

ORDINANCE NO. 42-17

AN ORDINANCE SUBMITTING TO THE ELECTORS THE QUESTION OF AMENDING ARTICLE VII, SECTION 1(b) OF THE AVON CITY CHARTER CONCERNING "BOARDS AND COMMISSIONS" AND DECLARING AN EMERGENCY

WHEREAS, the Avon Charter Review Commission, in its final report, has recommended to Council that it submit to the electors the question of amending Article VII, Section 1(b) of the City Charter, entitled "Boards and Commissions" to clarify and strengthen current language as it relates to duties and powers of the Board of Zoning and Building Appeals in the City of Avon; and

WHEREAS, pursuant to Article XIII, Section 7(b) of the City Charter, Council must submit to the electors proposed amendments to the City Charter recommended by the Charter Review Commission.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 - There shall be submitted to the electors of the City of Avon at the General Election to be held November 7, 2017 at the regular places of voting between the hours of 6:30 A.M. and 7:30 P.M., the question of whether Article VII, Section 1(b) of the Avon City Charter, entitled "Boards and Commissions" which currently reads as:

Article VII, Section 1 – Boards and Commissions.

(b) **Powers and Duties.** The Board of Zoning and Building Appeals shall have the following duties and powers, to be exercised in conformity with the purpose and intent of the ordinances governing zoning and building in the Municipality of Avon and in accordance with such guidelines, standards and procedures as from time to time shall be promulgated by Council:

- (1) To hear and decide appeals made for exceptions to and variations from the application of the Zoning Code and the Building Code;
- (2) To hear and decide appeals made from decisions and rulings of administrative officials and agencies, including the Building Inspector and Zoning Enforcement Officer;
- (3) To interpret the Zoning Code and the Building Code, ordinances, resolutions, rules or regulations;
- (4) To exercise, with respect to buildings situated in the Municipality, the same powers as are exercised by the Board of Building Standards under the laws of the State of Ohio to

the extent that it is competent for this Charter so to authorize the Board;

(5) To recommend changes to the Council for changes in and amendments to the Building Code;

(6) To establish rules and regulations for its own procedure not inconsistent with this section;

(7) To do and perform such other duties and functions as may be imposed upon it by this Charter, existing ordinances or ordinances and resolutions of the Council.

Nothing herein contained shall be construed as authorizing the Board of Zoning and Building Appeals to exact changes in a zoning map or to add to the uses permitted in any zoning district. (Amended 11-8-66; 11-2-71; 11-7-95; 5-6-97)

SHOULD BE AMENDED TO READ AS FOLLOWS:

Article VII, Section 1 – Boards and Commissions.

(b) **Powers and Duties.** The Board of Zoning and Building Appeals shall have the following duties and powers, to be exercised in conformity with the purpose and intent of the ordinances governing zoning and building in the Municipality of Avon and in accordance with such guidelines, standards and procedures as from time to time shall be promulgated by Council:

(1) To hear and decide appeals made for exceptions to and variations from the application of the Zoning Code and the Building Code;

(2) To hear and decide appeals made from decisions and rulings of administrative officials and agencies, **other than Council**, including the Building Inspector and Zoning Enforcement Officer;

(3) To interpret the Zoning Code and the Building Code, ordinances, resolutions, rules or regulations;

(4) To exercise, with respect to buildings situated in the Municipality, the same powers as are exercised by the Board of Building Standards under the laws of the State of Ohio to

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the extent that it is competent for this Charter so to authorize the Board;

(5) To recommend ~~changes to the Council for~~ changes in and amendments to the **Planning, Zoning and Building Codes**;

(6) To establish rules and regulations for its own procedure not inconsistent with this section;

(7) To do and perform such other duties and functions as may be imposed upon it by this Charter, existing ordinances or ordinances and resolutions of the Council.

Nothing herein contained shall be construed as authorizing the Board of Zoning and Building Appeals to exact changes in a zoning map or to add to the uses permitted in any zoning district. **Administrative decisions by Council on any matter involving the Planning and Zoning Code shall be deemed final and not reviewable by the Board of Zoning and Building Appeals.** (Amended 11-8-66; 11-2-71; 11-7-95; 5-6-97)

Section 2 - The ballots for said election shall, at the top thereof, be entitled "Proposed Avon Charter Amendments" and the question to be submitted on said ballot shall be in a form as set forth in attached Exhibit A.

Section 3 - That 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 deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity of Council to submit the Charter Amendments proposed by the Charter Review Commission to the electors of the City of Avon; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____

DATE SIGNED: _____

By: _____
Craig Witherspoon, Council President

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DATE APPROVED BY THE MAYOR _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director
City of Avon, Ohio

ATTEST:

Barbara Brooks
Clerk of Council

POSTED: _____

In Five Places as
Provided by Council

Prepared by:
John A. Gasior, Esq.
Law Director

Exhibit "A"

PROPOSED AVON CHARTER AMENDMENT

Article VII, Section 1 – Boards and Commissions.

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- (2) To hear and decide appeals made from decisions and rulings of administrative officials and agencies, **other than Council**, including the Building Inspector and Zoning Enforcement Officer;
- (3) To interpret the Zoning Code and the Building Code, ordinances, resolutions, rules or regulations;
- (4) To exercise, with respect to buildings situated in the Municipality, the same powers as are exercised by the Board of Building Standards under the laws of the State of Ohio to the extent that it is competent for this Charter so to authorize the Board;
- (5) To recommend ~~changes to the Council for~~ changes in and amendments to the **Planning, Zoning and Building Codes**;
- (6) To establish rules and regulations for its own procedure not inconsistent with this section;
- (7) To do and perform such other duties and functions as may be imposed upon it by this Charter, existing ordinances or ordinances and resolutions of the Council.

Nothing herein contained shall be construed as authorizing the Board of Zoning and Building Appeals to exact changes in a zoning map or to add to the uses permitted in any zoning district. **Administrative decisions by Council on any matter involving the Planning and Zoning Code shall be deemed final and not reviewable by the Board of Zoning and Building Appeals.** (Amended 11-8-66; 11-2-71; 11-7-95; 5-6-97)

Shall Article VII, Section 1 of the Avon City Charter entitled "Boards and Commissions" be amended?

_____ YES

_____ NO