

CITY OF STRUTHERS
Ordinance

NO. 19-011

**AN ORDINANCE PROMULGATING PART THIRTEEN,
TITLE ONE, CHAPTER 1305 OF THE CODIFIED
ORDINANCES OF STRUTHERS, OHIO TO ESTABLISH THE
AUTHORITY AND POWERS OF THE BOARD OF BUILDING
APPEALS, AND DECLARING AN EMERGENCY.**

WHEREAS, certain provisions of the Codified Ordinances for the City of Struthers, Ohio provide that a property owner may appeal a decision of the Safety Service Director or Fire Chief to the Board of Building Appeals; and

WHEREAS, this Council is satisfied that there is good cause to create Part Thirteen, Title One, Chapter 1305 of the Codified Ordinances for the City of Struthers, Ohio to establish the authority and powers of the Board of Building Appeals.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Struthers, Ohio, $\frac{3}{4}$'s of all members elected thereto concurring:

SECTION 1: Part Thirteen, Title One, Chapter 1305 of the Codified Ordinances of the City of Struthers, Ohio shall be, and hereby is, created to read as follows:

Chapter 1305 – Board of Building Appeals

1305.01 Establishment and Purpose

- (a) There is hereby established a Board of Building Appeals.
- (b) The Board of Building Appeals shall provide administrative relief to any owner of real property, or any other party with a legal or equitable interest in real property, within the City, whether the real property is residential or commercial, who receives a final notice of violation, decision or order from the Safety Service Director and/or Fire Chief when any provision of these Codified Ordinances provides for an appeal of said notice of violation, decision or order to the Board of Building Appeals.

1305.02 Membership

- (a) The Board of Building Appeals shall consist of three (3) members.
- (b) Each member of the Board of Building Appeals shall be a qualified elector of the City of Struthers, Ohio and shall not hold any other municipal office. Any duly appointed member who runs for any municipal office shall be automatically disqualified from further membership on the Board of Building Appeals as of the date on which the member files a petition with the County Board of Elections.
- (c) Each member shall be appointed by the Mayor for a term of three (3) years each; provided that the first persons appointed as members shall be appointed as follows: one (1) shall be appointed for a term of one (1) year, one (1) shall be appointed for a term of two (2) years, and one shall be appointed for a term of three (3) years.
- (d) All members of the Board of Building Appeals shall serve until their respective successors are appointed.
- (e) Members may be reappointed.
- (f) A vacancy on the Board of Building Appeals shall be filled in the same manner as the appointment.

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- (g) Members of the Board of Building Appeals shall receive no compensation. However, the members shall be reimbursed for any expenses incurred in the performance of their duties.

1305.03 Meetings and Organization

- (a) Two (2) members of the Board of Building Appeals shall constitute a quorum for the purpose of conducting the business thereof. A vacancy on the Board of Building Appeals shall not impair the right of the other members to exercise all the power of the Board of Building Appeals.
- (b) Rules may be adopted by a majority vote of the members of the Board of Building Appeals to provide for the number of meetings and method of calling meetings and special meetings, and to provide for the conduct and government of meetings, but such rules shall not conflict with any ordinance passed by Council.
- (c) The Board of Building Appeals is only required to meet when an appeal is filed pursuant to these Codified Ordinances, but it may meet as often as is established by its rules.
- (d) The meetings of the Board of Building Appeals shall be open to public. Participation in the hearings shall be limited to the appellant, any party with a financial interest in the subject building, neighbors in the vicinity of the subject building with contiguous or adjacent properties, Safety Service Director, Fire Chief, any other necessary city official or employee, and/or any person recognized by the Board of Building Appeals.
- (e) No member shall act in any case in which s/he has personal interest. Disclosure of any personal interest by each member is required on a case-by-case basis.
- (f) The Clerk of Council shall serve as the secretary of the Board of Building Appeals. The secretary shall be a non-voting member of the Board of Building Appeals.

1305.04 Appeals

- (a) When any person is adversely affected by a determination of the Safety Service Director or Fire Chief in administering or enforcing any provision of these Codified Ordinances, and when the person is authorized to appeal the determination of the Safety Service Director or Fire Chief to the Board of Building Appeals by any provision of these Codified Ordinances, the Board of Building Appeals is charged with the duty to hear, investigate and decide such appeals.
- (b) Appeals shall be in writing and set forth the name, address and phone number of the appellant and a statement of the grounds for such appeal. Only those issues or matters specifically raised by the appellant shall be considered by the Board of Building Appeals.
- (c) Appeals shall be filed with the Clerk of Council within thirty (30) days after receipt of the determination of the Safety Service Director or Fire Chief, along with the fee required by any other provision of these Codified Ordinances or, if no fee is required by any other provision of these Codified Ordinances, the fee established by resolution of Council from time-to-time. Failure to timely request an appeal constitutes a waiver of the right to a hearing before the Board of Building Appeals and a failure to exhaust administrative remedies.
- (d) Upon receipt of the appeal, the Clerk of Council shall set a date, not to exceed thirty (30) days, for a hearing before the Board of Building Appeals. Upon setting the hearing, the Clerk of Council shall notify the appellant of the date, time and place by sending written notice of the hearing by United States regular mail, at least seven (7) days prior to the hearing, to the address for appellant contained in the appeal.

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- (e) At the hearing before the Board of Building Appeals, the Safety Service Director or Fire Chief shall first present the reason(s) for his or her determination to the Board of Building Appeals. The appellant shall then be given the opportunity to be heard and to show cause as to why the order of the Safety Service Director or Fire Chief should be modified or dismissed or why a variance should be granted. The burden of proof is on the appellant to show why the determination of the Safety Service Director or Fire Chief should be modified or dismissed or why a variance should be granted.
- (f) After the hearing, the Board of Building Appeals shall affirm, disaffirm, modify or dismiss the determination of the Safety Service Director or Fire Chief by a majority vote of the members present. Alternatively, if it clearly appears to a majority of the members of the Board of Building Appeals present that, by reason of special conditions, undue hardship would result from the strict application of any provision of these Codified Ordinances, the Board of Building Appeals may permit a variance from the mandatory provisions thereof in such a manner that the public safety shall be secured, substantial justice done and the spirit of the provisions of these Codified Ordinances upheld.
- (g) The appellant shall be notified within ten (10) days of the hearing, in writing, of the decision of the Board of Building Appeals by sending the decision by United States regular mail to the appellant's address as provided in the appeal.
- (h) If the appellant or his/her representative does not appear for the hearing to present his/her position, the appeal shall be dismissed and the provisions of these Codified Ordinances shall be enforced.
- (i) The proceedings before the Board of Building Appeals shall be recorded and its decisions shall be set forth in writing.

1305.05 Ex Officio Member

The City Law Director shall be the principal city staff liaison to the Board of Building Appeals.

SECTION 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including § 121.22 of the Ohio Revised Code.

SECTION 3: A delay in the effective date of this Ordinance will result in detriment to the economic health, safety and welfare of the Struthers community at large. Accordingly, this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare of the City and shall therefore be in full force and effect from and immediately upon its passage and approval by the Mayor.

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PASSED IN COUNCIL THIS 27th DAY OF March, 2019.

Megan R. Shorthouse
CLERK OF COUNCIL

Henry D. Franceschelli, Sr.
PRESIDENT OF COUNCIL

FILED WITH THE MAYOR THIS 27th DAY OF March, 2019.

Megan R. Shorthouse
CLERK OF COUNCIL

APPROVED BY THE MAYOR THIS 27th DAY OF March, 2019.

Terry P. Stocker
MAYOR

PUBLISHED IN THE HOMETOWN JOURNAL

DATE: 3/28/2019-4/4/2019

Megan R. Shorthouse
CLERK OF COUNCIL