

**ARTICLE 12
ZONING CERTIFICATES**

SECTION 1201 ZONING CERTIFICATE REQUIRED

No person shall change any use of land, a building, or a structure, nor locate, relocate, erect, construct, reconstruct, enlarge or structurally alter any building or structure within Munson Township without first obtaining a Zoning Certificate. No Zoning Certificate shall be issued unless the plans for the proposed building or structure or use of land fully comply with the provisions of this Resolution, unless the Zoning Inspector receives a written order from the Board of Zoning Appeals deciding an appeal, a variance or conditional use. A Zoning Certificate shall be required for all dwellings, all principal structures and uses, all accessory structures unless otherwise specified, all specified accessory uses, and all temporary uses. A Zoning Certificate shall not be required for the use of land or buildings or structures exclusively used for agricultural purposes.

1201.1 Accompanying Information

A written application and site plan for a Zoning Certificate shall be submitted to the Zoning Inspector of Munson Township on forms provided by the Zoning Inspector. The following information shall be required, shown to scale as to items d, e, g, h and i.

- a. Name, address, and a phone number of the applicant;
- b. Date;
- c. The name of the subdivision and the lot number or other information necessary to establish the location of the lot;
- d. The actual dimensions of the lot based on actual survey, including acreage, the yard and other open space dimensions thereof, and the location and size of any existing structures thereon;
- e. The location on the lot and size of any proposed structure and/or the proposed alteration of any existing structure, indicating dimensions, including building height;
- f. A permit from the Geauga County Health Department or Ohio Environmental Protection Agency for on-site wastewater disposal, where applicable, illustrating the location of primary and secondary leaching fields;
- g. In all zoning districts an erosion control plan shall be included with the application for a zoning certificate for the construction of all principal permitted, accessory and conditional buildings, structures, uses, and off-road parking, loading/unloading areas allowed by this resolution and any additions thereto on lots less than five (5) acres in size; provided, however, an erosion control plan shall not be required for any principal permitted, accessory or conditional buildings, structures, and off-road parking or loading/unloading areas containing less than three hundred (300) square feet in area. If the lot is five (5) acres or more in area, the applicant shall include with the application for a zoning certificate, a deed of record and written documentation from the Geauga Soil and Water Conservation District (SWCD) that an erosion control plan has been submitted to the Geauga Soil and Water Conservation District and approved for the subject lot.
- h. The proposed parking plan and number and location of proposed off- road parking or loading spaces;
- i. A plan for screening when applicable;
- j. A statement by the applicant attesting to the truth and exactness of all information supplied on the application;
- k. A statement that the certificate shall expire and shall be revoked if work has not been started and substantially pursued within six (6) months of its issue date;

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- l. Such other information as may be necessary to determine conformance with this Resolution; and
- m. A fee as established by the Township Trustees.
- n. Any other applicable licenses or permits.

1201.2 *Processing of Certificate*

Within thirty (30) days after the receipt of an application, the Zoning Inspector shall either approve or disapprove the application in conformance with the provisions of this Resolution. If the application is approved, the Zoning Inspector shall issue a Zoning Certificate. One copy of the application shall be returned to the applicant by the Zoning Inspector after he shall have marked such copy either as approved or disapproved and attested to the same by his signature on such copy. One (1) copy of the application similarly marked shall be retained by the Zoning Inspector and filed. After the Zoning Inspector issues a Zoning Certificate he shall issue a placard to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this Resolution.

1201.3 *Beginning of Construction*

If the construction or use described in the 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, said zoning certificate shall be revoked by the township zoning inspector.

1201.4 *Renewal of Certificate*

One six (6) month renewal will be issued provided a request for such renewal is initiated prior to the expiration of said certificate.

1201.5 *Schedule of Fees, Charges and Expense, and Collection Procedure*

The Board of Township Trustees shall, by resolution, establish a schedule of fees, charges and expenses and a collection procedure for zoning certificates, amendments, appeals, conditional zoning certificates, and other matters pertaining to the administration and enforcement of this resolution requiring investigations, inspections, legal advertising, postage, and other expenses. The schedule of fees shall be posted in the office of the Zoning Inspector and Township Fiscal Officer, and may be altered or amended only by a resolution of the Board of Township Trustees.

SECTION 1202 *APPEALS AND VARIANCES*

It is the purpose of this section to establish procedures and requirements for the hearing of appeals and variances. As is specified in Article 11, the Board of Zoning Appeals has appellate jurisdiction relative to appeals and variances.

1202.1 *Procedures of Board of Zoning Appeals*

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

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within twenty (20) days after the decision of the Zoning Inspector by filing with the Zoning Inspector and with 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.

Written notices of appeal shall be made on forms provided by the Township 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.

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 as provided by Ohio law.

All completed notices of appeal shall be filed with the Township Zoning Inspector and the Board of Zoning Appeals and the appellant or authorized legal representative shall provide, at a minimum, the following:

- a. The name, address, and telephone number of the appellant.
- b. The name, address and telephone number of the owner of record.
- c. The address of the property, if different from the appellant's current address.
- d. Documentation as to authority to file notice of appeal (e.g. deed, power of attorney, lease or purchase agreement).
- e. A legal description of the property as recorded with the Geauga County Recorder.
- f. The current zoning district in which the property is located.
- g. A description of the existing use of the property.
- h. A description of the proposed use of the property.
- i. 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 exterior dimensions including height (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 exterior dimensions including height (in feet) of proposed buildings or structures on the property or of any addition or structural alteration to existing buildings or structures.
 5. 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.
 6. The name and location of the existing road(s), public and private, adjacent to the property.
 7. The number of dwelling units existing (if any) and proposed for the property.
 8. The location, dimensions (in feet), and number of parking spaces existing (if any) and proposed.
 9. For commercial and industrial uses: the location, dimensions (in feet) and number of loading/unloading spaces.

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10. The location and dimensions (in feet) of any existing easements on the property or proposed easements related to this appeal.
- j. The number of the application for the zoning certificate.
- k. All notices of appeals for signs shall include at a minimum, the following information:
 1. A drawing or map, drawn to scale with a north arrow and date, and the location of the sign on the property including dimensions (in feet) from the front and side lot lines.
 2. The area of the sign in square feet.
 3. The height (in feet) of a ground sign.
 4. The method of illumination, if any.
- l. The specific zoning regulation(s) shall be cited from which variance is requested.
- m. Written justification for a variance shall be made by the appellant addressing each of the standards as set forth in Section 1202.4 Granting of Variances.
- n. A fee as established by the Township Trustees.

1202.2 Appeals Alleging Zoning Inspector Error

For notices of appeal alleging error by the Township Zoning Inspector, a written statement shall be made by the appellant or his authorized representative relative to the alleged error made by the Township Zoning Inspector in his determination of the application for the zoning certificate. Such appeal shall be taken within twenty (20) days after the decision by filing, with the Zoning Inspector and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Inspector shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed was taken.

1202.3 Variance

The Board of Zoning Appeals may authorize upon appeal in specific cases, such variance from the terms of the zoning resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the resolution will result in unnecessary hardship, and so that the spirit of the resolution shall be observed and substantial justice done. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.

1202.4 Granting of Variances

The burden of proof for granting a variance shall rest with the applicant. In granting any appeal for a variance, the Board of Zoning Appeals must consider conformity with the spirit and intent of this Resolution. The Board of Zoning Appeals may only grant an appeal for an allegation of error by the zoning inspector, for a "use" variance or an "area" variance from the terms of this Resolution, in the district involved, by following the procedures set forth in Sections 1202.4.1 and 1202.4.2. The Board of Zoning Appeals, in deciding any appeal for a variance, may require such supplementary conditions, which are reasonably related to the requested variance, are not in conflict with this resolution and which the board deems necessary to protect the public health, safety, and morals. 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 that variance. Violation of such supplementary conditions which are made a part of the written decision of the board, shall be deemed in violation of this resolution.

1202.4.1 **Granting of "Use" Variances**

A "use" variance is granted only upon the finding of an "unnecessary hardship" which generally means that the property owner cannot make any economically viable use of the property under the current zoning restrictions. A "use" variance is an application for a deviation from a permitted use in the subject zoning district. "Use" means how the property is used as opposed to "area" zoning restrictions on setbacks, building height, etc. Since the granting of a "use" variance represents de-facto re-zoning which is beyond further review by the Township, a "use" variance should be granted only if the circumstances leading to the variance are unusual and meet all of the specific standards. In general, the applicant is urged to explore other options to relieve the perceived hardship. To determine if a "use" variance is to be allowed, all the following standards shall be met:

- a. The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district;
- b. The hardship condition was not created by actions of the previous landowners, the applicant or agents of the applicant;
- c. The granting of the variance will not adversely affect the rights of the adjacent owners;
- d. The granting of the variance will not adversely affect the public health, safety or general welfare, including but not limited to fire safety, all other safety aspects, road maintenance, water supply, sewage treatment, water runoff, and garbage service;
- e. The variance will be consistent with the general spirit and intent of the zoning resolution;
- f. The variance sought is the minimum which will afford relief to the applicant; and
- g. There is no other economically viable use which is permitted in the zoning district.

1202.4.2 **Granting of "Area" or "Size" Variances**

Variance for area, size and setback requirements are judged by a less stringent legal standard than for "use" variances. Significant practical difficulty in meeting zoning regulations is required to be shown by a property owner. The factors to be considered and weighed to determine whether a property owner has encountered practical difficulties are:

- a. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- b. Whether the variance is substantial;
- c. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
- d. Whether the property owner purchased the property with knowledge of the zoning requirements;
- e. Whether the variance would adversely affect the delivery of governmental and community services (e.g. fire safety, all other safety aspects, road maintenance, water supply, sewage treatment, and garbage service);
- f. Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and

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

1202.5 ***Processing Appeals and Variances***

The Board of Zoning Appeals shall fix a reasonable time for public hearing of the appeal which shall commence no later than sixty (60) days from the date the notice of appeal has been filed with the board. The public hearing on the appeal may be continued at the discretion of the Board of Zoning Appeals.

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.

1202.6 ***Conduct of 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 legally authorized representative.
- b. A 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 two (2) 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.

1202.7 ***Decisions of the Board of Zoning Appeals***

Decisions of the Board of Zoning Appeals shall be in accordance with the following:

- a. All decisions are recorded in the minutes and shall include findings of fact of the board in support of the decisions.

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- b. Adoption of the minutes and findings of fact shall be made at a public meeting of the board. The minutes and findings of fact of the board shall be in writing and signed at a public meeting of the board by all members voting affirmatively thereon no longer than thirty-five (35) days from the last date of public hearing.
- c. The original written minutes and findings of fact of the Board 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 minutes and findings of fact by the Board of Zoning Appeals.
- d. A notice of action will be provided to the appellant within two days of the decision of the Board of Zoning Appeals.

1202.8 *Submission to the Director of the Department of Transportation*

Upon receipt of an application for a zoning certificate or a conditional zoning certificate affecting any land within three hundred (300) feet of a centerline of a proposed new highway or a highway for which changes are proposed as described in the certification to the Board of Township Trustees or Township 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 Township Zoning Inspector shall not issue a zoning certificate for one hundred and twenty (120) days from the date the notice is received by the Director. If the Director of Transportation notifies the Township Zoning Inspector that he has purchased or initiated proceedings to appropriate the land which is subject of the zoning application, the Zoning Inspector shall reflect to issue the zoning certificate. If the Director of Transportation notifies the Township Zoning Inspector that he has found acquisition at this time not to be in the public interest, or upon the expiration of the one hundred and twenty (120) day period or any extension thereof agreed upon by the Director of Transportation and the property owner, the Township Zoning Inspector shall act upon the application in accordance with the provisions of this Resolution.

SECTION 1203 *AMENDMENTS AND DISTRICT CHANGES*

Whenever health, safety, general welfare, or good zoning practices require, the Township Trustees may, by resolution after receipt of recommendations from the Zoning Commission, and subject to the procedures provided by law, amend, supplement, change, or repeal the regulations, restrictions, and district boundaries or classification of property.

1203.1 *Initiation of Amendments*

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

- a. By adoption of a motion by the Zoning Commission;
- b. By adoption of a resolution by the Board of Township Trustees; or
- c. By the filing of an application by at least one (1) owner, lessee, or designate of owner within the area proposed to be changed or affected by said amendment.

1203.2 ***Application for Amendments***

The application for amendment shall contain at a minimum the following information in triplicate:

- a. Name, address, and telephone number of applicant;
- b. Date;
- c. Legal description of the property;
- d. Present use;
- e. Present zoning district;
- f. Proposed use;
- g. Proposed zoning district;
- h. A vicinity map at a scale approved by the Zoning Commission showing property lines, roads, existing and proposed zoning, and such other items as the Zoning Commission may require;
- i. Proposed amendment to the text;
- j. A list of all property owners within one thousand (1000) feet of, contiguous to, and directly across from the parcel(s) proposed to be rezoned, and others that may have a substantial interest in the case;
- k. A fee as established by the Township Trustees.

1203.3 ***Procedure for Amendments to Zoning Resolution***

The procedure for amendments to the Zoning Resolution shall be in accordance with Ohio Revised Code Section 519.12.

SECTION 1204 VIOLATIONS AND PENALTIES

Violation of the provisions of this Resolution or failure to comply with any of its requirements, including violations of conditions and safe-guards established in various sections of this Resolution, including those established by the Board of Zoning Appeals for Conditional Uses, shall constitute a misdemeanor. Any person who violates this Resolution or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars (\$500) for each offense and in addition shall pay all costs and expenses involved in the case. Each day said violation continues after receipt of a violation notice shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the Township from taking such other lawful action as is necessary to prevent or remedy any violation. Whenever a violation of this Resolution occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating in full the causes and basis thereof shall be filed with the Zoning Inspector, who shall record properly such complaint, immediately investigate, and take action thereof as provided in this section.