

ORDINANCE NO. 15-92  
BY: Rob Zimmerman

Amending Section 1212.03 of the Zoning Code of the Shaker Heights Codified Ordinances relative to eliminating compensation for Planning Commission and Board of Zoning Appeals members, and declaring an emergency.

WHEREAS, pursuant to Ordinance No. 95-80, enacted on July 24, 1995, a revised Part Twelve of the Codified Ordinances of the City of Shaker Heights (Zoning Code, was adopted; and

WHEREAS, pursuant to Ordinance No. 03-67, enacted on June 9, 2003, a revised Part Twelve of the Codified Ordinances of the City of Shaker Heights (Zoning Code), was adopted, amending, inter alia, Section 1212.03; and

WHEREAS, recent changes in federal health care law and rules of the Ohio Public Employment Retirement System (OPERS) have made it practically difficult for public employee retirees to serve on the Planning Commission and Board of Zoning Appeals as long as such positions are considered paid positions rather than volunteer positions; and

WHEREAS, this Council finds that in the interest of maintaining as broad a pool of potential members for the Commission and Board as possible, Section 1212.03 (C) of Part Twelve of the City's Codified Ordinances, known as the Zoning Code, should be amended to makes membership in said Commission and Board voluntary; and

WHEREAS, this Council further finds that this amending ordinance has been submitted to the Council by the City Planning Commission; and that a public hearing has been had hereon, and notice of such hearing given in the manner provided by law; and that this ordinance has been considered upon three or more readings before this Council prior to its enactment; and

WHEREAS, this Council further finds that all formal actions of Council relating to the adoption of this amendment to the Zoning Code, and all deliberations of Council and the City Planning Commission leading to such action, were in meetings open to the public as required pursuant to Chapter 115 of the Shaker Heights Administrative Code and Article II, Section 5 of the Shaker Heights City Charter.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Shaker Heights, State of Ohio:

Section 1. Section 1212.03 of the Codified Ordinances of the City of Shaker Heights presently in effect is hereby repealed.

Section 2. Section 1212.03 of the Codified Ordinances of the City of Shaker Heights is hereby enacted as amended to read as follows:

1212.03 BOARD OF ZONING APPEALS AND CITY PLANNING COMMISSION.

A. Powers and Duties

1. Board of Zoning Appeals

The Board of Zoning Appeals shall have the following

powers and duties under the provisions of this Zoning Ordinance:

- a. To hear and decide appeals from, and to review orders, decisions, or determinations made by the Zoning Administrator.
- b. To hear and decide upon applications for variances from the requirements of this Zoning Ordinance pursuant to Section 1213.04, Variance Procedures.
- c. To make its special knowledge and expertise available to any official, department, board, or commission of the City, to aid them in the performance of their respective duties relating to zoning and its administration in the City.
- d. To hear and decide upon applications to change an existing nonconforming use to a use of similar conformity.

2. City Planning Commission

The City Planning Commission is established and given its authority within the City charter and by ordinance of the City Council. The City Planning Commission shall have the following powers and duties under the provisions of this Zoning Ordinance.

- a. To initiate, hear, review, and approve or disapprove applications for amendments to this Zoning Ordinance and Map pursuant to Section 1213.07, Amendments.
- b. To hear, review, and approve or disapprove applications for Conditional Use Permits, including applications for planned unit developments, pursuant to Section 1213.05, Conditional Uses and 1213.09, Planned Unit Development Review.
- c. To review and approve or disapprove site plans as required pursuant to Section 1213.06, Site Plan Review.
- d. To prepare and participate in and to make recommendations to the City Council for adopting an official Strategic Plan or similar plans for the City, and from time to time to recommend to the Council such amendments as it may deem appropriate.
- e. To aid and assist the City Council and the departments of the City in implementing the City's adopted land use policies and in planning, developing, and completing specific projects.
- f. To review and report on any matters referred to it by the City Council.
- g. To make its special knowledge and expertise available to any official, department, board, or commission of the City to aid them in the performance of their respective duties relating to the planning and development of the City.
- h. To review, hear and make decisions upon applications for the resubdivision of land.
- i. To review and make recommendations to the City Council regarding improvements to public land.
- j. To hold public hearings upon any of the issues which fall within its authority and jurisdiction to consider.
- k. To recommend to the City Council that the Council should revoke Conditional Use Permits if the

established conditions for the Conditional Use Permit are violated.

B. Membership, Term and Organization of the City Planning Commission and Board of Zoning Appeals

1. The Board of Zoning Appeals and the City Planning Commission shall consist of the Mayor who is the Chairperson, one (1) member of Council to be selected by the Council, and three (3) electors of the city not holding other municipal office.
2. The three electors are to be appointed by the Mayor and approved by the majority of Council for not more than two (2) consecutive terms of six (6) years each, not including any portion of an unexpired term. Council confirmation is required for appointed members.
3. The present members of the City Planning Commission and Board of Zoning Appeals, other than the Mayor and Councilperson, shall continue to serve until the expiration of their respective terms, and will be subject to a two (2) consecutive full term limitation except that any such member may be appointed for one (1) additional full term. A vacancy occurring during the term of any member of the City Planning Commission or the Board of Zoning Appeals shall be filled for the unexpired term in the manner authorized for an original appointment.
4. A Vice-Chairperson shall be the City Council representative and shall conduct meetings in the absence of the Chairperson.
5. A Secretary shall be appointed who is either the Planning Director or the Director's designee, and who shall be responsible for taking or designating a person to take the minutes of Board of Zoning Appeals and City Planning Commission meetings.

C. Meetings, Hearings and Procedures

1. Regular meetings of the Board of Zoning Appeals and the City Planning Commission may be held at the call of the Chairperson, or when the Zoning Administrator indicates that there is an agenda item to be heard, or as provided by rule of the Board of Zoning Appeals or the City Planning Commission. Special meetings shall be called at the request of the Chairperson or of any three (3) members of the Board or Commission or at the request of the City Council.
2. All meetings and hearings of the City Planning Commission and Board of Zoning Appeals shall be open to the public except for executive sessions which shall be held for such purposes and in such manner as authorized by the City Charter or by ordinance of City Council.
3. The Board of Zoning Appeals or the City Planning Commission may adopt its own rules of procedure, not in conflict with this Zoning Ordinance, as it deems proper and necessary. The adoption, amendment, or revision of such rules shall be by a majority vote of all members of the Board or Commission. Every member of the Board or Commission shall be furnished a copy of such proposed rules and any amendment or revision thereto at least ten (10) days before consideration for adoption. Such rules

shall be filed with the Clerk of Council. Any rules so adopted that relate solely to the conduct of the Board or Commission meetings or hearings and that is not mandated by this Zoning Ordinance may be waived by the Chairperson upon good cause being shown.

D. Quorum and Majority Vote Required

1. Three (3) members, which may include the Chairperson of the Board or Commission, shall constitute a quorum to conduct business, provided, however, that two (2) members, including the Chairperson, shall constitute a quorum for the purpose of convening and adjourning a meeting.
2. Three (3) votes of the Board or Commission membership shall be required for rendering a final decision on any matter or proposal, including, for the Board, the forwarding to the City Council of a recommendation on applicable requests per Section 1213.04.F, Variance Procedures, Confirmation of Variance by Council.

E. Conflicts of Interest

No member of the Board of Zoning Appeals or the City Planning Commission shall participate in the hearing or disposition of any matter in which that member has a financial interest as determined by State law or City ordinance.

F. Decisions

Every recommendation or decision of the Board of Zoning Appeals or the City Planning Commission upon an application filed pursuant to Zoning Ordinance shall be summarized in the meeting minutes such minutes shall be deemed to contain Commission's findings-of-fact and reason for action taken shall contain a conclusion or statement separate from the findings of fact setting forth the specific relief granted or relief denied or setting forth the recommendation of the Board of Zoning Appeals and shall expressly set forth any limitations or conditions imposed on any relief granted or recommended or work or use authorized. The Board of Zoning Appeals or the City Planning Commission may take final action on any recommendation or decision pertaining to an application pending before it prior to the preparation of the minutes, but in such event it shall, before taking such action, first state its findings and conclusions as above required at a meeting open to the public. The Board of Zoning Appeals or the City Planning Commission's recommendation or decision of the Board of Zoning Appeals or City Planning Commission shall be deemed made as of the date of the taking of such final action. The minutes incorporating such findings and conclusions shall be presented for approval at the next regular meeting of the Board of Zoning Appeals or the City Planning Commission.

G. Record

The transcript of testimony and other evidence audio or video recording, if any minutes all applications, requests, exhibits, and papers filed in any proceeding before the Board of Zoning Appeals or the City Planning Commission and the decision and report, or records of the Board of Zoning Appeals or the City Planning Commission shall constitute the record.

Section 3. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare for the reason that it is necessary in the current operation of the City in order to maintain the membership of the Planning Commission and Board of Zoning Appeals after December 31, 2015, when new rules of the Ohio Public Retirement System (OPERS) take effect and, therefore, this ordinance shall take effect immediately upon its enactment and approval by the Mayor.

Enacted December 7, 2015.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2015.

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Earl M. Leiken, Mayor

Attest:

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JERI E. CHAIKIN  
Clerk of Council

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