

# MILTON TOWNSHIP ZONING RESOLUTION

## ARTICLE VII ADMINISTRATION

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### 700 Office of the Zoning Inspector Created

A Zoning Inspector appointed by the Board of Township Trustees shall administer and enforce this Resolution. He/she may be provided with the assistance of such other persons as the Board of Township Trustees may direct. The Township Zoning Inspector, before entering upon his/her duties, shall give bond as specified in Section 519.161 of the Ohio Revised Code.

### 701 Duties of the Zoning Inspector

It shall be the duty of the Zoning Inspector, an appointee of the Board of Township Trustees, to do the following within such monetary authority and policy guidelines as may be established by the Board of Township Trustees:

1. Enforce this Resolution.
2. Receive, review and approve or deny applications for Zoning Certificates.
3. Receive, review, and approve or deny all applicable subdivision plat and lot splits which are submitted to the Ashland County Planning Commission in order to determine if the plat or lot split conforms to all applicable provisions of this Resolution.
4. A. Receive and review applications for appeals, conditional use and variance submitted in proper form with corresponding fees.  
B. Forward corresponding fees with explanation of application to Township Fiscal Officer Within Thirty (30) days of receipt.  
C. Forward applications to the designated agent of the Board of Zoning Appeals within Three (3) business days.
5. A. Receive and review applications for a change of zoning submitted in proper form with corresponding fees.  
B. Forward corresponding fees with explanation of application to Township Fiscal Officer within Thirty (30) days of receipt.  
C. Forward applications to designated agent of the Zoning Commission within Three (3) business days.
6. Perform on-site inspections.
7. Investigate violations of this Resolution and, where appropriate, issue such Written Notices, Zoning Citations, and/or Stop Work Orders as may be deemed necessary by the Zoning Inspector to prevent and/or stop violations, and administer the provisions of this Resolution.
8. Maintain records of zoning activity including Zoning Certificates, variances, conditional uses, and non-conforming uses.
9. Provide monthly reports of zoning activities and inspections to the Board of Trustees, the Zoning Commission and the Board of Zoning Appeals.

The Zoning Inspector, and any other departments, officials, and public employees of Milton Township, vested with the duty or authority to issue Zoning Certificates, shall conform to the provisions of this Resolution and shall issue no Zoning Certificate for any use, building or purpose in conflict with the provisions of this Resolution.

It shall also be the duty of all officials and employees of the township to assist the Zoning Inspector by reporting to him/her upon new construction, reconstruction or land uses or upon seeing violations.

Appeals from any decision of the Zoning Inspector may be made to the Board of Zoning Appeals, as provided in Chapter VI of this Resolution.

**MILTON TOWNSHIP ZONING RESOLUTION**

**ARTICLE VII ADMINISTRATION (Continued)**

**702 Zoning Commission Created**

The Zoning Commission is hereby created, which shall consist of Five (5) members to be appointed by the Board of Township Trustees, each for a term of Five (5) years, except that the initial appointments shall be One (1) member each for One (1), Two (2), Three (3), Four (4) and Five (5) year terms. Each member shall be a resident of Milton Township. Members of the Zoning Commission may be removed from office by the Board of Township Trustees for cause upon written charges and after a public hearing. Vacancies shall be filled by appointment by the Board of Township Trustees for the unexpired term of the member affected.

The Zoning Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Resolution. Meetings shall be held at the call of the chairman or vice-chairman, or at the call of a majority of the members of the Zoning Commission. All meetings shall be open to the public. The Zoning Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions all of which shall be a public record and be immediately filed in the office of the Commission.

**703 Duties of the Zoning Commission**

For the purposes of this Resolution, the Commission shall have the following duties:

1. Initiate proposed amendments to this Resolution.
2. Review all proposed amendments to this Resolution and make recommendations to the Board of Township Trustees as specified in Article VIII.
3. Maintain Township Zoning Map as specified in Section 106.

**704 Board of Zoning Appeals Created**

A Board of Zoning Appeals is hereby created, which shall consist of Five (5) members to be appointed by the Board of Township Trustees, each for a term of Five (5) years, except that the initial appointments shall be One (1) member each for One (1), Two (2), Three (3), Four (4) and Five (5) year terms. Each member shall be a resident of Milton Township. Members of the Board of Zoning Appeals may be removed from office by the Board of Township Trustees for cause upon written charges and after a public hearing. Vacancies shall be filled by appointment by the Board of Township Trustees for the unexpired term of the member affected.

**705 Proceeding of the Board of Zoning Appeals**

The Board shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Resolution. Meetings shall be held at the call of the Chairman or at the call of a majority of members of the Board of Zoning Appeals. The Chairman, or in his/her 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 examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board of Zoning Appeals.

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### 706 Duties of the Board of Zoning Appeals

In exercising its duties, the Board of Zoning Appeals may, as long as such an action is in conformity with the terms of this Resolution, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the Zoning Inspector from whom the appeal is taken. The concurring vote of a majority of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this Resolution or to effect any variation in the application of this Resolution. For the purposes of this Resolution, The Board of Zoning Appeals has the following specific responsibilities:

1. To hear and decide appeals by any person affected or any township Officer who alleges there is an error in any order, requirement, decision, interpretation or determination made by the Township Zoning Inspector.
2. To authorize such variance from the terms of this Resolution as specified in Section 709. Variances from this Resolution will not be contrary to the public interest, but, will be granted when owing to the specific conditions, a literal enforcement of this Resolution will not result in unnecessary hardship. For all variances, the spirit of this Resolution shall be observed and substantial justice done.
3. To grant conditional use certificates as specified in Article IV of this Resolution under the conditions established in Article V with such additional safeguards as will uphold the intent of this Resolution.
4. Under no circumstances shall the Board of Zoning Appeals grant a variance which will permit a use which is not permitted in the use district involved.

## MILTON TOWNSHIP ZONING RESOLUTION

### 707 Role of the Township Trustees

It is the intent of this Resolution that all questions of interpretation and enforcement shall be first presented to the Zoning Inspector, and those such questions shall be presented to the Board of Zoning Appeals only on appeal from the decision of the Zoning Inspector, and that recourse from the decisions of the Board of Zoning Appeals shall be to the courts as provided by law. It is further the intent of this Resolution that the duties of the Township Trustees, in connection with this Resolution, shall not include hearing and deciding questions of interpretation and enforcement that may arise.

The Township Trustees shall be responsible for:

1. Appointing a Zoning Inspector, members of the Township Zoning Commission, and members of the Board of Zoning Appeals.
2. Establishing a schedule of fees for issuing zoning certificates, appeals, variances, conditional use certificates, processing amendments, and any other zoning actions requiring postage, legal advertising, inspections or expert review, or general processing of applications.
3. Consideration of and adoption, rejection or modification of proposed amendments to this Resolution as provided in Article VIII.
4. Approving funds as needed for enforcement.

Nothing in this Resolution shall be interpreted to prevent any official of Milton Township from appealing a decision of the Board to the Courts as provided in Chapter 2505 and 2506 of the Ohio Revised Code. Any such appeal shall be made within Ten (10) days of the Board of Zoning Appeals written decision.

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1. Appeals to the Board of Zoning Appeals may be made by:
  - a. Any person affected by the decision of the Zoning Inspector.
  - b. Any officer of the Township.
2. The appeal shall be made within Twenty (20) days after the decision by filing with the Board of Zoning Appeals, a notice of such appeal specifying the grounds for the appeal on Board of Zoning Appeals approved forms.
3. The Zoning Inspector or administrative officer shall submit to the Board of Zoning Appeals all records related to the situation which is being appealed.
4. When a notice of appeal has been filed in proper form with the Board of Zoning Appeals, the Board of Zoning Appeals shall hold a public hearing within Thirty (30) days.
5. Notice of the Public Hearing shall be provided in the following ways:
  - A. The Board of Zoning Appeals shall give at least Ten (10) days written notice to all parties of interest and to any person, firm, or corporation owning premises located within Six Hundred (600) feet of the land that is the subject of appeal.
  - B. In addition, the Board of Zoning Appeals shall inform the general public of the Public Hearing by placing One (1) notice of the hearing in One (1) or more newspapers of general circulation in the Township at least Ten (10) days before the date of said hearing.
  - C. The notice shall contain the following information:
    1. The time, date, and place of the Public Hearing.
    2. The name of the Board of Zoning Appeals that will be conducting the hearing.
    3. A statement indicating that the application is an appeal.
    4. A list of the addresses of all properties related to the appeal and of the names of owners of these properties as they appear on the County Auditor's current Tax List.
    5. The time and place where the appeal application will be available for examination for a period of at least Ten (10) days prior to the public hearing.
    6. The name of the person responsible for giving notice of the public hearing (mailed or published). This will usually be the Chairman or Secretary of the Board of Zoning Appeals.
    7. Any other information requested by the Board of Zoning Appeals.
6. At the hearing, any person may appear in person or by attorney. The Board of Zoning Appeals may recess such hearings as necessary, and if the time and place of the continued hearing be publicly announced at the time of recess, no further notice shall be required. The board must decide the appeal within a reasonable time after its Public Hearing.
7. The Secretary of the Board of Zoning Appeals shall promptly notify the applicant in writing the decision of the Board.
8. The refusal of an applicant's request by the Board of Zoning Appeals can only be appealed to the Court of Common Pleas of Ashland County.
9. Fees as established by the Board of Trustees shall be paid upon the filing of any request for an appeal. Said fees shall be paid to the Board of Trustees and shall not be refunded unless the applicant removes such request for an appeal prior to any advertising. In addition, the fee shall not be refunded if the request is denied. If the request is approved, the fee shall cover the fee of the Zoning Certificates required for development that has been appealed.

## MILTON TOWNSHIP ZONING RESOLUTION

### 709 Variances

1. All applications for variances shall be made to the Board of Zoning Appeals in writing and on current approved forms which may include:
  - A. Name, address and telephone number of the applicant;
  - B. Legal description of the property including tax parcel ID number
  - C. Description of nature of variance requested
  - D. A narrative statement demonstrating that the requested variance conforms to the following standards:
    - (1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
    - (2) That a literal interpretation of the provisions of this Resolution would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this Resolution.
    - (3) That special conditions and circumstances do not result from the actions of the applicant.
    - (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Resolution to other lands, structures, or buildings in the same district.
    - (5) That an economic hardship, requesting a more intensive use of the property than would normally be permitted, is not the only nor the primary factor for requesting the variance.
  - E. A fee as established by the Township Trustees.

The burden of proof for granting a variance shall rest with the applicant. In granting any variance the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Resolution. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this Resolution and punishable under Article VI of this Resolution. Under no circumstances shall the Board of Zoning Appeals grant a variance to allow a use not permissible under the terms of this Resolution in the district involved, or any use expressly or by implication prohibited by the terms of this Resolution in said district.

2. When a notice of variance has been filed in the proper form with the Board of Zoning Appeals, the Board shall hold a public hearing within Thirty (30) days.

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3. Notice of the Public Hearing shall be made in the following ways:
  - A. Give at least Ten (10) days written notice to the parties in interest and to any person, firm, or corporation owning premises located within Six Hundred (600) feet of the land that is the subject of the variance.
  - B. In addition, the Board shall inform the public of the hearing by placing One (1) notice in One (1) or more newspapers of general circulation in the Township at least Ten (10) days before the date of the hearing.
  - C. The notice shall contain the following information:
    - a. The time, date and place of the Public Hearing.
    - b. The name of the Board of Zoning Appeals that will be conducting the Public Hearing
    - c. A statement indicating that the application is a variance
    - d. A list of the addresses of all properties related to the variance and of the names of owner's of these properties, as they appear on the County Auditor's current Tax List.
    - e. The time and place where the variance application will be available for examination for a period of at least Ten (10) days prior to the public hearing.
    - f. The name of the person responsible for giving notice of the Public Hearing (mailed or published). This will usually be the Chairman or Secretary of the Board of Zoning Appeals.
    - g. Any other information requested by the Board of Zoning Appeals.
4. At the Hearing, any person may appear in person or by attorney. The Board of Zoning Appeals may recess the hearing as necessary, and if the time and place of the continued hearing be publicly announced at the time of the hearing, no further notice shall be required.
5. The Board of Zoning Appeals is authorized to approve a variance where, by reason of:
  - A. Exceptional narrowness
  - B. Shallowness or shape
  - C. Exceptional topographic conditions
  - D. Other extraordinary situations or conditions of a lot

The strict application of the terms of this Zoning Resolution would result in peculiar or undue hardship upon the owner. They may authorize a variance from such strict application to relieve such hardships, providing such relief may be granted without substantially impairing the intent of this Resolution.

## MILTON TOWNSHIP ZONING RESOLUTION

### ARTICLE VII ADMINISTRATION (Continued)

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#### 709 Variances – cont'd

6. Any variance that is discontinued for a period of Two (2) or more years shall not again be started except in total conformation with these regulations. A nonconforming building or structure damaged by fire, explosion, act of nature or a public enemy to the extent that up to Seventy-Five percent (75%) of the structure must be replaced, may be restored to the same use within Twelve (12) months provided all reconstruction portions of the structure conform to the requirements of these regulations.
7. A variance shall not be granted unless the Board finds that **all** of the following conditions exist:
  - A. The strict application of the provisions of the Resolution would result in unnecessary hardship inconsistent with the general purpose and the intent of this Resolution.
  - B. There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district or neighborhood.
  - C. The granting of such variance will not be of substantial detriment to the public interest or to the property or improvements in the district in which the variance is sought, and will not materially impair the purpose of this Resolution. In granting a variance the Board of Zoning Appeals may impose such conditions as it may deem necessary to protect public health and safety and to further the purpose and intent of this Zoning Resolution.
  - D. These conditions shall be made a part of and be attached to the Zoning Certificate which is required for a variance.
  - E. Any variance granted for access to a dwelling site must be a minimum of Sixty (60) feet wide.
8. The Board must decide the variance within a reasonable time after its hearing.
9. The Secretary of the Board of Zoning Appeals shall promptly notify the applicant in writing the decision of the Board of Zoning Appeals.
10. Fees as established by the Board of Trustees shall be paid upon the filing of any request for a variance. Said fees shall be paid to the Board of Trustees and shall not be refunded unless the applicant removes such request prior to any advertising. In addition, the fee shall not be refunded if the request is denied. If the request is approved, the fee shall cover the fee of the Zoning Certificates required for a variance.
11. The Board of Zoning Appeals shall maintain a publicly accessible list of currently active and approved variances, which shall include the Tax ID number for each property.

## MILTON TOWNSHIP ZONING RESOLUTION

### **ARTICLE VII ADMINISTRATION (Continued)**

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#### 710 Conditional Uses

1. Under special conditions, land uses other than those specifically permitted by this Zoning Resolution may occur in a District. A list of these uses is located in Article IV of this Zoning Resolution.
2. A special certificate must be obtained from the Board of Zoning Appeals before the development of any land use identified in this Resolution as a "Conditional Use."
3. All proposed "Conditional Uses" are subject to the following general standards:
  - A. The uses will be harmonious with and in accordance with the general objectives, or with any specific objectives of the Township Zoning Resolution.
  - B. All structures and uses will be designated, constructed, operated and maintained so as to be harmonious, safe and appropriate in appearance and use with the existing and intended character of the general vicinity and that such use will not change the essential character of the same area.
  - C. The proposed uses will not be hazardous or disturbing to existing or future neighboring uses.
  - D. The proposed uses will be served adequately by essential public services (fire, police, highways, sewers, water, schools) or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately such service.
  - E. That the proposed use will not create excessive additional public costs or responsibilities for services or facilities and will not be detrimental to the community.
  - F. The proposed uses will not involve activities, processes, material or equipment detrimental to persons, property of the general welfare of the community because of excessive noise, smoke, odors, traffic glare or fumes.
  - G. Adequate access to the use shall be provided that does not interfere with surrounding uses or disrupt current traffic patterns.
  - H. The proposed use will not result in the destruction, loss or damage of natural, scenic or historical features of major importance.
4. All applications for Conditional Uses shall be made to the Board of Zoning Appeals in writing and on forms prescribed, including the Tax Parcel ID Number.
5. When a notice of a conditional use has been filed in proper form with the board of Zoning Appeals, the Board shall hold a Public Hearing within Thirty (30) days.

## MILTON TOWNSHIP ZONING RESOLUTION

### ARTICLE VII ADMINISTRATION (Continued)

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#### 710 Conditional Uses – cont'd

6. Notice of the Public Hearing shall be made in the following ways:
  - A. Give at least Ten (10) days written notice to the parties in interest and to any person, firm, or corporation owning premises located within Six Hundred (600) feet of the land that is the subject of the application for the conditional use.
  - B. In addition, the Board shall inform the public of the hearing by placing One (1) notice in One (1) or more newspapers of general circulation in the Township at least Ten (10) days before the date of said hearing.
  - C. The notice shall contain the following information:
    - a. The time, date and place of the Public Hearing.
    - b. The name of the Board of Zoning Appeals that will be conducting the Public Hearing.
    - c. A statement indicating that the application is a Conditional Use.
    - d. A list of the addresses of all properties related to the Conditional Use and of the names of owners of these properties, as they appear on the County Auditor's current Tax List.
    - e. The time and place where the Conditional Use application will be available for examination for a period of at least Ten (10) days prior to the public hearing.
    - f. The name of the person responsible for giving notice of the Public Hearing (mailed or published). This will usually be the Chairman or Secretary of the Board of Zoning Appeals.
    - g. Any other information requested by the Board of Zoning Appeals.
7. At the Hearing, any person may appear in person or by attorney. The Board of Zoning Appeals may recess the hearing as necessary, and if the time and place of the continued hearing be publicly announced at the time of the hearing, no further notice shall be required.
8. Conditional Uses, although often desirable, will more intensely affect the surrounding area in which they are located than the Permitted Uses of such districts. Since this is the case, the Board of Zoning Appeals shall approve an application for a Conditional Use only when the following conditions are met:
  - A. The Conditional Use is specifically listed or interpreted as listed in the District in question.
  - B. The Conditional Use is in general accord with the Ashland County Comprehensive Land Use Plan.
  - C. The proposed development will be in keeping with the existing land use character and physical development potential of the area and will not have undesirable effects on the surrounding area.
9. When making its review of the proposed use, the Board of Zoning Appeals shall review the proposal on the basis of factors 3.A through 3.H (listed above) and any other criteria deemed pertinent by them.

## MILTON TOWNSHIP ZONING RESOLUTION

### **ARTICLE VII ADMINISTRATION (Continued)**

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#### 710 Conditional Uses – cont'd

10. In granting a Conditional Use, the Board may impose such conditions as it may deem necessary to protect the public health, safety, morals and to further the purpose and intent of this Resolution.
11. The Secretary of the Board of Zoning Appeals shall notify the applicant in writing the decision of the Board.
12. Fees as established by the Board of Trustees shall be paid upon the filing of any request for a conditional use. Said fees shall be paid to the Board of Trustees and shall not be refunded unless the applicant removes such request prior to any advertising. In addition, the fee shall not be refunded if the request is denied. If the request is approved, the fee shall cover the fee of the Zoning Certificates required for a Conditional Use.
13. Conditional Use certificates of approval shall expire:
  - A. When the Conditional Use is discontinued for a period of Two (2) or more years, and it shall not again be started except in total conformation with these Regulations.
  - B. When a nonconforming building or structure is damaged by fire, explosion, act of nature or a public enemy to the extent that up to Seventy-Five percent (75%) of the structure must be replaced, it may be restored to the same use within Twelve (12) months provided all reconstruction portions of the structure conform to the requirements of these regulations.
  - C. Upon transfer of ownership.
14. The Board of Zoning Appeals shall maintain a publicly accessible list of current active and approved Conditional Uses, which shall include the Tax ID number for each property.