

**ORDINANCE 2021-20
INTRODUCED BY: ROGOFF**

4310

**AN ORDINANCE
AMENDING THE PLANNING AND ZONING CODE OF THE
VILLAGE OF CHAGRIN FALLS AND AMENDING
SECTION 1111.03(a), (b) AND (c) AND ADDING
SUBSECTION (e), AND AMENDING SECTION 1111.10 BY
MOVING SUBSECTION (g) TO A NEW SECTION 1111.11
AND ADDING NEW LANGUAGE REGARDING APPEALS
OF ADMINISTRATIVE MATTERS**

WHEREAS, the Planning and Zoning Commission at their March 15, 2021 meeting, recommended to Council to amend the Planning and Zoning Code regarding the date when administrative appeals to the Court of Common Pleas commences to run and to provide relief to applicants who rely on erroneous Village provided information;

WHEREAS, Council has held a public hearing on May 24, 2021 on this Ordinance;

WHEREAS, Council desires to enact the forgoing amendments to the Planning and Zoning Code by amending Subsections (a), (b) and (c) of 1111.03 and adding Subsection (e) to Section 1111.03 and by moving the language from Section 1111.10 (g) to new Section 1111.11 of the Planning and Zoning Code and adding new Section 1111.11 regarding Administrative Appeals.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE
OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO:**

Section 1. Planning and Zoning Code Section 1111.03 is hereby amended in its entirety to read as follows:

1111.03 APPLICATION FOR APPEAL

An appeal shall be considered by the Board of Zoning Appeals only after formal action or decision has been taken by the Administrator or other Officers, Boards, or Commissions with regard to an application for a building permit, zoning certificate, issuance of a stop order, specific referral or some similar action; provided that:

- (a) The Administrator or designee shall send notice of such formal action or decision, by electronic mail, or by depositing a letter with the United States Postal Service, with postage pre-paid, notifying the aggrieved party who first made such application, as the case may be, of such formal action or decision.

ORDINANCE 2020-20
INTRODUCED BY: ROGOFF

- (b) Within ten (10) days of such formal action or decision, an application for appeal from such formal action or a decision shall be filed with the Administrator; and when applicable, an application for a variance shall be filed with the Administrator within such ten (10) day period; and
- (c) The time period to file an appeal shall commence to run upon the date that the Administrator or designee sends notice of such formal action or decision, by electronic mail, or by depositing a letter with the United States Postal Service, with postage pre-paid, notifying the aggrieved party who first made such application, as the case may be, of such formal action or decision. The notice shall be sent to the e-mail address or residence or business address designated by the applicant when filing an application for a permit, if any. Failure of the applicant to receive such notice shall not be a basis for tolling or extending the time period to file an appeal.
- (d) Prior to filing an application for a variance from the Board of Zoning Appeals, for the erection, enlargement and/or alteration of a building in the Municipality, the applicant shall be required to first obtain preliminary plan approval from the Architectural Board of Review for such building.
- (e) In the event an aggrieved party was provided with incorrect written information from the Administrator, Building Inspector, Secretary of the Planning and Zoning Commission or the Board of Zoning Appeals, or other Village official with authority to provide information on appeal deadlines, as to the date when an appeal from formal action taken pursuant to this Section must be filed, and as a result the aggrieved party is unable to timely file an appeal from such action, the aggrieved party shall have a period of ten (10) days from the date that they discovered the correct deadline to file an appeal, but not to exceed twenty (20) days after formal action has been taken from which an appeal must ordinarily be filed with the Administrator, by filing the appropriate application and information as required by the Planning and Zoning Code.

In the event an appeal is filed pursuant to this Section, the Building Inspector shall issue an order to the permit recipient to discontinue all work authorized under such permit in accordance with Section 1307.10, during the pendency of the appeal. Further work performed under such permit, during the pendency of the appeal, shall be deemed to be in violation of this provision.

Section 2. The existing Planning and Zoning Code Section 1111.03 the full text which follows is hereby repealed in its entirety.

1111.03 APPLICATION FOR APPEALS OR VARIANCES.

An appeal shall be considered by the Board of Zoning Appeals only after formal action has been taken by the Administrator or other officers, boards or commissions

ORDINANCE 2020-20
INTRODUCED BY: ROGOFF

with regard to an application for a building permit, zoning certificate, issuance of a stop order, specific referral or some similar action; provided that:

(a) Within ten (10) days of such action, application for appeal from a decision shall be filed with the Administrator; and when applicable, an application for a variance shall be filed with the Administrator; and

(b) Application for appeal or variance shall include reference to the decision or section of this Planning and Zoning Code from which the appeal or variance is sought and all necessary data in accordance with the form provided.

(c) An application for an appeal may be filed only by the person who has been denied a building permit, zoning certificate or any other authorization, or a person who has received a stop work order under any provision of the Codified Ordinances, or any property owner who should have received a notice of a request for approval of a project pursuant to Section 1109.05 of the Codified Ordinances and who has an interest, established by law, in the disposition of such matter.

(d) Prior to filing an application for a variance from the Board of Zoning Appeals, for the erection, enlargement and/or alteration of a building in the Municipality, the applicant shall be required to first obtain preliminary plan approval from the Architectural Board of Review for such building.

In the event an appeal is filed pursuant to this section, the Building Inspector shall issue an order to the permit recipient to discontinue all work authorized under such permit, in accordance with Section 1307.10, during the pendency of the appeal. Further work performed under such permit, during the pendency of the appeal, shall be deemed to be in violation of this provision. (Ord. 2019-39. Passed 8-13-19.)

Section 3. Section 1111.03 of the Planning and Zoning Code, the full text of which follows with underlining for additions and strikeouts for deletions, as amended, reads as follows:

1111.03 APPLICATION FOR APPEAL

An appeal shall be considered by the Board of Zoning Appeals only after formal action or decision has been taken by the Administrator or other Officers, Boards, or Commissions with regard to an application for a building permit, zoning certificate, issuance of a stop order, specific referral or some similar action; provided that:

(a) The Administrator or designee shall send notice of such formal action or decision, by electronic mail, or by depositing a letter

ORDINANCE 2020-20
INTRODUCED BY: ROGOFF

with the United States Postal Service, with postage pre-paid, notifying the aggrieved party who first made such application, as the case may be, of such formal action or decision.

- (b) ~~Application for appeal or variance shall include reference to the decision or section of this Planning and Zoning Code from which the appeal or variance is sought and all necessary data in accordance with the form provided. Within ten (10) days of such formal action or decision, an application for appeal from such formal action or a decision shall be filed with the Administrator; and when applicable, an application for a variance shall be filed with the Administrator within such ten (10) day period; and~~
- (c) ~~An application for an appeal may be filed only by the person who has been denied a building permit, zoning certificate or any other authorization, or a person who has received a stop work order under any provision of the Codified Ordinances, or any property owner who should have received a notice of a request for approval of a project pursuant to Section 1109.05 of the Codified Ordinances and who has an interest, established by law, in the disposition of such matter. The time period to file an appeal shall commence to run upon the date that the Administrator or designee sends notice of such formal action or decision, by electronic mail, or by depositing a letter with the United States Postal Service, with postage pre-paid, notifying the aggrieved party who first made such application, as the case may be, of such formal action or decision. The notice shall be sent to the e-mail address or residence or business address designated by the applicant when filing an application for a permit, if any. relief from the Board of Zoning Appeals. Failure of the applicant to receive such notice shall not be a basis for tolling or extending the time period to file an appeal.~~
- (d) Prior to filing an application for a variance from the Board of Zoning Appeals, for the erection, enlargement and/or alteration of a building in the Municipality, the applicant shall be required to first obtain preliminary plan approval from the Architectural Board of Review for such building.
- (e) ~~In the event an appeal is filed pursuant to this section, the Building Inspector shall issue an order to the permit recipient to discontinue all work authorized under such permit, in accordance with Section 1307.10, during the pendency of this appeal. Further work performed under such permit, during the pendency of the appeal, shall be deemed to be in violation of this provision. aggrieved party was provided with incorrect written~~

ORDINANCE 2020-20
INTRODUCED BY: ROGOFF

information from the Administrator, Building Inspector, Secretary of the Planning and Zoning Commission or the Board of Zoning Appeals, or other Village official with authority to provide information on appeal deadlines, as to the date when an appeal from formal action taken pursuant to this Section must be filed, and as a result the aggrieved party is unable to timely file an appeal from such action, the aggrieved party shall have a period of ten (10) days from the date that they discovered the correct deadline to file an appeal, but not to exceed twenty (20) days after formal action has been taken from which an appeal must ordinarily be filed with the Administrator, by filing the appropriate application and information as required by the Planning and Zoning Code.

In the event an appeal is filed pursuant to this section, the Building Inspector shall issue an order to the permit recipient to discontinue all work authorized under such permit, in accordance with Section 1307.10, during the pendency of the appeal. Further work performed under such permit, during the pendency of the appeal, shall be deemed to be in violation of this provision. (Ord. 2019-39. Passed 8-13-19.)

Section 4. Planning and Zoning Code Section 1111.10 (g) is hereby removed from Section 1111.10 and relocated to new Section 1111.11, with additional language added herein which reads as follows:

1111.11 TIME PERIOD TO FILE APPEAL

The applicant or any such interested party who is held by action of Council may appeal Council's decision pursuant to Ohio R.C. Chapter 2506. The time period to appeal any final decision rendered by either (i) the Board of Zoning Appeals, in the event three (3) members of Council have not requested that Council review a decision of the Board of Zoning Appeals, within fifteen (15) days after such decision, or (ii) by the Council, in the event Council is required to review a decision of the Board of Zoning Appeals pursuant to Section 1111.06 of this Planning and Zoning Code, shall commence to run upon the date that the Administrator or his designee sends notice, by electronic mail, or by depositing a letter with the United States Postal Service, with postage pre-paid, notifying the aggrieved party who first filed an appeal to the Board of Zoning Appeals of the final decision of the Board of Zoning Appeals, or the Council, as the case may be. The notice shall be sent to the e-mail address or residence or business address designated by the applicant when filing an application for relief from the Board of Zoning Appeals. Failure of the applicant to receive such notice shall not be a basis for tolling or extending the time period to file an appeal pursuant to Ohio R.C. Chapter 2506.

ORDINANCE 2020-20
INTRODUCED BY: ROGOFF

Section 5. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

Section 6. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

Section 7. That this Ordinance shall take effect and be in force after the earliest period allowed by law.

PASSED: May 24, 2021 ,

Erinn W Grube

Erinn Grube, Council President

Submitted to the Mayor for
his approval on this

25th day of May, 2021

Approved by the Mayor

May 25

_____, 2021

William A. Tomko

Mayor William Tomko

I hereby certify that Ordinance No. 2021-20 was duly enacted on the 24th day of May 2021, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.

David B. Bloom

David Bloom, Clerk of Council