

# ARTICLE 12                      ADMINISTRATION, APPEALS, AND VARIANCES

## **SECTION 12.01    ZONING INSPECTOR**

12.01.01 It shall be the duty of the Zoning Inspector who shall be appointed by the Board of Trustees, to enforce this Resolution. It shall also be the duty of all officials and employees of the township to assist the Zoning Inspector by reporting to him new construction, reconstruction, or land uses or upon observing violations.

12.01.02 Appeal from the decision of the Zoning Inspector may be made to the Board of Appeals.

## **SECTION 12.02    TOWNSHIP ZONING COMMISSION**

12.02.01 Members. The composition of the Zoning Commission shall comply with the requirements of the Ohio Revised Code and all members of said commission shall reside in a portion of the Township that is within a "District" as established in Article 2 (Establishment of Districts and Maps), herein.

12.02.02 Officers. The Zoning Commission shall hold an annual election for the purpose of selecting its officers who shall include a chairperson and vice chairperson. The election of such officers shall be held in January of each year at a regularly scheduled meeting.

12.02.03 Meetings. The Commission shall adopt its own bylaws for the transaction of its business.

12.02.04 Records. An official record of the Commission's meetings, actions, and determinations shall be kept. A copy of the agenda and minutes of each meeting and public hearing shall be supplied to the Board of Trustees for its own file.

## **SECTION 12.03    BOARD OF ZONING APPEALS**

12.03.01 The Board of Zoning Appeals is hereby established by this Resolution.

12.03.02 Powers and Duties. The Board shall have the following powers and duties as provided herein.

- a) Appeals. The Board of Zoning Appeals shall have appellate jurisdiction relative to appeals of a lawfully executed order by any administrative official in the enforcement of this Resolution.
- b) Interpretation of District Map. Interpret provisions of the Resolution in such a way as to carry out the intent and purpose of the plan, as shown upon the District Map fixing the several districts, accompanying and made a part of this layout as shown on the map aforesaid.

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- c) Area Variances. Upon appeal, the Board shall have appellate jurisdiction relative to requests for area variances from the terms and conditions of this Resolution that result in practical difficulty.
- d) Use Variances. Upon appeal, the Board shall have appellate jurisdiction relative to requests for use variances from the terms and conditions of this resolution that will result in unnecessary hardship.
- e) Conditional Uses. The Board shall have original jurisdiction to determine the issuance of a Zoning Permit where the use of land, buildings, or other structures is conditionally permitted under the requirements and conditions of this Resolution. This authority shall include the determination whether an industry should be permitted within an "I" Industrial District because of the methods by which it would be operated and because of its effect upon uses within surrounding zoning districts.

### **SECTION 12.04**    **CONDITIONAL USE REVIEW**

The Board of Zoning Appeals shall have the power to decide upon applications for conditional uses as specified under [Article 4](#) (Permitted and Conditional Use Regulations).

#### 12.04.01 Public Hearing and Notice

The Board shall hold a public hearing for a proposed conditional use within a reasonable time of receipt of an application and all specified fees.

- a) Prior to the public hearing, at least a ten (10) day notice shall be published in one or more newspapers of general circulation in the Township, stating the time and place thereof.
- b) Written notice of the hearing shall be mailed by the Board of Zoning Appeals, by first class mail, at least ten (10) days before the date of the public hearing, to the applicant and all parties in interest, including owners of property within, contiguous to, and directly across the thoroughfare from the area under consideration. Such notice shall be addressed to such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by the Board of Township Trustees.

#### 12.04.02 Criteria for Decision. In considering such applications, the Board shall give due regard to:

- a) The nature and purpose of the conditional use and to the nature and conditions of all adjacent uses.
- b) The location, size, and nature of the use; the intensity of its operation; site layout and design shall be such that it will not adversely affect adjacent uses and/or structures, pose a hazardous situation for neighborhood residents where applicable, nor adversely affect vehicular or pedestrian traffic at or near the site of the intended use.

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- c) The use shall be compatible and at best complementary to other uses in the district.
- d) The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

12.04.03 Review by Other Officials. The Board of Zoning appeals may request additional information or review of the conditional use application by other Township officials, County agencies, or the Wood County Planning Commission.

12.04.04 Decision. The Board of Zoning Appeals may approve, approve with modifications, or deny an application for a conditional use if such uses do not promote or protect the health, safety, and welfare of the public and/or adjacent property owners. The Board shall make its findings and determination in writing within thirty (30) days from the date of the public hearing.

a) Approval. If the application is approved or approved with modifications, the Board shall direct the Zoning Inspector to issue the permit listing the specific conditions specified by the Board of approval. A Zoning Permit for an approved Conditional Use shall be granted for only one particular conditional use.

1) The Board may impose such requirements it deems necessary to promote and protect the health, safety and welfare of the public and adjacent property owners including specific limitations as to future expansion.

2) Violations of such conditions and safeguards, when made a part of the terms under which the use is granted, shall be deemed a violation of this Resolution and punishable under Section 13.05 (Violations and Penalties).

b) Denial. The Board may reject applications for conditional uses if it is determined that such uses do not promote or protect the health, safety and welfare of the general public and/or adjacent property owners.

12.04.05 Appeal of Board Decisions. If the Board disapproves the application, the applicant may seek relief through the Court of Common Pleas.

12.04.06 Record of Appeals, Variances, and Conditional Uses. A public record of all appeals, variances, and conditional use applications and their disposition shall be kept on file in the office of the Zoning Inspector.

12.04.07 Termination of Zoning Permit for a Conditional Use. A Zoning Permit for an approved Conditional Use shall automatically terminate if, for any reason, the conditional use is not initiated within one (1) year of the granting of the permit or if the conditional use ceases to exist for more than two (2) years.

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### **SECTION 12.05 APPEALS**

The Board shall have the power to hear and decide where an aggrieved person who has an immediate and pecuniary interest alleges there is an error in any order, requirement, decision, or determination made by any administrative official in the enforcement of this Resolution and they have been prejudiced the judgment appealed from.

12.05.01 An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector shall certify to the Board of Zoning Appeals after the notice of appeal shall have been filed with it that by reason of facts stated in the permit or certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board or by a court of equity, after notice to the officer from whom the appeal is taken on due cause shown.

12.05.02 The Board may, in conformity with the provisions of this Resolution, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make such order, requirement, decision or determination as in its option ought to be made in the premises; and to that end, shall have all powers of the Zoning Inspector from whom the appeal is taken.

### **SECTION 12.06 VARIANCES**

In hearing and deciding appeals, the Board shall have the power to authorize such variances from the provisions or requirements of this Resolution as will not be contrary to the public interest. In authorizing a variance, the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objectives of this Resolution. On variance appeal where there are practical difficulties in carrying out the strict letter of this Resolution, the Board may grant a variance in the application of the provisions of the Zoning Resolution only if all of the following findings are made:

- a) Area Variance. Unique physical circumstances of the lot or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions create the provisions of the Zoning Resolution in the neighborhood or district in which the property is located.
- b) Use Variance. Unique physical circumstances of a lot or conditions prevent property development in strict conformity with the provisions of the zoning resolution as a permitted or conditional use for the zoning district in which the subject property is located and thus create an undue hardship for which a variance is necessary to enable the reasonable use of the property.
- c) That such unnecessary hardship has not been created by the appellant.
- d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

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- e) That the variance, if authorized, is in harmony with the general purpose and intent of the Resolution and will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

### **SECTION 12.07    PROCEDURE FOR PUBLIC HEARINGS**

Appeals and variance appeals shall conform to the following procedures and requirements of this Resolution.

12.07.01 Application. An appeal from any action, refusal or ruling of the Zoning Inspector shall be filed within twenty (20) days after such action or refusal or the announcement of such ruling.

- a) All applications shall be in writing, shall be signed by the owner of the property involved or his duly authorized agent or attorney, shall specify the request and grounds thereof, and shall be filed in the office of the Zoning Inspector.
- b) Application Fees, Charges, and Expenses. An application filed for the purpose of obtaining an appeal or variance must be accompanied with an application fee in the specified amount set from time to time by a separate resolution adopted by the Board of Trustees. Until all applicable fees, charges, and expenses have been paid in full, the application of appeal is not complete and no action shall be taken.
- c) The Zoning Inspector shall forthwith transmit to the Board the application and all papers constituting the record upon which the action or ruling appealed from was taken.

12.07.02 Public Hearing and Notice. The Board shall hold a public hearing on each appeal within a reasonable time of receipt of an application for an appeal or variance.

- a) Publication of Notice. The Board shall publish notice of the time and place of the public hearing at least ten (10) days prior to the public hearing in one or more newspapers of general circulation in the Township, stating the time and place thereof.
- b) Written Notice. Written notice of the hearing shall be mailed by the Board of Zoning Appeals, by first class mail, at least ten (10) days before the date of the public hearing to all owners of property within, contiguous to, and directly across the thoroughfare from the area under consideration, to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by the Board of Township Trustees.
- c) Review by Other Officials. The Board of Zoning appeals may request additional information or review of the appeal, variance, or conditional use permit by other Township officials, County agencies, or the Wood County Planning Commission.

12.07.03 Decision. The Board shall make its findings and determination in writing within thirty (30) days from the date of the public hearing.

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- a) Approval of Appeal; Supplemental Conditions and Safeguards. In granting an appeal or variances, the Board may prescribe appropriate conditions and safeguards in conformity with this Resolution. If the application is approved or approved with modifications, the Board shall direct the Zoning Inspector to issue the permit listing the specific conditions specified by the Board of approval. Violations of such conditions and safeguards, when made a part of the terms under which the use is granted, shall be deemed a violation of this Resolution and punishable under Section 13.05 (Violations and Penalties).
- b) Disapproval; Appeal of Board Decisions. If the Board disapproves the application, the applicant may seek relief through the Court of Common Pleas.

12.07.04 Record of Appeals and Variances. A public record of all appeals and variance applications and their disposition shall be kept on file in the office of the Zoning Inspector.