

TEMPORARY ORDINANCE NO. 7-19

PERMANENT ORDINANCE NO. _____

AN ORDINANCE TO REPEAL AND REPLACE LANCASTER CODIFIED ORDINANCE PART THIRTEEN – BUILDING CODE, CHAPTER 1303 – TECHNICAL CODES, SECTION 1303.06 – APPEAL; MEMBERSHIP AND QUALIFICATIONS OF APPEAL BOARD MEMBERS, OF THE CODIFIED ORDINANCES OF THE CITY OF LANCASTER, AND TO DECLARE AN EMERGENCY

WHEREAS, Ohio Revised Code Chapter 2505 provides thirty (30) days for the filing of a notice of appeal from an administrative decision; and

WHEREAS, Lancaster Codified Ordinance Chapter 1303 – Technical Codes, provides twenty (20) days for the filing of a notice of appeal in Section 1303.06 – Appeal; Membership and Qualifications of Appeal Board Members, Subsection (a) – Right to Appeal; and

WHEREAS, the Fifth District Court of Appeals has previously held that twenty (20) days is not sufficient time for the filing of a notice of appeal; and

WHEREAS, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to comply with the requirements of the Ohio Revised Code and the prior holding of the Fifth District Court of Appeals; and

WHEREAS, the City must pass an ordinance to bring the Building Code into compliance;

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LANCASTER, STATE OF OHIO:

SECTION 1. That Part Thirteen – Building Code, Chapter 1303 – Technical Codes, Section 1303.06 is hereby repealed and replaced pursuant to Exhibit “A” attached hereto.

SECTION 2. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to comply with the requirements of the Ohio Revised Code and the prior holding of the Fifth District Court of Appeals.

SECTION 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such 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.

Passed: _____ after _____ reading. Vote: Yeas _____ Nays _____

Approved: _____

President of Council

Clerk: _____

Mayor

Offered by: _____

Second by: _____

Requested by Law Committee

I, Teresa Lee Sandy, Clerk of Council do hereby certify that on _____, 2019 the Lancaster Eagle Gazette published the summary of this ordinance in accordance with Ohio Revised Code 731.24.

Clerk of Council

1303.06 APPEAL; MEMBERSHIP AND QUALIFICATIONS OF APPEAL BOARD MEMBERS.

(a) Right to Appeal. Any person affected by a decision of a Code Official or a notice or order issued under any of the specified model codes except the Ohio Building Code shall have the right to appeal to the Structural Board of Appeals, provided that a written application for appeal is filed within ~~twenty~~ thirty (30) days after the day the decision, notice or order was served. Appeals from a decision under the Ohio Building Code shall be filed with the Industrial Compliance Commission pursuant to the requirements of the Ohio Building Code, the Ohio Revised Code, and the Ohio Administrative Code.
(Ord. 16-07. Passed 3-12-07.)

(b) Conflicts. Where any conflicts occur between the currently adopted Ohio Building Code and any of the technical codes adopted in Lancaster Codified Ordinance **1301.01** and **1303.01**, the Ohio Building Code shall control.

(c) Limitation on Authority. An application for appeal shall be based on a claim that the true intent of the applicable code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the applicable code do not apply, or the requirements of this code are adequately satisfied by other means.

(d) Board Structure. The Board of Appeals shall consist of three members appointed by the Mayor as follows: one for four years, one for three years, and one for two years. Thereafter, each new member shall serve for five years or until a successor has been appointed. The Mayor may also reappoint a board member at the expiration of the Board member's term.

(e) Vacancies. The Mayor shall fill a vacancy for an unexpired term in the manner in which the original appointment was made.

(f) Board Member Qualifications. The Board of Appeals shall consist of three individuals, each of which shall meet one of the following professions or disciplines:

(1) A firefighter or law enforcement officer retired or from a jurisdiction other than the City of Lancaster.

(2) A state licensed tradesman (plumbing, HVAC, electrical, retired or current). (Ord. 30-05. Passed 5-23-05.)

(3) An engineer or architect, retired or current with a current or former state license or four (4) year degree in engineering or architecture.

(Ord. 78-05. Passed 11-28-05.)

(g) Board Meetings. The Board shall meet within thirty days of the filing of an appeal, or at stated periodic meetings.

(h) Board Decisions. The Board shall modify or reverse the decision of the code official by a majority vote.

(i) Board Procedures. The Board shall elect a chairman. The Chairman shall be a voting member. The Board shall adopt rules and forms of procedure for conducting the business of the Board.

(j) Removal from Office. Members shall be removed from office prior to the end of their terms only for cause. Continued absence of any member from regular meetings of the board shall, at the discretion of the Mayor, render any such member liable to immediate removal from office.

(k) Quorum. Two members of the board shall constitute a quorum.

(l) Secretary of Board. The Law Director or his/her designee shall act as secretary of the board and keep a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member, the absence of a member and any failure of a member to vote pursuant to rule procedures adopted by the board.

(m) Legal Counsel. The Law Director shall furnish legal counsel to the Board to provide members with general legal advice concerning matters before them for consideration. Members shall be represented by legal counsel at the City's expense in all matters arising from services within the scope of their duties.

(n) Conflict of Interest. Members with a material or financial interest in a matter before a board shall declare such interest and refrain from participating in discussions, deliberations, and voting on such matter.

(o) Decisions. Every decision shall be promptly filed in writing in the office of the code official and shall be open to public inspection. A certified copy shall be sent by mail or otherwise to the appellant.

(p) Any model code provision not affected by this section or any other Lancaster Codified Ordinance shall remain in full effect.

(Ord. 30-05. Passed 5-23-05.)