

ORDINANCE NO. 35 - 14

By: Steve Keyes

An ordinance specifying appeals from final administrative orders, adjudications, or decisions of the Bexley Planning Commission, Board of Zoning Appeals, Architectural Review Board, Environmental Review Board, Main Street Redevelopment Commission and Tree and Public Gardens to Bexley City Council.

WHEREAS, In 2008, Bexley City Council passed Second Amended Ordinance 41-08 to combine the City Planning Commission and the Main Street Redevelopment Commission into one body; and

WHEREAS, Second Amended Ordinance 41-08 provides in Section 5 that appeals from any decision made by Planning Commission may be made directly to Bexley City Council; and

WHEREAS, Appeals of administrative decisions of boards and commissions to Bexley City Council are also provided for various administrative determinations within select provisions of the Bexley Codified Ordinances; and

WHEREAS, Codified Ordinances Chapter 1224, Main Street District, does not provide for the appeal of administrative decisions of the Main Street Redevelopment Commission to City Council; and

WHEREAS, pursuant to Section 4 of Second Amended Ordinance 41-08, the Planning Commission has been substituted for the Main Street Redevelopment Commission in Chapter 1224 of the Codified Ordinances; and

WHEREAS, Section 1222.04(c) of the Codified Ordinances Chapter 1222, Bexley Environmental Review District, provides for appeals by applicants to decisions of the Bexley Environmental Review Board to City Council; and

WHEREAS, Section 1223.04(c), of the Codified Ordinances Chapter 1223, Bexley Architectural Review District, provides for appeals by applicants to decisions of the Bexley Architectural Review Board to City Council; and

WHEREAS, There is no provision for an appeal to City Council of the decision of the Bexley Board of Zoning Appeals or Bexley Tree and Public Gardens Commission ; and

WHEREAS, It is the intent of this ordinance to unify the appeals process to Bexley City Council for final administrative orders, adjudications or decisions made by the Bexley City Planning Commission, the Bexley Board of Zoning Appeals, the Bexley Architectural Review Board, and the Bexley Environmental Review Board. No appeal to City Council is provided for any decision of the Bexley Tree and Public Gardens Commission.

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

Section 1.

That Chapter 1264, Administration and Penalty be amended to enact section 1264.25 as follows:

1264.25 APPEALS TO COUNCIL

Every final order, adjudication, or decision of Bexley City Planning Commission, the Bexley Board of Zoning Appeals, the Bexley Architectural Review Board, and the Bexley Environmental Review Board may be appealed by any person aggrieved or directly and adversely affected by the decision to Bexley City Council for review and determination.

(a) A written notice of appeal shall be filed with the Clerk of City Council within fourteen days after the decision of the Board or Commission is journalized and the minutes of the meeting are approved. A notice of appeal shall set forth the decision of the board or commission appealed from and the errors complained of. Any claimed errors that are not identified in the notice of appeal shall be waived. Unless the Appellant is the applicant, the Appellant shall serve the notice of the appeal upon the applicant by certified mail and file proof of service thereof with the Clerk of City Council within fourteen days of filing the Notice of Appeal.

(b) The fee for filing a notice of appeal shall be one-hundred dollars which shall be paid at the time of the filing of the notice.

(c) Upon filing of an appeal, the Clerk of City Council shall notify the Clerk of the Board or Commission from which an appeal has been taken who shall file with the Clerk of Council the record of the proceedings, and all relevant background or other information that was before or taken into consideration by the Board or Commission in making the order, adjudication, or decision being appealed within thirty days of receiving notice from the Clerk of Council.

(d) Bexley City Council shall examine the record of decision and hold a hearing within a reasonable time.

(e) The Clerk of Council shall give written notice of the hearing at least ten days in advance of the hearing to the appellant, applicant and property owner by certified mail or personal service and all persons required to be notified of the hearing on the application before the board or commission appealed from by regular mail. At least five days before the date of the hearing the Clerk of Council shall post notice on the City's website. The notice shall state the time and place of the hearing and a summary of the proposed appeal.

(f) At the hearing, the persons filing the appeal shall present the appeal and for good cause shown, any additional evidence appellant was unable or not permitted to present at the board or commission. The applicant, property owner and persons both in favor and opposed to the appeal shall be granted the opportunity to address Council, present evidence in response to any additional evidence presented by

appellant and for good cause shown any additional evidence they were unable or not permitted to present at the board or commission

(g) If upon hearing and consideration of such record and any additional evidence the Council finds that the decision of the board or commission appealed from is reasonable and lawful, it shall affirm the same. Council shall give deference to the findings and conclusions of the board or commission being appealed from and shall not substitute its judgment of the judgment of the board or commission.

(h) Consistent with its findings, Council may affirm, reverse, vacate, or modify the order, adjudication, or decision of the board or commission. The concurrence of two-thirds of the members of Council is required for Council to reverse, vacate or modify any decision of a board or commission. Absent such a two-thirds majority, the decision of the board or commission is affirmed.

(i) The decision of Council shall be subject to appeal as provided in the Ohio Revised Code.

Section 2.

Section 1222.04(c) of the Codified Ordinances of the City of Bexley for the Bexley Environmental Review District shall be amended to delete the last two sentences as follows:

1222.04 ENVIRONMENTAL REVIEW BOARD APPROVAL.

(a) Approval shall be obtained from the Environmental Review Board prior to any new construction or any remodeling, reconstruction or other change which would come within the provisions of this chapter.

(b) The responsibility of review and approval or denial of the application for approval shall rest with the Board. All applications for approval shall be made to the Mayor or his or her designee at least six days before a regularly scheduled Board meeting. The applicant shall submit with the application drawings, materials, sketches and such other items that indicate or identify the proposed exterior and environment of any new or existing building or structure within the Environmental Review District. The Board has the authority to approve variances to the Zoning Ordinance related to lot size, building setbacks, building height, parking requirements, signage, and other environmental review matters.

(c) The Board shall review and approve, approve with modifications or conditions or disapprove such applications within forty-five days of the meeting unless the application is tabled at the request of the applicant or the Board. The City shall maintain, as an official record of the approval, minutes of the meeting. ~~Any applicant may appeal the decision of the Board to Council by filing a notice of appeal with the Clerk of Council within fourteen days after the decision of the Board is rendered. The decision of Council shall be final.~~

Section 3.

Section 1223.04(c) of the Codified Ordinances of the City of Bexley for the Bexley Architectural Review District shall be amended to delete the last two sentences as follows:

1223.04 CERTIFICATE OF APPROPRIATENESS.

(a) No certificate of appropriateness shall be issued until an application has been filed with the Board. Such application shall be on a form furnished by the Board and shall, at a minimum, contain information regarding the elements for review set forth in Section 1223.03.

(b) Subject to Section 1223.03(c), the responsibility of review and approval or denial of the application for approval shall rest with the Board. All applications requiring review by the Board, rather than the staff, shall be made to the Board or its designee at least fourteen days before a regularly scheduled Board meeting; provided, however, that the Board may, for good cause, waive the fourteen-day advance filing requirement and, in the case of changes to a plan previously approved by it, may reduce any applicable time period for notice to other property owners, and consider a new or amended application at any regular or special meeting of the Board.

(c) The Board shall review and approve, approve with modifications or conditions or disapprove each such application. An application may be tabled at the request of the applicant or the Board. The City shall maintain, as an official record of the Board's decision on an application, minutes of the meeting at which the application was considered. ~~Any applicant may appeal the decision of the Board to Council by filing a notice of appeal with the Clerk of Council within fourteen days after the decision of the Board is journalized in minutes approved by the Board. The decision of Council shall be final.~~

Section 4.

That the following Section 5 of Second Amended Ordinance 41-08 be and hereby is repealed.

~~Section 5. That appeals from any decision made by this newly created City Planning Commission may be made directly to Bexley City Council.~~

Section 5.

That Section 1224.03(a) of the Codified Ordinances of the City of Bexley for the Bexley Main Street District shall be amended to incorporate the provisions of Second Amended Ordinance 41-08 by adding the following language:

1224.03 MAIN STREET DISTRICT PLANS REVIEW.

(a) Main Street Redevelopment Commission. The Main Street Redevelopment Commission shall sit as the Main Street and Campus Planning District review authority. The Planning Commission shall sit as the Main Street Redevelopment Commission. The Main Street Redevelopment Commission shall exercise all administrative authority within the Main Street and Campus Planning Districts for the purposes of the Planning and Zoning Code (Part 12 of the Codified Ordinances). With respect to the Main Street and Campus Planning District, the Main Street Redevelopment Commission shall have all authority that would, but for this section, otherwise have been within the authority of Planning Commission and Board of Zoning Appeals, subject to the provisions of this Chapter.

Section 6.

That this ordinance shall be applied prospectively to any application filed after its effective date. It shall not affect the appeal of any application that has been filed with the Bexley City Planning

Commission, the Bexley Board of Zoning Appeals, the Bexley Architectural Review Board, and the Bexley Environmental Review Board prior to the effective date of this ordinance.

Section 7.

That this Ordinance shall go into effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2014

Attest: _____
Clerk of Council

Richard Sharp, President of Council

Approved: _____, 2014

Benjamin Kessler, Mayor

Ordinance Timeline:

First Reading:

Second Reading:

Third Reading: