

North Canton City Council
Community and Economic Development Committee

ORDINANCE 12 - 2021

An ordinance establishing the Property Maintenance Review Board for the City of North Canton.

WHEREAS, the City wishes to provide a method of appeal for decisions, notices, orders, or other mandates issued under the North Canton Property Maintenance Code; and

WHEREAS, Charter Section 3.03 grants Council the authority to establish by ordinance such boards and commissions as may be deemed necessary for the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

- Section 1. That there be, and is hereby, established the Property Maintenance Review Board which shall review decisions, notices, orders, or other mandates issued under the North Canton Property Maintenance Code of the Codified Ordinances of the City of North Canton.
- Section 2. That the Property Maintenance Review Board shall consist of five (5) qualified electors of the Municipality, who shall hold no other appointed or elected municipal office, to be appointed by the Mayor.
- a. Initial appointments shall be for terms of one (1), two (2), three (3), four (4), or five (5) years with subsequent appointments for five (5) years, except that vacancies shall be filled only for the remainder of the unexpired term of the board member being replaced.
- Section 3. The Director of Law shall serve as a non-voting member of the Board in an advisory capacity and as legal counsel for the Board.
- Section 4. That the members of the Property Maintenance Review Board shall serve without pay or other compensation.
- Section 5. That the Property Maintenance Review Board shall annually elect from among its members a Chairman and Vice Chairman.
- Section 6. That the Property Maintenance Review Board shall conduct all proceedings in accordance with Ohio Law and shall adopt by rule appropriate rules, regulations, and procedures to govern all proceedings thereof.
- a. Initial rules for the Property Maintenance Review Board be, and are hereby, established as set forth in "Exhibit A" attached hereto and incorporated herein.
- b. Such rules shall govern the board until amended as set forth therein.
- Section 7. That the Director of Administration shall designate a qualified person to serve as Clerk of the Property Maintenance Review Board.
- Section 8. All hearings before the Property Maintenance Review Board shall be considered adjudication hearings and shall be recorded and transcribed into verbatim minutes; all those presenting evidence thereat shall swear under oath that all testimony given is truthful.
- Section 9. That all records of appeals to, and hearings before the Property Maintenance Review Board shall be treated as permanent records establishing a precedent for similar appeals and issues that may come before the Property Maintenance Review Board.
- Section 10. That if a provision of this ordinance is or becomes illegal, invalid, or unenforceable, it shall not affect the validity or enforceability of any other provision of this ordinance.

Section 11. That the Clerk of Council and Mayor of the City of North Canton be, and are hereby, authorized to make such amendments as may be needed to the Codified Ordinances of the City of North Canton to accurately reflect this ordinance upon approval of such amended pages by voice vote of Council.

Section 12. That this ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed in Council this 12th day of April, 2021.

Attest: Benjamin R. Young
Benjamin R. Young, Clerk of Council

Stephan B. Wilder
Stephan B. Wilder, Mayor

Signed on: 12 April 2021

RULES AND REGULATIONS OF THE NORTH CANTON PROPERTY MAINTENANCE REVIEW BOARD

RULE I – GENERAL PROVISIONS

SECTION 1.01 DESIGNATION; CITATION; HEADING

(a) All rules and decisions of a permanent and general nature of the Municipality relating to Property Maintenance Code Enforcement as revised, codified, rearranged, renumbered, and consolidated into component rules and sections shall be known and designated as the Rules and Regulations of the Property Maintenance Review Board of North Canton, Ohio, for which designation "PMRB Rules" may be substituted. Rule and section headings do not constitute any part of the law as contained in the PMBR Rules.

(b) All references to rules and sections are to such components of the PMBR Rules unless otherwise specified. Any component Rule may be referred to and cited by its number, such as "Rule 1". Sections may be referred to and cited by the designation "Section" followed by the number, such as "Section 1.01".

SECTION 1.02 GENERAL DEFINITIONS

As used in the PMBR Rules, unless another definition is provided, or the context otherwise requires:

- (a) "Board" means the Property Maintenance Review Board of the City of North Canton, Ohio.
- (b) "Charter" means the Charter of the City of North Canton, Ohio.
- (c) "City" means the City of North Canton, Ohio.
- (d) "Council" means the City Council of the City of North Canton, Ohio.
- (e) "Department" means a Department, bureau, office, Board, or other identifying body used to administratively organize Employees of the City of North Canton, Ohio
- (f) "Employee" means an individual employed by the City of North Canton, Ohio.

SECTION 1.03 RULES OF CONSTRUCTION

(a) Common and Technical Usage. Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

(b) Singular and Plural; Gender; Tense. As used in the PMRB Rules, unless the context otherwise requires:

- (1) The singular includes the plural, and the plural includes the singular.
- (2) Words of one gender include the other genders.
- (3) Words in the present tense include the future.

(c) Calendar; Computation of Time.

- (1) Definitions.
 - (A) "Week" means seven consecutive days.
 - (B) "Year" means twelve consecutive months.
- (2) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.
- (3) The time within which an act is required to be done shall be computed by excluding the first and including the last day, except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Sunday or a legal holiday.
- (4) When a public office, in which an act required by law is to be performed, is closed to the public for the entire day or closes before its usual closing time on such day, and this day constitutes the last day for doing such act, then such act may be performed on the next succeeding day which is not a

Sunday or a legal holiday. If any legal holiday falls on Sunday, the next succeeding day is a legal holiday.

- (5) In all cases where these Rules and Regulations shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

(d) Authority. When these Rules and Regulations require an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(e) Exceptions. The rules of construction shall not apply to any rule or regulation which shall contain any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

SECTION 1.04 CONFLICTING PROVISIONS

(a) If there is a conflict between figures and words in expressing a number, the words govern.

(b) In the event any section, subsection, sentence, clause, phrase, or portion of these Rules and Regulations is in conflict with State statutes the State Statute shall prevail. In the event these Rules and Regulations are silent on any matter referred to in a State statute, then said State statute shall govern.

SECTION 1.05 SEPARABILITY OF SECTIONS

If any section, subsection, sentence, clause, phrase, or portion of these Rules and Regulations shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of these Rules and Regulations nor the context in which such section, subsection, sentence, clause, phrase, or portion so held invalid may appear, except to the extent that an entire section, subsection, sentence, clause, phrase, or portion may be inseparable connected in meaning and effect with the section, subsection, sentence, clause, phrase, or portion to which such holding shall directly apply.

RULE II – ORGANIZATION AND ADMINISTRATION

SECTION 2.01 AUTHORITY OF BOARD

(a) Members of the Board shall be appointed pursuant to the legislation of the City of North Canton, and shall not hold any other appointed or elected Office in North Canton City government.

(b) The Board shall provide by rule for the review of decisions, notices, orders, or other mandates issued under the North Canton Property Maintenance Code of the Codified Ordinances of the City of North Canton.

SECTION 2.02 BOARD MEMBERS

(a) Oath of Office. Each member of the Property Maintenance Review Board shall, before entering upon his or her official duties, take an Oath of Office to support the Constitution of the United States of America, the Constitution of the State of Ohio, the Charter of the City of North Canton and an oath that he or she will faithfully, honestly and impartially discharge the duties of Office.

(b) Board Responsibility. It shall be the duty of each member of the Board to attend meetings of the Board and to devote as much time as is necessary to the management of the business and affairs of the Board.

(c) Removal due to absence. If any single member is absent, excused or otherwise, for more than fifty percent (50%) of the Board's meetings and/or hearings in a calendar year, he or she may be removed by the Mayor for cause.

SECTION 2.03 BOARD OFFICERS AND EMPLOYEES

(a) The Board shall elect one of its members as Chairperson and one member as Vice Chairperson who shall serve until a new member is appointed and qualified. At such time as a new member is appointed, a majority of the Board may request an election be held to elect a new Chairperson and Vice Chairperson.

(b) Chairperson. The Chairperson shall:

- (1) Preside over Board meetings and hearings and therein preserve order and decorum;
- (2) Confine debate to the question under discussion;
- (3) Decide all points of order;
- (4) Assign the authorship of any opinions, orders, or mandates as may be necessary.
- (5) Sign the minutes of all actions taken by the Board; and
- (6) Supervise the Clerk.

(c) Vice Chairperson. The Vice Chairperson shall exercise the full authority and responsibility of the Chairperson in the absence of the Chairperson.

(d) Clerk. The Director of Administration shall designate a suitable person to act as Clerk of the Board who shall:

- (1) Attend the meetings of the Board;
- (2) Keep in the form of minutes a record of the official actions of the Board;
- (3) Be at the office of the Board during the prescribed hours that such office is open;
- (4) Accurately and properly keep all the records of the Board, keep all files in proper order, prepare and deliver or cause to be delivered notices and other communications ordered by the Board;
- (5) Handle such correspondence as the Board shall determine;
- (6) Execute all warrants or orders for payment of money on behalf of the Board;
- (7) Promulgate notice of all meetings and hearings of the Board pursuant to the requirements of Section 121.22 of the Ohio Revised Code; and
- (8) Perform such other duties as may be required by the Board.

(e) The Director of Administration shall designate other professional and clerical Employees as necessary to carry out the board's duties.

SECTION 2.04 BOARD MEETINGS

(a) The Board shall meet at 7:00pm on the second Wednesday of each calendar month provided that there is business before the Board to be considered other than the approval of minutes.

(b) The Board shall meet in Council chambers.

(c) Quorum. Three (3) members of the Board shall constitute a quorum at any meeting or hearing of the Board, and it shall require the affirmative vote of at least three (3) members to adopt any motion, decision, or resolution.

(d) Agenda. The order of business for regular meetings of the Board shall be:

- (1) Roll Call
- (2) Disposition of unapproved minutes
- (3) New business
- (4) Deprivation hearings
- (5) Adjudication hearings
- (6) Adjournment

(e) Notice of Meetings. In addition to complying with Ohio Revised Code Section 121.22, the Clerk shall post at a prominent place in the North Canton City Hall, the time, date, and

place of all meetings and hearings of the Board which notice shall include the time, place, and purpose of such meeting or hearing.

SECTION 2.05 AMENDMENT

The Board may, by a majority vote, amend these Rules and Regulations in accordance with the Charter of the City of North Canton, the Constitution of the State of Ohio, and the Constitution of the United States.

RULE III – APPEALS AND HEARINGS PROCEDURE

SECTION 3.01 FILING OF AN APPEAL

(a) Within thirty (30) days following the service of a decision, notice, order, or other documentation served upon the property owner, occupant, or agent having charge of the property under Part 17 of the North Canton Codified Ordinances such property owner, occupant, or agent having charge of the property may file an appeal, in writing, with the Board.

(b) In the event such an appeal is filed, the Board shall forthwith notify the Director of Permits and shall hear such appeal within forty-five (45) days from and after its filing with the Board, giving the appellant and Director of Permits not less than ten (10) days written notice of the time, date and place of said hearing. The decision of the Board to affirm, modify, or reverse decision, notice, order, or other documentation in question shall be rendered immediately at the conclusion of hearing proceedings and additionally set into a written determination not more than ten (10) days from the conclusion of hearing proceedings.

(c) An appeal from the decision of the Board may be taken to a court of competent jurisdiction pursuant to Section 1741.02 of the North Canton Codified Ordinances.

SECTION 3.02 GENERAL PROVISIONS

(a) No Amendment to Notice Permitted. On the hearing of an appeal for a decision, notice, order, or other documentation, the Board shall confine its consideration to the charges and specifications set forth in the notice of the City, as served to the property, property owner, occupant, or agent having charge of the property and no substantial amendment of, nor addition to, the said charges and specifications will be permitted or considered by the Board.

(b) Administering Oaths. Any Board member or a designee thereof shall have the power to administer oaths and affirmations to witnesses and to take testimony concerning any matter which the Board has authority to investigate.

(c) Public Hearings. Hearings shall be open to the public pursuant to Ohio open meetings law.

SECTION 3.03 APPEARANCES

(a) Appearances Generally.

- (1) An appellant may represent himself or herself or may be represented at any hearing before the Board by any representative whom he or she authorizes to appear on his or her behalf.
- (2) The Director of Permits shall represent themselves or may be represented by the Director of Administration at any hearing before the Board.
- (3) Representatives shall enter their appearances in writing.
- (4) One who has entered an appearance as the representative of a party is that party's representative of record unless and until a written withdrawal is filed with the Board.

(b) Substitution of Parties.

- (1) If an appellant dies during the pendency of an appeal, the executor or administrator of his or her estate shall, upon motion, be substituted for him

or her. An appeal shall be held open for a reasonable time to permit substitution of an executor or administrator.

- (2) If the Director of Permits changes during the pendency of an appeal, the new Director of Permits is automatically substituted and no formal motion or order is required.

SECTION 3.04 CONSOLIDATIONS

If two or more appeals involve substantially identical issues of act and law, the Board may consolidate them into a single hearing.

SECTION 3.05 RULES OF PROCEDURE

- (a) The Board may determine the order in which any hearing shall proceed.

(b) The Board may require and/or limit opening statements, closing arguments, and rebuttal evidence.

(c) Procedural orders, affecting only procedure in an appeal, may be issued by the Board at any time prior to the issuance of a final decision. If a party fails to comply with a procedural order, the Board may dismiss the appeal or grant appropriate relief to the opposing party.

SECTION 3.06 COMPUTATION AND EXTENSION OF TIME

(a) The date of occurrence of the event causing time to run is not counted in the computation of any time limit under these rules. The last day of the period is included in the computation of the time limit. If the last day of a period is not a regular business day, the time period runs through the end of the next regularly scheduled business day.

(b) Continuances. Upon its own motion or the motion of any party, the Board may continue a hearing.

- (1) Requests for continuance shall be addressed to the Board.
- (2) Requests for continuance should be made in writing, at least five (5) calendar days prior to the scheduled date.
- (3) Each party shall contact all of the witnesses he or she has requested and inform them of any continuance.
- (4) Absent compelling circumstances, hearings shall not be continued due to the unavailability of a witness. The Board may hold the record open or accept a testimonial deposition in lieu of oral testimony. The cost of testimonial depositions taken under this Rule shall be borne by the party calling the witnesses.

SECTION 3.07 BURDEN OF PROOF

(a) The appellant shall prove, by a preponderance of the evidence, the factual allegations in a decision, notice, order, or other documentation are false.

(b) The Director of Permits shall demonstrate both the authenticity of the signature on a notice and the authority of any signer, unless these issues are waived.

SECTION 3.08 RULES OF EVIDENCE

- (a) Witnesses.

- (1) All witnesses at any hearing before the Board shall testify under oath or affirmation.
- (2) A witness may be accompanied and advised by legal counsel. Participation by counsel is limited to protection of his or her client's rights. Counsel for a nonparty witness may neither examine nor cross-examine any witness.

(b) Best Evidence. A duplicate may be admitted to prove the content of a document, recording, or photograph unless:

- (1) A genuine question is raised as to the authenticity of the original; or
- (2) In the circumstances it would be unfair to admit the duplicate in lieu of the original.

SECTION 3.09 RESOLUTIONS OTHER THAN BY DECISION OF THE BOARD

(a) Failure to Appear.

- (1) If neither the appellant nor his authorized representative appears at any hearing, the Board may dismiss the appeal.
- (2) If neither the appellee nor its authorized representative appears at any hearing, the Board may grant appropriate relief.
- (3) If neither party appears at a hearing, the Board may, based upon the information available to it, resolve the appeal in the manner it deems appropriate.

(b) Settlements and Withdrawals.

- (1) An appellant may withdraw its appeal any time prior to the issuance of a final decision of the Board. All withdrawals shall be written and shall be signed by either the appellant or its representative.
- (2) An appeal may be settled by the parties thereto any time prior to the issuance of a final decision of the Board. The Board may accept signed settlement agreements and incorporate them into its final decision. All settlement agreements shall be written and shall be signed by all the affected parties or their representatives.