

ORDINANCE NO. 2015-18

INTRODUCED BY: Mayor Rinker and Council as a Whole

**AN ORDINANCE PROPOSING AN AMENDMENT  
TO ARTICLE V, SECTION 12(A), AND ANY RELATED SUBSECTIONS,  
SO AS TO ALLOW THE BOARD OF ZONING APPEALS  
TO GRANT "USE" VARIANCES IN NON-RESIDENTIAL DISTRICTS ONLY,  
AND REQUIRING COUNCIL APPROVAL AFTER PUBLIC HEARING.**

WHEREAS, Article IX of the Village Charter currently requires that the Charter Review Commission convene every five years to review the Charter; and

WHEREAS, the Charter Review Commission is required to have a review session with the Mayor and Council and to recommend to the voters any amendments to the Charter as in its judgment are desirable; and

WHEREAS, the Charter Review Commission has recommended to the voters the following proposed amendments to Article V, Section 12(A) and Article III, Sections 10 and 12.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF MAYFIELD VILLAGE, OHIO THAT:

SECTION 1. Article V, Section 12(A) and Article III, Sections 10 and 12 of the Charter of the Village of Mayfield are amended to read as set forth in Exhibit "A", attached hereto and incorporated herein by reference.

SECTION 2. This ordinance upon adoption by Council shall be referred to the Clerk of the Cuyahoga County Board of Elections not later than sixty (60) days before the November 3, 2015 election. Upon this proposed amendment being approved by the majority of the electors voting thereon, it shall become part of the Charter of Mayfield Village, Ohio.

SECTION 3. Pursuant to the mandates of the Charter, a copy of the full text of this proposed amendment shall be delivered to the residents of the Village not less than thirty (30) days before the election and, pursuant to law, a legal notice will be published once a week for two consecutive weeks at least fifteen (15) days prior to the election.

SECTION 4. The language appearing on the ballot on November 3, 2015 shall be as follows:

**PROPOSED CHARTER AMENDMENT  
(MAJORITY AFFIRMATIVE VOTE REQUIRED)**

**SHALL MAYFIELD VILLAGE CHARTER ARTICLE III, SECTIONS 10 AND 12 AND ARTICLE V, SECTION 12(A) BE AMENDED TO ALLOW THE BOARD OF ZONING APPEALS TO GRANT USE VARIANCES IN NON-RESIDENTIAL DISTRICTS ONLY, WITH COUNCIL APPROVAL AFTER A PUBLIC HEARING.**

SECTION 5. This ordinance shall take effect and be in full force from and after the earliest period allowed by law and upon signature by the Mayor.

SECTION 6. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

\_\_\_\_\_  
WILLIAM BUCKHOLTZ  
Council President

First Reading: \_\_\_\_\_ 2015  
Second Reading: \_\_\_\_\_ 2015  
Third Reading: \_\_\_\_\_ 2015  
PASSED: \_\_\_\_\_ 2015

\_\_\_\_\_  
BRUCE G. RINKER, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
JOSEPH W. DIEMERT, JR., DIRECTOR OF LAW

ATTEST: \_\_\_\_\_  
MARY E. BETSA, Clerk of Council

# EXHIBIT A

## ARTICLE V

\*\*\*

### SECTION 12. BOARD OF APPEALS

#### (A) Creation, Powers and Duties.

The Council shall provide by ordinance for a Board of Appeals to hear appeals for exceptions to, and variances in, the application of resolutions, ordinances, regulations, building codes, measures and orders of administrative officials or agencies governing zoning and building in the Municipality. Such Board shall have such other powers and duties, and shall follow such procedures as may be prescribed by ordinances of Council; provided, however, that the Board of Appeals shall have no power or authority to grant any change of or variance in any ~~land use or classification or residential~~ district from the existing zoning ordinances or the zoning map of the Municipality, or to permit any land use to become nonconforming therewith. The BZA shall have the authority to grant "Use" variances in non-residential districts, providing that same is approved by Council pursuant to Article III, Sections 10, 11, and 12 of this Charter. All decisions of the Board of Appeals shall be appealable by any interested person or entity to the Village Council. Council may review the minutes or records, or have a rehearing, at its discretion, and may affirm, modify, or reverse any decision of the Board of Appeals by a two-thirds vote of all members elected.

\* \* \*

## ARTICLE III THE COUNCIL

\* \* \*

### SECTION 10. EFFECTIVE DATE OF ORDINANCES AND RESOLUTIONS.

Each ordinance or resolution providing for (a) the appropriation of money, (b) an annual tax levy, (c) improvements petitioned for by the owners of a majority of the foot frontage of the property benefited and to be specially assessed therefore, and (d) any emergency ordinance or resolution necessary for the immediate preservation of the public peace, health or safety, shall take effect, unless a later time be specified therein, upon its signature by the Mayor approving the same, or upon the expiration of the time within which it may be vetoed by the Mayor, or upon its passage after it has been vetoed by the Mayor, as the case may be. Except as otherwise provided in this Charter, all other ordinances and resolutions shall take effect and be operative in the manner provided by the general laws of the State of Ohio.

Each emergency measure shall contain a statement of the necessity for such emergency action, and shall require the affirmative vote of two-thirds of the members of Council for its enactment. No ordinance or resolution (a) relating to any change in the boundaries of the Municipality, (b) providing for the surrender or joint exercise of any of its powers, (c) enacting, amending or repealing any zoning ordinance or other matter described in Sections 11 and 12 of this Article III , (d) granting any franchise, ~~or~~ (e) contracting for the supply to the Municipality or its inhabitants of the product or service of any utility, whether municipally owned or not; or (f) granting a "Use" variance in any non-residential zoning district pursuant to Article V, 12(A), shall be enacted as an emergency measure.

\* \* \*

## SECTION 12. PUBLIC NOTICE AND HEARING ON CERTAIN ORDINANCES.

Before any ordinance or resolution may be enacted by the Council amending or repealing any: (a) platting ordinance, (b) the zoning map of the Municipality, (c) zoning or use classification or district, (d) restrictions on height of buildings and other structures, (e) the size of parcels in any zoning or use classification, or (f) the percentage of lot occupancy of buildings and other structures; the Council shall (i) refer such ordinance or resolution to the Planning and Zoning Commission for report and recommendation as required by Section 11 of this Article III ; (ii) read the same in full or by title at two successive Council meetings, (iii ) thereafter hold a public hearing thereon (which public hearing shall be held at least thirty days after the second reading and prior to the third reading thereof), and (iv) shall give thirty days notice of the time and place of such public hearing in a newspaper of general circulation in the Municipality. No such ordinance or resolution shall be enacted or adopted unless passed or approved after the third reading thereof by not less than a majority of the members of Council, and, if such ordinance or resolution has been disapproved by the Planning and Zoning Commission, by not less than two-thirds of the members of Council. Thereafter, any such ordinance which has been approved by the Council shall be submitted to a vote of the electors of the Municipality, and shall become effective only upon approval thereof by such electors in accordance with the provisions of Section 13 of this Article III . However, the approval of a "Use" variance pursuant to Article V, Section 12(A) will not require approval of the Electors.

\* \* \*