CHAPTER 9

ADMINISTRATION AND ENFORCEMENT

CHAPTER 9

ADMINISTRATION AND ENFORCEMENT

Section A – General Provisions

The formulation, administration, and enforcement of these Zoning Regulations is hereby vested in the following offices of Clark County:

1. Rural Zoning Commission
2. Zoning Inspector
3. Board of Zoning Appeals
4. Board of County Commissioners
5. County Planning Commission

All departments, officials, and public employees of Clark County which are vested with the duty or authority to issue permits, certificates, or licenses shall conform to the provisions of these Regulations and shall issue no permit, certificate, or license for any use, building, structure, or purpose if same is in conflict with the provisions of these Regulations. Any permit, certificate, or license issued in conflict with the provisions of these Regulations shall be deemed null and void.

Section B – Rural Zoning Commission [eff: 11-30-00]

1. Membership. Membership shall be in accordance with the Ohio Revised Code – 303.04.

> *Commentary:*
> *The Rural Zoning Commission shall consist of five regular (5) members (none of whom shall be concurrently appointed as members of the Board of Zoning Appeals) and may include two (2) alternate members. All members must be residents of the unincorporated area of the County that is subject to these Zoning Regulations.*
>
> *Vacancies shall be filled by the Board of County Commissioners and shall be for the unexpired term.*

2. Powers and Duties. The powers and duties of the Rural Zoning Commission shall be the following:
   a) Request the County Planning Commission to prepare or make available a zoning plan, including text and map(s), for the unincorporated area of the County or any portion thereof.
   b) Hold required public hearings, notice of which shall be given in accordance with the Ohio Revised Code.
   c) Submit the proposed Zoning Regulations, including text and Official Zoning District Map(s), and all proposed zone changes, to the County Planning Commission, and then certify the proposed zoning or rezoning along with their recommendation and the County Planning Commission's recommendation, to the Board of County Commissioners.
   d) Initiate Official Zoning District Map changes, or changes in the text of the Zoning Regulations where same will promote the best interest of the public in general.

Section B (continued)

e) Submit Plans for Development within the Planned Unit Development District, Planned Commercial Development District, and Residential Mobile Home Park District to the County Planning Commission, and then certify such plans, along with their recommendation and the County Planning Commission's recommendation regarding such plans, to the Board of County Commissioners.

f) Employ or contract with such planning consultants and executive and other assistants as it deems necessary, within the limits of the monies appropriated by the Board of County Commissioners for the purpose. Such consultants and assistants shall be the same as those provided for the County Planning Commission if so ordered by the Board of County Commissioners.

g) Organize, adopt rules for the transaction of its business, and keep a record of its actions and determinations.

h) Make use of such information and counsel as is available from appropriate public officials, departments, and agencies; and such officials, departments, and agencies having information, maps, and data pertinent to County zoning shall make them available for the use of the Rural Zoning Commission.

3. Meetings and Agenda of Rural Zoning Commission. The Rural Zoning Commission shall adopt rules of procedure governing the establishment of dates and times for its meetings and the conduct of each meeting. All meetings of the Rural Zoning Commission shall be open to the public.

4. Minutes. The minutes of each meeting of the Rural Zoning Commission shall be kept on file in the office of the Rural Zoning Commission with the other zoning records. Said minutes shall be open for public inspection during Commission meetings and normal business hours.

Section C – Zoning Inspector

The Board of County Commissioners shall appoint a Zoning Inspector and affix his/her compensation, if any. It shall be the duty of the Zoning Inspector to:

1. Enforce the provisions of these Regulations.

2. Interpret the Zoning Regulations text and Official Zoning District Map(s).

3. Issue Zoning Certificates in accordance with these Regulations, and maintain a complete record of all Zoning Certificates issued.

4. Act upon all applications within ten (10) days of their date of filing. A Zoning Certificate or written notification and explanation of refusal shall be issued to the applicant within said ten (10) days. Failure to notify the applicant of such refusal within this period shall entitle the applicant to submit his/her request to the Board of Zoning Appeals.

5. Determine whether various uses of land within the unincorporated area of the County are in compliance with these Regulations. Where violations exist, the Zoning Inspector shall notify in writing the person(s) responsible and specify the exact nature of the violation.

6. Maintain and keep the permanent records required by these Regulations including but not limited to the Official Zoning District Map(s), Zoning Certificates, inspections, and all official zoning actions of the Board of County Commissioners. Such records shall be made available for use by the Board of County Commissioners, Rural Zoning Commission, Board of Zoning Appeals, County Planning Commission, and the public.

Section D – Board of Zoning Appeals [eff: 11-30-00]

1. Membership. Membership shall be in accordance with the Ohio Revised Code – 303.13.

> *Commentary:*
> *The Board of Zoning Appeals shall consist of five (5) regular members and may include two (2) alternate members who are residents of the unincorporated area of the County that is subject to these Zoning Regulations, provided that, if three (3) or more townships are zoned, no more than two (2) members of the Board shall be from any one (1) township. Vacancies shall be filled by the Board of County Commissioners and shall be for the unexpired term.*

2. Organization. The Board of Zoning Appeals shall organize, elect a Chairperson and Vice Chairperson, and adopt rules of procedure governing the establishment of dates and times for its meetings and the conduct of each meeting. 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, indicating 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 County Commissioners and shall be a public record.

3. Jurisdiction. The Board of Zoning Appeals shall have the following powers:

   a) Administrative Appeals. To 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 administration and enforcement of the provisions of these Regulations.

      1) Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer of the County affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision by filing with the Zoning Inspector from whom the appeal is taken, and with the Board of Zoning Appeals, a notice of appeal specifying the grounds thereof.

      2) The Zoning Inspector from whom the appeal is taken shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

      3) The Board of Zoning Appeals shall fix a reasonable time for the public hearing of the appeal, give at least ten (10) days written notice by ordinary mail to the parties in interest, give notice of such public hearing by one (1) publication in a newspaper of general circulation within 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. The Board of Zoning Appeals may, in accordance with its rules, require the giving of additional notice and specify the manner in which the same shall be given. At the hearing, any party may appear in person or be represented by an attorney.

   b) Variances. To authorize upon appeal by reasons of exceptional narrowness, shallowness, shape, topographic conditions, or other extraordinary situation or condition of a lot, a Variance from strict application of the provisions of these Regulations to relieve exceptional difficulties or undue hardship, provided said relief can be granted without substantial detriment to the public good and does not substantially impair the intent of these Regulations. No Variance shall be granted unless the Board of Zoning Appeals finds that all of the following conditions exist:

      1) The special circumstances or conditions applying to the building or land in question are peculiar to such lot or property, and do not result from the actions of the applicant, and to not apply generally to other land or buildings in the vicinity.

2) The granting of the application is necessary for the preservation and enjoyment of the substantial property right and not merely to serve as a convenience to the applicant.

3) The proposed Variance will not constitute a change, including a variation in use, on the Official Zoning District Map(s). In no case shall the Board of Zoning Appeals approve a Variance for a use which is not a Permitted Use in the Zoning District in which the property, building, or structure is located.

Written application for a Variance shall be made to the Zoning Inspector who shall transmit said application, together with plans, specifications, and any papers pertaining to the application, to the Board of Zoning Appeals. The Board of Zoning Appeals shall cause a public hearing to be held. The Board of Zoning Appeals shall give written notice by ordinary mail to all owners of land within two hundred (200) feet of the exterior boundaries of the land for which a Variance is requested. An application for a Variance shall be advertised at least once, ten (10) days in advance of the time set for the public hearing, in a newspaper of general circulation within the County. The Board of Zoning Appeals may, in accordance with its rules, require the giving of additional notice and specify the manner in which the same shall be given. At the hearing, any party may appear in person or be represented by an attorney.

In granting any Variance under the provisions of this Section, the Board of Zoning Appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulations or provisions in the application on which the Variance is granted. In no case shall a Variance granted by the Board of Zoning Appeals violate the existing subject easement provisions, or local or state health, fire, environmental, or other applicable codes.

c) Conditional Uses. The Board of Zoning Appeals shall hear and decide upon, in accordance with the provisions of Chapter 7 of these Regulations, applications for Conditional Uses.

4. Interpretation of Zoning Text and Map(s). Upon appeal from a decision by the Zoning Inspector, the Board of Zoning Appeals shall have the power to decide any question involving the interpretation of the Zoning Text or Map(s) as set forth in Chapter 1, Sections J and K.

5. Decision of Board. In exercising the above-mentioned powers, the Board of Zoning Appeals may, in conformity with this Section, 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 all powers of the officer from whom the appeal is taken.

6. Public Information. All communications to members of the Board of Zoning Appeals, written or oral, which shall be reduced to writing, pertaining to any matter before the Board, shall be made a part of the record. The record of the Board's proceeding in any matter shall be kept on file in the office of the Board of Zoning Appeals, subject to the order of the Clark County Common Pleas Court, and available for inspection by the public.

7. Record. For any hearing at which the applicant desires a record to be made, the applicant shall provide a court reporter to make such record at the applicant's expense. In all hearings wherein no request has been made for a record, the minutes shall serve as the sole transcript of such hearing.

8. Fees to Accompany Notice of Appeal or Application for Variance or Conditional Use. For all actions of the Board of Zoning Appeals, the Board of County Commissioners shall establish fees to be deposited with each application. Such fees shall be required for each application to defray the costs of advertising, mailing, and other expenses.

Section E – Board of County Commissioners

The powers and duties of the Board of County Commissioners are the following:

1. Shall appoint five (5) regular members and may appoint two (2) alternate members to a Rural Zoning Commission whose function it is to initiate or review proposed text amendments or changes of Zoning Districts on the Official Zoning District Map(s), as specified in Section B. [eff: 6-1-2000]
2. Appoint a Zoning Inspector to administer and enforce the provisions of these Zoning Regulations, in accordance with the functions enumerated in Section C.
3. Shall appoint five (5) regular members and may appoint two (2) alternate members to a Board of Zoning Appeals to hear administrative appeals and requests for Variances and Conditional Uses, as specified in Section D. [eff: 6-1-2000)
4. Initiate or act upon suggested amendments to the Zoning Regulations text or Official Zoning District Map(s) following recommendations of the Rural Zoning Commission and review by the County Planning Commission, as specified in Sections B and F.
5. Each written application for a Zoning Certificate shall be accompanied by a filing fee, which shall be forwarded to the County, and shall be utilized to help cover the expenses of the Zoning Inspector, the Rural Zoning Commission, the County Planning Commission, and The Board of Zoning Appeals.

Section F – County Planning Commission

The powers and duties of the County Planning Commission shall be the following:

1. Prepare the Zoning Regulations recommended for the unincorporated area of Clark County or any portion thereof, at the request of the Rural Zoning Commission.
2. Review the proposed Zoning Regulations, including text and Official Zoning District Map(s), and all proposed zone changes, and then forward the zoning or rezoning along with their recommendation to the Rural Zoning Commission.
3. Review Development Plans within the Planned Development Districts, and Residential Mobile Home Park District, and make recommendation regarding such plans to the Rural Zoning Commission. [eff: 3-25-03]
4. Employ or contract with such planning consultants and executive and other assistants as it deems necessary, within the limits of the monies appropriated by the Board of County Commissioners for the purpose.

Section G – Administrative Procedures

1. Zoning Certificates

   a) Requirements. No person shall use, permit use of, locate, erect, construct, reconstruct, enlarge, or structurally alter any non-farm building or structure nor shall any land use be established or changed without obtaining a Zoning Certificate. No Zoning Certificate shall be issued unless the plans for the proposed building, structure, or use fully comply with all the provisions of these Regulations, or unless a written order is obtained from the Board of Zoning Appeals deciding an Appeal, Conditional Use, or Variance, as provided by these Regulations. Such Zoning Certificate shall be issued by the Zoning Inspector, 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 these Regulations. Failure to obtain a Zoning Certificate prior to such use, location, erection, construction, reconstruction, enlargement, alteration, or change in use shall be deemed a violation of these Regulations and punishable under Section H of this Chapter.

b) Application. Application for a Zoning Certificate shall be made in writing to the Zoning Inspector or his/her authorized agent. Each written application shall be signed by the owner or authorized agent attesting to the truthfulness and exactness of all information supplied on the application, and shall indicate the applicant's name, address, and phone number. The application shall contain the following information:

1) One (1) copy of a scale drawing, to be retained by the Zoning Inspector, showing the actual shape and dimensions of the lot to be built upon, or to be changed in its use, in whole or in part;

2) The location of the lot, existing zoning, and land use, including the immediate surrounding area;

3) The location, size, and height of existing buildings or structures on the lot, if any;

4) The location, size, and height of any building or structure to be erected or altered;

5) The existing or intended use of each building, structure or use of land where no buildings are included;

6) The number of families or dwelling units each building is designed to accommodate, if applicable;

7) The number of off-street parking spaces or loading/unloading berths, if applicable; and

8) Such other information as may be necessary to determine conformance with, and provide for the enforcement of these Regulations.

9) In every case where the lot is not provided and is not proposed to be provided with public water supply and/or the disposal of sanitary wastes by means of public sewers the proposed method of water supply and/or disposal of wastes shall have written approval from the Clark County Health Department.

c) Exemption for Agricultural Buildings. Zoning Certificates shall not be required for the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located provided such buildings or structures are not used in the business of retail trade, per O.R.C. 3781.061. Application for an agricultural use exemption shall be made to the Zoning Inspector on such form as prescribed by the Zoning Inspector. Upon determination by the Zoning Inspector that an agricultural use exemption is warranted, a Zoning Certificate shall be issued, without fee, setting forth the agricultural use exemption. Upon determination by the Zoning Inspector that an agricultural use exemption is not warranted, a certificate and application fee shall be required for the structure, building, or use. [eff: 3-29-90]

d) Time Limit. If a Zoning Certificate is issued for the purpose of constructing a new building or structure and such construction is not begun within one (1) year time period, then said Zoning Certificate shall be null and void.

e) Temporary Zoning Certificate. A temporary Zoning Certificate may be issued by the Zoning Inspector for those permitted Temporary Uses specified in Chapter 8, Section D of these Regulations, subject to the conditions therein stated.

Section G (continued)

f) Zoning Certificate (Change of Use). No change of use shall be made in any building or part thereof now or hereafter located, constructed, reconstructed, enlarged, or structurally altered except for agricultural purposes, without a Zoning Certificate being issued by the Zoning Inspector. No Zoning Certificate shall be issued to make a change in use unless the changes have been made in conformity with the provisions of these Zoning Regulations, or unless a Variance or special permit has been granted by the Board of Zoning Appeals.

g) Non-conforming Uses. Nothing in these Regulations shall prevent the continuance of a Non-conforming Use as hereinbefore authorized unless a discontinuance is necessary for the safety of life or property.

h) Records. A record of all Zoning Certificates shall be kept on file in the office of the Zoning Inspector, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

i) Fees. The Board of County Commissioners shall establish fees, charges, and expenses for Zoning Certificates, applications for appeals, variances, etc., and for rezoning and other matters pertaining to this resolution. The fees shall be posted in the office of the Zoning Inspector and may be altered or amended only by the Board of County Commissioners. No final action shall be taken on any application until all applicable fee, charges, or expenses have been paid in full.

2. Text Amendments and Changes of Zoning Districts

a) Amendments to the Zoning Regulations may be initiated by motion of the Rural Zoning Commission, by the passage of a resolution by the Board of County Commissioners, or by the filing of an application by one (1) or more of the owners or lessees of property within the area proposed to be changed or affected by the proposed amendment, with the Rural Zoning Commission. The Board of County Commissioners shall upon the passage of such resolution certify it to the Rural Zoning Commission. The Rural Zoning Commission and Board of County Commissioners shall consider an application for an amendment, whether to the Zoning Regulations text or to the Official Zoning District Map(s) only if the request for a change of zoning meets the following conditions: [eff: 12-17-09]

i. Manifest error in the original Zoning Regulations text and/or designations of the Official Zoning District Map(s).

ii. Accordance with, or more appropriate conformance to, any existing Official Land Use Plans for the area under consideration.

iii. Substantial change in area conditions.

iv. Legitimate requirement for additional land area for the particular Zoning District.

b) All amendments to the zoning text or zoning map shall be in accordance with the Ohio Revised Code. [eff: 12-17-09]

c) The form of a petition calling for a zoning referendum shall be in accordance with the Ohio Revised Code. [eff: 12-17-09]

d) On any application for an amendment to the Zoning Regulations at which time the applicant desires a record to be made, the applicant shall provide a court reporter to make such record at the applicant's expense. In all hearings where no request has been made for such record, the minutes shall serve as the sole transcript of such hearings. [eff: 10-17-85]

e) Upon filing a rezoning application, the payment of a fee shall be required to defray the cost of advertising, mailing, and other expenses. A rezoning application will not be considered or processed until the fee is paid. [eff: 12-17-09]

3. Non-conforming Uses, Buildings, and Lots

a) Continuance. The lawful use of any dwelling, building, or structure and of any land or premises, as existing and lawful at the time of enactment of these Zoning Regulations or any amendments hereto, may be continued, although such use does not conform with these Zoning Regulations or amendments hereto, but if any such Non-conforming Use is voluntarily discontinued for two (2) years or more, any future use shall be in conformity with these Zoning Regulations and amendments hereto.

b) Restoration. When a structure, the use of which does not conform to the provisions of these Zoning Regulations, is damaged by fire, explosion, flood, earthquake, tornado, or other calamity outside the control of the owner or occupant, to the extent that the cost of restoration is more than fifty (50) percent of its replacement value, it shall not be restored unless in conformity with the provisions set forth in these Zoning Regulations for the District in which it is located. When a structure has not been damaged to the extent of fifty (50) percent, such restoration shall be commenced within two (2) years of such calamity and diligently continued until completed. When a structure has been damaged to the extent of fifty (50) percent or more, such restoration shall be commenced within ninety (90) days of such calamity and diligently continued until completed. Replacement value shall be based upon the replacement costs of the structure prior to the calamity. Replacement value shall be based upon the replacement cost of the structure prior to the calamity, and shall be determined by an independent appraiser hired by the owner. In case of any uncertainty as to the replacement value of a particular structure, the determination of the Clark County Building Official or his/her representative shall be final. [eff: 3-29-90]

c) Enlargement. No Non-conforming building or use may be enlarged, extended, or otherwise expanded except upon the granting of a Conditional Use by the Board of Zoning Appeals pursuant to this Section.

1) A Non-conforming Use of a less objectionable nature may be substituted for an existing Non-conforming Use.

2) An existing, legal Non-conforming Use which occupied only a portion of an existing structure or premises may be extended throughout such structure or premises.

3) The alteration or reconstruction of a Non-conforming Use or building provided that such will make the Non-conforming Use substantially more in character with its surroundings.

4) The extension of a Non-conforming Use when such extension will substantially make the Non-conforming Use more in character with its surroundings.

The Board of Zoning Appeals may impose such requirements and conditions as they may deem necessary for the protection of adjacent properties in the public interest.

d) Non-conforming Lots. The construction of a conforming structure and/or the conduct of a Permitted Use shall be allowed on any lot of record which has an area and/or lot width less than that required for such structure or Permitted Use in the Zoning District in which the lot is located. Variance of any development standard other than minimum lot area and/or minimum lot width shall be obtained only through action of the Board of Zoning Appeals in accordance with the provisions of this Chapter. Such Non-conforming lots must be in

separate ownership and not of continuous frontage with other land in the same ownership on the effective date of the applicable amendment to the Zoning Regulations. Otherwise, development shall be permitted only in accordance with the development standards of the Zoning District in which such ownership is located.

Section H – Enforcement Procedures

1. Enforcement. These Regulations shall be enforced by the Zoning Inspector as may be designated by the Board of County Commissioners. The Zoning Inspector is hereby authorized to enter upon any property or premises to ascertain whether the provisions of these Regulations are being complied with. The Zoning Inspector is hereby authorized to refuse, deny, and/or void any use, application, material, data, request, or certificate which circumvents, or attempts to circumvent, the intent of these regulations or any approval which was granted based on false, misleading, or misrepresented information. [eff: 4-4-96]

2. Revocation of Zoning Certificate. Any Zoning Certificate issued upon a false statement shall be void, and such false statement shall be deemed a violation of these Regulations. Zoning Certificates issued on the basis of plans and applications approved by the Zoning Inspector authorized only the use and arrangement set forth in such approved plans and applications, and construction at variance with that authorized shall be deemed a violation of these Regulations. Whenever the fact of such unauthorized variance in plans or false statement shall be established to the satisfaction of the Zoning Inspector, the Zoning Certificate shall be revoked by notice in writing to be delivered to the holder of the void Certificate upon the premises concerned, or in some conspicuous place upon said premises. Any person who shall proceed thereafter with such work or use without having obtained a new Zoning Certificate, in accordance with these Regulations, shall be deemed guilty of a separate violation thereof. Violations shall be punishable as provided in Part 6 of this Section.

3. Invalidity of a Part. If any chapter, section, subsection, paragraph, sentence, or phase of these Regulations is for any reason held to be invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of these Regulations.

4. Repeal of Existing Resolutions. All resolutions, regulations, or parts thereof inconsistent with or in conflict with these Zoning Regulations and all additions and amendments thereto, are hereby repealed by the adoption of these Regulations.

5. Violation. In case any building is, or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, or and land is, or is proposed to be used in violation of these Regulations or any amendment or supplement thereto, the Board of County Commissioners, the County Prosecuting Attorney, the Zoning Inspector, or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action, actions, or proceedings to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use.

6. Fine. Any person, firm, or corporation violating any provision of these Regulations or amendments or supplements thereto shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined an amount in accordance with ORC 303.99. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance, or use continues shall be deemed a separate offense. [eff: 11-30-00]

Commentary:
The current fine is not more than five hundred dollars for each offense. [amended, eff: 11-30-00]