

**Article 300
General Provisions**

301	Purpose.	309	Access to other districts prohibited.
302	Compliance with zoning regulations.	310	Accessory buildings and uses.
303	Compliance with other regulations.	311	Temporary buildings.
304	Lots to front on a street.	312	Performance Standards.
305	Required lot area to be maintained.	313	Prohibited Uses.
306	Required yards to be maintained.	314	Driveway Locations.
307	Visibility at intersections.	315	Rear House
308	Yard exceptions.	316	Adult Entertainment/Sexually Oriented Businesses

301 PURPOSE.

The general provisions as set forth herein shall apply to all districts. Where the requirements in this article differ from a district regulation, the more restrictive requirement shall prevail unless otherwise specified.

302 COMPLIANCE WITH ZONING REGULATIONS.

No building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used, designed or arranged for any purpose other than that specifically permitted in the district in which said building or land is located and in compliance with the regulations of this Resolution. Uses of land and structures not specifically permitted in a zoning district shall be considered prohibited in that district until, by amendment, such uses are written into these regulations.

303 COMPLIANCE WITH OTHER REGULATIONS.

All structures shall comply with all other standards and regulations, where applicable, including, but not limited to:

- a. The requirements of the building regulations, adopted and administered by Amherst Township.
- b. The Lorain County Subdivision Regulations as adopted and administered by the Lorain County Planning Commission and the Lorain County Commissioners.
- c. The provisions of the Lorain County Regional Airport Zoning Regulations.

304 LOTS TO FRONT ON A STREET.

All lots shall front on a dedicated public street or an approved private street. All lots created as a result of lot splits or subdivisions shall have frontage on a dedicated street or an approved private street in the amount required for the zoning district within which such lots are located.

305 REQUIRED LOT AREA TO BE MAINTAINED.

- a. A parcel of land may be subdivided into two or more parcels provided all lots resulting from such division conform to the lot area and lot width requirements of the district in which such land is located.
- b. A lot of record which conformed to the provisions of this Zoning Resolution and which was owned separately from adjoining lots on the effective date of this Resolution or an amendment adopted thereafter which affected its conformity shall not be reduced in any manner which would increase its nonconforming situation.

306 REQUIRED YARDS TO BE MAINTAINED.

- a. The required yards surrounding an existing principal building shall not be separated in ownership from that part of the lot upon which the building is located, and no required yard, or part thereof, shall be considered as providing a yard for any other principal building.
- b. A yard shall not be reduced to less than the required dimensions for the district in which it is located, and a yard of less than the required width shall not be further reduced.
- c. New streets or roads in a residential district shall be located so that existing structures comply with the setback and yard requirements set forth in this Resolution.

307 VISIBILITY AT INTERSECTIONS.

On every corner lot there shall be no obstruction to visibility (whether by the location of structures including fences, landscaping or other means) between the heights of 3 feet and 6 feet above the natural grade, within the triangle formed by the right-of-way lines of two intersecting streets, and a line drawn between two points, one on each such right-of-way line, each 25 feet from the point of intersection of such right-of-way lines.

308 YARD EXCEPTIONS.

- a. Fences, Hedges, and Walls. In all districts except Industrial Districts, fences, hedges, and walls may be constructed to a maximum height of six (6) feet in any required yard beginning at the building lot line and to a height of three (3) feet in any required yard abutting a street. All height measurements shall be taken from the existing grade. Residential fences shall not be of an artistic nature, containing such things as advertising, paintings, graffiti, etc.
- b. Garages and/or Accessory Buildings. In a Residential District a total of two (2) garages or accessory buildings shall be permitted, of which the total square feet shall not exceed the following lot size criteria, and may be located five (5) feet from the side and five (5) feet from the rear property lines. The total square feet, including residence, shall not exceed thirty (30%) percent of the lot size.

Schedule 308.b
LOT SIZES AND TOTAL SQUARE FEET PERMITTED
FOR GARAGES AND ACCESSORY BUILDINGS

Min. Lot Size	Max. Lot Size	Total Sq. Ft. Permitted
One third (1/3) acre or less		648 sq. ft.
Greater than (1/3) acre	Less than 1 acre	1,024 sq. ft.
1 acre or greater	Less than 2 acres	1,600 sq. ft.
2 acres or greater	Less than 3 acres	2,400 sq. ft.
3 acres or greater	-----	3,200 sq. ft.
NOTE: One Acre = 43,560 square feet.		

309 ACCESS TO OTHER DISTRICTS PROHIBITED.

Driveways shall not be established from a road in one district to land in another district.

310 ACCESSORY BUILDINGS AND USES.

A subordinate building, which is incidental and accessory to that of the principal building, if such a building already exists on the land. All accessory buildings are permitted in all zoning districts.

311 TEMPORARY BUILDINGS.

- a. Temporary Dwellings. A temporary basement home, trailer, mobile home or similar structure may be used as a temporary residence on a lot for a period not to exceed 18 months during the time a permanent dwelling is being constructed. A temporary zoning permit shall be required for the use of such temporary dwelling and only one such temporary dwelling shall be permitted on a lot. Such temporary zoning permit shall not be renewed or extended. A performance bond for not less than 1,000 dollars shall be filed with the application for such certificate.
- b. Limited Use. A cabin or summer cottage may be used for a temporary residence for a period not to exceed 7 months in a calendar year. Visitor's trailers or motor homes shall be permitted to be parked on the lot for not more than 2 weeks in a calendar year. Approved sanitary facilities shall be provided.
- c. Emergency Use. Whenever a dwelling on a lot is destroyed or rendered uninhabitable by fire, explosion, act of God or act of the public enemy, a trailer or mobile home may be used as a temporary residence while the permanent dwelling is repaired or reconstructed. A temporary zoning permit shall be required for such emergency use. A performance bond for not less than 1,000 dollars shall be filed within 60 days of the date the application when such certificate is submitted. Approved sanitary facilities shall be provided.
- d. Temporary Buildings/Uses During Construction. Temporary buildings or uses for purposes incidental to construction work shall be permitted provided these buildings or uses shall not be continued as permanent structures or uses, and shall be removed immediately upon completion of the construction project.

312 PERFORMANCE STANDARDS.

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

- a. Fire Hazards. Any activity involving the use of flammable or explosive materials shall be protected by adequate fire fighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
- b. Radioactivity or Electrical Disturbance. No activity shall emit dangerous radioactivity at any point, or electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.

- c. Noise. Noise which is objectionable as determined by the Zoning Commission due to volume, frequency or beat shall be muffled or otherwise controlled, except during construction operations. Air raid sirens and related apparatus used solely for public purposes are exempt from this requirement.
- d. Vibration. No vibration shall be permitted which is discernible without instruments on any adjoining lot or property.
- e. Dust and Smoke. Smoke shall be controlled as much as economically possible as determined by the County Health Department or the Ohio Environmental Protection Agency. Dust and other types of air pollution borne by the wind from sources such as parking lots, storage areas, or yards shall be minimized by appropriate landscaping, paving, oiling, and other acceptable treatments.
- f. Odors. No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.
- g. Air Pollution. The emission of smoke, soot, flash, dust vapors, or other substances shall be controlled by precipitation devices, height of stack, rate of emission or other manner so that the quantity deposited at any adjacent property shall not be detrimental to or endanger the public safety, comfort or welfare or adversely affect property values.
- h. Glare. No direct or reflected glare shall be permitted which is visible from any property or from any public street, road or highway.
- i. Erosion. No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties.
- j. Toxic, Noxious, or Hazardous Matter. In addition to complying with all applicable local, state, and federal standards, the discharge of toxic, noxious, or hazardous matter is prohibited to extend beyond the lot lines where such a use is located in any such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare or cause injury or damage to property. No hazardous material may be used in any use or operation which is not approved by appropriate regulating agencies or authorities. No hazardous waste may be stored in the Township except when accessory to a permitted principal use and when placed in an enclosed building, and only for such duration until the waste can be reasonably transported from the Township.
- k. Enforcement. Where determinations can be made by the Zoning Inspector or other authorized Township employee, using equipment normally available or obtainable without extraordinary expense, such determinations or evaluation shall be made whenever possible before a notice of violation is issued. Where

technical complexity or extraordinary personnel or equipment is required to make the determination, the Board of Trustees may, in the case of the offenses cited under this Section, require the owner to either obtain and pay for an independent survey or share in the cost of an independent survey from a professional engineer experienced in the particular specialty.

313 PROHIBITED USES.

Uses or Processes which would affect an extensive area of Amherst Township or be contrary to public health, safety, and welfare in a growing sub-urbanized area are prohibited in All Zoning Districts. These include, but are not limited to:

- a. Bituminous Concrete Manufacturing Facilities, commonly known as “Asphalt Plants”
- b. Manufacture and sales of Fireworks or explosives
- c. Stockyards
- d. Open Garbage Dumps, Landfills, or storing and disposing of demolition materials
- e. Junk Yards
- f. Manufactured (Mobile) Home Parks
- g. Roof Top Signs

314 DRIVEWAY LOCATION.

Driveways are to be located with a minimum of 2 feet from a side lot line. In a cul-de-sac, a minimum of 2 feet is to be maintained or close to the 2 feet as possible pending lot frontage.

315 REAR HOUSE.

Rear Houses shall not be permitted in single-family residential districts. No apartment house shall be erected or altered or used unless the same shall have access to a public street, and if located in the rear of another building and has no immediate street frontage, then a permanent easement for access shall be provided over an unoccupied strip of land at least sixty (60) feet in width and such reserved strip may form a part of any lot width or lot yard or lot area required by the Zoning Resolution, and, if more than one dwelling is located in the rear of another building and has no immediate street frontage, then said easement for access shall be subject to the same requirements for frontage on the easement for access and other requirements for lot and yard areas as though said dwelling were located on a public street. Said easements shall be executed with the requirements provided by law for deeds and shall be filed with the Recorder of this County for record.

316 ADULT ENTERTAINMENT/SEXUALLY ORIENTED BUSINESSES.
(Permitted in GB-1 and L1 Districts only)

- A. Amherst Township has determined that permitting adult uses, as defined in this Section, in proximity to residential, institutional, and non-adult oriented retail uses would have a detrimental effect on such adjacent uses. It has been demonstrated that adult uses, as defined in this Section, have been known to cause undesirable secondary effects on residential and institutional uses, particularly those where children are present, as well as adjacent non-adult use oriented retail uses.

The Amherst Township Zoning Commission and Board of Trustees have determined that numerous impact studies have been conducted pertaining to the effects of adult entertainment businesses on the neighborhoods and areas in which those businesses are located.

The members of the Amherst Township Zoning Commission and Board of Trustees have been provided with, have reviewed, and have considered copies of the "Adult Entertainment Study" dated November 1994, conducted by the New York City Department of Planning; "Adult Entertainment Businesses in Indianapolis, An Analysis" dated February 1984, conducted by the Department of Metropolitan Development of the city of Indianapolis; and the "Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses" dated June 6, 1989, conducted by the attorney General for the State of Minnesota.

The "Adult Entertainment Study" of the City of New York contains summaries of impact studies from the cities of Islip, New York; Los Angeles, California; Indianapolis, Indiana; Whittier, California; Austin, Texas; Phoenix, Arizona; Manatee County, Florida; New Hanover County, North Carolina; and the State of Minnesota.

These numerous studies conclude, based on documented evidence, that adult entertainment businesses have negative secondary effects such as increased crime rates, decreased property values, curtailed retail trade, deterioration of the quality of rural and urban life, and the spread of sexually transmitted diseases.

The adverse effects of adult entertainment businesses are compounded when such businesses are located in close proximity to each other and have the tendency to create "dead zones".

The Amherst Township Zoning Commission and Board of Trustees desire to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizens, protect the citizens from increased crime, the spread of sexually transmitted diseases, preserve the quality of life, preserve the property values and character of surrounding neighborhoods, and deter the spread of urban blight.

The Amherst Township Zoning Commission and Board of Trustees desire to prohibit the establishment of adult entertainment businesses within the close proximity to existing adult entertainment businesses, residentially zoned areas, residences, schools, churches, parks, playgrounds, social service facilities, and neighborhood centers.

It is not the intent of this resolution or any related resolutions to suppress any speech activities protected by the First Amendment to the United States Constitution. The intent is to enact a content-neutral resolution which addresses the secondary effects of adult entertainment businesses.

There is adequate land available in Amherst Township, zoned GB-1 General Business District and LI Light Industrial District within which adult entertainment businesses may be located.

It is not the intent of this resolution or any related resolutions to condone, encourage, or legitimize the distribution of obscene material or the establishment of adult entertainment businesses.

- B. Therefore, in order to prevent potential deterioration in Amherst Township's retail areas; and to avoid potential adverse impacts on residential and institutional uses particularly those where children are present, and thereby protecting the public health, safety and welfare, adult uses, as defined in this Section, shall be permitted only in the GB-1 General Business District and the LI Light Industrial District subject to the following requirements and further subject to the site plan and design review procedures pursuant to Article 2200. For purposes of this Resolution adult uses shall include but not be limited to any of the following:

- (1) Adult book/video store. An establishment which utilizes 5 percent or more of its retail selling area for the purpose of retail sale or rental, or for the purpose of display or viewing, for any compensation, of books, magazines, other printed material, films, tapes and video cassettes, or any other visual representation, which are distinguished by their emphasis on adult materials as defined in this Section.
- (2) Adult motion picture theater. An enclosed motion picture theater which regularly uses or utilizes 5 percent or more of its total viewing time, for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to adult material as defined in this Section.
- (3) Adult motion picture drive-in theater. An open air drive-in theater which regularly uses or utilizes 5 percent or more of its total viewing time for presenting material distinguished or characterized by an emphasis on

- matter depicting, describing or related to adult material as defined in this Section.
- (4) Adult only live entertainment business. An establishment where the patron directly or indirectly is charged a fee, and where the establishment features:
 - (i) Entertainment or services which constitute adult material as defined in the Section; or
 - (ii) Exhibitions, dance routines, or gyrational choreography of persons totally nude, topless, bottomless, or strippers, male or female impersonators or similar entertainment or services which constitute adult material as defined in this Section.
- C. To further determine whether the above facilities are adult uses, the following definitions shall apply.
- (1) Adult material. Any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure, image, description, video cassette, motion picture film, record or, other tangible thing, or any service, capable of creating sexual interest through sight, sound or touch, and;
 - (i) Which material is distinguished or characterized by an emphasis on matter displaying, describing, or representing sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination; or
 - (ii) Which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination.
 - (2) Bottomless. Less than full opaque covering of male or female genitals, pubic area or buttocks.
 - (3) Nude or nudity. The showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than full, opaque covering of any portion thereof, or female breast(s) with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.
 - (4) Topless. The showing of a female breast with less than a full opaque covering of any portion thereof below the top of the nipple.

- (5) Sexual activity. Sexual conduct or sexual contact, or both.
 - (6) Sexual contact. Any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is female, a breast, for the purpose of sexually arousing or gratifying either person.
 - (7) Sexual excitement. The condition of the human male or female genitals, when in a state of sexual stimulation or arousal.
- D. Adult uses shall be located in accordance with the following distance requirements:
- (1) A minimum of 2,000 feet from the boundaries of any lot containing a church, library, public park or playground, nursery, school or any other institution where children are kept day or night;
 - (2) A minimum of 1,000 feet from any other adult use; and
 - (3) A minimum of 2,000 feet from any residentially zoned parcel in Amherst Township or any adjacent community.

