



## **Ordinance 635 Amended**

**An Ordinance amending Chapter 225 of the Code of the Town of Elsmere.**

**Sponsored By:** Mayor Eric Thompson

**First and Second Reading:** February 08, 2018 Council Meeting

**Results:** Tabled 7 In Favor, 0 Opposed

**First and Second Reading:** March 08, 2018 Council Meeting

**Results:** \_\_\_\_\_

**Third and Final Reading:** April 12, 2018 Council Meeting

**Results:** \_\_\_\_\_

# **Ordinance 635 Amended**

## **An Ordinance amending Chapter 225 of the Code of the Town of Elsmere.**

**WHEREAS,** A review of Chapter 225 of the Code of the Town of Elsmere has revealed that the existing content of that chapter is inconsistent with some of the Town's practices and procedures; and

**WHEREAS,** the Mayor and Council wish to make changes to Chapter 225 which will make the chapter consistent with the Town's practices and procedures.

### **NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF ELSMERE, AS FOLLOWS:**

That the following changes be made to Chapter 225 of the Code of the Town of Elsmere.

1. That in Section 225-37B1(a)[2] be amended to include the R-GA zones.
2. That the existing Section 225-40D, be deleted in its entirety and a new Section 225-40D be inserted in its place to read as follows (all sub-sections shall remain);

225-40 D Appeals. Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the Building Official and Building Committee. Such appeals shall be taken within a reasonable time as provided by the rules of the Board by filing with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer or committee from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

3. That the existing Section 225-40D(2), be deleted in its entirety and that a new be inserted in its place to read as follows.

D(2) The Board of Adjustment shall fix a reasonable time for the hearing of the appeal. The Board of Adjustment shall give public notice, as well as, due notice to the parties in interest, of the date and time of the hearing of the appeal. Any party may appear in person, by agent or attorney, at the appeal hearing.

- a) The Town shall give personal notice of the date and time of the appeal hearing before the Board of Adjustment to all property owners within 200 feet of the property to be affected by said appeal. Such notice shall be

given either by handing a copy thereof to the property owners or by leaving a copy thereof at the usual place of abode of said property owners, if said property owners are the occupants of the property affected by such appeal or are residents of the Town of Elsmere.

- b) Whenever said owners are non-residents of said municipality, such notice may be given by sending written notice thereof by mail to the last known address of the property owner or owners, as shown by the most recent tax lists of said municipality.
  - c) Where the owner is a partnership, service upon any partner as above outlined shall be sufficient.
  - d) Where the owner is a corporation, service upon any officer, as above set forth, shall be sufficient.
  - e) The appellant shall by affidavit, present satisfactory proof to the Board of Adjustment at the time of the hearing that said notices have been duly served as aforesaid.
4. That the existing Section 225-40D(4), be deleted in its entirety and a new Section 225-40D(4) be inserted in its place to read as follows;

Whenever an appeal shall be taken to the Board of Adjustment under the provisions of this chapter, said Board shall render its decision upon such appeal within 30 days from the date of hearing of such appeal and receiving any additional information the Board had requested to be provided to it in order to reach its decision.

First and Second Reading  
February 08, 2018

Third and Final Reading  
March 08, 2018

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Eric Thompson, Mayor

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Brian Hurst, Secretary

Approved as to form:

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Town Solicitor

## SYNOPSIS

This Ordinance makes changes to Chapter 225 of the Code of the Town of Elsmere which will make the chapter consistent with the Town's current practices and procedures.

### **Proposed Action #1:**

If enacted, this ordinance will allow for properties in the R-GA Zone to apply for a banner permit.

### **Proposed Action #2:**

If enacted, this ordinance makes it clear that the appeal must be filed with the Board of Adjustment and no one else.

### **Proposed Action #3:**

If enacted, this ordinance continues to remove the Planning Commission from the appeal process. Additionally, it removes the requirement to send notices by registered or certified mail.

### **Proposed Action #4:**

If enacted, this ordinance would clear up any confusion concerning when the Board must issue its opinion on an appeal.

## **Fiscal Impact**

This Ordinance is not expected to have any fiscal impact. It simply makes procedural changes.