

**ORDINANCE 2020-38
INTRODUCED BY: ROGOFF**

4270

**AN ORDINANCE
TO CREATE A PROCEDURE AND JURISDICTION FOR
ADMINISTRATIVE APPEALS FOR AGGRIEVED PERSONS
IN THE PROVISIONS OF PART 13-BUILDING CODE AND
DECLARING AN EMERGENCY.**

WHEREAS; Part 13 of the Codified Ordinances provides for regulations for construction of buildings and structures located in the Village of Chagrin Falls and does not uniformly provide for administrative appeals from all provisions and regulations of the Building Code;

WHEREAS, the Village Council now deems it necessary to provide, on a global basis, for a right of appeal for any person aggrieved by orders, requirements, determinations or other actions by the Village regarding the Building Code;

WHEREAS, Section 1111.02 (C) of the Planning and Zoning Code authorizes the Board of Zoning Appeals to hear and determine all matters referred to the Board of Zoning Appeals in provisions of the Codified Ordinances, and the Council for the Village of Chagrin Falls has determined that the Board of Zoning Appeals is the appropriate Board to hear appeals from the provisions and regulations found in the Building Code of the Village;

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

Section 1. Chapter 1307 of the Codified Ordinances of the Village of Chagrin Falls is hereby amended to add the following provisions:

Any person aggrieved by any order, requirement, determination, or any other action by the Village in relation to any provision of the Building Code of the Village of Chagrin Falls may appeal to the Board of Zoning Appeals within ten (10) days of such official action. Such an appeal shall be made in conformity with Chapter 1111 of the Planning and Zoning Code to the Board of Zoning Appeals. Written notice of appeal shall be served upon the Village by serving its Chief Administrative Officer. The right to appeal to the Board of Zoning Appeals from any action regarding the Building Code shall conform to the provisions contained in this Ordinance, even if there is another provision or regulation in the Building Code which authorizes appeals to the Board of Zoning Appeals.

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Section 2. Chapter 1307 of the Codified Ordinances of the Village of Chagrin Falls is hereby amended to add the following provisions:

The Chief Administrative Officer shall create one or more forms to be utilized by any person who intends to appeal to the Board of Zoning Appeals any order, requirement, determination or other action regarding the Building Code of Chagrin Falls, but the failure to provide such form or forms shall not prohibit or impede the right of any aggrieved person to file an appeal to the Board of Zoning Appeals so long as the aggrieved person provides a description of the action that it being appealed, the date of the official action, and any applicable Building Code provisions that are the subject of the appeal. The filing fee for any appeal to the Board of Zoning Appeals regarding the Building Code of Chagrin Falls shall be the same fee for any similar appeal to the Board of Zoning Appeals regarding the Planning and Zoning Code of Chagrin Falls.

Section 3. Chapter 1307 of the Codified Ordinances of the Village of Chagrin Falls is hereby amended to add the following provision:

1. Whenever any appeal is made to the Board of Zoning Appeals from any provision, regulation, order, requirement, determination or any other action by the Village in relation to the Building Code, the standard of review for any appeal regarding an area regulation shall be the same as provided for area variances found in Section 1111.07(C) of the Planning and Zoning Code.
2. Whenever the appeal relates to seeking a variance from required construction materials or methods, the standard of review shall be as follows:
 - A. The variance was not self-created.
 - B. Relief will not violate the spirit of the Building Code.
 - C. The requested variance is the minimum necessary to avoid an unnecessary hardship.
 - D. Relief will not compromise or reduce (i) the health or safety of persons who will construct, occupy, inhabit, or visit such building or structure, or (ii) the health or safety of persons and property in the general vicinity of the property that is the subject of the appeal.

Section 4. Chapter 1307 of the Codified Ordinances of the Village of Chagrin Falls is hereby amended to add the following provisions:

Whenever an appeal is taken to the Board of Zoning Appeals from a decision or interpretation of an official of the Village regarding the

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Building Code, alleging error by such official, the Board of Zoning Appeals may affirm, modify and affirm, or reverse such decision in the event that it determines the decision was illegal, arbitrary, capricious, unreasonable or unsupported by the preponderance of substantial, reliable, and probative evidence on the whole record.

Section 5. Chapter 1307 of the Codified Ordinances of the Village of Chagrin Falls is hereby amended to add the following provisions:

Advice of Expert on Economic Feasibility. If, in reviewing a request for a variance, or an appeal alleging error by an official of the Village, relating to the Building Code, the Administrator or Chairman of the Board of Zoning Appeals determines that the advice of an expert in applying building codes or construction of buildings and structures is necessary to assist in the analysis of determining whether or not the variance request or any appeal alleging error is appropriate and if in applying the standard of review confirms that relief is appropriate, the Administrator shall engage an expert at the applicant's expense, to provide such advice. The Administrator may require the applicant to deposit a sum estimated to cover the cost to have the expert provide such advice and attend any hearing or meeting.

Section 6. In the event that any official decision or determination was made more than ten (10) days prior to the effective date of this Ordinance, for any request for a Building Permit pending at the effective date of this Ordinance, such aggrieved party may file an appeal with the Board of Zoning Appeals within ten (10) days after the effective date of this Ordinance.

Section 7. 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 8. 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 9. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the Village and for the further reason that this Ordinance must be immediately effective so that aggrieved parties have recourse for administrative relief within the Village of Chagrin Falls and in order to avoid the Village and the aggrieved party from being required to pursue the matter in the Court of Common Pleas for Cuyahoga County which would require significant expenditure of funds and the time of public officials that would not otherwise be required if there was provision for appeals to the Board of Zoning Appeals for any Building Code matter; wherefore, provided it receives the affirmative vote of at least two-thirds (2/3) of all members elected to Council, this

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Ordinance shall be in full force and effect from and immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force after the earliest period allowed by law.

PASSED: September 14, 2020

Erinn W Grube

Erinn Grube, Council President

Submitted to the Mayor for
his approval on this

15th day of September, 2020

Approved by the Mayor

09/15/2020
_____, 2020

William A. Tomko

Mayor, William Tomko

I hereby certify that **Ordinance No. 2020-38** was duly enacted on the 14th day of September, 2020, 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