

SECTION XII. CONDITIONAL USE PERMIT

(Adopted November 22, 1988 by Resolution 88-129, effective December 22, 1988.)

12.01 Purpose

An increasing number of new kinds of land uses are appearing. Many of these uses and some more conventional uses possess characteristics of unique and special nature relative to size, design, location, and mode of operation such that each use must be considered individually.

12.02 Required For

The following uses shall require the issuance of a Conditional Use Permit:

- A. The location, construction or reconstruction of water and gas mains not in the public right-of-ways.
- B. All recreation uses permitted by this Resolution.
- C. Surface extraction of sand, gravel, or other earth materials.
- D. Gas and oil well drilling.
- E. Any change or alteration in the existing grade or topography of land which results from depositing soil or some other clean fill substance on said land.

This use does not include clean fill alterations made upon single-family residential lots on which there exists a dwelling house and when for purposes of this use, permitted: (1) the change in grade or topography is solely for the purpose of landscaping, and (2) the change in grade or topography does not change, increase, alter or restrict the existing surface water drainage from or to adjacent lands. (Adopted November 23, 1993 by Resolution 93-81 effective December 23, 1993.)

- F. Any other use as required elsewhere in this Zoning Resolution.
- G. Any wireless telecommunications tower, facility, antenna, or equipment shelter. (Adopted October 9, 1997 by Resolution 97-98 effective November 8, 1997.)

12.03 A Conditional Use Permit is a permit granted by the Board of Zoning Appeals and issued by the Zoning Inspector for the use of land, buildings or other structures not otherwise permitted in a district, under conditions and stipulations set forth in this Zoning Resolution.

In its consideration of an application for a Conditional Use Permit, the Board of Zoning Appeals shall be governed by the rules of procedure described in the Ohio Revised Code Chapter 519 and any amendments thereto, which procedures shall apply to applications for Conditional Use Permits as well as to the procedures for applications for zoning appeals. (Adopted July 11, 2006 by Resolution 2006-58, effective August 10, 2006)

12.04 General Standards Applicable to All Conditional Uses

In addition to specific requirements for conditionally permitted uses, 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 at the proposed location:

- A. Will be in accordance with the general objectives, or with any specific objective of the Zoning Resolution and/or the Township Comprehensive Plan.

- B. Will be designed, constructed, operated, and maintained so as to be 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 area.
- C. Will not be hazardous or dangerous to neighboring uses of the community in general.
- D. Will be served adequately by public facilities and services such as highways, roads, police and fire protection, drainage structures, refuse disposal, water, sewer and schools; or that the persons responsible for the establishment of the proposed use shall be able to adequately provide such services.
- E. Will have vehicular approaches to the property which shall be so designed as not to cause interference with traffic or surrounding public roads.
- F. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature.

12.05 Standards Applicable to Specific Uses

- A. Surface Extraction of Sand, Gravel, or Other Earth Materials. Surface extraction of sand, gravel or other earth materials shall be permitted only under a Conditional Use Permit.
 - 1. Such extraction may be permitted only in Industrial Districts subject to the following conditions:
 - a. this Section does not apply to County subdivision regulations or the excavation of basements, or the construction of oil, gas, or water wells in conjunction with structures otherwise permitted by this Resolution.
 - b. this Section does apply to the removal of overburden for the purpose of determining the location, quality or quantity of a mineral deposit.
 - c. permanent above ground structure shall conform as to location, size and appearance with the structures in the use district in which the extraction operation is located.
 - d. no sand, gravel or other earth material shall be removed or extracted nearer than one hundred (100) feet to any adjacent industrial property or one hundred fifty (150) feet to any adjacent residential or commercial property.
 - e. a green strip with a minimum depth of fifty (50) feet shall be planted with grass and landscaped with a year round vertical green combination of shrubs and trees so as to shield the extraction operation from any adjacent property. In the event that the terrain or other natural features serve the intended purpose of providing a visual screen year round, then no other planting screen and landscaping shall be required.
 - f. that there shall be no processing or manufacturing of such sand, gravel, and earth materials on the premises.
 - g. applicant shall grade, contour, or terrace the final slopes to achieve soil stability and to control erosion and sedimentation. Slopes with a slope angle of eighteen (18) degrees or less shall be presumed sufficient. Highwalls retained as part of intended future use shall not be regarded as final slopes. Applicant shall establish diversion ditches with controlled outlets on any final slopes sufficient to achieve soil stability and control landslides, erosion and sedimentation. At no time shall slopes be

steeper than one (1) foot vertical to two (2) feet horizontal, except at the highwall.

- h. topsoil and subsoil in sufficient amounts to cover the excavation shall be saved and stored, to be redistributed in the excavation upon completion of the extraction process.
 - i. that the area to be excavated shall be planted after the excavation has been completed with sufficient cover of grass, trees, or shrubs to cover the land and prevent erosion.
2. The applicant shall file along with the Application for a Conditional Use Permit, detailed plans and maps prepared by a registered engineer which clearly show the following:
- a. the total property of which the excavated area is part.
 - b. the owner of the property as shown on the recorded plat.
 - c. the location and owners of record of all properties within five hundred (500) feet of the applicant property. Names and location of roads and natural features within five hundred (500) feet of the applicant property.
 - d. a geological survey to show that the depth of excavation will not unreasonably disturb the existing water table or drainage area of the land to be affected and adjacent lands within five hundred (500) feet of the applicant property.
 - e. the proposed final topography of the land after excavation has been completed, indicated by contour lines of no greater interval than ten (10) feet, on a map with a scale of one (1) inch equals two hundred (200) feet.
 - f. the drainage plan on, above, below, and away from the area of land to be affected, indicating the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving or to receive the drainage.
 - g. a plan for reclamation showing the grass, both in amount and type, trees and shrubs and other ground cover to be planted in the excavated area.
 - h. the dates that the land or any portion thereof will be restored in accordance with the plans submitted.
 - i. the depth of such excavation below the natural grade.
 - j. the amount of material to be removed in each phase and over the total duration of the operation.
 - k. a work schedule setting forth the proposed time limits within which the operation will be commenced and completed, showing the daily hours of operation, proposed haul roads if over-the-road vehicles are employed, methods of traffic control, methods of maintenance to insure that public right-of-ways are kept undisturbed, clean and safe along or in the vicinity of the proposed haul roads from or to the land involved.
3. Before the issuance of the required permit, a bond payable to the Painesville Township Trustees in the amount of \$5,000.00 per acre or any portion thereof of the land to be excavated and conditional upon the applicant faithfully restoring the

land to be excavated as the map submitted with the application indicates shall be paid.

4. On each annual anniversary of the issuance of the Conditional Use Permit and the filing of the bond required herein and when the land has been restored in accordance with the application and plans, the permit holder shall file with the Zoning Inspector a report showing the amount of sand, gravel or other earth material removed and the depth and extent of the excavation. Such report shall further set forth that portion of the land that has been restored in accordance with the approved plan submitted with the application for the Conditional Use Permit. At such time as the Zoning Inspector finds that the land has been restored in accordance with the approved plan, submitted with the application for a permit, he shall recommend to the Trustees the release of the bond for each acre or portion thereof so restored.

The Township Trustees shall release the bond for each acre or portion thereof so restored.

5. In the event that the land is not restored in accordance with the approved plans as determined by the Zoning Inspector, at the time stated in the permit or any extension thereof granted by the Board of Zoning Appeals for good cause shown, or if the applicant fails to file the annual report required in Paragraph 4, above, or if the applicant deviated from the plan approved by, or the conditions stipulated by the Board of Zoning Appeals, the Board of Township Trustees shall declare the conditions of the bond forfeited and proceed to cause the land to be restored in accordance with the approved plan submitted by the applicant charging such cost to the bond. In the event the cost of restoring the land under the conditions of this paragraph exceeds the bond covering such restoration, the additional cost shall be charged as a lien against the property.
6. The Board of Zoning Appeals, in addition to the other powers granted to it by this Resolution, shall have the authority to allow the permanent impounding of water in such an excavation upon a finding that such a pond or lake will not be a health danger or safety hazard, and as a condition to allowing such a pond or lake may require that it be fenced or otherwise protected so that it will not become a nuisance.

B. Gas and Oil Wells

1. Definitions applicable only to this Section:
 - a. "Well" means any borehole, whether drilled or bored, within the Township, for production, extraction, or injection of any gas or liquid mineral, excluding potable water to be used as such, but including natural or artificial brines and oil field waters.
 - b. "Oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, but does not include hydrocarbons that were originally in a gaseous phase in the reservoir.
 - c. "Gas" means all natural gas and all other fluid hydrocarbons not defined above as oil, including condensate.
 - d. "Waste" includes: (1) physical waste, as such term is generally understood in the oil and gas industry; (2) inefficient storing of oil or gas; (3) locating, drilling, equipping, operating, or producing an oil or gas well in a manner that reduces or tends to reduce the quantity of oil or gas

ultimately recoverable under prudent or proper operations from the pool into which it is drilled, or that causes or tends to cause the unnecessary or excessive surface loss or destruction of oil or gas; (4) other underground or surface wastes in the production or storage of oil, gas, or condensate, however caused.

- e. "Owner" means the person who has the right to drill on a tract or drilling unit and to drill into and produce from a pool and to appropriate the oil or gas that he produces therefrom either for himself or for others.
 - f. "Pool" means an underground reservoir containing a common accumulation of oil or gas, or both, but does not include a gas storage reservoir. Each zone of a geological structure that is completely separated from any other zone in the same structure may contain a separate pool.
 - g. "Drilling Unit" means the minimum acreage on which one well may be drilled, but does not apply to a well for injecting gas into or removing gas from a gas storage reservoir.
 - h. "Tract" means a single, individually taxed parcel of land appearing on the tax list.
 - i. "Brine" means all saline geological formation water resulting, obtained or produced in connection with the exploration, drilling or production of oil or gas.
- 2. Oil or gas wells may be drilled in any Industrial District.
 - 3. A Conditional Use Permit shall be required.
 - 4. An Application for Conditional Use Permit shall be accompanied by detailed plans which shall contain as a minimum the following:
 - a. a plat, drawn to scale, showing the location of:
 - 1. ingress and egress points.
 - 2. the well.
 - 3. all known wells within 1000'.
 - 4. storage tanks.
 - 5. separator units.
 - 6. power shutoffs.
 - 7. transmission lines.
 - 8. oil flow shutoffs.
 - 9. permanent and temporary pits.
 - 10. access roads.
 - 11. all dikes and swales for erosion control and spill prevention.
 - b. a list of emergency telephone numbers of all parties responsible for any work on the tract.
 - c. a copy of the state permit.

- d. a copy of the state-approved brine and waste disposal plan. The plan shall include a description of the method of disposal of brine, frac-water, sludge, and any other oil field wastes, the name, address and telephone number of the person, corporation, or firm other than the owner, disposing of the waste, the location of the disposal sites being used and the name, address and telephone number of the owner of the disposal site and proof of liability insurance carried by the person, corporation or firm disposing of the waste and a copy of registration certificate required of brine transporters by the State of Ohio, ODNR, Division of Oil and Gas.
 - e. a copy of the Spill Prevention, Control and Countermeasure Plan (SPCC) as required by Title 40 Code of Federal Regulations, part 112.
 - f. a schedule of the proposed drilling operation.
 - g. proof of liability insurance for all operations related to drilling, production, storage and transmission of all products, byproducts, and wastes.
 - h. a bond for overweight vehicles in the amount of five thousand dollars (\$5,000.00) and in the form of a bank check or money order made payable to Painesville Township to be deposited and disposed of as hereinafter provided.
 - i. a copy of certified test results from the Lake County Health Department of private water supplies that are located within a 1,000 foot radius of the drilling site.
5. The issuance of a Conditional Use Permit for a gas or oil well shall be conditioned upon the following:
- a. Minimum Distances -- No gas well, oil well, storage tank or separator unit shall be placed within three hundred (300) feet of any building except storage sheds at the drilling site, or within five hundred (500) feet of any known source of water.
 - b. Placing of Equipment -- No equipment shall be placed within one hundred (100) feet of any property line unless both parties are part of the same drilling unit. In no case shall any equipment be placed directly on the property line.

- c. Clearing -- The immediate areas surrounding all permanent production facilities shall be kept mowed and cleared of combustible materials for a distance of fifteen (15) feet in all directions and shall be enclosed by a chain-link fence not less than six (6) feet in height topped with a double outward strand of barbed wire.
- d. Shut-off Valves -- All shut-off valves shall be painted the same conspicuous color for ease of identification in emergencies.
- e. Burial of Lines -- All gas and oil lines shall be buried at a minimum depth of thirty (30) inches. The location of such lines shall be drawn on a map and a copy deposited with the Township Zoning Inspector and Fire Department.
- f. Flaring -- All non-commercial shows of natural gas shall be flared through a flow line at least sixty (60) feet long into a separate flare pit. The flare pit shall contain a smudge pot which shall remain lit at all times. The flow line shall be directed away from all inhabited structures. No gas shall be flared into storage and/or brine pits or into any lined drilling pits.
- g. Access Roads -- Prior to the beginning of drilling, all access roads shall be paved with slag, gravel, crushed stone, or other suitable material and shall be a minimum of ten (10) feet wide. All access roads shall be kept plowed and free of snow to allow access by safety vehicles.

Where access roads cross natural or man-made drainage channels, culverts shall be installed. Culverts shall be sized according to the drainage area and approved prior to installation by the Township Road Supervisor.

- h. Locks -- All gates, storage tank manholes, discharge valves, fill valves, shutoff valves, and fence gates shall be locked. All locks at a given well shall utilize a master key. A master key marked with the well number shall be provided to the Zoning Inspector, the Fire Chief and the Lake County Sheriff. The owner shall provide a master key for each of its wells located in the Township.
- i. Signs -- Prior to the beginning of drilling, a permanent, weatherproof sign shall be posted and maintained at the site at all times. Said sign shall use letters and numerals at least five (5) inches in height and shall show:
 - 1. access street name, number or both.
 - 2. owner.
 - 3. lease name.
 - 4. well number.
 - 5. permit number.
 - 6. all emergency telephone numbers as required by Subsection 12.05 4-B and all local emergency numbers including but not limited to, Painesville Township Fire Department, Lake County Sheriff, etc.
- j. Parking -- All truck loading and parking areas shall be located outside of any road right-of-way.

- k. Storage Pits and Liners -- All cuttings and fluids produced during drilling operation must be contained in storage pits. Cutting and fluid storage pits shall be either equipped with a baffle to deflect cuttings or constructed to submerge cuttings as they enter the pit in order to preserve the integrity of the pit liner during the entire drilling process. All gas and oil production storage and brine storage pits shall be surrounded by perimeter dikes to prevent contamination of surface or ground water. All gas and oil production storage and brine storage pits shall be liquid tight and constructed and maintained so as to prevent escape of any produced brines or wastes. All storage pits shall have at least two layers of liners. Such liners shall be reinforced, a minimum of six millimeters thick, single piece and defect free. Each liner shall be separated by a minimum two (2) inch layer of clay. The liners shall be laid in opposite directions to assure their integrity. Dikes surrounding storage facilities shall have a capacity three times that of the storage vessel.
 - l. Diversionary Swales -- In locations where dikes may be damaged by storm runoff, a diversionary swale shall be constructed to prevent damage to the containment dikes.
 - m. Subsurface Drainage -- If, during construction of any temporary or permanent pit or containment dike, a subsurface drainage is encountered, said subsurface drainage system shall be removed to a distance of twenty (20) feet from the pit or containment dike and shall be plugged at that point.
 - n. Storage Tanks -- If a well is located on a steep slope or in a flood plain, storage tanks only shall be used; no open storage pits shall be used. All tanks shall be adequately and permanently anchored to resist slippage or flotation. All tanks shall be liquid tight.
 - o. Pollution of Water and Disposal of Wastes -- No person shall conduct any well drilling, production or transmission operation that contaminates or pollutes the land surface or any surface or subsurface water. No saltwater (brine), sludge, frac-water or any other oil field wastes shall be deposited or discharged in the Township for any purpose. No person shall vary or change the waste disposal plan or method initially submitted without prior approval of the Zoning Inspector. The owner shall maintain a record at the drill site of the name, address and telephone number of the person, corporation or firm disposing of the waste, the location of the disposal sites being used, and the name, address and telephone number of the owner of the disposal site, the method of disposal being used and the date, time and license plate number of the last vehicle to have left the drill site hauling waste.
 - p. Plats -- The owner and/or operator of all transmission lines shall provide the Zoning Inspector with a plat drawn to scale of all transmission lines within one thousand (1000) feet of the well. All transmission lines, buried or above ground, shall be marked with permanent markers. All lines crossing public highways shall be marked with permanent markers at each side of the right-of-way.
6. Prior to drilling, the Painesville Township Road Supervisor and a representative of the owner shall inspect all township roads in the vicinity of the drilling site and over which the owner expects to move equipment and/or vehicles. Upon the completion of drilling, any and all damage to township roads shall be assessed by the Road Supervisor and a representative of the owner and the estimated cost of repairs, if any, shall be deducted from the bond deposited with the Township.

At the end of each 24-hour period during drilling operations, the driller shall keep all township roads in the vicinity of the drilling site and over which the driller expects to move equipment and/or vehicles, free from accumulations of mud.

In the event that the amount of the bond exceeds the estimated cost of repairs required, the remainder of the bond shall be returned to the owner.

7. Cleaning of Pits and Disposal of Liners -- All gas and oil production liquid wastes, including but not limited to brine, sludge, frac-water and/or fluids contained in gas and oil production storage and disposed of as soon as practical after completion of the drilling operation, or within two weeks after completion of the drilling operation, whichever is sooner.
8. Lightning Rods -- Each permanent production, structure, including but not limited to separator units and storage tanks shall be equipped with properly grounded lightning rods.
9. Zoning Inspector -- The Painesville Township Zoning Inspector may inspect oil and gas wells and storage facilities at any time to insure compliance with local zoning regulations.
10. Fire Inspection -- The Chief Fire Prevention Officer of Painesville Township may inspect oil and gas wells and storage facilities at any time to insure compliance with local fire regulations.

C. Any change or alteration in existing grade or topography which results from deposit of material. (This Section C adopted November 23, 1993 by Resolution 93-81 effective December 23, 1993.)

1. Any application for a Conditional Use Permit for this use shall contain the following specific information:
 - a. The full name and address of the applicant, and if the applicant is a partnership, the full name and address of each of the partners, and if the applicant is a corporation, the name and address of its principal officers.
 - b. Description of the land on which the soil or substance is to be deposited, specifying the type of soil or substance to be deposited and the quantity in cubic yards of soil or substance to be deposited.
 - c. If persons other than the owner are interested in securing a permit, the owner shall join in, sign and be made a party to the application for such permit and shall agree to be bound by any condition imposed or made a part of said permit.
 - d. A site plan showing the existing and proposed grade or topography at two foot contour intervals on the lot or land involved and the land within 300 feet of the land involved including property lines, easements, street right-of-ways and existing structures. Said site plan shall be prepared at a scale of 200 feet per inch.
 - e. A sufficient number of dated photographs of the land to show the existing condition of the land depicting trees, landscape features and existing structures.
 - f. Engineering details, plans or methods concerning the prevention of erosion, dust control, alteration or filling of drainage ditches, swales or

culverts, interfering with or burying sewer or utility lines and the changes in the surface water runoff.

- g. The plans or methods by which the land is to be reclaimed after the deposit of the soil or substance including the reseeding or replanting of the land.
 - h. The method of drainage to be used during and after the operation is completed.
 - i. A work schedule setting forth the proposed time limits within which the operation will be commenced and completed showing the daily hours of operation, proposed haul roads if over the road vehicles are employed, methods of traffic control, methods of maintenance to insure that public right-of-ways are kept undisturbed, clean and safe along or in the vicinity of the proposed haul roads from or to the land involved.
 - j. Such other or further information as the Board of Zoning Appeals may deem necessary.
- D. New car agency shall be defined as any person engaged in the business of selling at retail, displaying, offering for sale, and/or dealing in automobiles and/or trucks at an established place of business used exclusively for such purposes and pursuant to a contract or agreement entered into with the manufacturer of vehicles. (This Section D adopted June 22, 1995 by Resolution 95-47 effective July 22, 1995.)
- 1. Accessory uses - sales at retail, displaying, offering for sale, and dealing in used automobiles and/or trucks shall be considered to be an accessory use to the main use of the site as a new car agency, and shall be permitted provided that such sale at retail, display, offering for sale, and dealing in used automobiles and/or trucks is operated in conjunction with, on the same site as, and under the same ownership and management as, the new car agency.
 - 2. New car agency shall be permitted in a B-3 Commercial District Only.
 - 3. Lot area - Minimum lot area shall be three (3) contiguous acres not separated or divided by any public or private highway, street, road, alley, or right of way of any description.
 - 4. Building uses: space, under roof shall be provided for the following:
 - a. Offices.
 - b. Display of at least three (3) new automobiles and/or trucks;
 - c. Inspection, servicing and repair area for at least three automobiles and/or trucks, and;
 - d. Sufficient parts and storage area to comply with Subsection (c) herein.
 - 5. Lot coverage - The ground floor area of all buildings shall not exceed thirty (30%) percent of the area of the site.
 - a. At least fifty percent (50%) of the remaining area shall be devoted to parking and display of new automobiles and/or trucks;
 - b. No more that twenty five percent (25%) of the remaining area shall be devoted to parking and displaying used automobiles and/or trucks; and
 - c. At least fifteen (15%) percent of the remaining area shall be devoted to parking for customers and employees' vehicles.

6. Lighting: Lighting for all areas used for the outdoor display of automobiles shall be in accordance with Section XXIV.
 7. In computing lot area coverage and minimum setback, side and rear yard clearances, parking facilities and buffering must comply with provisions of Section XXIV and Section XXIX.
 8. Maximum height of buildings - see Section 24.08
 9. Signs - see Section 24.11
 10. Such other information as the Board of Zoning Appeals may deem necessary.
- E. Construction, erection and/or use of a wireless telecommunications tower, antenna, facility and/or equipment shelter shall be permitted only after obtaining a conditional use permit if required by the Township pursuant to the Ohio Revised Code. Wireless conditional uses are for residential districts only. Commercial and Industrial districts do not need permits. (Adopted July 11, 2006 by Resolution 2006-58, effective August 10, 2006)
1. Definitions: as used in this Zoning Resolution, the following definitions apply:
 - a. Co-location: The use of a wireless telecommunications facility by more than one wireless telecommunications provider.
 - b. Lattice tower: A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.
 - c. Monopole: A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.
 - d. Telecommunication: The technology which enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.
 - e. Wireless Telecommunications Antenna: The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used solely for the purpose of amateur radio operation are excluded from this definition.
 - f. Wireless Telecommunications Equipment Shelter: The structure in which the electronic receiving, transmitting and relay equipment for a wireless telecommunications facility is housed.
 - g. Wireless Telecommunications Facility: A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.
 - h. Wireless Telecommunications Tower: A structure intended to support equipment used to transmit and/or receive telecommunication signals including monopoles, guyed and lattice construction steel structures.
 2. Wireless telecommunications antennas, equipment shelters, facilities and towers are not permitted in any residential (R-) Districts. If the wireless telecommunications antenna, equipment shelter, facility or tower is proposed by a

public utility engaged in the provision of telecommunications services, the public utility must comply with O.R.C. §519.211, and is subject to denial by the Painesville Township Trustees, as set forth therein.

3. An applicant for wireless telecommunications antenna, equipment shelter, facility, or tower shall provide the Board of Zoning Appeals with the following information at the time of the application:
 - a. An Affidavit of an authorized officer of the applicant setting forth the attempts which have been made at achieving co-location of a wireless telecommunications facility in the area, and setting forth the reasons why co-location is impractical or impossible under the circumstances.
 - b. A grid setting forth all wireless telecommunications antennas, towers and facilities within a five (5) mile radius of the proposed site, together with the name, address and telephone number of the owner of the tower.
 - c. The number of current wireless telecommunications antennas currently placed upon all of the telecommunications facilities and/or towers within said five (5) mile radius.
 - d. A statement setting forth whether or not the applicant considers itself to be a public utility, and if so, the specific reasons why it considers itself a public utility, giving appropriate citations to authority.

4. Except as otherwise provided in this section, all wireless telecommunications, antennas, equipment shelters, facilities and towers shall comply with the following standards:
 - a. Design:

All towers shall be of a monopole or lattice design. Towers and antennas shall be designed to meet all Painesville Township and/or Lake County Building Department requirements.
 - b. Maximum height of tower and related facilities:

A wireless telecommunication tower shall be less than two hundred (200) feet in height as measured from the average ground level at the base of the tower to the top point of the structure. The intent of this height restriction is to avoid the necessity for lighting of the tower. No equipment building for wireless tower facility shall exceed fifteen (15) feet in height from building grade.
 - c. Unless otherwise required by the Board of Zoning Appeals, the color of the tower shall be a neutral gray.
 - d. Additional Permitted use:

A wireless telecommunication tower facility may be located on a lot with another use.
 - e. Minimum lot area:

The minimum lot area shall be the same as that required for the underlying zoning district and the lot area shall be sufficient to provide for all requirements of setbacks, yards and building coverage as specified in the underlying zoning district.

f. Location of tower on the lot:

Unless otherwise provided in this Section, a wireless telecommunication facility must comply with the setback and yard requirements applicable to buildings in the underlying zone in which it is located. Such tower must be placed upon the lot in such a way as to minimize the visual impact on adjoining roads and properties.

g. Spacing:

Multiple wireless communications towers are permitted on a single lot in commercial and industrial districts only, up to a limit of two towers per acre, or with a variance granted by the Board of Zoning Appeals. Except as otherwise provided for in this Section, there shall be a separation of at least two thousand five hundred (2,500) feet between towers.

h. Fencing:

Fencing shall be provided for public safety reasons. A fence at least six (6) feet in height, but no greater than eight (8) feet in height, shall be erected completely around those portions of the wireless communication facility that come in contact with the ground. "No Trespassing" signs shall be posted around the telecommunication facility with a telephone number of a person to contact in the event of an emergency.

i. Buffer zones:

A landscaped buffer area of not less than fifteen (15) feet in depth shall be placed between the wireless communication facilities and the public rights-of-way and any adjacent properties from which a direct view can be had of the facilities, other than the tower itself. The fifteen (15) foot landscape buffer shall consist of a tight screen fence of hardy evergreen shrubbery not less than six (6) feet in height. The landscaping shall be continuously maintained and promptly restored, if necessary.

j. Outdoor storage:

Overnight outdoor storage of any supplies, vehicles or equipment related to the use of the facility is prohibited except during the facility construction period, during periodic maintenance, activity related to establishment of co-location, and to supply emergency power to the facility only during a power outage.

k. Lighting:

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 Federal Aviation Administration (FAA) regulation, 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 at the wireless telecommunications facility with a prior approval of the Board of Zoning Appeals pursuant to a conditional zoning certificate issued pursuant to Section VII of the Zoning Resolution.

l. Notification of fire department:

After issuance of the conditional use permit, the owner or operator of a wireless telecommunication tower shall notify the Painesville Township Fire Department by certified mail of the location and height of the proposed tower as a condition of issuance of a zoning certificate.

m. FCC compliance:

Prior to receiving final inspection by the Zoning Inspector, documented certification shall be submitted to the Zoning Inspector, certifying that the wireless communication facility complies with all current Federal Communications Commission (FCC) regulations and all Federal Aviation Authority (FAA) regulations.

n. Advertising:

No advertising shall be permitted on the wireless telecommunication facility.

o. Time limit for commencement and completion of construction:

After issuance of a zoning certificate to construct a wireless communication facility, the applicant shall commence construction within one hundred eighty (180) days and shall complete construction within one (1) year or the zoning certificate shall expire. As a condition of issuance of the certificate, the Zoning Inspector shall require the applicant and the owner of the property to certify that if construction is not commenced within the one hundred eighty (180) days or completed within one (1) year, that the site will be available for another wireless telecommunications facility.

p. Maintenance plan:

Prior to the final inspection by the Zoning Inspector and initial commencement of the use, the owner/operator of a wireless telecommunication facility shall submit to the Zoning Inspector a maintenance plan for the facility that meets commonly used industry standards.

q. Removal of facilities:

The owner or operator shall agree to remove a nonfunctioning facility within six (6) months of ceasing its use. The owner/operator of the antenna and/or tower shall, on no less than 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 every facility which is subject to this Section 12.05(E). The owner/operator of the antenna and/or tower shall sign a written consent agreeing to permit periodic inspections of the wireless telecommunication facility by the Zoning Inspector or designee.

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 Township Trustees of not less than \$100.00 per vertical foot from natural grade of the wireless telecommunication tower which bond shall insure that an abandoned, obsolete or destroyed wireless telecommunication antenna or tower facility shall be removed within six (6) months or cessation of use and abandonment. Any successor-in-interest or assignee of the owner/operator of the facility shall also post such a bond.

5. Notwithstanding any provision in this Section to the contrary, a wireless telecommunications tower or facility may be permitted on any property owned or controlled by the Board of Painesville Township Trustees under such conditions, standards and regulations as approved by said Board of Painesville Township Trustees. In the event such property is located in a residentially zoned district, prior to the approval by the Board of Painesville Township Trustees of any construction of a wireless telecommunications tower or facility, advanced notice by certified mail of a public meeting by the Board of Painesville Township Trustees proposing the construction shall be given to each owner of property whose land is contiguous to the Township property on which the tower is proposed to be constructed.
6. The application for conditional use permit may be denied by the Board of Zoning Appeals in the event they determine that the applicant has not made substantial attempts to achieve co-location on an existing wireless telecommunications tower, and be further subject to any additional regulations deemed reasonable by the Board of Zoning Appeals based on the particular application and its proximity to surrounding uses and structures.

12.06 Application for Conditional Use Permit

An application for a Conditional Use Permit shall be filed with the Board of Zoning Appeals in accordance with procedure set forth in Ohio Revised Code Section 519.15 by at least one owner or lessee of property for which such conditional use is proposed. At a minimum, the application shall contain the following information:

- A. The name, address and telephone number of the applicant or an individual, and if a firm or partnership the names and residences of the manager and each member of the firm or partnership, and if a corporation the names of its officers and manager. If the applicant is not owner of the land or building, the application shall contain the owner's name and address and the owner shall sign and be made a party to the application.
- B. Legal description of property.
- C. Description of current use.
- D. Zoning District.
- E. Description of proposed conditional use.
- F. Plot plan drawn to scale of all equipment and installations including location of all buildings and structures, parking and loading area, traffic access and internal traffic circulations, open spaces, landscaping, refuse and service areas, signs, utilities and yards.
- G. Traffic analysis.
- H. Drainage analysis.
- I. Construction timetable.
- J. Evidence of financial capability.
- K. Such other information as the Board of Zoning Appeals may require.

12.07 Fee

- A. The party appealing to the Board of Zoning Appeals shall deposit with the Zoning Inspector a fee in accordance with a fee schedule adopted by the Board of Township Trustees and made a part of this Resolution. Said fee is to cover expenses of notice and transmission of papers incident to application for a Conditional Use Permit. If a verbatim record is desired by the applicant, he shall furnish the court reporter and bear the expense of typing said record.
- B. A fee or fees in accordance with a fee schedule adopted by the Board of Township Trustees and made a part of this Resolution may be required as one of the conditions of a Conditional Use Permit. Any change or modification in said fee schedule shall be made only once in a calendar year by proper motion at a regular meeting and adopted by a majority vote.

12.08 Notice of Hearing and Procedures

See Ohio Revised Code Chapter 519 and any amendments thereto. (Adopted July 11, 2006 by Resolution 2006-58, effective August 10, 2006)

12.09 Issuance of Permit

In the event the decision of the Board of Zoning Appeals is favorable to the applicant, a Conditional Use Permit shall be issued which clearly states all the conditions and covenants to which said Permit is subject. A copy of the Permit shall be signed by the Board of Zoning Appeals and the applicant shall consent in written form and agree to abide by all conditions imposed by the Board of Zoning Appeals. A copy of the Permit shall be conveyed to the Applicant, the Township Fire Chief, the Township Zoning Inspector and the Board of Township Trustees.

12.10 Enforcement

The Painesville Township Zoning Inspector shall enforce compliance with all conditions as set forth in the Permit.

12.11 Revocation

The Zoning Inspector, upon recommendation of the Chief of Painesville Township Fire Department, the Lake County Sheriff's Department or by his own authority, may at any time revoke or suspend Conditional Use Permits for the applicant's failure to comply with any applicable sections of this Resolution.

12.12 Penalty

Whosoever violates the provisions shall, in addition to other remedies as provided by law, be subject to the penalties as provided in Section IV of this Resolution.

12.13 Permit Renewal

As one of the conditions of the issuance of a Conditional Use Permit, the Board of Zoning Appeals shall require a renewal application, on a form prescribed by the Board of Township Trustees, to be filed with said Board of Zoning Appeals by the applicant no less than once every five years and no more than once a year. The Permit shall be renewed by the Board of Zoning Appeals without public hearing, unless the Board of Zoning Appeals has reasonable grounds to believe that the applicant has not complied with the conditions upon which the Permit was issued, or there has been a change of conditions that make the intended use incompatible with the observance of and conformity to this Resolution.