

ORDINANCE NO. 795-10

**AN ORDINANCE REPLACING ARTICLE SIXTEEN
OF THE VILLAGE OF TUSCARAWAS ZONING CODE**

WHEREAS, the Council for the Village of Tuscarawas, Tuscarawas County, Ohio has Determined that it is in the interest of the community and for reasons of safety and welfare of its residents that an ordinance be passed replacing Article Sixteen of the Village zoning Code currently in place within the Village;

THEREFORE, be it ordained by the Council of the Village of Tuscarawas as follows:

SECTION 1. The Zoning Code currently in place within the Village of Tuscarawas shall be amended.

SECTION 2. Article Sixteen of the Village Zoning Code shall be repealed in its entirety and be replaced by the new Article Sixteen which is attached to this Ordinance hereto.

Read this 22ND day of July, 2010

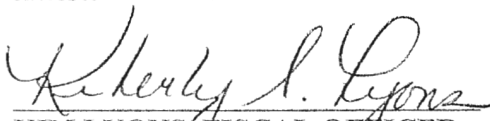
Read this 12th day of August, 2010

Read this 26th day of August, 2010

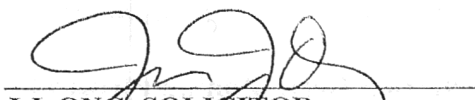
Approved:


MAYOR JOHN DECKER

Attest:


KIM LYONS, FISCAL OFFICER
VILLAGE OF TUSCARAWAS

Approved as to form:


J.J. ONG, SOLICITOR
VILLAGE OF TUSCARAWAS

ARTICLE 16. ZONING INSPECTOR, ZONING CERTIFICATE, ZONING COMPLIANCE INSPECTION, AND SIGN PERMIT REVIEW PROCESS

Section 1600. Zoning Inspector

1600.1 Zoning Inspector Enforces the Zoning Ordinance. It shall be the duty of the Zoning Inspector, who shall be appointed by the Council, to enforce this Ordinance. It shall be the duty of all officials and employees of the Village to assist the Zoning Inspector in the administration of the Zoning Ordinance by, for example, reporting to the Inspector any new construction, enlargement of a current building, dwelling, accessory building or structure, land use changes or any possible violations. The Zoning Inspector shall make no change in this Ordinance nor vary the terms of this Ordinance in carrying out the duties of the position of Zoning Inspector.

1600.2 Appeal Decisions of Zoning Inspector to the BZA. Appeal from the decision of the Zoning Inspector may be made to the Board of Zoning Appeals, as provided in Article 18. An appeal may be made of a case in which the Zoning Inspector has issued a final, official determination, such as an approval or denial of a Zoning Certificate, sign permit, etc.

1600.3 Zoning Inspector Maintains Records. The Zoning Inspector shall maintain records of applications for action by the Zoning Inspector, Planning Commission and Board of Zoning Appeals, all actions of Council pertaining to this Ordinance, all Zoning Certificates, and all approved and rejected applications.

1600.4 Zoning Inspector has Right to Enter Privately Owned Lands. For the purpose of performing the duties described in this Article, the Zoning Inspector may enter upon and inspect any privately owned lands within the Village at any reasonable time, and, upon entering such lands, shall notify the owner or resident, if on the premises, and furnish proper identification. The Zoning Inspector, while in the normal, lawful, and peaceful pursuit of his duties, may enter upon, cross over, and remain upon privately owned lands for such purposes, and shall not be subject to arrest for trespass while so engaged or for such cause thereafter. The Zoning Inspector may NOT enter a building or structure on private land without permission of the owner.

Section 1601. Zoning certificates for a Structure or Use.

1601.1 New or Enlarged Structure or Change in Use Requires a Zoning Certificate. It shall be unlawful for an owner to construct, create, erect, enlarge, place or relocate on the current premises, or change the use of, any structure, or part thereof, until a Zoning Certificate has been issued by the Zoning Inspector.

- Statement that no part of the land involved in the application has been previously used to provide required yard space or lot area for another structure.
- Statistical data on all relevant characteristics of the proposed development, including number and size of dwelling units, percentage of lot coverage, total gross and net acreage, numbers and dimensions of parking spaces including handicapped accessible spaces.
- Survey by a registered engineer or surveyor.

Section 1603. Process for Review of Application for a Zoning Certificate or Sign Permit (See Article 12 for sign permit application requirements.) An application for a Zoning Certificate or Sign Permit shall be processed as follows:

- (a) The applicant shall submit the application for a Zoning Certificate or Sign Permit to the Village Office.
- (b) The Zoning Inspector shall determine whether the application is complete within three (3) business days.
- (c) If the application is determined to be complete, the Zoning Inspector shall determine if the proposed project is in conformance with this Ordinance within seven (7) business days.
- (d) If the proposed project is determined to be in conformance, the applicant shall pay the designated application fee and the Zoning Inspector shall issue a Zoning Certificate or Sign Permit within three (3) business days.
- (e) If the proposed project is determined to be not in conformance with this Ordinance, the Zoning Inspector shall inform the applicant in writing of the refusal and the reasons for the determination.
- (f) The Zoning Inspector shall, at this point, advise the applicant that he may submit his non-conforming plan to the BZA in the form of a request for a variance, or revise and resubmit the application to the Zoning Inspector, in which case the process shall be restarted.
- (g) Upon a final determination regarding an application, the Zoning Inspector shall mark the application and each supplemental document page as "approved" or "disapproved" and shall initial and date each page.
- (h) The Zoning Inspector shall maintain an original set of the approved or disapproved application documents, and the approved Zoning Certificate or Sign Permit if applicable, on file in the Village Office. A copy of the approved document shall be transmitted to the applicant.

Section 1604. Applications Requiring Multi-Approvals. The Zoning Inspector shall not issue a Zoning Certificate or Sign Permit for any application requiring a determination by the Village Council, Planning Commission or Board of Zoning Appeals unless the proposed project has been granted all final approvals by all such Authorities.

1604.1 If No Revised Plans are Required, the Zoning Certificate or Sign Permit is Issued Within Three (3) Days. When such approvals are final, and the applicant has not been required to submit revised plans, the Zoning Inspector shall issue the Zoning Certificate within three (3) business days.

1604.2 Revised Plans Must be Checked. When all necessary approvals by the Village Council, Planning Commission or BZA are final, and the applicant has been required to submit revised plans, the Zoning Inspector shall determine whether the revised plans are in conformance with the approval by such authorities. If it is determined that the revised plans are in conformance, the Zoning Inspector shall issue the Zoning Certificate or Sign Permit within three (3) business days. If the Zoning Inspector determines the revised plans are not in conformance, the Zoning Inspector shall notify the applicant in writing, and state the reasons for the refusal of the Zoning Certificate or Sign Permit. Further revised plans may be submitted by the applicant for determination of compliance by the Zoning Inspector.

1604.3 If Applicant Fails to Submit Conforming Revised Plans in 60 Days to the Village Council, Planning Commission, and/or BZA the Approval Expires. If revised plans are a condition of approval of the Village Council, Planning Commission or BZA they shall expire within sixty (60) days after such final approval if the applicant fails to submit revised plans which are determined to be in conformance by the Zoning Inspector.

Section 1605. Expiration of Zoning Certificate and Sign Permit. A Zoning Certificate shall expire if the use, as approved, has not been conducted, or if the structure, as approved, has not been completed after two (2) years from the date of approval. A Sign Permit for the erection, construction or alteration of a sign shall expire one (1) year after the date of approval.

Section 1606. Applicant's Responsibility After Project Approval. The applicant shall notify the Zoning Inspector as to the date and time he plans to start the approved project or build or place an approved sign. Whenever possible, this notification shall occur at the time the applicant receives the approved Zoning Certificate or Sign Permit from the Zoning Inspector or Village representative.

Section 1607. Zoning Compliance Inspection Process. After a project or sign is approved, the Zoning Inspector shall visit the project site and view the plan at least monthly, and more frequently right after construction begins, to determine that the structure and/or sign is being constructed and/or placed in compliance with the approved application/plan associated with the Zoning Certificate or Sign Permit, and all applicable requirements of the Zoning Ordinance. The Zoning Inspector shall also check to see that a copy of the approved Zoning Certificate, Sign Permit or other applicable document has been clearly displayed on the project site through completion.

- The Zoning Inspector shall briefly document each project site visit, noting the date and time of the visit, status of the project or sign, and whether the project or sign is still in compliance with the approved application/plan. Such documentation shall be kept on file with the approved application.
- If the Zoning Inspector discovers that a structure or sign is being constructed and/or placed in a manner contrary to the approved application/plan or the Zoning Ordinance, he shall immediately notify the holder of the Zoning Certificate or Sign Permit. If the permit holder fails to make appropriate corrections or modifications to bring the project or sign into compliance, the Zoning Inspector shall immediately notify the Village Administrator and Mayor of the compliance problem, and pursue enforcement actions authorized by the Zoning Ordinance or other applicable laws or regulations.
- When the Zoning Inspector finds during a project site visit that the project and/or sign has been completed and/or placed in compliance with the approved application/plan and all applicable requirements of the Zoning Ordinance, the Zoning Inspector shall complete the Zoning Compliance Inspection form, designating approval, give a copy of the approved form to the holder of the Zoning Certificate or Sign Permit and file the original form with the Village Office.

Section 1608. Agricultural Structure/Use Exemption Certificate. An Agricultural Structure/Use Exemption Certificate shall be filed by the property owner, tenant or lessee with the Zoning Inspector prior to the construction of any such buildings or structures. The filing of such Certificate shall not require a fee. See Article 2, Agricultural Structure/use Exemption and Article 3, Agriculture.

1608.1 Inspection for Exemption Certificate. Within ten (10) business days after the submittal of the certificate, the Zoning Inspector shall inspect the land or structure described in the certificate to determine whether it is eligible for the Agricultural Structure/Use Exemption according to the provisions of this Ordinance. If the premises is determined to be eligible, the Zoning Inspector shall grant an acceptance of the certificate within three (3) business days after the inspection. If the premises is determined to be ineligible, the Zoning Inspector shall notify the applicant in writing within three (3) business days, and shall include the reason for the determination. The Zoning Inspector shall forward one copy of the determination to the applicant, and retain the original set in the Village files.

Section 1609. Permits, Certificates and Similar Documents Shall Immediately be Displayed on the Premises. All forms issued by the Village which confer permission according to this Ordinance shall be immediately displayed on the premises where they are plainly visible to the Zoning Inspector until the project is complete. Attachments such as applications forms, approved plans, etc., are not required to be displayed. If the document pertains to a temporary use, structure or other object, it must be displayed until such use, structure or object is discontinued or removed. It is acceptable to display either the original document or a legible copy thereof.

Section 1610. Violations and Penalties.

1610.1 Fines for Violations. It shall be unlawful for an owner to construct, create, erect, enlarge, place or relocate on the current premises, or change the use of, any structure or part thereof, in violation of any regulation in or any provisions of this Ordinance or any amendment or supplement thereto adopted by the Council. Any person, firm or corporation violating any regulation thereto shall be fined not more than one hundred dollars (\$100.00). Each and every day during which such illegal action continues may be deemed a separate offense for the purpose of assessing the fines.

1610.2 Zoning Certificate or Zoning Compliance Inspection Based on False Statements are Void. Any Zoning Certificate or Zoning Compliance Inspection, including approvals and permissions by any authority of the Village, issued upon a false statement of fact by the applicant, property owner or their representative, which is material to the issuance thereof, shall be void. Whenever the fact of such false statement is established to the satisfaction of the Council, the certificate is revoked.

1610.3 Filing a Complaint About a Violation. Any person may file a complaint in regard to an alleged violation of this Ordinance. All such complaints shall be in writing and shall be filed with the Zoning Inspector, who shall promptly record and investigate such complaint.

1610.4 Costs of Investigation of Disproved Violations May be Charged to Complainant. If the Village investigates an alleged violation, and the premises are found to be in compliance with the Zoning Ordinance, the Village Council may, but is not required to, charge reasonable costs of investigation to the complainant. Such charge may be made if, for example:

- An individual or entity makes repeated complaints of alleged and disproved violations of the same type, or against the same or different premises; or
- There is no obvious or reasonable observation of a violation; or
- Similar circumstances

It is the intent of this provision that the cost of reasonable complaints shall be borne by the Village, whether or not a violation is found to exist. Further, the intent of this provision is to discourage harassment of occupants and property

owners who are in compliance with the Zoning Ordinance, and abuse of Village resources.

1610.5 Notice of Violation. If the Zoning Inspector finds that any provisions of this Ordinance are being violated, he/she shall proceed as follows:

- (a) **Notification to Property Owner.** The Zoning Inspector shall notify in writing the owner of record or authorized agent in violation. The notice shall indicate the nature of the violation, order the action necessary to correct the violation, and advise that the order may be appealed to the Board of Zoning Appeals.
- (b) **Serving Notice of Violation.** Such notice shall be served by the Zoning Inspector to the property owner and the occupant of such premises by certified mail or personal delivery. Further, the Zoning Inspector shall post such notice in a conspicuous place upon the premises of the violation. Such notice shall remain as posted until removed by the Zoning Inspector who shall do so only when all corrections are complete.
- (c) **No Further Work Shall be Done in Violation of the Ordinance.** After such a notice of violation is served or posted on the premises, no work, except to secure the property or correct such violation and comply with this Ordinance, shall be permitted on any building or tract of land included in the violation. Corrections shall be made only after all necessary permits have been approved.
- (d) **Failure to Comply With Notice of Violation.** If the owner or authorized agent fails to comply with any action ordered in the Notice of Violation within sixty (60) days after notice has been served, the Village Solicitor may be authorized to institute appropriate action to prevent, enjoin, abate or eliminate such violation.

1610.6 Legal Action Against Violators. In any case where a building is, or is proposed to be, located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land is, or is proposed to be, used in violation of this Ordinance or any amendment or supplement thereto, the Zoning Inspector, Solicitor, 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 an injunction, mandamus, abatement, or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

owners who are in compliance with the Zoning Ordinance, and abuse of Village resources.

1610.5 Notice of Violation. If the Zoning Inspector finds that any provisions of this Ordinance are being violated, he/she shall proceed as follows:

- (a) **Notification to Property Owner.** The Zoning Inspector shall notify in writing the owner of record or authorized agent in violation. The notice shall indicate the nature of the violation, order the action necessary to correct the violation, and advise that the order may be appealed to the Board of Zoning Appeals.
- (b) **Serving Notice of Violation.** Such notice shall be served by the Zoning Inspector to the property owner and the occupant of such premises by certified mail or personal delivery. Further, the Zoning Inspector shall post such notice in a conspicuous place upon the premises of the violation. Such notice shall remain as posted until removed by the Zoning Inspector who shall do so only when all corrections are complete.
- (c) **No Further Work Shall be Done in Violation of the Ordinance.** After such a notice of violation is served or posted on the premises, no work, except to secure the property or correct such violation and comply with this Ordinance, shall be permitted on any building or tract of land included in the violation. Corrections shall be made only after all necessary permits have been approved.
- (d) **Failure to Comply With Notice of Violation.** If the owner or authorized agent fails to comply with any action ordered in the Notice of Violation within sixty (60) days after notice has been served, the Village Solicitor may be authorized to institute appropriate action to prevent, enjoin, abate or eliminate such violation.

1610.6 Legal Action Against Violators. In any case where a building is, or is proposed to be, located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land is, or is proposed to be, used in violation of this Ordinance or any amendment or supplement thereto, the Zoning Inspector, Solicitor, 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 an injunction, mandamus, abatement, or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.