similar institution except where such property is in another block or on another street upon which the lot in questions does not abut.

12.22 No motor vehicle service station or public garage shall be permitted where any oil draining pit or visible appliance for any purpose other than filling caps is located within twenty-five (25) feet of any road right-of-way line, as existing or as established, or within twenty-five (25) feet from any "R" District, except where such appliance or pit is within a building.

12.23 The lighting of parking lots or service station aprons shall not be directed on or interfere with the reasonable use and enjoyment of nearby residential or institutional properties nor interfere with the safety of vehicular traffic.

12.3 Sign Regulations:

12.31 Commercial signs or billboards shall:

1. Observe the set-back (front yard) requirements of the district in which they are located, except that at any intersection along any road or street shown on the Major Road Plan of Fayette County, the set-back on unimproved land shall not be less than one hundred (100) feet from the right-of-way lines (existing or as established) of each such road and intersecting streets:
2. Not be located within three hundred (300) feet of any "R" District or the entrance to a park, library, school, church, playground, hospital, or similar institution.
3. ³Not to exceed 500 square feet in size.

12.32 Real estate signs and signs advertising only the goods or services provided on the premises shall:

1. Be set from the right-of-way (existing or as established) at least one-half of the set-back (front yard) requirement of the district in which they are located;
2. Not be lighted in any way so as to cause unnecessary interference with the use and enjoyment of nearby residential or institutional uses or with the safety of vehicular traffic; and
3. Not exceed one hundred (100) square feet in size.

³ 2001 - Ordinance 2001-01 effective 3-12-01

ARTICLE 13

EXCEPTIONS AND MODIFICATIONS

13.1 Existing Lots of Record: In any district where dwellings are permitted, a one-family detached dwelling may be erected on any lot of official record at the effective date of this Resolution irrespective of its area or width, the owner of which does not own any adjoining property; provided:

1. In no case shall the width of side yard be less than ten (10) percent of the width of the lot, and provided that on a corner lot the width of the side yard adjoining the side road or street lot line shall not be less than eight (8) feet or twenty (20) percent of the frontage, whichever is the greater; and
2. The depth of the rear yard of any such lot need not exceed twenty (20) percent of the depth of the lot, but in no case shall it be less than ten (10) feet.

13.2 Yard Requirements: Every part of a required yard shall be open to the sky unobstructed by any building or structure except for a permitted accessory building and except for the ordinary projections, such as skylights, sills, cornices and ornamental features projecting not to exceed twelve (12) inches.

13.3 Double-Frontage Lots: Buildings on through lots extending through from road or street to road or street shall provide the required front yard on both roads or streets.

ARTICLE 14
ENFORCEMENT

14.1 Enforcement: It is hereby established that all the provisions herein and subsequently amended hereto, shall be enforced by the Zoning Authorities of Fayette County, Ohio, in accordance with the provisions of Articles 14 and 15 of the Fayette County Zoning Resolution as adopted by the Board of Fayette County Commissioners, which enforcement service shall be contracted for by the Village and the County pursuant to O.R.C. Sect. 713.11 "A" & "B" as amended. If any provision of this Resolution is in conflict with the provision of the County Resolution, the provisions herein will control. Any amendment to the County Zoning made hereinafter by the Fayette County Commissioners shall not affect or modify the provisions herein and shall not be effective until adopted by Counsel and amended hereto.

14.2 Enforcement by Zoning Inspector: It shall be the duty of the Zoning Inspector to enforce this Resolution in accordance with the administrative provisions of this Resolution.

All departments, officials and public employees of Fayette County vested with the duty or authority of issue permits and licenses shall conform with the provisions of this Resolution and shall issue no permit or license for any use, building, or purpose in conflict with the provisions of this Resolution. Any permit or license issued in conflict with the provisions of this Resolution shall be null and void.

14.3 Filing Plans: Every application for a Zoning Certificate shall be accompanied by plans in duplicate drawn to scale in black or blue-line print, showing (on the basis of survey) the actual location, shape and dimensions of the lot to be built upon or to be changed in its use in whole or in part; the exact location, size and height of any building or structure to be erected or altered; the existing and intended use of each building or structure or any part thereof; the number of families or housekeeping units the building is designed to accommodate; and when no buildings are involved, the location of the present use and proposed use to be made of the lot; such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Resolution. One (1) 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.

The lot and the location of the building thereon shall be staked out on the ground before construction is started. In every case where the lot is not provided and is not intended to be provided with public water and/or the disposal of sanitary waste by means of public sewers, the application shall be accompanied by a Certificate of Approval by the Health Department of Fayette County.

14.4 Zoning Certificate:

14.41 It shall be unlawful for an owner to sue or to permit the use of any structure, building, or land, or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until a Zoning Certificate shall have been issued by the Zoning Inspector. Such Zoning Certificate shall show that such building or premises, or part thereof, and the proposed methods of water supply and disposal of sanitary waste conform with all the requirements of this Resolution.

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

The Zoning Inspector shall act upon all such applications on which he 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 as specified under Section 14.2. He shall either issue a Zoning Certificate within said thirty (30) days or shall notify the applicant in writing of his refusal of such Certificate and the reasons therefor.

Failure to notify the applicant in case of such refusal within the said thirty (30) days shall entitle the applicant to a Zoning Certificate unless the applicant consents to an extension of time.

14.42 Under such rules as may be adopted by the Board, the Zoning Inspector may issue a temporary Zoning Certificate for a part of a building.

14.43 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 use conforms to the provisions of this Resolution.

14.44 Fees:

14.441 ⁴Fees shall be paid in accordance with the zoning fee schedule promulgated by the zoning inspector as may be amended from time to time.

14.446 All fees collected under this section shall be used exclusively for the cost of administration and enforcement of this Resolution, including but not limited to, expenses of the Village Planning Commission, and the cost of experts engaged for the review of a particular application made under the provisions of this Resolution.

14.5 Violations and Penalties It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in

⁴ 2001 – Ordinance 2001-01 Effective 3-12-01
Sections 14-441 – 14.445 repealed

violation of the provisions of this Resolution or any amendment or supplement thereto adopted by the Village Council of Octa, Ohio. 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 (\$100) Dollars. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues may be deemed a separate offense.

14.6

Violations – Remedies: In case any building is or is supposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land is or is proposed to be used in violation of this Resolution, or any amendment or supplement thereto, the Zoning Inspector, or any adjacent or neighboring property owner who would be specially damaged by such violation in addition to other remedies provided by law may institute injunction, mandamus, abatement, or other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use.

ARTICLE 15

BOARD OF ZONING APPEALS

- 15.1 Enforcement: It is hereby established that all the provisions herein and subsequently amended hereto, shall be enforced by the Zoning Authorities of Fayette County, Ohio, in accordance with the provisions of Articles 14 and 15 of the Fayette County Zoning Resolution as adopted by the Board of Fayette County Commissioners, which enforcement service shall be contracted for by the Village and the County pursuant to O.R.C. Sect.713.11 "A" & "B" as amended. If any provision of this Resolution is in conflict with the provision of the County Resolution, the provisions herein will control. Any amendment to the County Zoning made hereinafter by the Fayette County Commissioners shall not affect or modify the provisions herein and shall not be effective until adopted by Counsel and amended hereto.
- 15.2 Applications, Appeals, Hearings and Stay of Proceedings:
- 15.21 Applications - When and By Whom Taken: An application, in cases in which the Board has original jurisdiction under the provisions of this Resolution, may be filed by any property owner, including a tenant or by a governmental official, department, board or bureau. Such applications shall be filed with the Zoning Inspector who shall transmit the same to the Board.
- 15.22 Appeals - When and By Whom Taken: An appeal to the Board may be taken by any person aggrieved or by any officer of the County affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision by filing with the Zoning Inspector and with the Board a Notice of Appeal specifying the grounds thereof. The Zoning Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- 15.23 Hearings: The Board shall fix a reasonable time for the hearing of the application or appeal, giving ten (10) days notice to the parties in interest, and decide the same within a reasonable time after it is submitted. Each application or appeal shall be accompanied by a check payable to the Treasurer of Fayette County or a cash payment sufficient in amount to cover the cost of publishing and/or posting and mailing the notices of the hearing or hearings. At the hearing any party may appear in person or by attorney A party adversely affected by the decision of the Board may appeal to the Court of Common Pleas of Fayette County on the ground that the decision was unreasonable or unlawful. The Court may affirm, reverse, vacate and modify the decision complained of in the appeal.
- 15.24 ⁵Decisions of the Board: The Board shall decide all applications and appeals within thirty (30) days after the final hearing hereon. A certified copy of the Board's decision shall be transmitted to the applicant or appellant, to the Zoning Inspector, and to the Mayor or Clerk of the Village. Such decision shall be binding upon the Zoning Inspector and observed by him, and he shall

⁵ 2001 – Ordinance 2001-01 Effective 3-12-01

incorporate the times and conditions of the same in the certificate to the applicant or appellant whenever a certificate is authorized by the Board.

⁶The decision of the Board shall not become final until the expiration of ten (10) days from the date the decision ⁷ is received by the Village Council by Certified Mail service received by the Village Clerk or Mayor

Within ten (10) days from the date the ⁷Village receives the Board's decision, the Village, in its sole discretion, may call a special meeting for the sole purpose of rejecting or modifying the Board's decision. Notice of the special meeting shall be given by the Clerk to the applicant or appellant ⁷by ordinary mail to the address listed on the zoning application. The Council shall consider evidence presented to the Board and its decision and may reject or modify the same based on said evidence using the standards set forth herein and Ohio Law. The applicant/appellant may appeal any decision of the Council pursuant to Section 15.22 herein. All decisions of the Council shall be certified to the applicant, appellant and Zoning Inspector within forty-eight (48) hours of said decision.

Nothing in this section shall require the Council to hold a special meeting for the review of a Board's decision and non-action by the Council is conclusive evidence of its concurrence with the Board's decision.

15.25 Stay of Proceedings: An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Inspector certified to the Board after Notice of Appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by an order which may, on due cause shown, be granted by the Board on application after notice to the Zoning Inspector or by judicial proceedings.

15.3 Powers of the Board of Zoning Appeals:

15.31 Conditional Uses, Specified Exceptions and Interpretations 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 interpretation 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 the Zoning Map, the Board shall give due regard to the nature and condition of all adjacent uses 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 the

⁶ 2001 – Ordinance 2001-01 Effective 3-12-01. Signed by: Robert Ison – Mayor, Jeanette S. Ranson - Clerk

⁷ 2001 – Ordinance 2001-05 Effective 9-12-01. Paragraphs modified. Signed by: Robert Ison – Mayor, Jeanette S. Ranson - Clerk

15.32 Conditional Uses: In determining the acceptability of a proposed development, the Board shall be guided by the following standards. As a condition of its approval, the Board may impose these or similar standards deemed necessary to accomplish the purposes of this Article.

15.33 Trailer Parks:

1. Minimum lot size: two (2) acres
2. Minimum set-back from all property lines fifty (50) feet
3. Minimum space for each trailer unit (exclusive of drives common recreation areas and required yards): three thousand five hundred (3,500) square feet
4. All trailer units are to be connected to a common water supply and a common sewage disposal system.
5. All driveways and vehicular parking areas are to be improved and maintained for all-weather use.

15.34 Sand and Gravel Extraction, Stripping of Top Soil, Mining:

1. The operator shall take appropriate measures (including filtering systems when necessary) to reduce to an acceptable level the spread of dust and dirt to neighboring properties.
2. All roadways and driveways are to be improved and maintained for all weather use.
3. Minimum set-back for operations: one hundred (100) feet from all property lines.
4. The site is to be restored to a safe and usable condition upon the termination of operations, and the Board may require a performance bond to ensure compliance with its requirements in this regard.

15.35 Junk Yards, Auto Wrecking Yards, Outdoor Storage Yards:

1. Uses are to be screened from neighboring properties by natural objects or by a well-maintained solid fence or wall at least six (6) feet in height
2. All burning, dismantling or compacting operations are to be conducted at least one hundred (100) feet from all property lines.

15.4 Agricultural Oriented Commercial Uses:

1. The uses are to be confined primarily to principal railroad-major highway junction areas.
2. Outdoor display areas are to be effectively screened from any nearby residential or institutional uses.

15.41 Interpretation of Zoning Map: Where the street or lot layout actually on the ground, or as recorded, differs from the street and lot lines as shown on the Zoning Map, the Board, after notice to the owners of the property or properties concerned, and after public hearing, shall interpret the Map in such a way as to carry out the intent and purpose of this Resolution. In case of any question 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.

15.5 Administrative Review and Variance:

15.51 Administrative Review: The Board shall have the power to hear and decide appeals filed as herein before provided where it is alleged by the appellant that there is an error in any order, requirements, decision, or grant of refusal made by the Zoning Inspector or other administrative official in the interpretation of the provisions of this Resolution.

15.52 Variations: The Board shall have the power to authorize upon appeal in specific cases filed as herein before provided such variances from the provisions and requirements of this Resolution as will not be contrary to the public interests; but only in such cases where, owing to special conditions, pertaining to specific piece of property, the literal enforcement of the provisions and requirements of this Resolution would cause undue and unnecessary hardship.

15.521 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, the Board shall have the power to authorize a variance from the terms of this Resolution so as to relieve such hardship and so that the spirit and purpose of this Resolution shall be observed and substantial justice done. In authorizing a variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed structure of use as it may deem necessary in the interest of the furtherance of the purpose of this Resolution and in the public interest. In authorizing a variance with attached conditions, the Board shall require such evidence and guarantee or bond as it may deem necessary to insure that the conditions attached are being and will be complied with.

15.522 No such variances in the provisions or requirements of this Resolution shall be authorized by the Board unless the Board finds that all the following facts and conditions exist:

- a. 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 uses in the same zoning district;

- b. 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.
- c. 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 of the public interest.

15.523

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 a variance is sought - one or the other or in combination - 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.

15.53

General: In exercising its power, the Board may, in conformity with the provisions and statutes and of this Resolution, reverse or affirm wholly or partly or may 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 all the powers of the officer from whom the appeal is taken.

ARTICLE 16

DISTRICT CHANGES AND RESOLUTION AMENDMENTS

- 16.1 General: Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Village Council may, by resolution, after recommendation thereon by the Planning Commission, and subject to the procedure provided in this section, amend, supplement or change the regulations, district boundaries, or classifications of property, now or hereafter established by this Resolution or amendments thereof. Such amendments may be made without the vote of the electors except as hereinafter provided in Section 16.27 of this Article. It shall be the duty of said Planning Commission to submit its recommendations regarding all applications or proposal for amendments or supplements. An Amendment, supplement, reclassification or change may be initiated by passing an ordinance therefor by the Village Council; or by the Planning Commission on its own motion; or by a verified application of one or more of the owners or lessees of the property within the area proposed to be changed or affected by this Ordinance.
- 16.2 Procedure for Change:
- 16.21 Applications for any change of district boundaries or classifications of property as shown on the Zoning Map shall be submitted to the Planning Commission at its public office upon such forms and shall be accompanied by such data and information as may be prescribed for that purpose by the Planning 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 leasees of property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the applications. Applications for amendments initiated by the Planning Commission itself shall be accompanied by its recommendation and motion pertaining to such proposed amendment. An application initiated by the Village Council shall be accompanied by its resolution pertaining thereto.
- 16.3 Names and Addresses of Adjacent Property Owners: Any person or persons desiring a change in the zoning classification of property shall file with the application for such change a statement giving the names and addresses of the owners of all properties lying within the area sought to be changed and within two hundred (200) feet of any part of the premises the zoning classification of which is proposed to be changed.
- 16.31 Before submitting its recommendations on a proposed amendment to the Village Council, the Planning Commission shall hold at least one (1) public hearing thereon, notice of which shall be given by one (1) publication in a newspaper of general circulation in the township at least thirty (30) days before the date of such hearing. The notice shall state the place or places and times at which the proposed amendment to the resolution, including text and/or maps, may be examined.

- 16.32 The Planning Commission shall recommend the approval or denial of the proposed amendment or district change, or the approval of some modification thereof, and shall, within twenty-five (25) days after the receipt of such resolution or application, submit such recommendations to the Village Council. Such recommendations shall be considered at the public hearing held by the Planning Commission on such proposed amendment or district change. The Planning Commission shall, after such hearing, recommend the approval or denial of the proposed amendment or district change or the approval of some modification thereof, and shall submit such recommendation together with such application and resolution, and the text and maps pertaining thereto, to the Village Council.
- 16.33 The Village Council shall, upon receipt of such recommendation, set a time for a public hearing on such proposed amendment or district change, which date shall not be less than thirty (30) days from the date of the receipt of such recommendation from the Planning Commission. Notice of such public hearing shall be given by one publication in one or more newspaper of general circulation in the county, at least thirty (30) days before the date of such hearing. Within twenty (20) days after such public hearing, the Village Council shall either adopt or deny the proposed amendment or district change or adopt some modification thereof. In the event the said Council denies or modifies the recommendation of the Planning Commission, the majority vote of the Village Council shall be required.
- 16.34 If the proposed amendment is adopted by the Village Council, the amendment shall automatically become effective within thirty (30) days of its adoption, unless within said thirty (30) days after the adoption of the amendment or supplement there is presented to the said Village Council a petition signed by a number of qualified voters in the incorporated municipality or part thereof included in the Zoning Plan, and affected by the amendment or supplement equal to not less than eight (8) per cent of the total vote cast for all candidates for Governor in such area at the last preceding general election at which a Governor was elected requesting the said Village Council to submit the amendment, change or supplement to the electors of such area for approval or rejection at the next primary or general election.
- 16.35 Any person adversely affected by an order of the Village Council adopting, amending or rescinding a regulation, may appeal to the Court of Common Pleas of Fayette County on the ground that said Council failed to comply with the law in adopting, amending, rescinding, publishing or distributing such regulation, or that the regulation as adopted or amended by the said Council is unreasonable or unlawful, or that the revision of the regulation was unreasonable or unlawful.
- 16.4 Fees: Each application for a zoning amendment except those initiated by the Planning Commission should be accompanied by a check payable to the Clerk of the Village of Octa or a cash payment in the amount of Thirty-five Dollars (\$35) plus Thirty-five Dollars (\$35) publishing fee. Any permit for a variance shall include a check in the amount of Thirty-Five Dollars (\$35) plus Thirty-five (\$35) publishing fee. The above will pay for costs of publishing, posting and/or mailing notices of hearings or hearings required by the foregoing provision.

ARTICLE 17**VALIDITY AND REPEAL**

- 17.1 Validity: If any article, section, subsection, paragraph, sentence or phrase of this Resolution is for any reason held to be invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Resolution.
- 17.2 Repeal: In any district in which there is in force a plan of Municipal Zoning, the same may be repealed as to said district in the following manner: the Village Council (a) may adopt a resolution upon its own initiative, and (b) shall adopt a resolution if there is presented to it a petition signed by a number of qualified voters residing in the unincorporated area of such district included in the Zoning Plan equal to not less than eight (8) per cent of the total vote cast for all candidates for Governor in such area at the last preceding general election at which a Governor was elected, requesting the question of whether or not the plan of Zoning in effect in said district- shall be replaced be submitted to the electors residing in the area of the district included in the Zoning plan at the next primary or general election. In the event a majority of the vote cast on said question in said district is in favor of repeal of zoning, then said regulation shall no longer be of any force or effect in said district. Not more than one such election shall be held in any two- (2) calendar years.

CERTIFIED BY: GEORGE H. KINGERY, CHAIRMAN OF PLANNING COMMISSION