

Exhibit A

Redlines showing proposed changes to TMC §1315.02

SECTION 2. That a new Toledo Municipal Code §1315.02 is enacted to state as follows:

§1315.02 *Appointment*

The Mayor shall appoint members to serve on the Board of Building Appeals as provided in the Charter and in accordance with the provisions adopted by the State's Board of Building Standards. Members of the Board of Building Appeals shall have recognized ability, broad training and experience in problems and practice incidental to the construction and equipment of buildings and structures.

(a) Composition.

The City's Board of Building Appeals shall consist of five members, all of whom shall reside in the metropolitan Toledo area and who are qualified as follows: One attorney at law, admitted to the Ohio bar; one architect, registered in Ohio; one structural engineer, registered in Ohio; one mechanical engineer, registered in Ohio; and one member representing organized labor who is knowledgeable in the construction and equipment of buildings and structures. The existing membership of the Board of Building Appeals serving prior to enactment of the amendment to this chapter shall serve the remainder of their term.

(b) Term.

(1) The term of a member of the Board of Building Appeals is five (5) years. Upon the expiration of the term of a member of the Board of Building Appeals, his successor shall be appointed for a term of five years by the Mayor.

(2) A member shall hold office from date of appointment until the end of the appointed term; however, the member shall continue in office following the term expiration date until a successor takes office or until sixty days have elapsed, whichever occurs first.

(3) Vacancies. Any member appointed to fill a vacancy occurring before the expiration of a term shall hold office for the remainder of that term.

(c) Quorum.

Three members of the Board qualified to vote shall constitute a quorum. In varying the application of any of the provisions of the Building Codes adopted pursuant to Section 1301.06 or Ohio R.C. Chapters 3781 and 3791 or in reversing or modifying any order of the Chief Building Official, affirmative concurrence of a majority shall be required. No Board member shall act in any case in which he or she has personal interest.

(d) Meetings.

Meetings shall be called by the Chairman of the Board, at the request of any member, by the Chief Building Official, or by the Commissioner of Building Inspection. Any Board member who misses more than three consecutive meetings shall become ineligible to continue on such Board and shall be automatically removed. His replacement shall be appointed by the Mayor for the unexpired term.

(e) Appeals.

(1) Whenever the Chief Building Official rejects or refuses to approve the method or manner of construction proposed to be followed or materials to be used in erection or alteration of a building or structure, or when it is claimed that the provisions of the Building Code adopted pursuant to Section 1301.06 or Ohio R.C. Chapters 3781 and 3791 do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of the Building Code adopted pursuant to Section 1301.06 or Ohio R.C. Chapters 3781 and 3791 or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure or his duly authorized agent may appeal the decision of the Chief Building Official to the Board of Building Appeals. Such appeal shall be in writing and shall be filed within thirty (30) days after the decision of the Chief Building Official is rendered; and such appeal shall be heard, or reviewed in accordance with the administrative review procedures, as authorized in this chapter within thirty (30) days of filing, except for expedited appeal proceedings which shall occur pursuant to Section 1315.02(f).

A person who has been ordered by the Department Division of Building Inspection to incur expense relating to Building Codes adopted pursuant to Section 1301.06 or Ohio R.C. Chapters 3781 and 3791 may appeal the order within thirty (30) days of the date of such order, except in the case of a building or structure which, in the opinion of the Chief Building Official, is unsafe or dangerous, the Chief Building Official may in his order limit the time of such appeal to a shorter period. Appeals hereunder shall be on a form meeting the requirements of the Board of Building Standards and available through the Division of Building Inspection.

The appellant may also exercise his or her option to have the case determined by the administrative review and approval procedure as established in Section 1315.02(h) and rules and regulations adopted by the Board of Building Appeals.

(2) The Board of Building Appeals shall have exclusive jurisdiction to hear and decide all adjudication hearings arising from rulings of the Chief Building Official concerning the provisions of Building Codes adopted pursuant to Section 1301.06 and Ohio R.C. Chapters 3781 and 3791 and any rules adopted pursuant thereto.

(f) Expedited Appeals.

(1) In any case where an appeal may be filed pursuant to Section 1315.02(e), the owner of a building or structure or his duly authorized agent may request an expedited appeal. If the expedited appeal is requested, the Board of Building Appeals shall:

(i) Commence the appeal within one work day after the request was submitted, excluding weekends and legal holidays as defined by TMC Section 2101.37;

(ii) Hold a hearing within five work days after the request was submitted; and

(iii) Render a decision on the appeal at the close of hearing, unless the hearing is continued or otherwise left open to receive further evidence.

(2) Where an expedited appeal is not requested at the outset of the proceedings, if during the course of the appeal, the Board issues a continuance of the hearing, such that no decision is made and additional evidence is requested in order to continue the proceeding, the appellant may request the remainder of the appeal proceeding be expedited by making a request to expedite the proceedings within five days of the continuance being issued.

(i) If the expedited appeal is requested under division (f)(2) of this Section, the Board shall hold the follow-up hearing within five work days of the date of the request, excluding weekends and legal holidays as defined by TMC Section 2101.37.

(3) Any expedited appeal under this division (f) shall apply notwithstanding the seven-day notice requirement under Ohio Revised Code Section 119.07 or any other conflicting provision of the Revised Code or the Toledo Municipal Code. However, the Board shall provide all parties a notice of the hearing prior to conducting the hearing.

(4) Notwithstanding any provision of the Revised Code or the Toledo Municipal Code to the contrary, the Board of Building Appeals may conduct an expedited hearing by means of teleconference, video conference, or any other similar electronic technology.

(5) The Department of Building Inspection may adopt rules to implement this section.

(g) Decisions of the Board; Variations and Modifications.

(1) The Board of Building Appeals when so appealed to and after a hearing, may reverse or modify the order of the Chief Building Official if it finds the order is contrary to, or is not a fair interpretation or application of the Building Codes adopted pursuant to Section 1301.06 or the provisions of Ohio R.C. Chapters 3781 and 3791 and rules made thereunder, or that a variance from the provisions of such laws or any rule made thereunder, in the specific case, will not be contrary to the public interest where a literal enforcement of such provisions will result in unnecessary hardship.

(2) The decisions of the Board of Building Appeals, in accordance with the foregoing, shall specify in what manner such decision is made, the conditions upon which it is made, the reasons therefor, and shall be rendered within thirty days after the date of the adjudication hearing.

(3) Every decision of the Board of Building Appeals shall be in writing and shall indicate the vote upon the decision; every decision shall be promptly filed in the offices of the Division of Building Inspection and shall be open to public inspection; a certified copy shall be sent by mail or otherwise to the appellant; and a copy shall be kept publicly posted in the offices of Division of Building Inspection for two weeks after filing.

(4) Decisions of the Board of Building Appeals may be appealed to the Lucas County Court of Common Pleas, per O.R.C. § 2506.

(h) Administrative Review and Approval Procedure.

(1) The owner of a building or structure or his or her duly authorized agent has the option of having the appeal decided by an Administrative Review and Approval Procedure as established in this section in lieu of a formal hearing before the Board of Building Appeals. Said Administrative Review and Approval Procedure shall be in accordance with rules and procedures adopted by the Board of Building Appeals.

(2) When the owner of a building or structure or his or her duly authorized agent decides to utilize the Administrative Review and Approval Procedure established herein, the owner or agent shall enter into a written settlement agreement with the Division of Building Inspection. Said settlement agreement shall stipulate the nature of the appeal, the facts of the case, and the terms of the settlement as negotiated by the parties. The settlement agreement shall be executed by the Division of Building Inspection, Department of Fire and Rescue Operations - Fire Prevention Bureau, and the owner of the building or structure. This agreement shall be submitted to the Board of Building Appeals for review and approval subject to procedures adopted by the Board of Building Appeals.

(3) If the owner of a building or structure or his or her duly authorized agent is not able to negotiate a satisfactory settlement agreement, said owner or agent shall have the right to a formal appeal hearing before the Board of Building Appeals within thirty days of the filing of a request for such formal hearing.

(4) The Administrative Review and Approval Procedure outlined herein shall not apply to appeals filed based on decisions issued by jurisdictions other than the City of Toledo who, under contract to the City of Toledo, utilize the Board of Building Appeals for resolution of said appeals.

(i) **Fee.**

The owner of a building or structure or his duly authorized agent seeking to file an appeal hereunder shall deposit with the Division of Building Inspection, on behalf of the Board of Building Appeals, the fee of two hundred fifty dollars (\$250.00) for a standard appeal request, or in the case of a request for an expedited appeal, a fee of five hundred dollars (\$500), for the costs of filing and processing such appeal. In the case of an expedited appeal under Section 1315.02(f)(2), the appellant shall pay an additional fee of two hundred fifty dollars (\$250) at the time the request to expedite is submitted. The Board or the Chief Building Official may in their discretion and for good cause shown, waive such fee in appropriate circumstances.