ARTICLE 6

ADMINISTRATIVE PROVISIONS

6.01 Process
6.02 Zoning Inspector
6.03 Commission
6.04 Trustees
6.05 Board of Zoning Appeals Created
6.06 Amendments
6.07 Violations and Penalties

6.01 PROCESS: No development defined in this Resolution shall begin prior to the issuance of a Zoning Certificate therefore by the Zoning Inspector. The process for obtaining such certificate is illustrated in Appendix D. 5/19/04, 8/15/18 (8/2022)

(a) **Applicability**: (8/2022)

(1) No person shall locate, erect, construct, reconstruct, enlarge or structurally alter any building or structure nor shall any building, structure or real property be changed in use within the Township without obtaining a zoning certificate. (8/2022)

(2) No zoning certificate shall be issued unless the plans for the proposed building, structure or use fully comply with this Resolution:

a. to provide for a greater height or bulk
b. to accommodate or house a greater number of families or dwelling units
c. to occupy a greater percentage of lot area
d. to have narrower or smaller yards or open spaces or
e. in any manner be contrary to the provisions of this Resolution

(3) No lot or yard existing at the time of the effective date of this Resolution and amendments shall be reduced in dimension or area below the minimum requirements set forth herein. Lots or yards created after the effective date of this Resolution shall be in conformity with the minimum requirements set forth herein. (8/2022)

(4) A lot shall have frontage on a road and shall be in conformity with all of the minimum area, frontage, width, yards (setbacks) and other applicable regulations contained in this Resolution or any amendment thereto in effect at the time of its recording with the county recorder. (8/2022)

(b) **Applications:** The following applications accepted for processing by the Zoning Inspector shall be required.

(1) **Zoning Certificate:** Depending on their proposed uses, zoning certificate applications in all zoning districts shall be acted on by the Zoning Inspector. See 6.02 (8/15/18) (8/2022)

(2) **Zoning Certificate for Conditional Use:** Zoning Certificate applications for conditional uses in all zoning districts shall be acted on by the Board of Zoning Appeals and Conditional Zoning Certificates will be issued by the Zoning Inspector. See 6.02 and 6.05. (8/2022)

(3) **Appeal:** Appeal applications based on any alleged error in the interpretation or administration of the Resolution affected by the Zoning Inspector shall be acted on by the Board of Zoning Appeals; and Zoning Certificate issued by the Zoning Inspector shall be based on approval by the Board of Zoning Appeals. See 6.02 (a) and 6.05 (d). 8/15/18

(4) **Amendment:** Amendment application made by one or more owners or lessees of property in the area affected shall be acted on by the Commission and Trustees. See 6.02 (a) and 6.06.

(c) **Required Data:** The following application data in triplicate, or as may otherwise be required by this Resolution, shall be provided by the applicant.

(1) **Forms:** Each application shall include an application form supplied by the Zoning Inspector, and completed and certified by the applicant or his authorized legal representative.

(2) **Legal Descriptions:** Each application shall include a legal description of the subject lot or lots as recorded with the Geauga County Recorder; or, in the case of a platted subdivision, a copy of the plat showing the subject lot or lots as recorded with the Geauga County Recorder.

(3) **Development Plans:** Unless waived or modified by the Zoning Inspector, each application shall include a plan drawn to scale and certified by the applicant showing the exact dimensions and configuration of the subject lot or lots, and the exact size and location of all existing and proposed structures and development including finished grades at contour intervals of two (2) feet.

(4) **Property Owner Lists:** Each conditional use, appeal and amendment application shall include a list of the names and addresses of all current owners of lots contiguous to or across any road from the subject lot or lots. 11/19/13

(5) **Other Data:** If required by the Zoning Inspector, Trustees or Board **of** Zoning Appeals, the following data shall be included.

a. Vicinity maps drawn to scale showing existing topography (U.S. Geological Survey or better), drainage courses, tree cover, land uses, zoning districts, and existing and proposed subdivisions and improvements relative to the subject lot or lots.

b. Architectural and engineering drawings of proposed overall site development and separate structures and improvements.

c. Reports on market research, traffic analysis, soil tests, water table records, environmental impact studies, and appraisals.

d. Development schedules and data on planned employment, occupancy and operations.

e. Legal data such as proof of ownership, certifications by applicable agencies on the legal nature of proposes uses and common open space documents.

(d) **Development Plan Review Required:** Development Plan Review is required for all permitted uses in the B-2 District. See Article 8. (9/6/01) (08/2022)

(e) **Fees:** The Trustees shall adopt a schedule of fees for the applications required by the Resolution; and such fees specified on their respective application forms may be changed only by the Trustees.

(f) **Action Dates:** The following dates related to the processing of applications required by the Resolution shall apply.

(1) **Filing Date:** The filing date of each application shall be the date when all its required data and fees have been accepted by the Zoning Inspector, and certified by him on the application form.

(2) **Approval or Denial Dates:** For zoning certificate applications these dates shall be the date of action by the Zoning Inspector; for conditional use and appeal applications they shall be the date of action by the Board **of** Zoning Appeals; and for amendment applications the approval date shall be the effective date of the amendment, and the denial date shall be the date of denial by the Trustees or a referendum. 8/15/18

6.02 ZONING INSPECTOR: For the purpose of enforcing this Resolution, the position of Zoning Inspector is established according to Chapter 519 of the ORC and the Board of Township Trustees may establish the position of Assistant Zoning Inspector. The Board of Township Trustees shall fill the position of Zoning Inspector, together with such assistants as the Board of Township Trustees, from time-to-time, deems necessary, fix the compensation

for such positions, and make disbursements for them. The Zoning Inspector and any Assistant Zoning Inspector, before entering into the duties of the office, shall be bonded in accordance with the Ohio Revised Code. The Zoning Inspector shall have the following powers and duties under this Resolution. (9/2022)

(a) **Application Referrals:** Within five (5) days after the filing dates of certain applications, the following referrals shall be made by the Zoning Inspector.

(1) **Highway Director:** The Highway Director shall be notified by certified mail of any application affecting land within three hundred feet (300') of the centerline of any proposed new or changed highway certified by him to the Township, or land within a radius of five hundred feet (500') from the point of intersection of such centerline and any road. No such application shall be approved for 120 days after receipt by the Highway Director of notice thereof; and if within this period he notified the Zoning Inspector that the State shall proceed to acquire any of the subject land, the application shall be denied. 11/19/13

(2) **Commission:** All amendment applications shall be referred to the Commission. See 6.06.

(3) **Board of Zoning Appeals:** All conditional use and appeal applications shall be referred to the Board of Zoning Appeals. See 6.05 (a) and (c) and 6.05 (e).

(b) **Zoning Certificate Applications:** Within thirty (30) days after its filing date and action by the Commission if applicable, or further time agreeable to the applicant, each zoning certificate application shall be acted on by the Zoning Inspector as follows. 8/15/18

(1) **Approval:** If the application complies with all applicable provisions of the Resolution it shall be approved; and a Zoning Certificate shall be issued. 8/15/18

(2) **Denial:** If the application does not comply with any applicable provision of the Resolution it shall be denied; and a copy of its filed application form giving the denial date, reasons for denial and right to appeal shall be returned to the applicant by certified mail. Within twenty (20) days after receipt thereof, the applicant may appeal. See 6.02 (a) (4).

(c) **Conditional Use Applications:** If directed by the Board of Zoning Appeals, the Zoning Inspector shall issue a conditional use certificate specifying all conditions of approval by the Board of Zoning Appeals of a given conditional use application; and a Zoning Certificate shall be issued. See 6.05 (e). 8/15/18

(d) **Appeal Applications:** If directed by the Board of Zoning Appeals, the Zoning Inspector shall notify the appellant that a variance has been granted specifying all limitations of approval by the Board of Zoning Appeals of a given appeal application; and a Zoning Certificate shall be issued. See 6.05 (c) and (d). 8/15/18

(e) **Notices and Orders:** (Effective 2/5/03)

(1) **Revocation:** A zoning certificate shall be revoked by the Zoning Inspector if:

a. The zoning certificate has been issued in error by the Zoning Inspector.

b. The zoning certificate was issued based upon a false statement by the applicant.

c. The development or use described in the zoning certificate has not begun within six (6) months from the date of issuance or if development has begun within six (6) months and said development has not been completed within two (2) years from the date of issuance.

(2) **Revocation Notice:** When a zoning certificate has been declared revoked by the Zoning Inspector, written notice of its revocation shall be sent by certified mail (return receipt requested) to the applicant and such notice shall be posted in a conspicuous place on the affected property as described in the zoning certificate. Such notice shall set forth the reason(s) for the revocation of the zoning certificate as well as the applicant's right to appeal to the township Board of Zoning Appeals in accordance with Article 6 of this Resolution. Such notice shall also include a statement that all construction upon or use of the building, structure, or land described in the zoning certificate shall cease unless and until a new zoning certificate has been issued. Continuance of construction after the owner has received this notice shall be a violation of the Resolution. See 6.07. (Effective 2/5/03)

(3) **Violation:** If any development, building, structure or use is believed by the Zoning Inspector to be in violation of the Resolution, it shall be cited; and notice thereof giving the violations, required remedies and right to appeal shall be sent to the owner of the property by certified mail. Said owner shall be deemed in violation of the Resolution if, after 20 days, response has not been received. See 6.07. (Effective 2/5/03)

(4) **Stop Orders:** If any development, building, structure or use subject to this Resolution is found to have begun without a Zoning Certificate, or if any development, use, building, or structure is believed by the Zoning Inspector to be a threat to public health or safety, pursuant to this Resolution, it shall be ordered to stop immediately; and notice thereof giving the date of the order shall be posted on the property and sent by certified mail to the property owner. Continuance of development, use or occupancy, of the building or

structure, or removal or defacement of the order prior to written authorization by the Zoning Inspector to do so, shall be a violation of this Resolution. See 6.07. 8/15/18

(f) Shall make inspections as required to fulfill the duties of the Zoning Inspector. (8/2022)

(g) The Zoning Inspector upon finding that any provision of this Resolution is being violated, the Zoning Inspector shall notify, by certified mail, (return receipt (8/2022)requested), in writing, the person responsible for such violation, ordering the action to correct such violation. (8/2022)

(h) The Zoning Inspector shall receive and act upon written complaints regarding violations of this Resolution. See 6.08 (8/2022)

(i) The Zoning Inspector shall take any other action authorized by this Resolution or by law to ensure compliance with or to prevent violations of this Resolution. (8/2022)

(j) The Zoning Inspector shall keep a record of all actions taken in fulfillment of the duties imposed by this Resolution; and keep all documents including applications and complaints, which are received or made in connection with the duties of Zoning Inspector. All such records and documents shall be open for public inspection. Copies of such records and documents shall be made available to any member of the public in accordance with the Township's Records Policy. (8/2022)

(k) The Zoning Inspector shall receive filings and transmit notices of appeals to the Board of Zoning Appeals. (8/2022)

(l) The Zoning Inspector shall deposit all fees received with the Fiscal Officer within seven (7) days of receipt. (8/2022)

(m) The Zoning Inspector shall review proposed preliminary plans and final plats for major subdivisions per the Geauga County Subdivision Regulations and sign and date the original mylar of such plans and plats to ensure proof of compliance with the applicable provisions of this Resolution. (8/2022)

(n) The Zoning Inspector shall review proposed divisions of land that are not subject to platting and consolidations of lots pursuant to the Geauga County Subdivision Regulations and sign and date the survey map or plat with the appropriate language thereon to ensure proof of compliance with the applicable provisions of this Resolution. (8/2022)

6.03 COMMISSION: The Board of Township Trustees has created and established a Zoning Commission composed of five (5) members who reside in the township and the Board of Trustees may appoint two (2) alternate members, who reside in the township, in accordance with O.R.C. Section 519.04. (8/2022)

The two (2) alternate members shall be identified as first and second alternate, indicating the order in which they shall fill vacancies occurring on the Zoning Commission. An alternate member shall take the place of an absent regular member at any meeting of the Zoning Commission. Alternate members are expected to attend all meetings of the Zoning Commission, even when they are not filling an absence. If a regular member fails to appear, by the start of the meeting, then the alternate member shall fill the absence of the regular member immediately. (8/2022)

The start of the meeting begins at the call to order by the Chairman of the Zoning Commission. The Chairman presides over all meetings. In the absence of the Chairman, the Vice-Chairman shall preside. 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 (1) member will expire each year. (8/2022)

Where there is a County Planning Commission, the Board of Trustees may appoint qualified members of such Commission to serve on the Township Zoning Commission. Each regular or alternate member shall serve until the member's successor is appointed and qualified. (8/2022)

Members of the Zoning Commission, including alternate members, shall be removable for nonperformance of duty, misconduct in office, or other cause, by the Board of Trustees, upon written charges being filed with the Board of Trustees pursuant to the Ohio Revised Code, Section 519.04. Vacancies shall be filled by the Board of Trustees and shall be for the unexpired term. A suspension authorized by this section is not a vacancy for purposes of this section. The decision of the Board of Trustees regarding a suspension or removal may be appealed under O.R.C. Chapter 2506. (8/2022)

(a) The Commission established according to Chapter 519 of the ORC shall have the following powers and duties under this Resolution. (Revised 12/18/99).

(1) The Zoning Commission shall organize, adopt rules for the transaction of its business and keep a record of its actions and determinations. (8/2022)

(2) Initiate, review and make recommendations concerning amendments. See 6.06. (8/2022)

(3) Follow all other duties outlined in the Resolution. (8/202

6.04 TRUSTEES: The Trustees shall have the following powers and duties under this Resolution.

(a) **Amendments:** See 6.06.

6.05 BOARD OF ZONING APPEALS CREATED: Pursuant to O.R.C. 519.13, the Board of Township Trustees shall appoint a Township Board of Zoning Appeals composed of five (5) members who shall be residents of the unincorporated area in the township included in the area zoned. The Board of Township Trustees may also appoint two (2) alternate members to the Board of Zoning Appeals. (8/2022)

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

Each regular or alternate member shall serve until his successor is appointed and qualified. Members, including alternate members, shall be removable for the same causes and in the same manner and may be suspended as provided Section 519.04 of the Ohio Revised Code. The decision of the Board of Township Trustees regarding the suspension or removal may be appealed under Chapter 2506 of the Ohio Revised Code. Vacancies shall be filled by the Board of Township Trustees and shall be for the unexpired term. A suspension authorized by Section 519.04 of the Ohio Revised Code is not a vacancy for purposes of this section. The members may be allowed their expenses, or such compensation, or both, as the Board of Township Trustees may approve and provide. (8/2022)

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

(a) **Powers of the Board of Zoning Appeals:** The Township Board of Zoning Appeals may:

(1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning inspector in the enforcement of Sections 519.02 to 519.25 of the Ohio Revised code or of this Resolution.

(2) Authorize, upon appeal, in specific cases such variance from the terms of this zoning Resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of this resolution will result in unnecessary hardship, and so that the spirit of this Resolution shall be observed and substantial justice done.

(3) Grant conditional zoning certificates for the use of land, buildings, or other structures in accordance with this Resolution. If the Board considers conditional zoning certificates for activities that are permitted and regulated under Chapter 1514 of the Ohio Revised Code, or activities that are related to making finished aggregate products, the Board shall proceed in accordance with Section 519.141 of the Ohio Revised Code. (8/2022)

(4) Revoke an authorized variance or conditional zoning certificate granted for the extraction of minerals if: it has been issued in error, it was issued based upon a false statement of the applicant; the construction or use, as described in the conditional zoning certificate, has not begun within six (6) months from the date of issuance or if construction has begun within six (6) months and said construction has not been completed within two (2) years from the date of issuance; the conditional use is voluntarily discontinued for a period of two years or more; or if any of the conditions set forth in the conditional zoning certificate are violated. (8/2022)

The Township Board of Zoning Appeals shall notify the holder of the conditional zoning certificate by certified mail of its intent to revoke the certificate and of the holder's right to a hearing before the Board of Zoning Appeals, within thirty (30) days of the mailing of this notice. If the holder requests a hearing, the Board of Zoning Appeals shall set a time and place for the hearing and notify the holder. At the hearing, the holder may appear in person, by the holder's attorney or other representative, or he may present his/her position in writing. The holder may present evidence and examine witnesses appearing for or against him. If no hearing is requested, the Board of Zoning Appeals may revoke the certificate without a hearing. The authority to revoke a certificate is in addition to any other means of zoning enforcement provided by law.

When a conditional zoning certificate for the extraction of minerals has been declared revoked by the Board of Zoning Appeals, written notice of its revocation shall be sent by certified mail (return receipt requested) to the holder and such notice shall be posted in a conspicuous place on the affected property as described in the conditional zoning certificate. Such notice shall set forth the reason(s) for the revocation of the conditional zoning certificate. Such notice shall also include a statement that all construction upon or use of the building, structure, or land described in the conditional zoning certificate shall cease unless and until a new conditional zoning certificate has been issued. (8/2022)

(5) In exercising the above-mentioned powers, the Board of Zoning Appeals may, in conformity with such sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end has all the powers of the Zoning Inspector from whom the appeal is taken.

(b) **Rules, Organization, and Meetings of Board of Zoning Appeals**

(1) The Board of Zoning Appeals shall organize and adopt rules in accordance with this Zoning Resolution. Meetings of the Board of Zoning Appeals shall be held at the call of the chairman and at such other times as the Board of Zoning Appeals determines. The chairman, or in his absence the acting chairman, may administer oaths, and the Board of Zoning Appeals may compel the attendance of witnesses. All meetings of the Board of Zoning Appeals shall be open to the public. The Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicting such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Township Trustees and be a public record.

(2) The attendance of three (3) members of the Board of Zoning Appeals is required for a quorum. All decisions, motions, and actions of the Board of Zoning Appeals shall be by the affirmative vote of at least three (3) members of the board.

(3) If the Board of Township Trustees appoints alternate members to the Board of Zoning Appeals in accordance with O.R.C. 519.13, the two (2) alternate members shall be identified as first and second alternate, which indicates the order in which they shall fill vacancies on the Board of Zoning Appeals. When filling an absence created by an absent regular member, the alternate member shall be subject to all responsibilities of a regular member under procedures prescribed by resolution of the Board of Township Trustees. Alternate members are expected to attend all meetings and hearings of the Board of Zoning Appeals, even when they are not filling an absence. Their status as an active or inactive alternate member shall be made clear to all in attendance at the meeting or hearing. If a regular member fails to appear at the start of a meeting or hearing, then the alternate member shall fill the absence of the regular member immediately and for all continuance meetings or hearings. The start of the meeting or hearing begins with the call to order by the Chairman of the Board of Zoning Appeals. The Chairman shall preside over all meetings or hearings. In the absence of the Chairman, the Vice-Chairman shall preside. (8/2022)

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. (8/2022)

(c) **Procedures of Board of Zoning Appeals**

(1) Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer of the township affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision of the zoning Inspector by filing with the Zoning Inspector or the Board of Zoning Appeals, a notice of appeal specifying the grounds of appeal. The Zoning Inspector shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

(2) Written notices of appeal shall be made on forms provided by the Zoning Inspector and shall be signed and dated by the appellant or his authorized legal representative attesting to the truth and accuracy of all information supplied on the notice of appeal. The Zoning Inspector or the Board of Zoning Appeals shall require the submission of such supplemental information as may be necessary to ensure compliance with the regulations contained in this Resolution. (8/2022)

All notices of appeal shall contain the following language: "The penalty for falsification is imprisonment for not more than six (6) months, or a fine of not more than one thousand dollars ($1,000) or both."

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

a. The names, address, email address, and telephone number of the appellant.

b. The names, address, email address, and telephone number of the owner of record.

c. The address of the property, if different from the appellant's current address and permanent parcel number (PPN).

d. The names, permanent parcel number (PPN), and addresses of all parties in interest from the County Auditor's current tax list (all properties adjacent to and directly across the road from the subject property). 11/19/13

e. Documentation as to authority to file the notice of appeal (e.g. deed, power of attorney, lease or purchase agreement).

f. A copy of the deed and legal description of the property, as recorded with the Geauga County Recorder.

g. The current zoning district in which the property is located.

h. A description of the existing use of the property.

i. A description of the proposed use of the property.

j. Ten (10) copies of a plan or map, drawn to scale, with a north arrow and date showing the following information:

1. The dimensions (in feet) of all property lines and the total acreage of the property.

2. The dimensions (in feet) of existing buildings or structures on the property, if any.

3. The setback (in feet) from all property lines of existing buildings or structures on the property, if any.

4. The dimensions (in feet) of proposed buildings or structures on the property or of any addition or structural alteration to existing buildings or structures.

5. The total amount of square feet of floor space for each floor of proposed buildings or structures on the property or of any addition or structural alterations to existing buildings or structures; and a copy of the floor plan for each building or structure. (8/2022)

6. The setback (in feet) from all property lines of proposed buildings or structures on the property or of any addition or structural alteration to existing buildings or structures.

7. The height (in feet) of existing buildings or structures on the property.

8. The height (in feet) of proposed buildings or structures on the property or of any addition or structural alteration to existing buildings or structures.

9. The name and location of the existing road(s), public and private, adjacent to the property.

10. The number of dwelling units existing (if any) and proposed for the property.

11. The location, dimensions (in feet), setbacks from all lot lines, and number of parking spaces existing (if any) and proposed, and provide the surfacing material to be used.

12. The locations, dimensions (in feet), and setbacks from all lot lines of driveways existing (if any) and proposed and provide the surfacing material to be used. (8/2022)

13. For commercial or industrial uses: the locations, dimensions (in feet) and number of loading/unloading spaces existing (if any) and proposed. Provide the surfacing material to be used.

14. The location and dimensions (in feet) of any existing or proposed easements on the property.

15. The location and description of any existing and proposed landscaping and buffer areas.

16. The existing topography of the property and a final grading plan.

17. The location and height of any exterior lighting poles and fixtures, their maximum lumens, and documentation that they are and will be installed as full cut-off fixtures and properly shielded. (8/2022)

18. For nonresidential, commercial, and industrial uses: The location and dimensions of any exterior display, sales, storage, and trash receptacle areas on the property. (8/2022)

19. The location and dimensions of a fire protection pond, if applicable. (8/2022)

k. The number of the application for the zoning certificate

l. All notices of appeal for signs shall include, at a minimum, the following information:

1. Ten (10) copies of a drawing or map, drawn to scale with a north arrow and date showing:

   a. The dimensions (in feet) of the sign.

   b. The area of the sign in square feet (per sign face).

   c. The location of the sign on the building, structure or property including dimensions (in feet) from the front and side lot lines.

   d. The height (in feet) of the sign.

   e. The method of illumination, if any.

   f. The dimensions of the lettering and/or the elements of the matter displayed.

m. Provide a copy of the driveway culvert pipe permit issued by the appropriate governmental authority; or, if along a state highway, the access permit issued by the Ohio Department of Transportation, if applicable. (8/2022)

n. Provide a copy of the approval letter or permit, as applicable, from the Geauga Soil and Water Conservation District concerning the stormwater management and erosion control plan. See 3.05. (8/2022)

o. The riparian setback regulations, set forth in 3.06, may apply and compliance may be required as a part of the application, to be shown on the site plan or map. (8/2022)

p. For notices of appeal alleging error by the Zoning Inspector, a written statement on an application form provided by the Zoning Inspector shall be made by the appellant or his authorized representative relative to the alleged error made by the Zoning Inspector in his determination of the application for the zoning certificate.

q. For notices of appeal requesting a variance the appellant or his representative shall provide the following:

   1. A statement relative to the exact nature of the variance requested.

   2. The specific zoning regulation(s) shall be cited from which the variance is requested.

3. Written justification for the variance shall be made by the appellant and the Board of Zoning Appeals shall determine if the proposed variance involves an "area" variance or a "use" variance.

(a) Standards for an "Area" Variance: The practical difficulties standard shall apply to an area variance and the factors to be considered include, but are not limited to the following:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.

2. Whether the variance is substantial.

3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.

4. Whether the variance would adversely affect the delivery of governmental services.

5. Whether the property owner purchased the property with the knowledge of the zoning restriction.

6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance.

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

(b) Standards for a "Use" Variance: The unnecessary hardship standard shall apply to a use variance and the factors to be considered include, but are not limited to the following:

1. Whether there are conditions unique to this lot, and not ordinarily found in the same zoning district. (5/19/04)

2. Did the applicant create these hardship conditions? (5/19/04)

3. Whether granting the variance would adversely affect the rights of adjacent owners. (5/19/04)

4. Whether the variance would adversely affect the public health, safety and general welfare. (5/19/04)

5. Is the variance sought the minimum which will afford relief to the applicant? (5/19/04)

6. Is there another economically viable use for the lot which is permitted within this zoning district? (5/19/04)

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. (5/19/04)

r. The appeal fee shall be paid at the time of the submission of the application.

(d) **Appeal Applications**

(1) **Action:** The Board of Zoning Appeals shall fix a reasonable time for a public hearing on the appeal which shall commence not later than sixty (60) days from the date the notice of appeal has been filed with the Board of Zoning Appeals. The public hearing on the appeal may be continued from day to day for good cause shown.

The Board of Zoning Appeals shall give at least ten (10) days notice in writing to the parties in interest, give notice of such public hearing by one (1) publication in one (1) or more newspapers of general circulation in the county at least ten (10) days before the date of such hearing and decide the appeal within a reasonable time after it is submitted: notice of any continued public hearings shall be given at least by one (1) publication in one (1) or more newspapers of general circulation in the county and in writing to the parties in interest at least twenty-four (24) hours prior to the date of such hearing. Written notice may be provided by personal delivery or ordinary mail.

(2) **Hearings:** Hearings before the Board of Zoning Appeals shall be conducted in accordance with the following:

a. Any person may appear in person or by attorney.

b. All testimony and evidence received by the Board shall be given under oath or affirmation administered by the chairman or in his absence the acting chairman of the Board of Zoning Appeals.

c. A party in interest shall be allowed:

1. To present his position, arguments, and contentions;

2. To offer and examine witnesses and present evidence in support thereof;

3. To cross-examine witnesses purporting to refute his position, arguments and contentions;

4. To offer evidence to refute evidence and testimony offered in opposition to his position, arguments, and contentions;

5. To proffer any such evidence into the record, if the admission thereof is denied by the officer or body appealed from.

d. The Board of Zoning Appeals shall be provided with the original plus ten (10) copies of all exhibits submitted by a party in interest. All exhibits submitted shall be marked for identification by the Board and safely kept and preserved by the Board.

e. An accurate record of the proceedings shall be kept and preserved by the Board of Zoning Appeals.

(3) **Decisions:** Decisions of the Board of Zoning Appeals shall be in accordance with the following:

a. All decisions shall include findings of fact of the Board of Zoning Appeals in support of the decision.

b. A decision of the Board of Zoning Appeals and the adoption of findings of fact shall be made at a public meeting of the Board of Zoning Appeals. The decision and the findings of fact of the Board shall be in writing and signed at a public meeting of the Board of Zoning Appeals by all members voting affirmatively thereon no later than thirty (30) days from the last date of public hearing.

c. The original written decision and findings of fact of the Board of Zoning Appeals of Zoning Appeals and all applications, notices of appeal, documents, exhibits, and evidence relating to the proceeding shall be filed by the Board of Zoning Appeals with the Township Fiscal Officer within five (5) days of the signing of the written decision and findings of fact by the Board of Zoning Appeals.

d. Copies of the written and signed decision of the Board of Zoning Appeals shall be sent by ordinary mail within two (2) days of the signing of the written decision to the Township Zoning Inspector and the appellant.

e. The date of the signing of the written decision by the Board of Zoning Appeals shall be the date of entry as provided in ORC2505.07 for purposes of appeal to the court of common pleas pursuant to ORC. Chapter 2506.

(4) **Supplementary Conditions on Variances:** The Board of Zoning Appeals, in deciding any appeal for a variance, may provide such supplementary conditions which are reasonably related to the requested variance and are not in conflict with, and are specifically authorized by, this Resolution and which the Board of Zoning Appeals deems necessary to protect the public health, safety, morals, and general welfare. Any such supplementary conditions shall be made a part of the Board of Zoning Appeals' proceedings and shall be incorporated into the final decision by the Board approving a variance. Violations of such supplementary conditions, which are made a part of the written decision of the Board, shall be deemed a violation of this Resolution. (5/19/04)

(e) **Conditional Use Applications:** The Board shall act on all conditional use applications referred by the Zoning Inspector. See 6.02(a)(3).

(1) **Standards:** The following standards shall be used by the Board in its review and action on each application.

a. The data comprising the application shall be sufficient to determine its compliance with all provisions of the Resolution; and the applicant may be required by the Board to submit other data. See 6.01 (b)(5).

b. The application shall demonstrate that all applicable and development and maintenance standards of the Resolution can be met. See 3.01 and 3.02.

c. The application shall comply with all applicable district and supplementary regulations of the Resolution. See Articles 4, 4A and 5, particularly 5.03.

d. The development and uses proposed shall be in no way harmful or objectionable to the surrounding area, or impair its orderly development; and the application together with conditions required by the Board shall clearly demonstrate that the proposed development and use shall be in harmony with the surrounding area and neighborhood.

e. The proposed driveway(s) is of adequate width and construction to accommodate expected vehicular traffic to be generated by the proposed use and will be reasonably constructed to permit access by firefighting, law enforcement, ambulance, and other safety vehicles. A traffic impact study by a qualified traffic engineer may be required.

(2) **Action:** The Board shall act on each conditional use application as follows.

a. **Transmittal of an Application to the Board of Zoning Appeals**: Within seven (7) days after the receipt of a completed application for a conditional zoning certificate, the Zoning Inspector shall transmit said application to the secretary or chairman of the Board of Zoning Appeals. (8/2022)

~~b.~~ **Public Hearing**: Within forty (40) days after its referral by the Zoning Inspector to the Board, or further time agreeable to the applicant, the application shall be considered at a public hearing held by the Board. Notice of the date, time, place and subject of the hearing shall be published in one or more newspapers of general circulation in the Township, and sent by first class mail to the applicant and other parties of interest including all owners of lots contiguous to or across any road from the subject lot or lots, at least ten (10) days prior to the hearing.

c. **Hearings shall be conducted in accordance with the following:**

1. Any person may appear in person or by attorney. (8/2022)
2. All testimony and evidence received by the Board shall be given under oath or affirmation administered by the chairman or in his absence the acting chairman. (8/2022)
3. An applicant and other parties of interest shall be allowed:
   (a) To present his position, arguments, and contentions.
   (b) To offer and examine witnesses and present evidence in support thereof. (8/2022)

(c) To cross-examine witnesses purporting to refute his position, arguments, and contentions. (8/2022)

(d) To offer evidence to refute testimony offered in opposition to his position, arguments, and contentions. (8/2022)

(e) To proffer such evidence into the record, if the submission thereof is denied by the officer or body appealed from. (8/2022)

4. The Board of Zoning Appeals shall be provided with the original plus ten (10) copies of all exhibits that have been submitted. All exhibits submitted shall be marked for identification by the Board of Zoning Appeals and safely kept and preserved by the Board. (8/2022)

5. An accurate record of proceedings shall be kept and preserved by the Board of Zoning Appeals.

d. **Vote:** Within thirty (30) days after its public hearing, or further time agreeable to the applicant, the application shall be approved or denied by the Board as follows.

1. Approval: If the application together with any conditions required by the Board complies with all applicable provisions of this Resolution, it shall be approved; and a copy of this action and all conditions of approval shall be transmitted by the Board to the applicant by ordinary mail and to the Zoning Inspector. See 6.02 (c).

2. Denial: If the application does not comply with any applicable provision of the Resolution it shall be denied; and a copy of its filed application form giving the denial date, reasons for denial and right to appeal shall be returned to the applicant by certified mail (return receipt requested) and to the Zoning Inspector. The applicant may appeal to any court of competent jurisdiction according to law. The date of the signing of the written decision by the Board of Zoning Appeals shall be the date of entry as provided in O.R.C. 2505.07 for purposes of appeal pursuant to O.R.C. Chapter 2506. (8/2022)

3. The original decision of the Board of Zoning Appeals and the application, legal notice, documents, exhibits, and evidence relating to the proceeding shall be filed by the Board of Zoning Appeals with the Fiscal Officer within five (5) days of the signing of the written decision by the Board. (8/2022)

e. **General Conditions for Conditional Zoning Certificates** (8/2022)

All conditional zoning certificates shall contain the following conditions, in addition to those specifically by other sections of this Resolution and those required by the Board of Zoning Appeals.

1. A conditional zoning certificate shall not be transferred or assigned and a change of ownership of the affected property shall require the new property owner to obtain a new conditional zoning certificate. (8/2022)

2. A conditional zoning certificate for any of the uses provided in this Resolution shall be valid for a period not to exceed five (5) years from the date of issuance unless otherwise provided herein. (8/2022)

f. **Procedure for Revocation of Conditional Zoning Certificate** (8/2022)

When a conditional zoning certificate has been declared revoked by the Zoning Inspector, written notice of its revocation shall be sent by certified mail (return receipt requested) to the holder and such notice shall be posted in a conspicuous place on the affected property as described in the conditional zoning certificate. Such notice shall set forth the reason(s) for the revocation of the conditional zoning certificate as well as the right of the holder of the conditional zoning certificate to appeal to the Board of Zoning Appeals in accordance with this Resolution. Such notice shall also include a statement that all construction upon or use of the building, structure or land described in the conditional zoning certificate shall cease unless and until a new conditional zoning certificate has been issued. (8/2022)

6.06 AMENDMENTS: This Resolution may be amended in accordance with O.R.C. Section 519.12, as follows.

(a) **Initiation:** An amendment may be initiated by a Commission motion, Trustee resolution or an amendment application. See 6.01 (b)(4).

(b) **Commission Hearing:** The Commission shall set a public hearing date within forty (40) but not less than twenty (20) days after the Commission motion or receipt of a Board of Trustees resolution, or the filing date of the application, at which time the Commission shall hold a public hearing thereon.

(1) **County Referral**: Within five (5) days after the Commission motion receipt of a Board of Trustees resolution, or the filing date of the application, a copy of the motion, resolution, or application and map, if a rezoning is proposed, in addition to the text of the amendment shall be transmitted by the Commission to the County Planning Commission. The recommendations by the County Planning Commission shall be considered at the public hearing.

(2) **Property Owner Notice**: At least ten (10) days before the public hearing, written notice shall be sent by the Commission, by first class mail, to all owners of property within and contiguous to or directly across the road from the area to be rezoned. Such notice, shall not be required in cases where more than ten (10) parcels are included in the area to be rezoned, as provided on the Geauga County Auditor's current tax list. Failure to deliver the notice shall not invalidate the amendment. 11/19/13 The written notice shall include: the time, date and place of the public hearing; that the Auburn Township Zoning Commission will be conducting the hearing, a statement that the motion, resolution or application is an amendment to the Zoning Resolution; a list of the addresses of all properties to be rezoned by the proposed amendment and of the names of owners of those properties as they appear on the County Auditor's current tax list; the present zoning classification of the property; the time and place where the motion, resolution or application proposing to amend the Zoning Resolution will be available for examination; the name of the person responsible for giving notice of the hearing by publication, by mail, or by both publication and mail; and a statement that after the conclusion of the hearing the matter will be referred to the Board of Township Trustees for its action. (8/2022)

(3) **Published Notice:** At least 10 days before the public hearing, the aforementioned property owner notice shall be published in one or more newspapers of general circulation in the Township. If the proposed amendment alters the text of the Resolution, or rezones more than ten (10) parcels of land as listed on the Geauga County Auditor's current tax list, the published notice shall set forth the time, date, and place of the public hearing and include the following: that the Auburn Township Zoning Commission will be conducting the hearing on the proposed amendment; a statement indicating that the motion, application, or resolution is an amendment to the Zoning Resolution; the time and place where the text and maps of the proposed amendment will be available for examination for a period at least ten (10) days prior to the hearing; the name of the person responsible for giving notice of the hearing by publication; and a statement that, after the conclusion of the hearing, the matter will be submitted to the Board of Township Trustees for its action. (8/2022)

(c) **Commission Action:** Within 30 days after its hearing, the Commission shall recommend to the Trustees, adoption, adoption with modification or denial of the amendment.

(d) **Board of Trustees Hearing**: Upon receipt of the Commission's recommendation, the amendment, and the recommendation of the County Planning Commission, the Board of Trustees shall set a public hearing date, which shall be within thirty (30) days from the date of receipt of the amendment. Notice of the hearing shall be given by the Board by one (1) publication in one (1) or more newspapers of general circulation in the Township, at least ten (10) days before the date of the hearing. (8/2022)

(1) **Published Notice For Ten (10) or Fewer Parcels**: If the proposed amendment intends to rezone ten (10) or fewer parcels as listed on the county auditor's current tax list, the published notice shall set forth the time, date, and place of the public hearing and include all of the following: that the Auburn Township Board of Trustees will be conducting the hearing; a statement indicating that the motion, application or resolution is an amendment to the Zoning Resolution; a list of all properties to be rezoned or redistricted by the proposed amendment and the proposed zoning classification of that property; the time and place where the motion, application, or resolution proposing to amend the zoning resolution will be available for examination for a period of at least ten (10) days prior to the hearing; and the name of the person responsible for giving notice of the hearing by publication, by mail, or by both publication and mail. (8/2022)

(2) **Published Notice for More than Ten (10) Parcels or a Text Amendment**: If the proposed amendment alters the text of the Zoning Resolution, or rezones or redistricts more than ten (10) parcels as listed on the county auditor's current tax list, the published notice shall set forth the time, date, and place of the public hearing and include all of the following: that the Auburn Township Board of Trustees will be conducting the hearing; a statement indicating that the motion, application, or resolution is an amendment to the Zoning Resolution; the time and place where the text and maps of the proposed amendment will be available for examination; for a period of at least ten (10) days prior to the hearing; and the name of the person responsible for giving notice of the hearing by publication. (8/2022)

(e) **Board of Trustees Action:** Within twenty (20) days after its hearing, the Board of Trustees shall adopt, adopt with modification or deny the Commission's recommendation. A majority vote of the Board of Trustees shall be required to modify or deny the Commission's recommendation.

(f) **Effective Date and Referendum:** An amendment shall take effect in thirty (30) days after its adoption by the Board of Trustees unless there is presented to the Board a referendum petition signed by a number of registered electors residing in the Township equal to not less than eight (8) percent of the total vote cast for all candidates for Governor at which a Governor was elected. Such petition shall request that the amendment be submitted to the electors of the Township for approval or rejection at the next primary or general election that occurs at least ninety (90) days after the petition is filed. No amendment for which a referendum vote has been petitioned shall take effect unless a majority of the votes cast on the issue is in favor of the amendment. Upon certification by the County Board of Elections that the amendment has been approved, it shall take immediate effect.

(g) **Filing:** 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 County Planning Commission.

The failure to file any amendment, or any text or maps, or duplicates of any of these documents, with the office of the County Recorder or the County Planning Commission as required does not invalidate the amendment and is not grounds for an appeal of any decision of the Board of Zoning Appeals. (8/2022)

(h) **Application for a Zoning Amendment**: Application forms for a zoning amendment to this Resolution shall be provided by the Zoning Commission, its secretary or at the Township's website, www.auburntownship.com. (8/2022)

(i) **Submission to the Director of Ohio Department of Transportation**: Before any zoning amendment is adopted affecting any land within three hundred (300) feet of the centerline of a proposed new highway or a highway for which changes are proposed as described in the certification to the Board of Trustees and Zoning Inspector by the Director of Transportation or any land within a radius of five hundred (500) feet from the point of intersection of said centerline with any public road or highway, the Board of Trustees shall give notice, by registered or certified mail to the Director of Transportation. (8/2022)

The Board of Township Trustees shall not adopt a zoning amendment for one hundred (120) days from the date the notice is received by the Director. If the Director of Transportation notifies the Board of Trustees that he has purchased or has initiated proceedings to appropriate the land which is subject of the amendment, then the Board of Trustees shall refuse to adopt the amendment. If the Director notified the Board of Trustees that he has found acquisition at that time not to be 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 and the property owner, the Board of Township Trustees shall proceed as required by the Ohio Revised Code. (8/2022)

(j) **Trustee Action:** Within 20 days after their hearing, the Trustees shall adopt, adopt with modification or deny the Commission recommendation. A unanimous vote of the Trustees shall be required to modify or deny the Commission recommendation.

(k) **Effective Date and Referendum:** An amendment shall take effect 30 days after its adoption by the Trustees unless there is presented to them a referendum petition signed by a number of qualified voters residing in the Township equal to not less than eight (8) percent of the total vote cast for all candidates for Governor in the last preceding general election at which a Governor was elected. Such petition shall request that the amendment be submitted to the electors of the Township for approval or rejection at the next primary or general election. No amendment for which a referendum vote has been petitioned shall take effect unless a majority of the votes cast on the issue is in favor of the amendment. Upon certification by the County Board of Elections that the amendment has been approved, it shall take immediate effect. 5/19/04

(l) **Filing:** 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 County Planning Commission.

6.07 VIOLATONS AND PENALTIES: The following provisions shall apply:

(a) **Zoning Certificates:** Failure to obtain a Zoning Certificate shall be a punishable violation of this Resolution. Each Zoning Certificate shall specify the development and uses authorized; and no other development or uses shall be implied. Should a Zoning Certificate or other authorization be issued by a Township official or employee, which is in violation of any provision of the Resolution, such certificate or authorization shall be null and void. 8/15/18

(b) **Prevention of Violations:** In addition to the provisions of this Resolution, the Trustees, County Prosecuting Attorney, Zoning Inspector or any owner of property especially damaged by a violation of the Resolution may institute injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate or remove such violation. The Trustees may employ special counsel to represent them in any proceeding or action brought to prevent or remove a violation of the Resolution.

(c) **Stay of Proceedings:** An appeal filed in accordance with this Resolution, or as otherwise provided for by law, stays all proceedings in the furtherance of the action appealed from unless the Zoning Inspector certifies to the Board that, by reason of the facts stated in the appeal application, a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed except by an order by the Board, or the court of record on the case, to the Zoning Inspector.

(d) **Penalties:** No building shall be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, and no land shall be used in violation of this Resolution or any amendment to this Resolution. Each day's continuation of a violation of this Resolution may be deemed a separate offense. Actual penalties provided in ORC 519.99. (8/2022)

6.08 COMPLAINTS REGARDING VIOLATIONS

Whenever an alleged violation of this Resolution occurs any person may file a written complaint on the Auburn Township Complaint of Zoning Violation form with the Zoning Inspector. Such complaint shall state the nature of the complaint and the regulation violated. The Zoning Inspector shall keep records of such complaints and shall investigate within thirty (30) days from the date such complaint was filed or within such extended time period as may be necessary to fulfill the requirements of this Resolution. (8/2022)