

## **CHAPTER 4 ADMINISTRATIVE PROCEDURES AND ENFORCEMENT**

### **Section 400 Zoning Certificates**

This section stipulates the procedures to be followed in obtaining certificates and other legal administrative approvals under this resolution.

#### **Section 400.01 Zoning Certificates Required**

No building or other structure shall be erected, moved, added to, demolished, structurally altered, nor shall any building, structure or land be established or changed in use without a certificate issued by the Zoning Inspector. Zoning Certificates shall be issued only in conformity with the provisions of this Resolution unless the Zoning Inspector receives a written order from the Board Of Zoning Appeals deciding an appeal, variance, or conditional use.

Upon submittal of an application for a Zoning Certificate, the Zoning Inspector shall determine whether the proposed use/structure or alterations/expansions to uses/structures is permitted or conditionally permitted as defined in the applicable zoning district. If the proposal is for a permitted use/structure, then the Zoning Inspector shall proceed to conduct the application and plan review as further described in Section 400.02. If the proposal is for a conditionally permitted use/structure, then the Board of Zoning Appeals shall conduct the application and plan review as detailed in Section 401.

For the purpose of this Resolution, the term “change in use” shall be identified in the following manner:

#### **A. Residential Uses**

For the purpose of this section, the residential use categories are as follows: Single family, two family, three family, multi-family, rooming/boarding house. A change in use status will exist when a residential structure(s) is converted from one use category to another. Such conversion shall be made in conformance with all applicable sections of this resolution prior to the issuance of a Zoning Certificate.

#### **B. Commercial, Industrial and other Non-residential Uses**

In this category, a “change in use” status will exist when the previous or existing use of a structure, building or portion thereof is or has ceased and the new or converted use is not the same as that previous or existing use. Such conversions shall be made in conformance with all applicable sections of this Resolution prior to the issuance of a Zoning Certificate.

#### **Section 400.02 Application and Plan Review Procedure**

A. The application for permitted uses/structures shall include the following items:

1. A completed application form, along with the application fee as established by the Township Trustees indicated by Section 404.05. Incomplete applications and applications submitted without the required fee will not be processed. The application shall include the following:
  - a. Four (4) copies of the site plan as described in Section 400.02 A.2 of this section.
  - b. Four (4) copies of structural plans showing exterior elevations and building floor plans.
  - c. Proof that the proposal does or will comply with requirements of the pertinent public authority for:
    1. Sewage disposal: County Health Dept., County Water Resources Dept, or EPA.
    2. Driveway/road culvert permit from: ODOT, County Engineer, or Township, whichever agency has authority over the road on which a driveway is proposed.
    3. Wetlands: Army Corps of Engineers or Ohio EPA if applicable. (Section 404 of the Federal Clean Water Act or ORC Section 3745.113 and 6111.02 and OAC Chapter 3745 as applicable)
    4. Flood Hazard Areas: County Building Dept., Flood Damage Prevention Regulations if constructing/impacting the 100 yr. flood plain.
    5. Water-County Health Dept. for wells, County Water Resources for Central Water.
    6. Storm Water, Sediment and Erosion Control-Ohio Environmental Protection Agency NPDES<sup>1</sup> permit if applicable (the disturbed area is greater than or equal to 1 acre)
  - d. The proposed number of bedrooms, dwelling units, occupants, employees, and other uses.
  - e. Name, address and phone number of the applicant.
  - f. Location and design of entrance and exit drives.
  - g. Any other pertinent data as may be necessary to determine and provide for the enforcement of this Resolution.
  - h. Copies of any approvals granted for uses and structures involved which required prior review and approval by the Board of Zoning Appeals.
2. A plan of the lot/parcel drawn to scale showing the exact dimensions and area of the lot/parcel to be built upon or utilized by the proposed structure(s)/land use. The plan shall also include all of the following items at a minimum.
  - a. The location, dimensions, and height, of all structures to be erected/altered, and land area to be utilized.
  - b. The intended use of all lands and structures.
  - c. The locations of all existing structures and uses on the lot/parcel.
  - d. The yards, open space, and parking spaces with the number of parking and loading spaces and dimensions as required by Chapter 8. All handicapped spaces shall be clearly identified.
  - e. Location, names and existing width of all adjoining streets or highways.
  - f. Proposed location of driveway.
  - g. Any proposed signage with exact dimensions and locations.

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<sup>1</sup> NPDES means National Pollutant Discharge Elimination System

- h. A Storm Water Pollution Prevention Plan (SWPPP) showing how storm water and erosion will be managed on site, including the use of post-construction structural and/or nonstructural Best Management Practices.
  1. The applicant shall submit a letter from the Soil and Water Conservation District with the application that addresses the adequacy of the proposed SWPPP and post-construction storm water management practices. In addition, the Zoning Inspector may request assistance from the Portage County Engineer, County Road Supervisor or other relevant persons to aid in the determination of plan adequacy and compliance with these regulations. Compliance with these standards does not relieve the applicant of compliance with the Portage County Subdivision Regulations if the development involves a subdivision as defined by the Ohio Revised Code and the County Subdivision Regulations. The applicant shall utilize Best Management Practices, as determined by SWCD, in the design and management of storm water and erosion/sediment control systems. The following general standards and policies apply for the design of sites to manage storm water, erosion and sediment:
    - a. Adequate provisions shall be made for drainage to minimize adverse impacts on surrounding properties, streams and streets, and to minimize erosion. When possible increased storm water run-off generated by the development shall be retained on the site.
    - b. Information on the adequacy/capacity of the minor drainage basin to handle the potential maximum increase in volume of storm water runoff based on the maximum potential build-out of the subject site shall be provided to the Zoning Inspector.
    - c. Preservation of the bypass channel through the site in its natural state is encouraged. Upstream runoff must be passed through the site to continue downstream as much as possible in its natural stream or channel bed as shown in the project site plan. Outfall of storm drainage from the site may be added to this bypass channel free of additional silt and sediment not naturally occurring, with a minimum calculated addition of excess storm water. The bypass channel may be reconstructed as long as the flow centerline of the watercourse, velocity and volume of natural water flow necessary to retain and preserve the water related biota in the stream and associated water channels within its banks is maintained.
    - d. There shall be a maximum retention of natural vegetation and use of native and indigenous vegetative cover and a minimum disturbance of earth within the overall design and layout of the site to the maximum extent possible. The list of vegetative species and permanent ground covers allowable or recommended by this Resolution must be met.
    - e. The detention of excess runoff calculated for the development of the site is to be provided for in the site plan to encourage ground water recharge by seepage through ground covers, use of turf and sod in appropriate places such as in drainage channels and the use of natural/grassed retention areas and basins, sediment basin, and design of finished topography.

- f. Clearing and grubbing or stripping the site can take place only in the immediate construction phase, and in other portions of the site where roads and utilities will be graded or trenched and installed first. Plan approval must be granted before such activities begin.
    - g. Construction must be divided into workable phases to minimize soil exposure. Erosion control plans must provide for immediate bare-earth stabilization by hydro-seeding, mulching, netting or similar Best Management practice.
    - h. The runoff/sediment control facilities must be constructed first where there is a high potential for downstream damage due to general construction on the site.
  2. The specific design standards and methods for designing and calculating control elements shall conform to those standards as described in the Portage County Subdivision Regulations.
    - i. Any proposed sign or area lighting with appropriate measures to eliminate glare or impair visibility of neighbors and/or safe movement of traffic on any street or highway.
- B. The Zoning Inspector shall review the submitted application to determine compliance with these submission requirements, the District requirements, and all other pertinent requirements of this Resolution. Within 30 days after the receipt of a completed application, including the required plan and fee, the Zoning Inspector shall issue a zoning certificate if such application is in compliance with this Zoning Resolution. If the application does not comply with the requirements of this Resolution, the Zoning Inspector shall give notice of denial, stating the reasons in writing for such denial, citing the sections of this Zoning Resolution that the application does not comply with. In conducting the review of any application, the Zoning Inspector may consult with any necessary department, agency, public body, official, company, and/or individual to determine whether the application complies with the requirements of this Resolution.
- C. The Zoning Inspector shall return one copy of the approved plans to the applicant after the Zoning Inspector has marked such copy as “approved” or “disapproved” and the Zoning Inspector shall sign and date such copy. The Zoning inspector shall retain at least one copy of the plans similarly marked for the record.
- D. Within 3 working days of receipt of a written decision from the Board of Zoning Appeals, the Zoning Inspector shall issue the Zoning Certificate as directed, setting forth the conditions imposed by the Board, if any.
- E. The Zoning Inspector shall issue a placard to be posted in a conspicuous place on the subject property, attesting to the fact the activity is in conformance with the provisions of this resolution.

#### **Section 400.03 Expiration of the Zoning Certificate**

- A. The Zoning Certificate shall become void at the expiration of one (1) year unless

construction has begun or the Zoning Inspector approves an extension of time based on reasonable circumstances which precluded the applicant from beginning construction. If no construction has been started or use changed within one year of the date of Certificate issuance, the Certificate shall expire and a new Zoning Certificate shall be required to be obtained through filing of a new application and plan. Expiration dates shall be noted on Zoning Certificates.

- B. If the work described in any Zoning Certificate has not been substantially completed within 2 years of the date of issuance, the certificate shall expire and a new application, plan and fee must be filed to obtain a new Certificate. Substantially completed requires that at a minimum the following items are completed: finished roof, windows and doors installed, and final grade, siding or other exterior finish material such as brick. The Zoning Inspector shall notify the affected person(s) in writing of such expiration and the requirements for filing a new application for a Zoning Certificate. An extension of time of up to 6 months may be granted for extenuating circumstances provided such circumstances and facts are submitted to the Zoning Inspector in writing. If such extension is granted, the Zoning Inspector shall notify the affected person(s) in writing of such extension and the time frame for completion of work.
- C. Unfinished construction projects that do not comply with this section and for which no progress is being made, shall be considered to be abandoned and may be declared a nuisance.

#### **Section 400.04 Submission to the Director of Transportation**

As per Ohio Revised Code, Section 5511.01, before any Zoning Certificate is issued affecting any land within 300 feet of the centerline of a proposed new state highway or a state highway for which changes are proposed as described in the certification to local officials by the Director of the Ohio Department of Transportation (ODOT) or any land within a radius of 500 feet from the point of intersection of said centerline with any state highway; the Zoning Inspector shall give notice, by registered mail, to the Director of ODOT and shall not issue a Zoning Certificate for 120 days from the date the notice is received by the office. If notified that the state is proceeding to acquire the land needed, then a Zoning Certificate shall not be issued. If notified that acquisition at this time is not in the public interest, or upon the expiration of the 120-day period or any agreed upon extensions thereof, a Zoning Certificate shall be granted if the application is in conformance with all provisions of this Resolution.

#### **Section 401 Conditional Zoning Certificates**

##### **Section 401.01 Purpose**

In recent years, the characteristics and impacts of an ever increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety and general welfare of the community. Towards these ends, it is recognized that this Resolution should provide for a more detailed evaluation of each use conditionally permitted in a specific district with respect to such considerations as location, design, size,

methods of operation, intensity of use, public facilities requirements, and traffic generation. Accordingly, conditional use certificates shall conform to the procedures and requirements of Section 401.01 et.seq. of this Resolution.

### **Section 401.02 Procedures for Filing an Application**

Any application for a Conditional Zoning Certificate for any use of land or structure, construction, or alteration conditionally permitted under this resolution shall be submitted in accordance with the following procedures:

#### **A. Application**

A completed application form shall be submitted to the Randolph Township Zoning Inspector who shall review the application to determine if all required items are submitted and if the application is ready for review by the Board of Zoning Appeals. When the Zoning Inspector has determined that all required items have been submitted with the application, the application, including all required items, shall be transmitted to the Chairman of the Board of Zoning Appeals. Each application shall be accompanied by the payment of a fee as specified on the current fee schedule adopted by the Township Trustees. A complete application includes the application form, fee, and the information and plan for review as specified below.

The Board of Zoning Appeals, where appropriate, may refer an applicant to qualified consultants for a report if it deems the proposed use or development may cause the emission of dangerous or objectionable elements or requires special study. The cost of such report shall be at the expense of the applicant and said report shall be furnished to the Board of Zoning Appeals as soon as it is practicable.

#### **B. Information Required With The Application<sup>2</sup>:**

1. A statement supported by substantiating evidence regarding the requirements enumerated in Section 600, General Standards for Conditional Uses.
2. Name and address of the owner(s) of record.
3. A list of property owners adjoining and within 500 feet of the property lines of the subject property, as they appear on the County Auditor's current tax list or Treasurers mailing list.
4. Name and address of person and/or firm that prepared the plan(s) for the application.
5. Proposed density of units (for residential development).
6. A schedule for development of the site and buildings. Where the development is proposed in phases, the last phase must be completed within 5 years of issuance of the Conditional Zoning Certificate. Any development not completed within 5 years shall be subject to resubmission to the conditional certificate review process.
7. Any proposed deed restrictions, protective covenants, and other legal instruments or devices to be used to control the use, development and maintenance of the land, and the

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<sup>2</sup> Change of use of existing building may not require those items required for new development. The Zoning Inspector will determine if any information required with the application can be excluded.

- improvements thereon.
8. One (1) copy of current tax map(s) for the subject property and surrounding area.
  9. Project cost estimate.
  10. Zoning District.
  11. Description of existing and proposed use(s).
  12. Any other information required by the Board of Zoning Appeals to determine full compliance with the zoning regulations in this Resolution.

**C. Plans Required With the Application:**

1. Four (4) copies of architectural plans for the development or modifications to existing structures on the site, showing exterior elevations and building floor plans.
2. Four (4) copies of the site plan which shall be drawn at a scale of not less than 1" = 100 feet for the development showing the following items:
  - a. General vicinity map at a scale of 1" = 1,000 feet or 1" = 2000 feet and it shall show proposed development in relation to existing streets, subdivisions, landmarks and community facilities.
  - b. Property boundary lines.
  - c. Elevation contours at 2 foot intervals.
  - d. Traffic and circulation plans.
  - e. Adjacent streets and roads, widths of right of ways.
  - f. Parking and loading plan including dimensions, locations and numbers of all parking and loading spaces.
  - g. Landscaping plan, including parking lot landscaping.
  - h. Grading and erosion /sediment control, surface drainage/storm water management.
  - i. Proposed signage locations, height, dimensions and materials, including signs proposed to be painted on structures.
  - j. All existing structures and uses.
  - k. Utilities plan and location of existing utilities and easements.
  - l. Existing wetlands, ponds, streams, springs, lakes, and the location and direction of all watercourses, existing drainage channels and structures.
  - m. Location of all areas subject to flooding or storm water overflow.
  - n. Wooded areas, areas in agriculture, and any other special natural features other than in item 1.
  - o. Location of any fences, screens, walls or other landscaping features and the design and materials to be used.
  - p. Open spaces proposed, clearly delineated.
  - q. Location, type, and screening details for all waste disposal containers shall be shown.
  - r. Location of all existing and proposed public and private sidewalks, driveways, and paths.
3. All plans required for a conditionally permitted use Zoning Certificate shall be prepared by a professional engineer, architect, or surveyor, and shall have their respective seal on the plans.

#### **D. Review by Randolph Board of Zoning of Appeals**

The Board of Zoning Appeals shall review the proposed development as presented on the submitted plans and specifications, in terms of standards established in this Resolution. In addition, the Board of Zoning Appeals shall submit each proposed development to any agency, department, office, public body, commission, consultant or any other entity or person that the Board of Zoning Appeals would benefit from their expertise in conducting their plan review of the proposed development, such as the County Engineer, Regional Planning Commission, Soil and Water Conservation District, Health Department, County Water Resources, and/or the Zoning Commission, etc. The comments and recommendations shall be returned in writing to the Board of Zoning Appeals as soon as is practicable, but in no case later than 45 days after the receipt by the Board of Zoning Appeals of the completed site plan. Review by the Zoning Board of Appeals shall be completed and made public within 60 days after the date of receipt of the completed site plan.

#### **E. General Plan Review Standards**

In addition to the Design Guidelines of Chapter 7, Section 720, the following general standards shall be incorporated into the design of any conditionally permitted use and its site.

1. Development features shall be located and related so as to minimize the possibility of adverse impacts upon surrounding property and development.
2. The plan shall show that a proper relationship will exist between thoroughfares, driveways, and parking areas to ensure pedestrian and vehicular safety.
3. The architectural design of buildings should be developed with consideration given to the relationship of adjacent development in terms of building height, mass, materials, and overall character.
4. All building locations and placements should be developed with consideration given to minimize removal of trees, existing vegetation, and change of topography. The development shall be integrated into the existing landscape through use of design features such as vegetative buffers, roadside plantings, and the retention of open space and agricultural land.
5. On site circulation shall be designed to make possible adequate police and fire protection.
6. The plan shall provide for adequate screening of parking and service areas from surrounding properties by landscaping.
7. Storm Water, Erosion and Sediment Control:
  - a. In making a determination as to the adequacy of the storm water, erosion and sediment control plan, the Board of Zoning Appeals may require such plans for drainage and erosion control to be reviewed by the County Engineer and Portage Soil and Water Conservation District Office. Compliance with these standards does not relieve the applicant of compliance with the Portage County Subdivision Regulations if the development involves a subdivision as defined by the Ohio Revised Code and the County Subdivision Regulations. The applicant shall utilize Best Management Practices in the design and management of storm water and erosion/sediment control systems. The following general standards and policies apply for the design of sites to

manage storm water, erosion and sediment:

1. Adequate provisions shall be made for drainage to minimize adverse impacts on surrounding properties, streams and streets, and to minimize erosion. When possible increased storm water runoff generated by the development shall be retained on the site.
  2. Information on the adequacy/capacity of the minor drainage basin to handle the potential maximum increase in volume of storm water runoff based on the maximum potential build-out of the subject site shall be provided to the Board of Zoning Appeals.
  3. Preservation of the bypass channel through the site in its natural state is encouraged. Upstream runoff must be passed through the site to continue downstream as much as possible in its natural stream or channel bed as shown in the project site plan. Outfall of storm drainage from the site may be added to this bypass channel free of additional silt and sediment not naturally occurring, with a minimum calculated addition of excess storm water. The bypass channel may be reconstructed as long as the flow centerline of the watercourse, velocity and volume of natural water flow necessary to retain and preserve the water related biota in the stream and associated water channels within its banks is maintained.
  4. There should be a maximum retention of natural vegetation and use of native and indigenous vegetative cover and a minimum disturbance of earth within the overall design and layout of the site. The list of vegetative species and permanent ground covers allowable or recommended by this resolution must be referred to (See Appendix).
  5. The detention of excess runoff calculated for the development of the site is to be provided for in the site plan to encourage groundwater recharge by seepage through ground covers, use of turf and sod in appropriate places such as in drainage channels and the use of natural/grassed retention areas and basins, sediment basin, and design of finished topography.
  6. Clearing and grubbing or stripping the site can take place only in the immediate construction phase, and in other portions of the site where roads and utilities will be graded or trenched and installed first. Plan approval must be granted before such activities begin.
  7. Construction must be divided into workable phases to minimize soil exposure. Erosion control plans must provide for immediate bare-earth stabilization by hydro-seeding, mulching, netting or similar best management practice.
  8. The runoff/sediment control facilities must be constructed first where there is a high potential for downstream damage due to general construction on the site.
- b. The specific design standards and methods for designing and calculating control elements shall conform to those standards as described in the Portage County Subdivision Regulations.
8. All utilities on the site shall be located underground wherever possible.
  9. The development proposed shall be in general conformance with the Comprehensive/Land Use Plan for Randolph Township.

10. Existing and proposed utilities and other infrastructure shall be adequate for the population densities and non-residential uses proposed.
11. Environmentally sensitive areas shall be protected and undisturbed. Environmentally sensitive shall include wetlands, steep slopes (greater than 18%), areas of high ground water, areas of high groundwater pollution potential, and flood hazard areas. (See Environmental Protection Overlay District Regulations, Chapter 5)

## **F. Hearing**

After adequate review and study of any application, the Zoning Board of Appeals shall hold a public hearing or hearings on every application after at least one (1) publication in a newspaper of general circulation in the Township, at least ten (10) days prior to the date of the hearing. Such notice shall indicate the place, time and subject of the hearing. Procedures of notification and hearing as specified in Section 402.08 shall be followed. However, parties in interest for the purposes of a conditional zoning certificate shall include at a minimum, the applicant, and any others who have indicated they wish to be notified of such applications. In addition to the above notification methods, the Board of Zoning Appeals may also post notice on the Township Bulletin Board and other utilize reasonable methods to inform the public.

## **G. Issuance/Denial of Conditional Zoning Certificates**

Upon conclusion of hearing procedures relative to a particular application the Zoning Board of Appeals may issue a Conditional Zoning Certificate. If denied, reasons for such denial shall be stated for the record and provided to the applicant in writing.

## **H. Reapplication**

No application for a Conditional Zoning Certificate which had been denied wholly or in part by the Board of Zoning Appeals shall be resubmitted until the expiration of one (1) year from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions which would be sufficient to justify reconsideration by the Zoning Board of Appeals.

## **Section 402 Procedures and Requirements for Appeals and Variances**

### **Section 402.01 Appeals**

Appeals shall be taken within twenty (20) days after the decision by the Zoning Inspector or administrative official, by filing with the Zoning Inspector and Board of Zoning Appeals a written notice of appeal, on forms prescribed by Township Officials, specifying the grounds on which the appeal is being taken, including any applicable sections of the Zoning Resolution. The Zoning Inspector shall transmit to the Board of Zoning Appeals all of the documents constituting the full record of findings and determinations from the decision from which the appeal is taken.

### **Section 402.02 Variances**

The Board of Zoning Appeals may authorize in specific cases, variances from the terms of this Resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of this Resolution would result in unnecessary hardship. The application shall proceed as if on appeal from denial of a Zoning Certificate. The application shall be filed with the Zoning Inspector within 20 days after such denial on the application forms required by the Township for variance applications. Upon receipt of the application, the Zoning Inspector shall transmit it to the Board of Zoning Appeals with all documents constituting the full record.

### **Section 402.03 Application and Standards for Variances**

Except as otherwise permitted in this Resolution, no variance shall be granted by the Board of Zoning Appeals unless the Board shall find that the written application for the requested variance contains at least the following information:

- A. Name, address and phone number of applicant(s).
- B. Legal description of the property accompanied by a copy of the most current Portage County Tax Map showing the subject property.
- C. Description or nature of the variance requested.
- D. A fee as established by Resolution of the Township Trustees.
- E. A list of property owners as shown on the most recent tax list whose property is contiguous to or directly across the street from the subject property and the mailing addresses of those property owners.
- F. Narrative statements establishing and substantiating the variance conforms to the standards established below. Before it may grant any variance, the Board of Zoning Appeals shall find by a preponderance of reliable, probative evidence submitted at the hearing(s), and only from such evidence, that the applicable standards set forth in this section are or will be satisfied by the proposed development or use.

#### *1. Use Variance*

On application for a use variance, the Board of Zoning Appeals shall review the evidence submitted at the hearing in light of the following standards and shall find that:

- a. The variance is necessary due to special conditions.
- b. A literal enforcement of this Resolution will result in an actual unnecessary hardship to the applicant in the reasonable use of their property.
- c. If the use variance is granted, the spirit and intent of this Resolution will be observed and substantial justice done.
- d. A granting of the variance will not have an adverse impact on the immediate neighborhood, community land use, or be contrary to the Township's Comprehensive Land Use Plan.
- e. The hardship is not self-created. For example, if the property owner purchased the property with the knowledge of the zoning restrictions on the use of the property, it is a self-created hardship.

No use variance shall be granted where the proposed development or use would be contrary to a use prohibited under Section 740 Prohibitions.

## 2. *Area Variance*

On application for an area variance, the Board of Zoning Appeals shall review the evidence submitted at the hearing in light of the following standards:

- a. Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.
- b. Whether the variance is substantial.
- c. Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a substantial detriment as a result of the variance.
- d. Whether the variance would adversely affect the delivery of governmental services.
- e. Whether the property owner purchased the property with the knowledge of the zoning restriction.
- f. Whether the problem can be solved by some manner other than the granting of the variance.
- g. Whether the variance preserves the spirit and intent of the Zoning Resolution
- h. Whether substantial injustice would be done by the denial of the variance.

### **Section 402.04 Fees**

Any application for a Certificate or variance, or any appeal to the Board shall be accompanied by a fee. In the event the Board may find it necessary to call on a report or testimony in the fields of planning, law, engineering, architecture, or similar field, the applicant may be required to deposit an additional amount with the Board, sufficient to cover such additional costs.

### **Section 402.05 Additional Conditions and Safeguards**

The Board may impose such additional, written conditions on the proposed development or use, as it deems necessary to insure that the intent or objectives of this Resolution are and will be observed. Any violation of such conditions and safeguards, when they have been made a part of the terms under which the variance has been granted, shall be deemed a punishable violation under this Resolution.

### **Section 402.06 Public Hearing by the Board of Zoning Appeals**

The Board of Zoning Appeals shall schedule a public hearing to be held within 45 days after receipt of a completed application as per Section 402.03 for an appeal or variance.

### **Section 402.07 Notice of Public Hearing in Newspaper**

Before conducting the hearing required in Section 402.06 written notice of such hearing shall be given in one or more newspapers of general circulation in 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 or variance.

The Board, at its discretion, may send out further notices to publicize such hearing.

### **Section 402.08 Notice to Parties in Interest and Surrounding Property Owners**

Before conducting the public hearing required in Section 402.06, written notice of such hearing shall be mailed by the Secretary of the Board of Zoning Appeals by first class mail, at least ten (10) days before the date of the hearing to all parties in interest. Notices shall also be mailed to property owners within 500 ft. of the property boundary lines of the subject property. The notices shall contain the same information as required of notices published in newspapers as specified in 402.07. Parties in interest shall include at a minimum, the applicant, the person whose decision is being appealed, and any others who have indicated they wish to be notified of such applications.

### **Section 402.09 Action by Board of Zoning Appeals**

The Board of Zoning Appeals shall take action within a reasonable time, but generally not more than 30 days from the date of the initial public hearing. The Board may recess any hearing from time to time, and, if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice shall be required. The Board shall announce its decision at a public hearing or continuation of a public hearing on an application, appeal or variance. Reasons for approval or denial shall be stated at this public hearing and made part of the written record. A certified copy of the Board's decision, shall be transmitted to the applicant or appellant and to the Zoning Inspector. Such decision shall be binding on the Zoning Inspector who shall observe such decision and incorporate the terms and conditions of the same in the Zoning Certificate issued to the applicant or appellant, whenever a certificate is authorized by the Board.

Any final decision of the Board of Zoning Appeals may be appealed to the Common Pleas Court of Portage County pursuant to Ohio Revised Code, Chapter 2506. Such appeal shall not stay any enforcement action or proceeding on such decision appealed from, unless and until otherwise ordered by the Common Pleas Court.

## **Section 403 Amendments**

### **Section 403.01 General**

Whenever the public necessity, convenience, general welfare and/or good planning and zoning practices require, the Township Trustees may by resolution, after receipt of recommendation from the Zoning Commission, and subject to the procedures provided by law, amend, supplement, or repeal the regulations and boundaries or classification of property.

### **Section 403.02 Initiation of Zoning Amendment**

Amendments to this resolution may be initiated in one of the following ways:

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

### **Section 403.03 Contents of Application for Zoning Map Amendment**

Applications for amendments to the Official Zoning Map adopted as part of this resolution shall contain at least the following information:

- A. The name, address and phone number of the applicant.
- B. The nature of the proposed amendment.
- C. A statement of the reason for the proposed amendment.
- D. The present land use(s).
- E. The present Zoning District Classification.
- F. The proposed use(s).
- G. The proposed Zoning District Classification.
- H. A map at a scale approved by the Zoning Inspector showing property lines, thoroughfares, existing and proposed zoning district boundary lines, and such other items as the Zoning Inspector may require.
- I. A list of all property owners and their mailing addresses who are within, contiguous to, or directly across the street from the parcel (s) proposed to be rezoned and others that may have a substantial interest in the case, except that addresses need not be included where ten (10) or more parcels are to be rezoned.
- J. A statement on the ways in which the proposed amendment relates to the Township Land Use Plan.
- K. A fee as established by Resolution of the Township Trustees.

### **Section 403.04 Zoning Text Amendments**

Amendments proposing to amend or repeal any portion(s) of this Resolution, other than the Official Zoning Map, initiated by motion of the Zoning Commission or by Resolution of the Trustees, filed with the Zoning Commission, shall include at least the following information:

- A. The proposed amending resolution;
- B. A statement of the reason(s) for the proposed amendment;
- C. A statement explaining the ways in which the proposed amendment relates to the Township Land Use Plan;
- D. How the proposed text would result in an improved Zoning Resolution.

### **Section 403.05 Transmittal to the Zoning Commission**

Immediately after<sup>3</sup> the adoption of a resolution by the Board of Township Trustees or the filing of an application by at least one (1) owner or lessee of property, said resolution shall be

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<sup>3</sup> The next business day after adoption or filing.

transmitted to the Zoning Commission together with all documents relative to the amendment proposed.

#### **Section 403.06 Submission to Regional Planning Commission**

Within 5 days after the adoption of a motion by the Commission, transmittal of a resolution by the Township Trustees, or the filing of an application by at least one (1) owner or lessee, the Zoning Commission shall transmit a copy of such motion, resolution, or application together with the text and map pertaining the case in question to the Portage County Regional Planning Commission. The Regional Planning Commission shall recommend the approval, denial or some modification thereof and shall submit such recommendation to the Zoning Commission. Such recommendation shall be considered at the public hearing held by the Zoning Commission.

#### **Section 403.07 Submission to the Director of Transportation**

Before any zoning amendment is approved affecting any land within three hundred (300) feet of the centerline of a proposed new highway for which changes are proposed as described in the certification to local officials by the Director of Transportation, or within a radius of five hundred (500) feet from the point of intersection of said centerline with any public road or highway, the Commission shall give notice, by registered or certified mail, to the State Director of Transportation. The Zoning Commission may proceed as required by law; however, the Board of Township Trustees shall not approve the amendment for one hundred twenty (120) days from the date the notice is received by the Director of Transportation. If the Director of Transportation notifies the Township Trustees that he shall proceed to acquire the land needed, then the Board of Township Trustees shall refuse to approve the rezoning. If the Director of Transportation notifies the Board of Trustees that acquisition at this time is not in the public interest or upon the expiration of the one hundred twenty (120) day period or any extension thereof agreed upon by the Director of Transportation and the property owner, the Board of Township Trustees shall proceed as required by law.

#### **Section 403.08 Public Hearing by the Zoning Commission**

The Zoning Commission shall schedule a public hearing after the adoption of their motion, the transmittal of a resolution from the Board of Trustees, or the filing of an application for a zoning amendment. Said hearing shall be not less than twenty (20) nor more than forty (40) days from the date of adoption of such motion, transmittal of such resolution, or filing of such application.

#### **Section 403.09 Notice of Public Hearing in Newspaper**

Before holding the public hearing as required in Section 403.08, notice of such hearing shall be given by the Zoning Commission by at least one (1) publication in one or more newspapers of 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 Trustees for further determination.

### **Section 403.10 Notice to Property Owners by the Zoning Commission**

If the proposed amendment intends to rezone or redistrict ten (10) or less parcels of land as listed on the tax list, 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 street 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 and to such other list or lists that may be specified by the Board of Trustees. The failure to deliver the notice, as provided in this section, shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in the newspapers as specified in Section 403.09.

### **Section 403.11 Recommendation by the Zoning Commission**

Within thirty (30) days after the public hearing required by Section 403.08, the Zoning Commission shall recommend to the Board of Trustees one of the following:

- A. The amendment be granted as requested;
- B. The amendment be granted with modifications;
- C. The amendment be denied.

The written decision of the Zoning Commission shall indicate the specific reasons upon which the recommendation is based, to include the basis for their determination that the proposed amendment is or is not consistent with the Township Land Use Plan.

The Zoning Commission shall transmit a copy of the recommendations of the Portage County Regional Planning Commission along with their recommendation to the Board of Trustees.

### **Section 403.12 Public Hearing by the Board of Township Trustees**

Within thirty (30) days from the receipt of the recommendation from the Zoning Commission, the Board of Trustees shall hold a public hearing. Notice of such public hearing shall be given by the Trustees as specified in Section 403.09.

### **Section 403.13 Action by the Board of Trustees**

Within twenty (20) days after the public hearing as required by Section 403.12, the Board of Township Trustees shall either:

- A. Adopt or deny the recommendations of the Zoning Commission;
- B. Adopt the recommendations of the Zoning Commission with modifications;
- C. Deny the recommendations of the Zoning Commission.

In the event the Board of Trustees denies or modifies the recommendations of the Commission, the unanimous vote of the Board of Trustees is required.

### **Section 403.14 Effective Date and Referendum**

Such amendment adopted by the Board of Township Trustees shall become effective within thirty (30) days after the date of such adoption unless within thirty (30) days after the adoption of the amendment, there is presented to the Board of Trustees a petition, signed by a number of qualified voters residing in the unincorporated area of the Township or part thereof included in the Zoning Plan 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 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 amendment. Upon certification by the Board of Elections that the amendment has been approved by the voters, it shall take immediate effect.

### **Section 403.15 Filing of Amendments**

Within five (5) working days after an amendment's effective date, the Board of Township Trustees shall file the text and maps of the amendment in the Office of the County Recorder and with the Regional Planning Commission. The failure to file any amendment, as required by this section does not invalidate the amendment and is not grounds for an appeal of any decision of the Board of Zoning Appeals.

## **Section 404 Enforcement**

### **Section 404.01 Complaints Regarding Violations**

Whenever a violation of this resolution occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis and it shall be filed with the Zoning Inspector. The Zoning Inspector shall record properly such complaint, investigate it in a timely manner, and take action thereon as provided by this Resolution.

### **Section 404.02 Entry and Inspections of Property**

The Zoning Inspector is authorized to make inspections of properties and structures in order to examine and survey the same, at any reasonable hour, for the purposes of enforcing this Resolution. Prior to seeking entry to any property or structure for such examination or survey, the Zoning Inspector shall attempt to obtain the permission of the owner/occupant to inspect. If such permission is denied or cannot be obtained, the Zoning Inspector shall request the assistance of the County Prosecutor to secure a valid search warrant or other means prior to entry.

### **Section 404.03 Notice of Violation**

Whenever the Zoning Inspector determines that there is a violation of any provision of this

Resolution, a warning shall be issued and shall serve as notice of a violation. Such notice shall:

- A. Be in writing.
- B. Identify the violation.
- C. Include a statement of the reason or reasons why it is being issued and refer to the sections of this Resolution that are being violated.
- D. State that the violation shall be corrected in a timely manner specified by the Zoning Inspector, depending upon the urgency of the violation up to a maximum of 30 days.  
Service of notice of the violation shall be as follows:
  1. By personal delivery to the person or persons responsible or by leaving the notice at the usual place of residence of the owner with a person of suitable age; or
  2. By certified mail deposited in the U.S. Post Office addressed to the person or persons responsible at a last known address. If a certified mail envelope is returned with endorsement that the envelope is unclaimed, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing which shall be filed by the Zoning Inspector. Service shall be deemed complete when the fact of mailing is entered of record, provided the ordinary mail envelope is not returned by the postal authorities with an endorsement failing to show delivery; or
  3. By posting a copy of the notice form in a conspicuous place on the premises found in violation.

#### **Section 404.04 Penalties/Fines**

- A. No building or structure shall be located, erected, constructed, reconstructed, enlarged, changed, demolished, maintained or used and no land shall be used in violation of this Resolution. Each day of continuation of any violation of this Resolution shall be deemed a separate offense.
- B. Whoever violates any provision of this Resolution or the Ohio Revised Code, Section 519.01-519.25, inclusive, shall be fined not more than \$500.00 for each offense.
- C. If there are any violations of this Resolution, the Board of Township Trustees, the Zoning Inspector, the Prosecuting Attorney of Portage County, or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

#### **Section 404.05 Schedule of Fees, Charges and Expenses**

The Township Trustees shall, by Resolution, establish a schedule of fees, charges and expenses and a collection procedure for zoning certificates, amendments, appeals, variances, conditional zoning certificates, plan approvals and other matters pertaining to the administration and enforcement of the Resolution requiring investigations, inspections, legal advertising, postage and other expenses. The schedule of fees shall be posted in the office of the Clerk of the

Trustees and of the Zoning Inspector and may be altered or amended only by the Township Trustees by Resolution. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

**Section 404.06 Special Costs**

When the Zoning Commission or Board of Zoning Appeals finds it necessary to cause special studies to be made, the applicant shall bear all reasonable direct and related costs. Reasonable refers to standard fees for the type of expertise and studies for the region.