

# ARTICLE VIII CONDITIONAL ZONING CERTIFICATES

## Section 801 PURPOSE

Until recent years, the regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more use districts. However, the functions and characteristics of an increasing number of new kinds of land uses combined with conclusive experience regarding some of the older, familiar kinds of uses call for a more flexible and equitable procedure for properly accommodating these activities in the community. It should be recognized that the forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied, depending upon their functional characteristics, and the availability of land. Rather than assign all uses to special, individual, and limited zoning districts, it is important to provide controllable and reasonable flexibility in requirements for certain kinds of uses that will allow practicable latitude for the investor, but that will, at the same time, maintain adequate provision for the security of tile health, safety, convenience, and general welfare of the community's inhabitants.

In order to accomplish such a dual objective, provision is made in this Resolution for a more detailed consideration of each of certain specified activities as it may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic and traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors. Land and structure uses possessing these particularly unique characteristics are designated as Conditionally Permitted Uses and are permitted through the issuance of a Conditional Zoning Certificate with such conditions and safeguards attached as may be deemed necessary for the protection of tile public welfare.

### Section 801-1 Procedures for Making Application

Any application for a Conditional Zoning Certificate for any land or structure use permitted under this Resolution shall be submitted in accordance with the following procedures:

#### A. Application Submitted to The Zoning Inspector

Any application shall be submitted to the Zoning Inspector on a special form for that purpose. Each application shall be accompanied by a receipt from the Zoning Inspector for the required fifty dollars (\$50.00) fee. In addition, the Board of Zoning Appeals where appropriate, may refer an application to qualified consultants for a report if it deems the proposed sue may cause the emission of dangerous or objectionable elements or require 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 is practicable.

#### B. Data Required with Application

1. Form supplied by the Board of Zoning Appeals completed by applicant.
2. Site plan, plot plan, or development plan of the entire property being considered, drawn to a reasonable scale arid showing the location of all abutting streets, the location of all existing and proposed structures, the types of building and their uses.
3. Complete plans and specification for all proposed development and construction.
4. A statement supported by substantiating evidence regarding the requirements enumerated in Section 801-2 below.

C. Review by the Board of Zoning Appeals

The Board of Zoning Appeals shall review the proposed development, as presented on the submitted site plans in terms of the standards established in this resolution. All Conditionally permitted uses in all districts shall be issued zoning certificates only after review and approval of the site plans by the Board of Zoning Appeals according to procedures and requirements of Section 305.

D. Hearing

After adequate review and study of any application the Board of Zoning Appeals shall hold a public hearing or hearings upon 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.

E. Issuance and Revocation of Conditional Zoning Certificates -- Violation and Penalty.

The breach of any condition, safeguard, or requirement shall automatically invalidate the certificate granted, and shall constitute a violation of this Resolution. Such Violation shall be punishable as per Section 901-9.

F. Reapplication

No application for a Conditional Zoning Certificate which has been denied wholly or in part by the Board of Zoning Appeals shall be resubmitted until the expiration of one (1) year or more 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 as determined by the Board of Zoning Appeals. At the expiration of one (1) year from the original application a fee of fifty dollars (\$50.00) shall accompany each reapplication.

G. Continuation of Existing Uses Conditionally Permitted

All uses existing at the time of passage of this Resolution and conditionally permitted in their respective districts under this Resolution, shall be issued Conditional Zoning Certificates by the Board of Zoning Appeals within one (1) year after the passage of the Resolution.

H. Regulations Pertaining to Flood Hazard Areas

Before issuance of a conditional-zoning certificate for any use in a flood-prone area as shown on the NH district map, the Board of Zoning Appeals shall review the proposed use. Documentation prepared by a registered surveyor or licensed engineer shall be submitted with the application for conditional certificate of demonstrate to the Board that:

1. All buildings and structures shall be reasonably safe from flooding from a flood of 100-year frequency by having the first floor (or basement if there is to be a basement) elevation at least one foot above the level of such flood.
2. No structures or uses would adversely affect the efficiency or unduly restrict the capacity of the canals or floodways of any stream, drainage ditch, or any other drainage facility or system.
3. No materials, whether organic or inorganic, shall be stored in either open storage or enclosed storage in such a manner as to present a hazard of pollution or contamination of stream waters in the case of flooding.
4. No organic soils are present on the site that would present additional hazards to occupants of the site.

Note: *In reviewing applications in a flood-prone area, the Board may seek the assistance of the Soil Conservation Service or any other appropriate source.*

Section 801-2 Basis of Determination

The Board of Zoning Appeals shall establish beyond reasonable doubt that the general standards and the specific standards pertinent to each use indicated herein should be satisfied by the completion and operation of the proposed development. The Board of Zoning Appeals may also impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this Resolution shall be observed.

A. General Conditions

The Zoning Board of Appeals shall review the particular facts and circumstances of each proposed use in terms of the following conditions and shall find adequate evidence showing that such use on the proposed location:

1. Will be harmonious with and in accordance with objectives or with any specific objective of the Township Zoning Plan of current adoption.
2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
3. Will not be hazardous or disturbing to existing or future neighboring uses.
4. Will not be detrimental to property in the immediate vicinity or to the community as a whole.
5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
6. All structures, roads, and utilities shall be in compliance with the Medina County Subdivision Regulations, when applicable, the Board of Health Standards, and the County Building Code.
7. Will have vehicular approaches to the property, which shall be so, designed as not to create an interference with traffic on surrounding public streets or roads.

**Section 802 REGULATIONS PERTAINING TO CONDITIONALLY PERMISSIBLE USES IN ALL DISTRICTS**

- 101 In the case of town housing or other multifamily dwelling structures the lot frontage, yard, and set back requirements shall be the same as for a two-family residence unless changed by the Zoning Board of Appeals with the approval of the Township Trustees. The lot area required for multifamily development shall be determined as follows: 20,000 square feet plus 5,000 square feet for each dwelling unit of the proposed development.
- 102 All structures and activity areas shall be located at least one hundred (100) feet from all property lines.
- 103 Loud speakers, which cause a hazard or annoyance, shall not be permitted.
- 104 Recreational facilities shall be provided as deemed necessary in the opinion of the Zoning Board of Appeals.
- 105 All points of entrance or exit shall be located no closer than two hundred (200) feet from the intersection of two state or county roads; no closer than one hundred (100) feet from the intersection of a county road and a township road, or the intersection of two township roads.
- 106 There shall be no more than one directional advertisement oriented to each abutting road identifying the activity.

- 107 No lighting shall have a visible source of illumination and shall in no way impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties
- 108 Such structures should be located on a secondary or minor street.
- 109 Such structures should be located on major thoroughfares, or at intersections of major and/or secondary thoroughfares.
- 110 Such structures should be located adjacent to nonresidential uses such as churches, parks, utility stations, industrial or commercial districts.
- 111 Any temporary structures must be indicated as such on-site plans submitted to the Zoning Board of Appeals for approval.
- 112 Such structures shall not be continued as permanent structures. The Zoning Board of Appeals shall set the period of continuance.
- 113 Such use shall not require costly or uneconomic extension of utility services at the expense of the community.
- 114 Site locations should be preferred that offer natural or manmade barriers that would lessen the effect of the intrusion of the nonresidential use into the residential area.
- 115 All site plans for group housing developments shall be approved by the Zoning Board of Appeals and authorized by the Township Trustees.
- 116 Shall be enclosed by a fence six (6) foot or more in height for the entire periphery of the development. Fences shall be adequate to prevent trespass and shall be placed no closer than fifty (50) feet to the top or bottom of any slope.
- 117 No rehabilitated slope shall exceed an angle with the horizontal of forty-five (45) degrees.
- 118 Such structures should be located adjacent to parks and other nonresidential uses such as schools and shopping facilities where use could be made of joint parking facilities.
- a) For purposes of advertising, there shall be no more than one (1) sign or identification to not exceed two (2) square feet in area and attached flat against a building wall.
  - b) The proposed use shall not generate noise, odor, fumes smoke, or vehicular or pedestrian traffic in an amount, which would tend to depreciate the residential character of the neighborhood in which the proposed use is located.
- 119 All areas within any single development shall be rehabilitated progressively as they are worked out or abandoned to a condition of being entirely lacking in hazards, inconspicuous, and blended with the general surrounding ground form so as to appear reasonably natural. Gravel and sandpits and quarries shall be completely and continually drained of water when not in use or not supervised by a watchman. All slopes and banks shall be reasonable graded and treated to prevent erosion or any other potential deterioration.
- 120 Shall indicate established routes for truck movement in and out of the development in such a way that it will minimize the wear on public streets and that it will prevent hazards and damage to other properties in the community.
- 121 All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual, or to the community in general.
- 122 Such uses shall be secondary in importance to the use of the dwelling for dwelling purposes.
- a) Such uses shall be conducted by the occupant with no more than two (2) additional employees.

- b) Such occupations shall be carried on entirely within the dwelling and not in an accessory building built for the home occupation purpose; however, the garage may be used providing that the home occupant does not preclude the storage of the number of vehicles for which the garage was designed.
- c) The conducting of the home occupation shall not occupy more than fifty (50) per cent of the living floor area of any one dwelling unit
- d) Proposed use shall not constitute primary or incidental storage facilities for a business, industrial, or agricultural activity conducted elsewhere.
- e) No activity, materials, goods, or equipment indicative of the proposed use shall be visible from any public way or adjacent property.
- f) For purposes of advertising, there shall be no more than one (1) sign or identification not to exceed two (2) square feet in area and attached flat against a building wall.
- g) The proposed use shall not generate noise, odor, fumes, smoke, or vehicular or pedestrian traffic in an amount which would tend to depreciate the residential character of the neighborhood in which the proposed use is located.

123 Highway service commercial uses shall be permitted under the following condition:

- a) No more than two (2) driveway approaches shall be permitted directly from any thoroughfare and each shall not exceed forty (40) feet in width at the property line.
- b) If the property fronts on two or more streets, the driveways shall be located as far from the street intersection as practicable.

124 Such uses should be located on a major thoroughfare, adjacent to nonresidential uses such as commerce, industry, or recreation, or adjacent to sparsely settled residential uses.

125 Landowners and/or their tenants shall be permitted to conduct a trucking business in R-1 area, provided that the following conditions are met:

- a) No more than four trucks and/or trailers shall be parked on any lot at one time.
- b) There shall be no warehousing or storage of freight in a R-1.
- c) All trucks and/or trailers shall be parked at least 50 feet from any road or highway right of way.
- d) All trucks and/or trailers shall be operable and shall be licensed and registered for the current year.
- e) All truck and trailer parts, including, but not limited to, engine parts, shall be stored in suitable facilities when not in use.
- f) Above ground fuel storage shall not exceed 500 gallons.
- g) All truck and/or trailer repairs shall be done in such a manner so as not to inconvenience neighboring lots, and unless there is an emergency, shall not be done between the hours of 10:00 P.M. and 7:00 a.m.
- h) All trucks and/or trailers must be owned by the landowner or his tenant, or must be owned by a partnership of which the landowner and/or tenant is a partner, or by a corporation of which the landowner and/or his tenant is an officer or shareholder.
- i) The landowner and/or his tenant shall only repair those trucks and/or trailers that meet the ownership requirements set forth in paragraph "h" above.

- j) The word "truck" and "trucks" shall not include pick-up trucks, van, and busses.
  - k) The words "trailers" and "trailer" shall mean those vehicles used for hauling freight by being pulled by a truck.
- 126
- a) A permit must be issued by the Ohio Department of Natural Resources according to the procedures and requirements of Chapter 1513 or 1514 of the Ohio Revised Code and the rules adopted pursuant thereto.
  - b) The applicant shall present to the Zoning Inspector plans for reclamation of the land proposed to be mined. The reclamation plans shall have been approved by the Ohio Department of Natural Resources, Division of Reclamation. The reclamation plan shall propose a future use to the site which is in accord with the Harrisville Township Zoning Resolution or the Harrisville Township Comprehensive Plan if adopted. The reclamation shall be completed to the satisfaction of the zoning inspector before evacuation of the site by the applicant.
- 127 Site plans shall be prepared by the Applicant and reviewed by the Board of Zoning Appeals according to the procedures and regulations of Section 305.
- 128 All ingress and egress drives shall be sufficiently separated from intersections to avoid traffic conflicts. Drives shall be designed to provide adequate internal circulation, and where necessary, to provide sufficient storage space so that waiting vehicles will not extend into a public right-of-way or block circulation on the site.
- 129 Truck parking areas, maneuvering lanes, and accesses to public roads shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on/or adjacent to the site.
- 130 The site shall not be used for the storage and/or overnight parking of vehicles other than storage of rental trailers and/or trucks. Vehicles being repaired shall be parked on site no longer than one week.
- 131 All activities, except those required to be performed at fuel pumps, shall be carried- on inside a building; if work is performed on a vehicle, said vehicle shall be entirely within a building.
- 132 Automobile service stations shall conform to all setback requirements of the district in which they are permitted except that gasoline pump islands need not conform to the building setback lines but shall be setback from all road right-of-way lines at least fifty (50) feet. Lubrication, washing and other incidental servicing of motor vehicles and all supply and merchandise storage shall be completely within an enclosed building except as provided elsewhere herein. Lighting, including permitted illuminated signs shall be arranged so as not to reflect or cause a nuisance to any residential district or hazard to traffic on any public thoroughfare. Ingress and egress driveways shall be separated from the intersection of any two road right-of-way lines by at least forty (40) feet and from property lines by a least twenty (20) feet. A curb shall be installed where any service area adjoins any road right-of-way lines, except at driveway approaches. Employee vehicles and vehicles awaiting servicing or return to customers following servicing shall be parked in areas indicated for such parking on the approved site plan. Such parking shall not be closer than fifty (50) feet to any road right-of-way

# ARTICLE IX ADMINISTRATION AND ENFORCEMENT

## Section 901 PURPOSE

This article sets forth the powers and duties of the Zoning Inspector, the Board of Zoning Appeals, the Zoning Commission and The Township Trustees with respect to the administration and enforcement of the provisions of this Resolution

## Section 902 GENERAL PROVISIONS

The formulation, administration, and enforcement of this Resolution is hereby vested in the following offices and bodies within the Township government:

- 1 . Zoning Inspector
- 2 . Board of Zoning Appeals
- 3 . Zoning Commission
- 4 . Township Trustees

## Section 903 ZONING INSPECTOR

### A. General

For the purposes of enforcing these Resolutions, the Township Trustees shall establish and fill the position of Zoning Inspector, together with such assistants, as the Township Trustees deem necessary. The terms of employment, rate of compensation, and other such conditions shall be set by the Township Trustees.

### B. Bond

The Zoning Inspector, before entering upon duties of his office, shall give bond, signed by a bonding or surety company authorized to do business in Ohio, or, at his option, signed by two (2) or more freeholders having real estate in the valued of double the amount of the bond, over and above all encumbrances to the state, in the sum of not less than \$1,000 or more than \$5,000 as fixed by the Township Trustees. Such surety company or real estate bond shall be approved by the Township Trustees and the bond shall be conditioned upon the faithful performance of such Zoning Inspector's official duties. Such bond shall be deposited with the Township Clerk.

### C. Responsibilities of the Zoning Inspector

For the purpose of this Resolution, the Zoning Inspector shall have the following duties:

- 1 . Enforce the provisions of this Resolution and interpret the meaning and application of its provisions.
- 2 . Respond to questions concerning applications for amendments to the Resolution and the Zoning District Map.
- 3 . Issue zoning certificates as provided by this Resolution and keep a record of same with a notation of any special conditions involved.
- 4 . Act on all applications upon which he is authorized to act by the provisions of this Resolution within the specified time or notify the applicant in writing of the refusal, or disapproval of such application and the reasons therefor. Failure to notify the applicant in case of such refusal or disapproval within the specified time shall entitle the applicant to submit his request to the Board of Zoning Appeals.

- 5 . Conduct inspections of buildings and uses of land to determine compliance with this Resolution and, in case of any violation, to notify in writing the person(s) responsible, specifying the nature of the violation and ordering corrective action.
- 6 . Assist the Zoning Commission in maintaining in current status the Zoning District Map which shall be keep on permanent display in the Township Hall.
- 7 . Assist the Township Clerk in maintaining permanent and current records required by this Resolution, including but not limited to zoning certificates, inspection documents, and records of all variances, amendments, conditional uses, and nonconforming uses (legal and illegal).
- 8 . Maintain a duplicate set of records described In Section 903.c.7. above and make such records available for the use of the Township Trustees, the Zoning Commission, the Board of Zoning Appeals, and the public.
- 9 . Review site plans pursuant to this Resolution.
- 10 . Determine the existence of any violation(s) of this Resolution and cause such notifications, revocation notices, or stop orders to be issued, or initiate such other administrative or legal actions as needed, to address such violation(s).
- 11 . Prepare and submit an annual report to the Township Trustees and Zoning Commission on the administration of this Resolution, setting forth-such information on as may be of interest and value in advancing and furthering the purpose of this Resolution. Such report shall include recommendations concerning the schedule of fees.

**Section 904 BOARD OF ZONING APPEALS**

The Board of Zoning Appeals shall have such power and membership as specified by Chapter 519 of the Ohio Revised Code and Article VIII and X of this Resolution.

**Section 905 ZONING COMMISSION**

A. Powers

The Zoning Commission shall have the following duties:

1. Initiate proposed amendments to the text or map of this Resolution.
2. Review all proposed amendments to this Resolution and make recommendations to the Township Trustees.
3. Assist in reviewing site plans as specified by Section 305, and assist the Board of Zoning Appeals in reviewing conditional use applications as specified in Article VIII.
4. Review of proposals pertaining to flood plan areas, as per Section 405.5
5. Make recommendations to the Township Trustees on all matters concerning planning, zoning, and development in the Township.

B. Members

The Zoning Commission shall have such membership as specified by Chapter 519.04 of the Ohio Revised Code, a copy of which is included in Appendix A.

The Township Trustees shall appoint a Recording Secretary.

C. Procedures

The Zoning Commission shall annually elect officers from its members. The zoning Commission may prescribe rules for the conduct of its affairs as are not in conflict with this Resolution or Ohio statute. Three (3) members of the Board shall constitute a quorum at all meetings. The Zoning Commission shall keep records of its proceedings, substantiating papers, records of hearings, all notices to property owners, etc. which shall be filed in the Township Hall and shall be a public record.

**Section 906 ZONING CERTIFICATE APPLICATION AND ISSUANCE**

**A. Application for A Zoning Certificate**

Before construction, enlarging or altering any land use, sign, parking lot, structure or building (including accessory building), or changing the use of any land, sign, parking lot, structure or building, application shall be made to the Zoning Inspector, filled out in full by the applicant, and signed by the applicant (and property owner if different from applicant) or an authorized agent for the applicant. The applicant shall, where applicable, include the following information:

1. A plot plan showing the exact dimensions and area of the lot to be built upon.
2. The location, dimensions height, and bulk of structures to be erected.
3. The intended use.
4. The proposed number of sleeping rooms, dwelling units, employees, and other uses.
5. The yard, open area and parking space dimensions.
6. Information indicating compliance with the requirements of Article III and the appropriate district regulations.
7. Evidence that sanitary sewage disposal facilities for the use have been approved by the Medina County Health Department or the Medina County Sanitary Engineer or other applicable authority.
8. Evidence that a permit has been obtained in compliance with the Medina County Storm Water Management and Sediment Control Rules and Regulation, if required.
9. Any other pertinent data as may be necessary to determine and provide for the enforcement of this Resolution.

**B. Application for Conditional Zoning Certificate**

If the application is for a conditional zoning certificate, the application procedure defined in Article VIII shall be followed in lieu of the above regulation.

**C. Zoning Certificate Issued After Culvert Permits**

No zoning certificate shall be issued until a culvert permit has been obtained from the Ohio Department of Transportation or the Medina County Engineer, whichever authority has jurisdiction.

**D. Time for Issuance**

The Zoning Inspector shall issue a zoning certificate within 30 days after the receipt of application if the application complies with the requirements of this Resolution and the application is accompanied by the proper fees, unless such application is for conditional zoning certificate in which case issuance will be determined by the requirements of Article VIII.

**E. Referral to Ohio Department of Transportation**

The Director of the Ohio Department of Transportation shall be notified concerning applications for zoning certificates for any land within 300 feet of a centerline of certified (journalized) new Highway or highway improvement or within 500 feet from the intersection of an existing public road with a centerline of a certified (journalized) new highway or highway improvement. Upon receipt of an application for a zoning certificate in this area, the Zoning Inspector shall notify the Director by registered or certified mail. The Zoning Inspector shall not approve the application for a period of 120 days from the receipt or the notice by the Director. During the 120-day period, or any extension agreed to by the Director and the property owner, the Director shall proceed to acquire the land required for highway improvements, or to determine that acquisition at that time is not in the public interest. Upon receipt of notice from the Director that the property will be acquired, the Zoning Inspector shall refuse to issue the zoning certificate for the land the Director intends to acquire. If the Director provides notice that acquisition at the time is not in the public interest at the expiration of the 120-day period or any extension, the Zoning Inspector shall proceed to approve or disapprove the application in the manner specified above.

**F. Term of Certificate**

Within thirty (30) days after the receipt of an application, the Zoning Inspector shall either approve or disapprove the application in conformance with the provisions of this resolution. One copy of the plans shall be returned to the applicant by the Zoning Inspector, after the Zoning Inspector shall have marked such copy either as approved or disapproved and attest to same by his signature on such copy. One copy of the plans, similarly marked, shall be retained by the Zoning Inspector.

All zoning certificates shall, however, be conditional upon commencement of work within one year and substantial completion within 2 ½ years. Failure to meet these conditions is cause for the Zoning Inspector to revoke the zoning certificate by written notice to applicant and that further work shall require a new permit or an extension.

## **Section 907 SCHEDULE OF FEES, CHANGES, 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 use permits, site plan approvals, signs and/or billboards, and other matters pertaining to the administration and enforcement of this Resolution requiring investigation, inspection, legal advertising, postage, and other expense. The schedule of fees shall be posted in the township Hall, and may be altered or amended only by Township Trustees. No action shall be taken on any application or appeal until all applicable fees, charges, and expenses have been paid in full.

## **Section 908 ENFORCEMENT**

### **A. General**

It shall be unlawful to erect, establish, locate, construct, reconstruct, enlarge, change, convert, move, repair, maintain, or structurally alter any building, structure or land in violation of any provision of this Resolution or any amendment thereto,

Zoning certificates issued on the basis of plans and applications approved by the Zoning Inspector authorize only the use, and arrangement, set forth in such approval plans and applications or amendments thereto, and no other use, arrangement, or construction. Use, arrangement, or construction contrary to that authorized shall be deemed in violation of this Resolution.

### **B. Inspection**

The Zoning Inspector shall inspect each alleged violation and shall in writing order correction of all conditions, which are found to be in violation of this Resolution.

### **C. Correction Period**

All violations shall be corrected within the period specified by the Zoning Inspector after the written order has been issued. Any violations not corrected within the specified time period shall be reported to the County Prosecutor, who shall initiate prosecution procedures.

### **D. Prevention of Violations**

In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, or any land is or is proposed to be used in violation of any provision of this Resolution, supplements or amendments thereto, the Township Trustees, the Prosecuting Attorney of the county, the Zoning Inspector 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, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use. The Township Trustees may employ special counsel to represent if in any proceedings or to prosecute any actions brought under this section or the Ohio Revised Code Section 519.99.

# ARTICLE X BOARD OF ZONING APEALS

## Section 1001 Board of Zoning Appeals

### Section 1001-1 Authority, Composition, and Appointment

There is hereby created a Board of Zoning Appeals consisting of five (5) members appointed by the Trustees. The members shall be residents of the unincorporated area of Harrisville Township. Each member shall be appointed for a period of five (5) years and terms shall be so arranged that the term of one member shall expire each year. Each member shall serve until his successor is appointed and qualified. Members shall be removable for nonperformance of duty, misconduct in office, or other cause by Township Trustees, upon written charges being filed with Township Trustees, after 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 (10) days prior to hearing, either personally, by registered mail, or by leaving such copy at his usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by Township Trustees and shall be for the unexpired term.

### Section 1001-2 Organization

The Board of Zoning Appeals shall elect a chairman and a vice-chairman from their membership, and shall appoint a secretary and shall prescribe rules for the conduct of their affairs.

### Section 1001-3 Quorum

The Board of Zoning Appeals shall require a quorum of three (3) members at all of their meetings, and the concurring vote of three (3) members shall be necessary to affect any order.

### Section 1001-4 Witnesses

The Board of Zoning Appeals chairman or action chairman may administer oaths and compel the attendance of witnesses in any matter coming within the review of this Resolution.

### Section 1001-5 Powers and Duties

The Board of Zoning Appeals shall have the following powers:

- A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of sections 519.02 to 519.25, inclusive, of the Ohio Revised Code, or any resolution adopted pursuant thereto.
- B. To authorize, upon appeal, in specific cases, such variance from the terms of the zoning resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the Resolution will result in unnecessary hardship, and so that the spirit of the resolution shall be observed and substantial justice done.
- C. To grant Conditional Zoning Certificates for the use of land, building, or other structures if such certificates for special use are provided for in the Zoning Resolution.

In exercising the above-mentioned powers, such Board may, in conformity with such sections, reverse or affirm, wholly or partly, or may 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 all powers of the office from whom the appeal is taken.

### Section 1001-6 Procedure

The Board of Zoning Appeals shall act within the procedures specified by law including this Resolution. The Board shall keep minutes of their proceedings showing the vote for each member upon every question, or if absent or failing to vote, it shall indicate such fact. All appeals and applications made to the Board of Zoning Appeals shall in writing and on forms prescribed thereto.

Every appeal or application shall refer to the specified provision or the Resolution, and shall set forth the interpretation that is claimed by the Board, the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Every decision of the Board shall be by resolution, each of which shall contain a full record of the findings or the Board of Zoning Appeals by case number under one or another of the following headings together with all documents pertaining therefor:

- A. Interpretation
- B. Conditional Zoning Certificates
- C. Variances

In the event that the Board of Zoning Appeals will find it necessary to draw upon any planning, legal, engineering, or any other expert testimony, such fees shall be raised in order to cover all expensed of such expert testimony.

Section 1001-7 Notice of Hearing

When a notice of appeal has been filed in proper form with the Board of Zoning Appeals, the secretary shall immediately place the said request for appeal upon the calendar for hearing, and shall state on the notices the time, place, and object of the hearing, to be served personally or by mail addressed to the parties making the request for appeal, at least ten (10) days prior to the date of scheduled hearing. Written notice of such hearing shall also be given by mail to any person, firm, or corporation owning the premises located within five hundred (500) feet of the land to which such appeal or application is related. All notices shall be sent to addresses given on the last assessment roll. Such hearing shall be advertised by one (1) or more newspapers of general circulation in the Township at least ten (10) days before the date of such hearing. The Board may recess such hearings from the time to time, and, if the time and place of the continued hearing be publicly announced at the time of adjournment, no further notice shall be required.

Section 1001-8 Appeals

Appeals to the Board of Zoning Appeals may be taken by any person, firm, or corporation, or by any officer or board of Harrisville Township, deeming himself or itself to be adversely affected by the decision of the Zoning Inspector or Zoning Commission respecting the interpretation of the Resolution. Appeals shall be made no later than fifteen (15) days after the date of the grievance. An appeal shall certify to the Board of Zoning Appeals after the notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would, in his opinion, cause "imminent" peril to life or property. In such case, proceedings shall not be stayed by other than a restraining order granted by the Board of Zoning Appeals or by a court have lawful jurisdiction. The Board shall make a decision on the appeal within the ten (10) days after the public hearing, unless additional time is necessary because of unusual circumstances. Upon hearing, any party may appeal in person or by attorney.

Section 1001-9 SIMILAR USES

A. Procedure and Requirements to Determine that a Use is Similar.

When a proposed use is not listed or provided for In this Resolution the Board of Zoning Appeals may make a determination, upon appeal, that the proposed use, within those districts specified, is similar to a specific permitted use or conditionally permitted use. If the Board finds that a proposed use is similar to a specific permitted use listed in the specified district, the use will be deemed to be a deemed to be permitted use in that district. If the Board finds that a proposed use is similar to a specific conditionally permitted use listed in the specified district, the use will be deemed to be a conditionally permitted use in that district.

In formulating a determination that a proposed use is similar, the Board shall follow the appeals and variances procedures specified in Article X of this Resolution. Upon making a determination that a proposed use is similar, the Board shall notify the Township Trustees of its decision and shall include in its written findings the reasoning upon which the decision is based. Unless the decision is rejected by the Township Trustees, such similar use determination by the Board shall become effective.

If the Board determines that a proposed use is not similar, such determination shall not be appealed to the Township Trustees, but remedy may be sought by the appellant through the submission of an application for amendment as prescribed in Article XI, or through the Court of Common Pleas.

B. Standards for Consideration of Similar Uses

The following standards shall be considered by the Board when making a determination that a use is similar to a permitted use within a specific district:

1. The compatibility of the proposed use with the general classification system as specified in that district.
2. The nature, predominant characteristics, and intensity of the proposed use in relation to those uses permitted in that district.
3. The size, dimensional requirements, parking requirements, traffic generation potential, and other regulatory considerations normally associated with uses as specified in the Resolution.

C. Effect of Determination that a Use is Similar.

Should a use be determined to be similar to a specific permitted or conditionally permitted use provided for in this Resolution, it shall then be permitted in the same manner and under the same conditions and procedures as the use is permitted to which it has found to be similar.

D. Record of Similar Uses

The Zoning Inspector shall maintain as a public record a listing of all uses which have been determined to be similar. For each such use the record shall include the use as listed in the Resolution, the use unlisted in the Resolution about which the determination of similarity was made, and the dates of any actions thereupon by the Board of Zoning Appeals and the Township Trustees. This record shall also contain the same information for all uses which have been determined to be similar. The Zoning Inspector shall consult this record in the process of issuing future permits.

# ARTICLE XI AMENDMENTS

Trustees of Harrisville Township may, from time to time, amend by Resolution the number, shape, or area of districts established on the Zoning Districts Map or the regulations set forth in this Resolution, but no such amendment shall become effective unless the Resolution proposing same shall first be submitted in writing by the Township Clerk to the Township Zoning Commission for approval, disapproval, or recommended modification, and said Commission shall have been allowed a reasonable time, not less than thirty (30) days, and not more than sixty (60) days, for consideration and report. Every such amendment approved by the Zoning Commission shall not be passed by the Township Trustees except by a two-thirds vote, unless such amendment is modified or denied, than a unanimous vote of the Board of trustees is required. The Township Trustees shall hold a public hearing before the adoption of the proposed amendment. At least thirty (30) days notice of such amendments, and of the time and place of the hearing thereon shall be given, and including a statement of opportunity will be afforded to any person interested to be heard. Any person or persons desiring an amendment of the zoning map shall accompany the petition for such amendment, or the Resolution introduced for this purpose, with a statement giving the names and addresses of the owners of all properties lying within one thousand (1,000) feet of any part of the property, the zoning of which would be changed by the proposed amendment if enacted. All application of zoning amendment shall include:

1. Evidence that the existing Zoning Resolution is unreasonable with respect to the particular property, and that it deprives the property owner of his lawful and reasonable use of the land. For the purpose of this Zoning Resolution, a limitation upon the financial gain from the land in question shall not constitute unreasonable zoning.
2. Evidence that the proposed amendment would materialize in an equal and better Zoning Resolution that existing.

Whenever an amendment is made to the text of the Zoning Resolution, the appropriate definitions pertinent to such amendment shall be include in Article II.

# **ARTICLE XII VALIDITY AND SEPARABILITY**

It is hereby declared to be the legislative intent that, if any provision or provisions of this Resolution, or the application thereof to any zoning lot, building, or other structure, or tract of land, are declared by a court of competent jurisdiction to be invalid or ineffective of such decision shall be limited to the provision or provisions which are expressly stated in the decision to be invalid and in effective, or to the zoning lot, building, or other structure, or tract of land immediately involved in the controversy. All other provisions of this Resolution shall continue to be separate and fully effective, and the application of any such provision to other persons or situations shall not be affected.

# **ARTICLE XII REPEALER**

All existing Resolutions of Harrisville Township, Ohio, inconsistent here within, are hereby repealed.

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# **APPENDIX**

## **OHIO REVISED CODE**

### 519.04 Township Zoning Commission

The board of township trustees of any township proceeding under sections 519.01 to 519.99 of the 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. The board of township trustees may appoint two alternate members to the township zoning commission, for terms to be determined by the board of township trustees. An alternate member shall take the place of an absent regular member at any meeting of the township zoning commission, according to procedures prescribed by resolution by the board of township trustees. An alternate member shall meet the same appointment criteria as a regular member. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter on which the absent member is authorized to vote. 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 or regional planning commission the board 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 and shall be for the unexpired term.

# MAP CHANGES

The following changes to the Harrisville Township Zoning **Map were approved by the** Trustees for adoption into the Comprehensive Plan. The Zoning Commission proposes that these Map changes be the Township as permanent changes to the Zoning Regulations.

1. Change the west side of State Route 83, from Willow Road to the City Limits, a depth of 2600 feet to include lots 88, 98, 118, 128, and 138 to a multi-use zone. (A multi-use zone to contain both Industrial and Commercial zoning.)
2. Remove the B-2 Highway Service Business zone at the southwest corner of Willow and Cemetery Roads, allowing the area to revert to residential zoning.
3. Change the east side of State Route 83, from the Mail driveway north Greenwich Road excluding the existing I-1 industrial zone, with a depth boundary of 800 feet to B-1 Business zoning.
4. Change the east side of State Route 83, from the Mail driveway South to Interstate 71 and East to the Mall property to B-4 Business zoning.