

ARTICLE VIII ADMINISTRATION AND ENFORCEMENT

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8.1 ADMINISTRATION

The Planning and Zoning Commission, the Director of Planning and Zoning, and the Village Engineer shall administer these Regulations jointly as specified herein, except where specific authority is given to another Village office as set forth in these Regulations. The Director of Planning and Zoning shall provide periodic reports to Council and the Mayor as to the progress of improvements.

8.2 MODIFICATIONS

8.2.1 Authority.

- A. Where the Planning and Zoning Commission finds that the land involved in a subdivision is of such size or shape, is subject to such title limitations, is affected by such topographical conditions, or is to be devoted to such usage that it is impossible or impracticable in the particular proposal for the Subdivider to conform fully to a provision of these Subdivision Regulations, the Planning and Zoning Commission may approve such modifications as may be reasonable, if within the general intent and purpose of these Regulations.
- B. The authority to grant modifications to the provisions of these Subdivision Regulations does not include the authority to vary the provisions of the Planning and Zoning Code.

8.2.3 Request for Modification. An application for a modification of requirements shall be submitted in writing by the applicant when the Preliminary Plan or Final Plat is filed with the Planning Commission. The written modification request shall include the following:

- A. The location(s) for which the modification(s) is/are being requested.
- B. The written request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based. The request is required to cite the particular conditions associated with the land in question.
- C. A written or drawn explanation of the specific modification(s) requested.
- D. An explanation of how the proposed modification(s) constitutes the minimum modification necessary and how the modification is not contrary to the public interest.

8.2.5 Action of the Planning and Zoning Commission. After receipt of a request for modification, the Planning Commission shall approve, approve with conditions, or deny the requested modification and state the grounds for the decision taken. In approving modifications, the Planning Commission may impose such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these Regulations.

8.2.7 Display on Plans. All preliminary and/or final plans must display all granted modifications prior to approval by the Planning Commission and Village Council.

8.2.9 General Standards for Modifications. The Planning Commission shall not grant modifications to these Regulations unless it makes written findings of fact based upon the evidence presented by each specific case that:

- A. The particular physical surroundings, environmental constraints, shape, topographical or other exceptional condition of the specific property involved would cause extraordinary hardship or exceptional practical difficulty to the applicant, as distinguished from a mere inconvenience, if the provisions of these Regulations were strictly enforced; and
- B. The conditions upon which the request for a modification is based are unusual to the property for which the modification is sought and are not applicable generally to other property; and
- C. The purpose of the modification is not based exclusively upon a desire to obtain additional income from the property; and
- D. The granting of the modification will not be detrimental to the public health, safety or general welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
- E. The special circumstances or conditions are created by the provisions or requirements of these Regulations and have not resulted from any act of the applicant or applicant's predecessor in interest; and
- F. The modification requested is the minimum adjustment necessary for the reasonable use of the land.

8.3 APPEALS

A developer aggrieved by any action of the Planning and Zoning Commission in regard to refusal to approve a subdivision may, within sixty (60) days after such refusal, appeal to the appropriate court to correct errors of law and/or questions of fact.

8.4 RECORDING OF PLAT

No plat of any subdivision shall be recorded in the office of the County Recorder until it has been approved in the manner prescribed herein. In the event any such unapproved plat is recorded, it shall be considered invalid; and the Village shall institute proceedings to have the plat stricken from the County records.

8.5 SALE OF LAND IN SUBDIVISION

No owner, or agent of the owner, of any land located within a proposed subdivision shall transfer or agree to transfer ownership in the future by reference to, exhibition of, or by the use of a plan or plat of a subdivision before such plan or plat has been approved and recorded in the manner prescribed herein. Any sale or transfer contrary to the provisions of this Section is void. The description of such subplot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of these Regulations.

8.6 REVISION OF PLAT AFTER APPROVAL

No changes, erasures, modifications or revisions shall be made in any plat of subdivision after approval has been given by the Planning and Zoning Commission and an endorsement is made in writing on a plat, unless the plat is first resubmitted and the changes approved by the Commission.

Division of any parcel within a proposed subdivision requires a resubmitted plat.

8.7 FEES

8.7.1 Filing Fees. In addition to the fees identified below, general fees relating to the review and administration of minor and major subdivisions shall be paid to the Village in the manner and amounts determined by Village Council.

8.7.3 Plan Checking and Field Inspection Fees

A. Office Checking Expenses. At the time calculations, plats, improvements plans, profiles specifications, etc., are submitted by the Subdivider for review, the Village Engineer shall prepare an estimate of cost for office checking of all such data. The Subdivider shall thereupon deposit with the Village Finance Director an amount of money equal to said estimated costs. All work done by the Village Engineer in connection with checking, computing and correcting such plans for improvements shall be charged against such deposit. If, during the progress of the work, the cost thereof appears to exceed the amount so deposited, the Village Engineer shall notify the Subdivider of this fact and shall do no further work in connection with such review until the Subdivider has deposited such additional sum of money determined necessary by the Village Engineer to cover the cost of the work.

B. Field Inspection Expenses. The Subdivider shall also pay the total cost of field inspection of the improvements during construction. The inspection fees shall be determined by the Village Engineer and deposited with the Village Finance Director. The inspector's salary shall be paid from the inspection fee. The Subdivider is held responsible for all inspection fees, which will be payable monthly.

The performance bond posted by the Subdivider guarantees the payment of all inspection fees and no bonds will be released until all inspection fees have been paid in full.

8.8 PENALTIES

Whoever willfully violates any rule or provision of these Regulations or fails to comply with any order pursuant thereto shall forfeit and pay not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00). Such sum may be recovered, with costs, in a civil action brought in the Court of Common Pleas of the County by legal representative of the Village, in the name of the Village and for the use thereof (Ohio Revised Code, 711.102).

Any person, whether he be the owner or agent of the owner who transfers any subplot, parcel or tract of such land from or in accordance with the plat of subdivision before such plat has been recorded in the office of the County Recorder, shall forfeit any pay the sum of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) for each subplot, parcel, or tract of land so sold. The description of such subplot, parcel or tract by metes and bounds in the deed or transfer shall not serve to exempt the seller from the forfeiture provided in this action (Ohio Revised Code 711.13).

Any person who disposed of or offers for sale or lease for a time exceeding five (5) years any subplot or any part of a subplot in a subdivision before the provisions of these Regulations are complied with, shall forfeit and pay five hundred dollars (\$500.00) for subplot or part of a subplot so sold, offered for sale, or leased, to be recovered with costs in civil action, in the name of the Village Director of Finance for the use of the Village.

8.9 SEVERABILITY

If any article, section, paragraph, clause or part of these Regulations is held invalid by a court, such judgement shall not affect the validity of the remaining provisions of these Regulations.

8.10 RELATION TO OTHER LAWS

The provisions of these Regulations shall supplement any and all laws of the State of Ohio, ordinance of the Village, or any and all rules and regulations promulgated by authority of such law or ordinances relating to the purpose of these Regulations. If these Regulations are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or resolutions, the most restrictive or that imposing the higher standards shall govern.

8.11 AMENDMENTS

These Regulations may be amended after public hearing and other requirements specified in the appropriate section of the Village Charter.