

Article XV. Township Zoning Inspector**Section 15.00 *Position of Township Zoning Inspector Established***

For the purpose of enforcing these zoning regulations the position of township zoning inspector is hereby established; the board of township trustees may establish the position(s) of Assistant Township Zoning Inspector(s).

The board of township trustees shall fill the position of township zoning inspector, together with such assistants, as the board from time to time deems necessary, fix the compensation for such positions, and make disbursements for them.

Section 15.01 *Zoning Inspector's Bond*

The township zoning inspector, before entering upon the duties of his office, shall give bond in accordance with the Ohio Revised Code.

Section 15.02 *Duties of Township Zoning Inspector*

It shall be the duty of the township zoning inspector to enforce the zoning regulations contained in this resolution, and thus in order to fulfill said duty, the township zoning inspector shall:

- A. Provide applications for Zoning Certificates to those persons who wish to apply for a Zoning Certificate.
- B. Receive and act upon applications for Zoning Certificates in accordance with Section 18.02 and Section 18.03.
- C. Issue Zoning Certificates as permitted by the terms of this resolution.
- D. Revoke Zoning Certificates as permitted by the terms of this resolution.
- E. Receive and act upon complaints regarding violations of this resolution in accordance with Section 18.05.
- F. Make inspections as required to fulfill his duties.
- G. Upon finding that any provision of this resolution is being violated, he shall notify, in writing, the person responsible for such violation, ordering the action to correct such violation.
- H. Take any other action authorized by this resolution or by law to ensure compliance with or to prevent violations of this resolution.
- I. Safely keep an official record of all actions taken in fulfillment of the duties imposed on him by this zoning resolution; and, safely keep all documents, including applications, complaints, Zoning Certificates, reports and inspections which are received, issued or

made in connection with his duties as zoning inspector. All such records and documents shall be indexed by name, address and date and kept in an orderly fashion and shall be open to public inspection. Copies of any of these records and documents shall be provided to any member of the public upon payment of a copying fee as established by the board of township trustees. None of the records or documents so kept shall be destroyed except upon compliance with R. C. 149.42.

- J. Receive for filing and note the date of filing of notices of appeal to the board of zoning appeals as provided in R.C. 519.15. Notices of appeal, with the date of filing thereon, shall be safely kept in the official records of the township Zoning Inspector.
- K. Upon receipt of a notice of appeal to the Board of Zoning Appeals, the Zoning Inspector shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.
- L. Shall safely keep and deposit all fees and monies received by him with the township fiscal officer within twenty-four (24) consecutive hours of receipt pursuant to R.C. 117.17.

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Article XVI. Township Zoning Commission**Section 16.00 Township Zoning Commission Created**

The board of township trustees of any township proceeding under 519.04 of the Ohio Revised Code shall create and establish a township zoning commission. The commission shall be composed of five members who reside in the unincorporated area of the township, to be appointed by the board of township trustees. The board of township trustees may appoint two alternate members to the township zoning commission, each for a two year term. The two alternate members shall be identified as first and second alternate indicating the order in which they shall fill vacancies occurring on the zoning commission.

- A. An alternate member shall take the place of an absent regular member at any meeting of the township zoning commission. An alternate member shall meet the same appointment criteria as a regular member. Alternate members of the zoning commission are expected to attend all meetings of the zoning commission even when they are not filling a vacancy. At such times their status as an active or inactive alternate member shall be made clear to all attending the meeting. If a regular member fails to appear, or appears following the start of a meeting, then the alternate member shall fill the vacancy of the regular member immediately, but not before, the start of the meeting, and all related continuance meetings. The start of a meeting begins at the call to order. The terms of the regular members shall be of such length and so arranged that the term of one member will expire each year. Where there is a county planning commission the board of township trustees may appoint qualified members of such commission to serve on the township zoning commission. Each regular or alternate member shall serve until the member's successor is appointed and qualified. Members of the zoning commission shall be removable for nonperformance of duty, misconduct in office, or other cause by the board, upon written charges being filed with the board, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least ten days prior to the hearing, either personally, by registered mail, or by leaving such copy at the member's usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by the board of township trustees and shall be for the unexpired term.

Section 16.01 Recommendations of Township Zoning Commission; Organization, Powers and Compensation of Commission.

- A. The Zoning Commission may, within the limits of the monies appropriated by the Board of Township Trustees for the purpose, employ or contract with such planning consultants and executive and other assistants as it deems necessary. The Zoning Commission shall organize, adopt rules for the transaction of its business, and keep a record of its actions and determinations. Members of the Zoning Commission may be allowed their expenses, or such compensation, or both, as the Board of Township Trustees may approve and provide. No Township Trustee shall be employed by the Zoning Commission of this township.

- B. The Zoning Commission shall make use of such information and counsel as is available from appropriate public officials, departments, and agencies and such officials, departments, and agencies having information, maps, and data pertinent to township zoning shall make them available for the use of the Zoning Commission.
- C. The Zoning Commission may initiate and/or review proposed amendments and supplements to this resolution and make recommendations on same to the Board of Township Trustees as specified in R.C Section 519.12 and Article XIX of this Resolution.

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Article XVII. Township Board of Zoning Appeals**Section 17.00 Township Board of Zoning Appeals Created**

Pursuant to R.C. 519.13, the Board of Township Trustees shall appoint a township Board of Zoning Appeals for said township, composed of five (5) members who shall be residents of the unincorporated territory in the township included in the area zoned.

The terms of all members of said Board of Zoning Appeals, shall be of such length and so arranged that the term of one (1) member will expire each year.

Each member shall serve until his successor is appointed and qualified. Vacancies shall be filled by the Board of Township Trustees and shall be for the unexpired term. The members may be allowed their expenses, or such compensation, or both, as the Board of Township Trustees may approve and provide.

The Board of Zoning Appeals may, within the limits of the monies appropriated by the Board of Township Trustees for the purpose, employ such executives, professional, technical, and other assistants, as it deems necessary.

Section 17.01 Powers of Township Board of Zoning Appeals

The township Board of Zoning Appeals may:

- A. Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning inspector in the enforcement of sections 519.02 to 519.25 of the Ohio Revised Code or of this resolution.
- B. Authorize, upon appeal, in specific cases, such variance from the terms of this zoning resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of this resolution will result in unnecessary hardship, and so that the spirit of this resolution shall be observed and substantial justice done. In determining an appeal requesting a variance, the Board shall base its findings on the criteria set forth in Section 17.03(B) subparagraph 13(c):
- C. Grant conditional Zoning Certificates for the use of land, buildings, or other structures in accordance with this resolution.
- D. Revoke an authorized variance or conditional Zoning Certificate granted for the extraction of minerals, if any condition of the variance or certificate is violated in accordance with Section 10.07.

Section 17.02 *Rules, Organization, and Meetings of Board of Zoning Appeals*

- A. The township Board of Zoning Appeals shall organize and adopt rules in accordance with this zoning resolution. Meetings of the Board of Zoning Appeals shall be held at the call of the chairperson and at such other times as the Board of Zoning Appeals determines. The chairperson, or in his/her/hers absence the acting chairperson, may administer oaths, and the Board of Zoning Appeals may compel the attendance of witnesses. All meetings of the Board of Zoning Appeals shall be open to the public. The Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Township Trustees and be a public record.
- B. The attendance of three (3) members of the Board of Zoning Appeals is required for a quorum.

All decisions, motions, and actions of the Board of Zoning Appeals shall be by the affirmative vote of at least three (3) members of the board.

- C. At their discretion, the Township Board of Trustees may appoint two (2) additional residents of the Township to serve as alternate members for each a two-year term. The two (2) alternate members shall be identified as first and second alternate indicating the order in which they shall fill vacancies occurring on the Board of Zoning Appeals. When filling a vacancy created by an absent regular member, the alternate member shall be subject to all responsibilities and privileges of a regular member under the by-laws of the Board of Zoning Appeals. Alternate members of the Board of Zoning Appeals are expected to attend all meetings of the Board of Zoning Appeals even when they are not filling a vacancy. At such times their status as an active or inactive alternate member shall be made clear to all attending the meeting.

If a regular member fails to appear, or appears following the start of a meeting, then the alternate member shall fill the vacancy of the regular member immediately, but not before, the start of the meeting, and all related continuance meetings. The start of a meeting begins at the strike of the gavel and the swearing in of the audience.

The chairperson shall always preside over a meeting. Upon the chairperson's absence, the vice-chairperson shall preside. Upon the absences of both the chairperson and vice-chairperson at a meeting, the regular member with greatest seniority shall preside. At no time will an alternate preside.

The terms of the alternate members shall be staggered and so arranged that the term of one member shall expire on December 31 of every year. Each alternate shall serve until his successor is appointed and qualified unless the position of the alternate is abolished by the Township Board of Trustees. The position of alternate member may be abolished at any time at the pleasure and discretion of the Township Board of Trustees. An alternate member shall be removable for nonperformance of duty, misconduct in office,

or other causes by the Township Board of Trustees upon the same procedure as is applicable to regular members of the Board of Zoning Appeals.

Section 17.03 *Procedures of Board of Zoning Appeals*

- A. Appeals to the board of zoning appeals may be taken by any person aggrieved or by any officer of the township affected by any decision of the zoning inspector. Such appeal shall be taken within twenty (20) days after the decision of the Zoning Inspector by filing, with the Zoning Inspector and with the Board of Zoning Appeals, a notice of appeal specifying the grounds of appeal. The Zoning Inspector shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.
- B. Written notices of appeal shall be made on forms provided by the township zoning inspector and shall be signed and dated by the appellant or his authorized legal representative attesting to the truth and accuracy of all information supplied on the notice of appeal.

All notices of appeal shall contain the following language:

The penalty for falsification is imprisonment for not more than six (6) months, or a fine of not more than one thousand dollars (\$1,000) or both.

All completed notices of appeal shall be filed with the township Zoning Inspector and the Board of Zoning Appeals and shall include, at a minimum, the following:

1. The name, address, and telephone number of the appellant, together with a list of the addresses from the county auditor's current tax list of all owners of property which are contiguous and directly across the street from the area where the variance or conditional use is sought.
2. The name, address, and telephone number of the owner of record.
3. The address of the property, if different from the appellant's current address.
4. Documentation as to authority to file notice of appeal (e.g., deed, power of attorney, lease or purchase agreement).
5. A legal description of the property, as recorded with Geauga County Recorder.
6. The current zoning district in which the property is located.
7. A description of the existing use of the property.
8. A description of the proposed use of the property.
9. Two (2) copies of a plan or map, drawn to scale, with a north arrow and date showing the following:

- a. The dimensions (in feet) of all property lines and the total acreage of the property.
 - b. The dimensions (in feet) of existing buildings or structures on the property, if any.
 - c. The setback (in feet) from all property lines of existing buildings or structures on the property, if any.
 - d. The dimensions (in feet) of proposed buildings or structures on the property or of any addition or structural alteration to existing buildings or structures.
 - e. The total amount of square feet of floor space for each floor of proposed buildings or structures on the property or of any addition or structural alteration to existing buildings or structures.
 - f. The setback (in feet) from all property lines of proposed buildings or structures on the property or of any addition or structural alteration to existing buildings or structures.
 - g. The height (in feet) of existing buildings or structures on the property.
 - h. The height (in feet) of proposed buildings or structures on the property or of any addition or structural alteration to existing buildings or structures.
 - i. The name and location of the existing road(s), public and private, adjacent to the property.
 - j. The number of dwelling units existing (if any) and proposed for the property.
 - k. The location, dimensions (in feet), and number of parking spaces existing (if any) and proposed.
 - l. For commercial and industrial uses: the location, dimensions (in feet) and number of loading/unloading spaces.
 - m. The location and dimensions (in feet) of any existing or proposed easements on the property.
10. The number of the application for the Zoning Certificate.
 11. All notices of appeal for signs shall include, at a minimum, two (2) copies of a drawing or map, drawn to scale with a north arrow and date, showing:
 - a. The dimensions (in feet) of the sign.
 - b. The area of the sign in square feet.
 - c. The location of the sign on the building, structure, or property including dimensions (in feet) from the front and side lot lines.

- d. The height (in feet) of the sign.
 - e. The method of illumination, if any.
 - f. The content of the sign.
12. For notices of appeal alleging error by the zoning inspector, a written statement shall be made by the appellant or his authorized representative relative to the alleged error made by the zoning inspector in his determination of the application for the Zoning Certificate.
 13. For notices of appeal requesting a variance, the appellant or his authorized representative shall provide the following:
 - a. A statement relative to the exact nature of the variance requested.
 - b. The specific zoning regulation(s) shall be cited from which variance is requested.
 - c. Written justification for the requested variance shall be made by the appellant and the Board of Zoning Appeals shall determine if the proposed variance involves an "area" variance or a "use" variance.
 - I. Standards for an "area" variance: The practical difficulties standard shall apply to an area variance and the factors to be considered include, but are not limited to, the following:
 - i. Whether the lot in question will yield a reasonable return or whether there can be any beneficial use of the lot without the variance.
 - ii. Whether the variance is substantial.
 - iii. Whether the essential character of the neighborhood would be substantially altered or whether adjoining lots would suffer a substantial detriment as a result of the variance.
 - iv. Whether the variance would adversely affect the delivery of governmental services
 - v. Whether the lot owner purchased the property with the knowledge of the zoning restriction.
 - vi. Whether the lot owner's predicament feasibly can be obviated through some method other than a variance.
 - vii. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance
 - viii. Such other criteria which the board believes relates to determining whether the zoning regulation is equitable.

- II. Standards for a "use" variance: The unnecessary hardship standard shall apply to a use variance and the factors to be considered include, but are not limited to, the following:
- i. The variance requested stems from a condition which is unique to the lot at issue and not ordinarily found in the same zone or district.
 - ii. The hardship condition is not created by actions of the applicant.
 - iii. The granting of the variance will not adversely affect the rights of adjacent owners.
 - iv. The granting of the variance will not adversely affect the public health, safety or general welfare.
 - v. The variance will be consistent with the general spirit intent of the zoning resolution.
 - vi. The variance sought is the minimum which will afford relief to the applicant.
 - vii. There is no other economically viable use which is permitted in the zoning district.

14. The appeal fee.

- a. The board of zoning appeals shall fix a reasonable time for public hearing of the appeal which shall commence not later than sixty (60) days from the date the notice of appeal has been filed with the board. The public hearing on the appeal may be continued from day to day for good cause shown. The Board of Zoning Appeals shall give at least ten (10) days notice in writing to the parties in interest, give notice of such public hearing by one (1) publication in one (1) or more newspapers of general circulation in the county at least ten (10) days before the date of such hearing and decide the appeal within a reasonable time after it is submitted; notice of any continued public hearings shall be given at least by one (1) publication in one (1) or more newspapers of general circulation in the county and in writing to the parties in interest at least twenty-four (24) hours prior to the date of such hearing. Written notice may be provided by personal delivery or ordinary mail.
- b. Hearings before the Board of Zoning Appeals shall be conducted in accordance with the following:
 - I. Any person may appear in person or by attorney.
 - II. All testimony and evidence received by the board shall be given under oath or affirmation administered by the chairperson or in his absence the acting chairperson of the Board of Zoning Appeals.

- III. A party in interest shall be allowed:
 - i. To present his position, arguments and contentions;
 - ii. To offer and examine witnesses and present evidence in support thereof;
 - iii. To cross-examine witnesses purporting to refute his position, arguments and contentions;
 - iv. To offer evidence to refute evidence and testimony offered in opposition to his position, arguments and contentions;
 - v. To proffer any such evidence into the record, if the admission thereof is denied by the officer or body appealed from.
- IV. The Board of Zoning Appeals shall be provided with the original plus two (2) copies of all exhibits submitted by a party in interest. All exhibits submitted shall be marked for identification by the board and safely kept and preserved by the board.
- V. An accurate record of the proceedings shall be kept and preserved by the Board of Zoning Appeals.
- c. Decisions of the Board of Zoning Appeals shall be in accordance with the following:

All decisions shall include conclusions of fact of the board in support of the decision.

 - I. A decision of the board and the adoption of conclusions of fact shall be made at a public meeting of the board.
 - II. The decision and the conclusions of fact of the board shall be in writing and signed at a public meeting of the board by all members voting affirmatively thereon no later than thirty (30) days from the last date of public hearing.
 - III. The original written decision and conclusions of fact of the Board of Zoning Appeals and all applications, notices of appeal, documents, exhibits and evidence relating to the proceeding shall be filed by the Board of Zoning Appeals with the township fiscal officer within five (5) days of the signing of the written decision and conclusions of fact by the Board of Zoning Appeals.
 - IV. Copies of the written and signed decision of the Board of Zoning Appeals shall be sent by ordinary mail, within two (2) days of the signing of the written decision, to the township Zoning Inspector and the appellant.
 - V. The date of the signing of the written decision by the Board of Zoning Appeals shall be the date of entry as provided in R. C. 2505.07 for purposes of appeal to the court of common pleas pursuant to R. C. Chapter 2506

Section 17.04 *Supplementary Conditions on Variances*

The board of zoning appeals, in deciding any appeal for a variance, may provide such supplementary conditions which are reasonably related to the requested variance and are not in conflict with this resolution and which the board deems necessary to protect the public health, safety, and morals. Any such supplementary conditions shall be made a part of the board of zoning appeals' proceedings and shall be incorporated into the final decision by the board approving a variance. Violation of such supplementary conditions, which are made a part of the written decision of the board, shall be deemed a violation of this resolution.

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