

#### **ARTICLE IV - ADMINISTRATION**

**400-OFFICE OF ZONING INSPECTOR CREATED** - A Zoning Inspector designated by the Board of Township Trustees shall administer and enforce this ordinance. He may be provided with the assistance of such other persons as the Board of Township Trustees may direct. The Township Zoning Inspector, before entering upon his duties, shall give bond as specified in Section 519.161, Ohio Revised Code.

**401-DUTIES OF ZONING INSPECTOR** - For the purpose of this ordinance, the Zoning Inspector shall have the following duties:

1. Upon finding that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, ordering the action necessary to correct such violation;
2. Order discontinuance of illegal uses of land, buildings or structures;
3. Order removal of illegal buildings or structures or illegal additions or structural alterations;
4. Order discontinuance of any illegal work being done;
5. Take any other action authorized by this ordinance to ensure compliance with or to prevent violations of this ordinance. This may include the issuance of and action on zoning and certificate of occupancy permits, and such similar administrative duties as are permissible under the law.

**402-PROCEEDINGS OF ZONING COMMISSION** - The Zoning Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this ordinance. Meetings shall be held at the call of the Chairman and at such other times as the Commission may determine. All meetings shall be open to the public. The Commission 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 a public record and be immediately filed in the office of the Commission. The Zoning Commission is composed of five (5) members who reside in the unincorporated area of the Township, and are appointed by the Board of Township Trustees. Their terms are for five (5) years and so arranged that the term of one member expires each year. Members of the Commission may be removed from office by the Board of Township Trustees for cause upon written charges and after public hearing. Vacancies shall be filled by the Board of Township Trustees for the unexpired term of the member affected.

**403-DUTIES OF ZONING COMMISSION** - For the purpose of this ordinance, the Zoning Commission shall have the following duties:

1. Initiate proposed amendments to this ordinance;
2. Review all proposed amendments to this ordinance and make recommendations to the Board of Township Trustees.

**404-BOARD OF ZONING APPEALS CREATED** - A Board of Zoning Appeals is hereby created, which shall consist of five (5) members to be appointed by the Board of Township Trustees, each for a term of five (5) years and so arranged that the term of one member expires each year. Each member shall be a resident of the Township. Members of the Board may be removed from office by the Board of Township Trustees for cause upon written charges and after public hearing. Vacancies shall be filled by appointment by the Board of Township Trustees for the unexpired term of the member affected.

**405-PROCEEDINGS OF THE BOARD OF ZONING APPEALS** - The Board shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this ordinance. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to

the public. The Board 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 examination and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

**406-DUTIES OF THE BOARD OF ZONING APPEALS** -In exercising its duties, the Board may, as long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the Zoning Inspector from whom the appeal is taken. The majority vote of the members of the Board shall be necessary to reverse the Zoning Inspector. For the purpose of this ordinance, the Board has the following specific responsibilities:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, or determination made by the Zoning Inspector;
2. To authorize such variances from the terms of this ordinance as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this ordinance will result in un-necessary hardship or practical difficulty, and so that the spirit of this ordinance shall be observed and substantial justice done;
3. To grant conditional use permits as specified in this ordinance, and such additional safeguards as will uphold the intent of this ordinance;
4. To revoke an authorized variance or conditional use permit granted for the extraction of minerals, if any condition of the variance or permit is violated.

**407-DUTIES OF ZONING INSPECTOR, BOARD OF ZONING APPEALS, LEGISLATIVE AUTHORITY AND COURTS ON MATTERS OF APPEAL** – It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Inspector, and that such questions shall be presented to the Board only on appeal from the decision of the Zoning Inspector, and that recourse from the decisions of the Board shall be to the courts as provided by law. It is further the intent of this ordinance that the duties of the Board of Township Trustees in connection with this ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this ordinance. Under this ordinance, the Board of Township Trustees shall have only the duties of considering and adopting or rejecting proposed amendments, or the repeal of this ordinance as provided by law, and of establishing a schedule of fees and charges as stated in this ordinance. Any appeal from the decision of the Board of Zoning Appeals shall be made within thirty (30) days from the date of the Board's decision.

**408-APPEALS** - Appeals to the Board of Zoning Appeals concerning interpretation or administration of this ordinance may be taken by any person aggrieved or affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision by filing with the Zoning Inspector and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Inspector shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. The fee for the filing of an appeal shall be established by the Board of Township Trustees.

**409-STAY OF PROCEEDINGS** - An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Inspector from whom the appeal is taken certifies to the Board of Zoning Appeals after the notice of appeal is filed with him, that by reason of facts stated in the application, a stay would, in his opinion, cause imminent peril to life and property, in such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of

record on application, on notice to the Zoning Inspector from whom the appeal is taken on due cause shown.

**410-VARIANCES** - The Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship or practical difficulty. No non-conforming use of neighboring lands, structures, or buildings, in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.

Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this ordinance would result in unnecessary hardship or practical difficulty.

The Board of Zoning Appeals may authorize upon appeal in specific cases such use variance from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

The Board of Zoning Appeals may authorize upon appeal in specific cases such area variance from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this ordinance would result in practical difficulty.

The factors to be considered and weighed by the Board of Zoning Appeals in determining a property owner seeking an area variance has encountered practical difficulty in the use of his property include, but are not limited to the following:

1. whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
2. whether the variance is substantial;
3. whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- 4) whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
4. whether the property owner purchased the property with knowledge of the zoning restrictions;
5. whether the property owner's predicament feasibly can be obviated through some method other than a variance;
6. whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

**411-SUPPLEMENTARY CONDITIONS AND SAFEGUARDS** - Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this ordinance.

Violations of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this ordinance and punishable as prescribed in this ordinance under Article II, Section 204.

**412-PUBLIC HEARING BY THE BOARD OF ZONING APPEALS** - The Board of Zoning Appeals shall hold a public hearing within forty (40) days after the receipt of an application for an appeal, variance or a conditional use. Before holding the public hearing, notice of such hearing shall be given in one or more newspapers of general circulation of the Township, at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the

proposed appeal, variance, or conditional use. A written notice of such hearing shall also be mailed by the Board of Zoning Appeals by first class mail, at least ten (10) days before the date of said hearing to all parties in interest. The notice shall contain the same information as required of notice published in the newspaper. Within thirty (30) days after the public hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions or disapprove the request.

**413-AMENDMENTS** - Whenever the public necessity, convenience, general welfare, or good zoning practices require, the Board of Township Trustees may by resolution, after receipt of recommendation thereon from the Zoning Commission, and subject to the procedures provided by law, amend, supplement, change or repeal the regulations, restrictions and boundaries or classification of property.

**414-INITIATION OF ZONING AMENDMENTS** - Amendments to this ordinance may be initiated in one of the following ways:

1. By adoption of a motion by the Zoning Commission;
2. By adoption of a resolution by the Board of Township Trustees;
3. By filing an application by at least one (1) owner or lessee of property within the area proposed to be changed or affected by said amendment.

**415-CONTENTS OF APPLICATION** - Applications for amendments to the Zoning Ordinance shall contain at least the following information:

1. Names, address and phone of applicant;
2. Proposed amending resolution;
3. Present zoning district;
4. Proposed zoning district;
5. A vicinity map showing property lines and a complete description of the property;
6. A fee as established by the Board of Township Trustees.

**416-TRANSMITTAL TO ZONING COMMISSION** - Immediately after the adoption of a resolution by the Board of Township Trustees or the filing of an application, said application or resolution shall be transmitted to the Zoning Commission.

**417-SUBMISSION TO MAHONING COUNTY PLANNING COMMISSION** -

Within five (5) days after the adoption of a motion by the Commission, transmittal of a resolution by the Board of Township Trustees, or the filing of an application, the Zoning Commission shall transmit a copy of such motion, resolution or application, together with the text and map pertaining to the case in question, to the Planning Commission. The Planning Commission shall recommend the approval or denial, or the approval of some modification thereof of the case and shall submit such recommendation to the Zoning Commission. Such recommendation shall be considered at the public hearing held by the Zoning Commission.

**418-PUBLIC HEARING BY ZONING COMMISSION** - The Zoning Commission shall schedule a public hearing, not less than twenty (20) nor more than forty (40) days after the adoption of such motion, transmittal of such resolution, or the filing of such application. Before holding the public hearing, notice of such hearing shall be given by the Zoning Commission by at least one (1) publication in one (1) or more newspapers or general circulation in the Township, at least ten (10) days before the date of said hearing. This notice shall set forth the time and place of the public hearing, the nature of the proposed amendment, and a statement that after the conclusion of such public hearing, the matter will be referred to the Board of Township Trustees for further determination. If the proposed amendment intends to rezone or redistrict ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Zoning Commission, 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 such area proposed to be rezoned or redistricted, to the

address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list. The failure to deliver the notice shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in the newspaper.

**419-RECOMMENDATION BY ZONING COMMISSION** - Within thirty (30) days after the public hearing, the Zoning Commission shall recommend to the Board of Township Trustees that the amendment be granted as requested, or it may recommend a modification of the amendment, or it may recommend that the amendment be not granted.

**420-PUBLIC HEARING BY BOARD OF TOWNSHIP TRUSTEES** – Within thirty (30) days from the receipt of the recommendation of the Zoning Commission, the Board of Township Trustees shall hold a public hearing. Notice of such public hearing shall be given by the Board of Township Trustees by at least one (1) publication in a newspaper of general circulation in the Township, at least ten (10) days before the date of said hearing.

**421-ACTION BY BOARD OF TOWNSHIP TRUSTEES** - Within twenty (20) days after public hearing, the Board of Township Trustees shall either adopt or deny the recommendation of the Zoning Commission or adopt some modification thereof. In the event the Board of Township Trustees denies or modifies the recommendation of the Zoning Commission, the unanimous vote of the Board of Township Trustees is required.

**422-EFFECTIVE DATE AND REFERENDUM** - Such amendment adopted by the Board of Township Trustees shall become effective thirty (30) days after the date of such adoption unless within thirty (30) days after the adoption of the amendments is presented to the Board of Township Trustees a petition signed by a number of qualified voters residing in the unincorporated area of the Township, equal to not less than eight (8) percent of the total vote cast for all candidates for Governor in such area at the last preceding general election at which a Governor was elected, requesting the Board of Township Trustees to submit the amendment to the electors of such area, for approval or rejection, at the next primary or general election. No amendment for which such referendum vote has been requested shall be put into effect unless a majority of the votes cast on the issue is in favor of the amendments. Upon certification by the Board of Elections that the amendment has been approved by the voters it shall take immediate effect.

**423-RESUBMITTAL OF ZONING APPLICATION** - Before a property may be resubmitted for a change to the same zoning district, there shall be a waiting period of one (1) year from the date of prior application. This time period shall apply to all properties on which a hearing/meeting has been held by either the County Planning Commission, Zoning Commission or Board of Township Trustees.

**424-VALIDITY OF THIS ORDINANCE** - If any part of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of the ordinance.

**425-AFFECT OF THIS ORDINANCE ON OTHER ORDINANCES** - No provisions in this ordinance shall be interpreted as superseding any greater restrictions or regulation contained in any other ordinance or any deed or plot restrictions.