

CHAPTER NINE ADMINISTRATIVE AUTHORITY

Section 900.00 Purpose

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

Section 901.00 Zoning Inspector

A Zoning Inspector designated by the Township Board of Trustees shall administer and enforce this Resolution. The Inspector may be provided with such assistants and secretaries as the Township Board of Trustees deems necessary. The terms conditions of employment and rate of compensation shall be set by the Township Board of Trustees.

Section 901.01 Responsibilities of the Zoning Inspector

The Zoning Inspector shall have the following duties:

- A. Apply and enforce the provisions of this Resolution.
- B. Respond to questions concerning applications for amendments to the Zoning Resolution text and the official zoning district map.
- C. Issue Zoning Certificates as provided by this Resolution, and keep a record of same with a notation of any conditions attached thereto.
- D. Act on all applications upon which he/she is authorized to act by the provisions of this Resolution within the specified time or notify the applicant in writing of his/her refusal or disapproval of such application and the reasons for such refusal/disapproval.
- E. Conduct inspections of structures, buildings and uses of land to determine compliance with this Resolution and, in the case of any violation, to notify in writing the person(s) responsible, specifying the nature of the violation and ordering corrective action necessary to correct the violation, citing the section of this Resolution the violation pertains to.
- F. Maintain in current status the official zoning district map that shall be kept on permanent display in the township offices.
- G. Maintain permanent and current records required by this Resolution, including but not limited to: zoning certificates, inspection documents, records of variances, appeals, amendments, and conditional uses.

- H. Make such records available for the use of the Township Board of Trustees, the Zoning Commission, the Board of Zoning Appeals and make available for public inspection, and copying, upon request (at cost) and within a reasonable time from the time of the request¹, any records, and shall make available copies of this Resolution, any amendments, and current zoning district map for sale to the public at cost.
- I. Determine the existence of any violations of this Resolution and cause notifications or initiate any such other administrative or legal remedies as needed to address such violation. Such legal remedies will require the assistance of the Portage County Prosecutor.
- J. Cooperate with the County Prosecutor in the investigation and prosecution of all zoning violations not addressed by the responsible party in the time provided for them to do so, including, but not limited to attending all court proceedings as directed.
- K. Maintain a list of nonconforming uses and structures with the location and exact nature of the existing nonconformity, and date it became nonconforming if that can be ascertained.
- L. Prepare and submit an annual report to the Township Board of Trustees and Zoning Commission on the administration of this Resolution, setting forth such information as may be of interest and value in advancing the purpose of this Resolution.
- M. Attend public hearings of the Board of Zoning Appeals to report and give testimony as directed by such Board.
- N. Report any recommended amendments to this Zoning Resolution to the Zoning Commission in a timely manner.
- O. Such other duties and responsibilities as described in this Resolution and as directed in writing by the Township Board of Trustees.

Section 902.00 Zoning Commission

Section 902.01 Township Zoning Commission, Establishment of Terms and Compensation

The Brimfield Township Zoning Commission as established by the Brimfield Township Board of Trustees under ORC 519.04 shall consist of five (5) members who reside within the unincorporated area of the Township. The terms of the regular members shall be arranged so that the term of one member shall expire each year. The Board of Trustees may also appoint two (2) alternate members to the Zoning Commission who shall reside in the unincorporated territory of the Township, for terms as determined by the Board of Trustees. An alternate member shall take the place of an absent regular member at any meeting of the Zoning Commission, according to procedures prescribed by Resolution by the Township Board of Trustees.

Each regular or alternate member shall serve until his/her successor is appointed and qualified. Vacancies on the Zoning Commission shall be filled by the Township Board of Trustees.

¹ Reasonable shall be deemed to be 5-7 working days from date of request.

Members may be compensated and/or may have their expenses reimbursed as the Township Board of Trustees may approve and provide for. In addition, the Zoning Commission may within the limits of the moneys appropriated by the Township Board of Trustees, for the purpose of performing its duties under this Resolution, employ personnel and assistants as it deems necessary.

Section 902.02 Procedure for Removal of Zoning Commission Member

Regular and alternate members of the Zoning Commission shall be removable for nonperformance of duty, misconduct in office, or other cause, by the Board of Trustees. Written charges must be filed with the Township Board of Trustees and the Zoning Commission member cannot be removed until after a public hearing has been held regarding such charges and after a written copy of the charges has been served upon the member so charged at least ten (10) days prior to the hearing, either by registered mail or by leaving a copy at the member's place of residence. The member shall be given an opportunity to be heard and answer such charges.

Vacancies shall be filled for the un-expired term of the member affected.

Section 902.03 Authority and Responsibility of the Zoning Commission

The Brimfield Township Zoning Commission shall have all of the responsibilities conferred upon it by the Ohio Revised Code and subsequent amendments thereto, and such other duties as will aid in best carrying out the Ohio Revised Code requirements and which at a minimum include:

- A. Keep current the plan for Zoning Districts and regulations for such districts. Periodic review of the Zoning plan and district regulations in light of changing conditions, comprehensive plan consistency and amendments, community needs and best available planning practices, shall be undertaken by the Zoning Commission to meet this requirement.
- B. Initiate amendments to the Zoning Resolution text and/or district map to accomplish Item A of this Section or where such amendment could result in a better Resolution.
- C. Review Zoning Resolution amendments initiated by Township Board of Trustees or property owners and provide recommendations to the Township Board of Trustees on said amendments for their consideration and action at their public hearing.
- D. Employ or contract with planning consultants, public or private, as necessary to assist the Zoning Commission in carrying out their responsibilities, within the limits of monies appropriated by the Township Board of Trustees for that purpose.
- E. Utilize information and counsel available from appropriate public officials, departments, and agencies, which have information, maps and data pertinent to the Townships needs.
- F. All official actions shall require the vote of three (3) Zoning Commission members who shall constitute a quorum.

Section 903.00 Board of Zoning Appeals

Section 903.01 Board of Zoning Appeals, Establishment of Terms and Compensation

The Board of Zoning Appeals as established by the Township Board of Trustees, shall consist of five (5) regular members who shall each serve a term of five (5) years except that the initial appointments shall be one member each for one, two, three, four and five year term. The Township Board of Trustees may appoint two (2) alternate members to the Township Board of Zoning Appeals, for terms to be determined by the Township Board of Trustees. An alternate member shall take the place of an absent regular member at any meeting of the Board of Zoning Appeals according to procedures prescribed by resolution by the Township Board of Trustees. Members shall be a residents of the unincorporated area of the Township. Each member shall serve until his or her successor is appointed and qualified.

Members may be compensated and/or may have their expenses reimbursed as the Township Board of Trustees may approve and provide for. The Board of Zoning Appeals may within the limits of the moneys appropriated by the Township Board of Trustees, for the purpose of performing its duties under this Resolution, employ personnel and assistants as it deems necessary.

Section 903.02 Procedure for Removal of Board of Zoning Appeals Member

Members or alternates shall be removable for nonperformance of duty, misconduct in office, or other cause, by the Township Board of Trustees. Written charges must be filed with the Township Board of Trustees and the Board of Zoning Appeals member cannot be removed until after a public hearing has been held regarding such charges and after a written copy of the charges has been served upon the member so charged at least ten (10) days prior to the hearing, either by registered mail or by leaving a copy at the member's place of residence. The member shall be given an opportunity to be heard and answer such charges.

Vacancies shall be filled for the un-expired term of the member affected.

Section 903.03 Proceedings of the Board of Zoning Appeals

The Board of Zoning Appeals shall adopt rules necessary to the conduct of its meetings and hearings and business in keeping with the provisions of this Resolution. Meetings shall be held at the call of the chairman and such other times as the Board of Zoning Appeals may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact and shall keep records of its official actions, all of which shall be a public record and immediately filed in the Office of the Township Board of Trustees. The Board of Zoning Appeals shall adopt the resolution required under Ohio Revised Code Section 121.22 to govern public notice of its meetings. All official actions shall require the vote of three (3) Board of Zoning Appeals members who shall constitute a quorum.

All hearings shall be held in accordance with the Ohio Revised Code, Chapter 519 and this Resolution. All of the powers listed in Section 903.03 may be exercised only within a hearing open to the public as

provided in this section unless otherwise provided in this Resolution. At all such hearings, the chairperson, or in his or her absence, the acting chairperson, shall administer an oath or affirmation to all witnesses giving testimony, and give the applicant or appellant, and those in opposition to the application or appeal, the opportunity to:

- A. Appear and be heard in person, or by an attorney, in support or opposition to the application or notice of appeal and:
 - 1. Present his or her position, arguments and contentions;
 - 2. Offer and examine witnesses and present evidence in support;
 - 3. Cross examine witnesses purporting to refute his or her position, arguments and contentions;
 - 4. Offer evidence to refute evidence and testimony offered in opposition to his or her position, arguments and contentions;
 - 5. Proffer any such evidence into the record, if the admission of it is denied by the Board of Zoning Appeals.
- B. Subpoena material witnesses, through the authority of the Board of Zoning Appeals and under its discretion and control, after a timely request to the Board of Zoning Appeals.

Section 903.04 Powers and Responsibilities of the Board of Zoning Appeals

The Board of Zoning Appeals shall have all the powers and responsibilities prescribed by the Ohio Revised Code, subsequent amendments thereto as well as other responsibilities, which will aid in carrying out its duties and at a minimum includes the following:

- A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by any administrative official such as the zoning inspector, in the enforcement of this Resolution.
- B. To authorize upon appeal, in specific cases, variances from the terms of this Resolution as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of this Resolution will result in unnecessary hardship and so the spirit of this Resolution shall be observed and substantial justice done.
- C. To grant conditional zoning certificates for the use of land, buildings or structures under the conditions specified in this Article, and the in the district regulations.
- D. To revoke an authorized variance or conditional zoning certificate granted for the extraction of minerals if any condition of the variance or conditional certificate is violated. (ORC 519.14)

The Board of Zoning Appeals shall notify the holder of the variance or certificate by certified mail of its intent to revoke the variance or certificate under Item D of this section, of his/her right to a hearing before the Board of Zoning Appeals, within thirty (30) days of the mailing of the notice, if he/she so requests. 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 his attorney or other representative, or he/she may present his position in writing. He/she may present evidence and examine witnesses appearing for or against him/her. If no hearing is requested, the Board of Zoning Appeals may revoke the variance or certificate without a hearing. The authority to revoke a variance or certificate is in addition to any other means of zoning enforcement provided by law.

In exercising the above 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 appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end has all powers of the officer from whom the appeal is taken.

Section 903.05 Authority of the Board of Township Trustees, Zoning Inspector, and Board of Zoning Appeals On Matters of Appeals

The authority of the Township Board of Trustees in connection with this Resolution shall not include hearing and deciding questions of interpretation and enforcement. Under this Resolution, the Township Board of Trustees shall have the authority to consider and adopt or reject proposed amendments or the repeal of this Resolution as provided by law, as well as the other duties described in Section 904.00 of this Resolution.

All questions of interpretation and enforcement shall first be presented to the Zoning Inspector and such questions shall only be presented to the Board of Zoning Appeals upon appeal from the written decision of the Zoning Inspector.

The Board of Zoning Appeals shall have the authority to decide on all matters of appeal in accordance with the requirements as set forth in Section 203.00 of this Resolution. Recourse from any decision of the Board of Zoning Appeals shall be to the courts as provided by law. Any such appeal to the courts shall be made within thirty (30) days of the Board of Zoning Appeals' written decision.

However, nothing in this Resolution shall be interpreted to prevent any official of the Township from appealing a decision of the Board of Zoning Appeals with the courts as provided in Chapters 2505 and 2506 of the Ohio Revised Code.

Section 904.00 Township Trustees Powers and Duties Regarding This Zoning Resolution

- A. Approve appointments of members to the Zoning Commission.
- B. Approve the appointments of members to the Board of Zoning Appeals.
- C. Establish a schedule of fees as stated in Section 200.10 of this Resolution.

- D. Initiate or act upon suggested amendments to the Zoning Resolution text or Official Zoning District Map. Final Action upon a suggested zoning amendment shall be undertaken at a public hearing as specified in Chapter 2.

- E. Provide a liaison from the Township Board of Trustees who will meet with the Zoning Commission as needed.