

## **TITLE V ADMINISTRATIVE AUTHORITY**

This Chapter sets forth the powers and duties of the Zoning Inspector, the Planning Commission, The Board of Appeals and Council with respect to the Administration of the provisions of this Zoning Code.

### **CHAPTER 500 ZONING INSPECTOR**

#### **Section 500.01 Zoning Inspector-Chief Enforcement Officer**

A Zoning Inspector, designated by the Mayor and approved by Council shall administer and enforce this code. The Zoning Inspector may be provided with the assistance of such other persons as the Mayor may direct to aid the Zoning Inspector in carrying out the duties of this position and/or in the absence of the Zoning Inspector.

#### **Section 500.02 Responsibilities of the Zoning Inspector**

For the purposes of administering and enforcing this code, the Zoning Inspector shall have the following duties and responsibilities:

- A. Enforce the provisions of this code, and interpret the meaning and application of its provisions.
- B. Issue Zoning Permits and Certificates of Occupancy as provided by this Code, and keep a record of the same with a notation of any special conditions involved.
- C. Act on all applications upon which he/she is authorized to act by the provisions of this code within the specified time or notify the applicant in writing of his/her refusal or disapproval of such application and the reasons for such action. (See Sec. 650)
- D. Conduct inspections of buildings and uses of land to determine compliance with this Code, and if violations are found, to notify the responsible person(s) in writing, specifying the nature of the violation, citing the sections of the code the structure or use of land is in violation of, and ordering corrective action.
- E. Maintain in current status the Official Zoning District Map which shall be kept on permanent display in the Village offices.
- F. Maintain permanent and current records required by this Code, including but not limited to zoning permits, inspection documents, and records of all variances, amendments, and conditional use permits.
- G. Make such records available for use of the Planning Commission, Village Council, the Board of Zoning Appeals and the public.
- H. Determine the existence of any violations of this Code and cause such notifications,

revocation notices, stop orders, or initiate such other administrative or legal action as available and needed to address such violations.

- I. Take any other action authorized by this Code to ensure compliance with or prevent violations of this Code.
- J. Maintain a list of nonconforming uses with location and exact nature of the existing nonconformity.
- K. Prepare and submit a monthly and annual report to the Village Council and Planning Commission on the administration of this Code, setting forth such information as may be of interest and value in advancing and furthering the purpose of this Code.
- L. Administrative duties as necessary and permissible.
- M. Act as Floodplain Administrator, performing the Duties and Responsibilities set forth in Village of Mantua Codified Ordinances Section 1309.03(b). (*Ordinance 2012-18, effective April 17, 2012*)

## **CHAPTER 501 PLANNING COMMISSION**

### **Section 501.01 Appointment and Organization**

The Planning Commission shall be composed of five (5) members who reside in the incorporated area of the Village, and shall include the Mayor, one (1) member of Council to be elected thereto for the remainder of his/her term in office, and three (3) additional citizens to be appointed by the Mayor with the approval of Council for terms of six years each. (*Amended Ord. 2008-30, eff. 11/20/08*) All members shall serve without compensation. Planning Commission members shall be selected by the Mayor with the approval of Council.

### **Section 501.02 Proceedings of Planning Commission**

The Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Code. Commission meetings shall be held at the call of the chairman and at such other times as the Commission may determine to carry out its duties as set forth in this Code. All meetings shall be open to the public. The 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, reviews and other official actions all of which shall be a public record and be immediately filed in the office of the Commission. The presence of three (3) members shall constitute a quorum. The concurring vote of three (3) members of said Commission shall be necessary for official actions.

### **Section 501.03 Duties of the Planning Commission**

In addition to any duties prescribed by the Ohio Revised Code, Chapter 713, the Planning

Commission shall have the powers to administer Chapter 610 Site Plan Review, and Chapter 620 Conditional Use Permits, Chapter 640 Amendments as well as any other sections as specified in this Code.

**Section 501.04            Employment of Architects and Engineers**

The Planning Commission may control, appoint or employ architects, engineers, and other professional services and may appoint such clerks, draftsman, and other subordinates as are necessary for the performance of its functions. The expenditure for such services and employment shall be within the amounts appropriated for such persons by the Village Council and Council shall provide for the expenses and accommodations necessary for the work of the Commission. (ORC 713.05)

The Planning Commission may consult with any public agency and their representatives as they deem necessary to perform their duties.

**CHAPTER 502 BOARD OF ZONING APPEALS**

**Section 502.01            Board of Zoning Appeals, Composition, Terms, Removal**

The Board of Zoning Appeals shall consist of five (5) members to be appointed by the Mayor with the approval of Council. The term of all members shall be five (5) years and their terms shall be so arranged that the term of one (1) member shall expire each year. Each member shall serve until his successor is appointed and qualified. Members of the Board shall be removable for nonperformance of duty, misconduct in office, or other reasonable cause by the Mayor upon written charges and after a public hearing has been held regarding such charges, a copy of the charges having been served upon the member so charged at least ten (10) days prior to the hearing either personally or by registered mail, or by leaving the same at his place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by appointment by the Mayor and shall be for the un-expired term.

**Section 502.02 Proceedings 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 ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine is necessary. The chairman, or in his or her absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon the 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.

Three (3) members of the Board shall be present to constitute a quorum. The Board shall act by resolution, and the concurring vote of three (3) members of the Board shall be necessary to reverse an order of determination by the Zoning Inspector, to decide in favor of an applicant in any matter over which the Board has original jurisdiction under this Code, or to grant any

variance from the requirements stipulated in this Code.

### **Section 502.03 Duties of the Board of Zoning Appeals**

The Board of Zoning Appeals has the following specific responsibilities:

- A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation or determination made by the Zoning Inspector; The Board may reverse or affirm, wholly or partly, or modify the order, requirements, 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.
- B. To authorize such variances from the terms of this Code as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this ordinance will result in unnecessary hardship or practical difficulty, and so that the spirit of this Code shall be observed and substantial justice done.

### **Section 502.031 Board of Zoning Appeals May Request Assistance**

The Board of Zoning Appeals may request in writing, and advisory opinion from the Planning Commission, or other departments or agencies as it deems appropriate on any variance or appeal case. Responses shall be submitted within thirty (30 days) from the date of mailing of the request from the Board.

### **Section 502.04 Duties of Zoning Inspector, Board of Zoning Appeals, Village Council and Courts on Matters of Appeal.**

It is the intent of this Code that all questions of interpretation and enforcement shall be first presented to the Zoning Inspector, and that such questions shall be presented to the Board only on appeal from the decision of the Zoning Inspector, and that recourse from the decisions of the Board shall be to the courts as provided by law. It is further the intent of this Code, that the duties of the Village Council in connection with this Code shall *not* include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for such questions shall be as stated in this section and this Code. Under this Code, the Village Council shall only have the duties of considering and adopting or rejecting proposed amendments or the repeal of this Code as provided by law, and of establishing a schedule of fees and charges as stated in this Zoning Code. Nothing in this Code shall be interpreted to prevent any official of the Village from appealing a decision of the Board of Zoning Appeals to the courts as provided in Chapters 2505 and 2506 of the Ohio Revised Code. Any such appeal shall be made within ten (10) days of the Board's written decision.

### **Section 502.05 Appeals Procedures**

Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Code may be taken by any person aggrieved or by any officer or Village administrative official 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 and with the Secretary of the Board of Zoning Appeals, a notice of appeal on an application from, specifying the grounds upon which the appeal is being taken. The Zoning Inspector shall maintain a copy of the application and shall immediately transmit to the Board of Zoning Appeals the application and all the papers and documents (hard copy and computer disks) constituting the record upon which the action appealed from was taken. The application for appeal shall be accompanied by a fee as specified in Section 504.

### **Section 502.06            Variances/Procedures**

The Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Code would result in unnecessary hardship or practical difficulties.

### **Section 502.07            Application**

Application for Variance or Appeal shall be made on the standard form prescribed by the Village specifically for such purpose.

The application materials shall be submitted to the Zoning Inspector who shall maintain a copy and immediately transmit the application and all records relevant to the case to the Chairperson of the Board of Zoning Appeals.

Except as otherwise permitted in this Code, no application for variance shall be accepted for processing unless the Chair of the BZA finds that the application for the requested variance includes ten copies of the following:

- A. Name, address, and phone number of the applicant(s)
- B. Legal description of the property;
- C. Description or nature of the variance requested, including specific sections of the Code from which the applicant is requesting the variance;
- D. A fee as established by this ordinance;
- E. Narrative statements establishing and substantiating that the variance conforms to the standards described in section 502.08;
- F. The names and addresses of all property owners within 200 feet of the subject property;
- G. All exhibits and/or other evidence that the applicant desires to have considered at the hearing.  
*(Ord. 2009-68, eff. 04-15-10)*

### **Section 502.08            Standards for Variances**

Before it may grant a variance, the Board of Zoning Appeals shall find by a preponderance of reliable, probative and substantial evidence submitted for the hearing, and only from such evidence, that the applicable standards set forth in this section are or will be satisfied by the proposed development or use. In addition, the Board may impose such additional written conditions on the proposed development or use as it deems necessary to insure that the intent and objectives of this Code are and will be observed.

#### *A. Use Variance*

On application for a use variance, the Board of Zoning Appeals shall review the evidence submitted for or at the hearing in light of the following standards and shall find that:

1. A literal enforcement of this Code will result in unnecessary hardship to the applicant, such hardship may not be caused by actions of the applicant; the applicant will not be able to use the property for the purposes for which it is zoned.
2. If the use variance is granted, the spirit and intent of this Code will be observed and substantial justice done;
3. The use variance, if granted, will not allow uses which are deemed a prohibited use because of the nuisance caused which will be a potential threat to public health and safety;
4. That special conditions do exist which are peculiar to this property and do not generally apply throughout the area, and which conditions are such that the strict application of the provisions of this Code would deprive the applicant of the reasonable use of the land or buildings. Loss of value and/or the inability to put one's property to a more profitable use does not, in itself constitute an unnecessary hardship;
5. The subject land will not yield a reasonable return or there will not be any beneficial use of the land without the use variance.

#### *B. Area Variance*

On application for an area variance, the Board of Zoning Appeals shall review the evidence submitted at the hearing in light of the following standards and tests:

1. Whether the subject land will yield a reasonable return or whether there can be a beneficial use of the property without the variance;
2. Whether the area variance is substantial;
3. Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a substantial detriment;
4. Whether the variance would adversely affect the delivery of governmental services;
5. Whether the property owner purchased the property with the knowledge of the zoning restriction;
6. Whether the problem can be solved by some manner other than the granting of a variance;

7. Whether the variance preserves the spirit and intent of the zoning requirement and whether substantial justice would be done by granting of the variance;
8. The variance would be the minimum necessary to alleviate the difficulty;

**Section 502.09            Additional Conditions and Safeguards**

The Board may further prescribe any conditions and safeguards that it deems necessary to insure that the objectives of the provisions to which the variance applies will be met. Any violation of such conditions and safeguards, when they have been made a part of the terms under which the variance has been granted, shall be deemed a punishable violation under this Code.

**Section 502.10            Public Hearing by the Board of Zoning Appeals**

The Board of Zoning Appeals shall hold a public hearing within 30 days after the receipt of an application for an appeal or variance.

**Section 502.11            Notice of Public Hearing in Newspaper**

Before conducting the public hearing required in Sec. 502.10, notice of such hearing shall be given in one or more newspapers of general circulation in the Village at least 10 days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed appeal or variance.

**Section 502.12            Notice to Parties in Interest**

Before conducting the public hearing required in Section 502.10, written notice of such hearing shall be mailed by the Secretary of the Board of Zoning Appeals, by first class mail, at least 10 days before the day of the hearing to all property owners within 200 feet of the subject property and to other parties in interest. The notice shall contain the same information as required of notices published in newspapers as specified in Section 502.11.

**Section 502.13            Action by the Board of Zoning Appeals**

Within 30 days after the public hearing, the Board shall either approve, approve with supplementary conditions as specified in section 502.09, or disapprove the request for appeal or variance. The Board shall further make their findings in writing that the reasons set forth in the application and evidence submitted before or at the hearing, justify the granting of the variance. The BZA shall transmit a copy of their decision within 10 days of such decision to the Zoning Inspector.

**CHAPTER 503 VILLAGE COUNCIL**

The powers and duties of the Village Council pertaining to the Zoning Code are as follows:

- A. Approve the appointments of members to the Planning Commission.

- B. Approve the appointments of members to the Board of Zoning Appeals.
- C. Initiate or act upon suggested amendments to the Zoning Code text or Official Zoning District Map. (Chapter 640)
- D. To override a written recommendation of the Planning Commission on a text or map amendment provided that such legislative action is passed by a vote of not less than 2/3 of the Council.
- E. Approve the appointment of the Zoning Inspector.

**CHAPTER 504 SCHEDULE OF FEES** (*Ord 2020-30, eff 11/19/20*)

A. The Village Council shall by ordinance, establish a schedule of fees for zoning permits, amendments, appeals, variances, conditional use permits, plan reviews, and other procedures and services pertaining to the administration and enforcement of this Code. The schedule of fees shall be posted in the office of the Zoning Inspector at the Administration Building of the Village and may be altered or amended only by the Village Council. Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure.

B. Council grants Planning Commission and the Board of Zoning Appeals, as appropriate, authority to waive said fees in whole or in part for not-for-profit organizations or due to hardship, except that any actual costs incurred by the Village in publicizing a hearing or processing an application shall be collected.

**C. Zoning Permit Fee List**

Zoning Book	\$	40.00
Chapters		20.00
Per Page		0.25
<b>Permits</b>		
Pool		35.00
Fence		15.00 up to 300'
		0.15/foot over 300'
Signs		10.00 up to 25 Sq. Ft.
		.75/ sq. ft over 25 sq. ft.
		20.00 max
Accessory Building, new or addition to:		
up to 499 sq. ft		20.00
500-999 sq. ft.		30.00
1000-1999 sq. ft.		40.00
2000 and above		50.00 per 2,000 sq. ft or fraction thereof
		400.00 max



Industrial and Commercial	50.00 per 2,000 sq. ft or fraction thereof
	400.00 max
Change in Use/Occupancy	20.00 each
	40.00 both
New Single Family Dwelling	40.00
Two-Family	80.00
Multi-Family	80.00 up to 1999 sq. ft.
	0.05/ sq. ft. over 2000 sq. ft.
	500.00 max
New Addition to Dwelling	
up to 499 sq. ft	20.00
500-999 sq. ft.	30.00
1000-1999 sq. ft.	40.00
2000 and above	50.00 per 2,000 sq. ft or fraction thereof
	400.00 max
Demolition or Moving	40.00
Conditional Zoning Certificate	75.00
Public Hearing for CZC	100.00
Renewal of Regular or Conditional Use Zoning Certificate	20.00
PUD	500.00 - 30 acres
<b>Other Services</b>	
Site Plan Review	150.00
Engineer Review (i.e. Flood Plain, etc.)	500.00
	If cost exceeds \$500.00, Applicant will be billed and responsible for excess costs.
Variance Application - each - and BZA Hearing (includes clerical services for hearings)	200.00