

Article X: Administration

§10-1 Zoning Officer.

- A. The Department of Development, through such division or divisions as may be established pursuant to the City Charter shall have and exercise the functions of a Zoning Officer under the City Zoning Chapter.
- B. Delegation of Authority. The Director of Development for the City of Lackawanna shall act as the Zoning Office and may designate any staff member or representative of the City to represent the Zoning Officer in any function assigned in this Article. The Zoning Officer shall remain responsible for any final action taken.
- C. Powers and Duties: The Zoning Officer shall have the following powers and duties:
 1. Review Authority: The Zoning Officer shall be responsible for reviewing the following:
 - a. Amendments to the zoning map (rezoning)
 - b. Amendments to the text of the zoning ordinance
 - c. Applications for review of an Open Development Area pursuant to NYS General City Law §36
 - d. Site plan applications
 - e. Variance requests
 - f. Applications for administrative appeal
 - g. Applications for special use permits
 - h. Applications for temporary use permits
 2. Final Authority. The Zoning Officer shall be responsible for final action regarding the following:
 - a. Interpretation of district boundaries;
 - b. Written interpretation of this Ordinance;
 - c. Determination of similar uses.
 - d. Approval of zoning permits
 3. General Authority:

- a. The Zoning Officer may exercise additional powers as may be described elsewhere in this Ordinance and as permitted by NYS General City Law.
 - b. The Zoning Officer shall perform related duties as directed by the City Council.
 - c. Coordinate overall inspection of site improvements with the Code Enforcement Officer, Planning and Development Board and other appropriate officials and agencies;
 - d. Maintain the Special Zoning Orders Book as required by Chapter 75, §75-24 of this Municipal Code.
 - e. Make recommendations to the Planning and Development Board, Zoning Board of Appeals and City Council as may be appropriate or requested;
4. Enforcement:
- a. This Ordinance shall be administered by the Zoning Officer. The Zoning Officer shall notify the Code Enforcement Officer when it has been determined that a violation of this Ordinance may exist.

§10-2 Planning and Development Board.

- A. Establishment. A seven-member Planning and Development Board has been established by § 8.3 of the City Charter.
- B. Duties. The Planning and Development Board shall have the following powers and duties:
 1. Review Authority:
 - a. Amendments to the Comprehensive Plan for the City of Lackawanna;
 - b. Amendments to the text of this ordinance
 - c. Amendments to the zoning map
 - d. Recommendations regarding planning and development matters, upon its own initiative or referral by the City Council or Zoning Board of Appeals, provided such expenditures do not exceed appropriations;
 2. Final Authority. The Planning and Development Board shall be responsible for final action regarding the following:
 - a. Applications for site plan approval
 - b. Applications for special use permits

c. Applications for temporary use permits

3. General Authority.

a. The Planning Board may exercise additional powers as directed by the City Council and as may be described elsewhere in this Ordinance and as permitted by NYS General City Law

C. Membership, operation and appropriations.

1. No municipal officer or employee shall be appointed to the Planning and Development Board in the event that such officer or employee cannot carry out the duties of his or her position without a conflict in the performance of his or her duties as a member of the Planning and Development.
2. The Planning and Development Board shall annually elect a Chairman from its own members to serve for one year or the remaining term of office, whichever is greater.
3. All meetings of the Planning and Development Board shall be held at the call of the Chairperson and at such times as such Board may determine. Such Chairperson, or in his or her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.
4. All Planning and Development Board members are required to attend each and every Planning and Development Board meeting. A member may only be excused from a scheduled meeting for reasons of health or welfare; the excusal must be arranged and approved by the Chairman of the Board. A maximum of three absences and/or excuses shall be allowed within a one-year period.
5. All members are required to attend the scheduled meeting prepared to conduct the business on the agenda. Members shall review agenda items, visit each location on the agenda and discuss questions about proposed items with the Zoning Officer prior to the scheduled meeting.
6. Each member of the Planning and Development Board shall attend training within six months of appointment and attend refreshment course training annually. Training shall be scheduled as courses become available through the Erie County Department of Planning and Environment or New York State Department of State or other Board-approved venues.
7. The Mayor shall have the power to remove, after public hearing, any member of the Planning and Development Board for cause. Any Planning and Development Board member may be disciplined or removed for noncompliance with the above minimum requirements regarding meeting attendance and training.
8. The City Council shall provide an appropriation to the Planning and Development

Board to cover necessary expenses, including the means for the Planning and Development Board to maintain a written record of its meetings and public hearings.

§10-3 Zoning Board of Appeals.

- A. Establishment. A Zoning Board of Appeals is hereby established in accordance with §81 and §81-a of the General City Law of New York.
- B. Powers and duties. The Zoning Board of Appeals shall have the following powers and duties
 - 1. Final Authority: The ZBA shall be responsible for final action regarding the following:
 - a. Applications for variances;
 - b. Administrative appeals;
 - i. Upon appeal of a decision from the Zoning Enforcement Officer, the Zoning Board of Appeals shall decide any question involving interpretation of any portions of this chapter. Such appeal shall be initiated within 60 calendar days of the adverse decision
 - c. Amendments to restrictions enacted by the ZBA
 - 2. General Authority.
 - a. The ZBA may exercise additional powers as directed by the City Council and as may be described elsewhere in this Ordinance and as permitted by law.
- C. Membership.
 - 1. Upon the effective date of this code, the number of members on the Zoning Board of Appeals shall be decreased from five members to three members to take effect upon the next two expiration of terms. Thereafter, the Zoning Board of Appeals shall consist of three members and one alternate appointed by the Mayor.
 - 2. The terms of the initial appointees shall be for one, two and three years from and after the date of appointment, so as to provide for an equal number of appointees each year. Succeeding appointees shall be appointed for a term of three years. The alternate shall serve a term of one year.
 - 3. Members of the Zoning Board of Appeals on the effective date of this chapter shall continue in office until the expiration of their present terms.
 - 4. If a vacancy shall occur otherwise than by expiration of term, the Mayor shall appoint the new member for the unexpired term.

5. No person who is a member of the City Council shall be eligible for membership on the Zoning Board of Appeals; no municipal officer or employee shall be appointed to the Zoning Board of Appeals in the event that such officer or employee cannot carry out the duties of his or her position without a conflict in the performance of his or her duties as a member of the Zoning Board of Appeals.
6. The City Clerk shall serve as the Clerk of the Zoning Board of Appeals and shall perform such duties as required by it. The City Council shall provide a Secretary for the Board who shall work under the supervision of the City Clerk. The City Clerk shall be responsible for keeping a factual record, including minutes, of all of the Board's proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating such a fact.

D. Operation.

1. The Zoning Board of Appeals shall conduct its annual organization meeting at the regular meeting in January of each year. A Chairman, Vice Chairman and Secretary shall be elected at this meeting.
2. All Zoning Board of Appeals members are required to attend each and every Zoning Board of Appeals meeting. A member may only be excused from a scheduled meeting for reasons of health or welfare; the excusal must be arranged and approved by the Chairman of the Board. A maximum of three absences and/or excuses shall be allowed within a one-year period.
3. All members are required to attend the scheduled meeting prepared to conduct the business on the agenda. Members shall review agenda items, visit each location on the agenda and discuss questions about proposed items with the Zoning Officer prior to the scheduled meeting.
4. Each member of the Zoning Board of Appeals shall attend training within six months of appointment and attend refreshment course training annually. Training shall be scheduled as courses become available through the Erie County Department of Planning and Environment, New York State Department of State or other Board-approved venue.
5. The Mayor shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be disciplined or removed for noncompliance with the above minimum requirements regarding meeting attendance and training.
6. The Zoning Board of Appeals may adopt rules or bylaws for the conduct of its own business consistent with statute and this chapter.
7. The City Council shall provide an appropriation to the Zoning Board of Appeals to cover

necessary expenses, including any compensation for appointed members of the Zoning Board of Appeals and provisions for maintaining a written record of its meetings and public hearings.

- E. Meetings. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as the Zoning Board of Appeals may determine and shall be conducted under the following authority and requirements:
1. The presence of a majority of Board members shall constitute a quorum for the conduct of business before the Zoning Board of Appeals, including the application for any variance.
 2. All votes of the Board shall be taken by roll call.
 3. In accordance with General Municipal Law § 809, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
 4. The concurring vote of a majority of the Board shall be necessary to:
 - a. Make a decision;
 - b. Reverse any order, decision or determination of any administrative official of the City charged with enforcement of the provisions of this chapter; or
 - c. Effect any variation of this chapter.
 5. Every decision of the Zoning Board of Appeals shall be by written resolution, each of which shall contain a full record of the findings of the Zoning Board of Appeals in the particular case.
 6. All meetings of the Zoning Board of Appeals shall be open to the public, and all decisions shall be voted upon at public sessions.
 7. The Zoning Board of Appeals may request and obtain advice or opinions on the law relating to any matter before the Zoning Board of Appeals from the City Attorney and may require the City Attorney to attend its meetings. The Zoning Board of Appeals may require the Zoning Officer to attend its meetings to present any facts relating to any matter before the Zoning Board of Appeals.
 8. The Zoning Board of Appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.
 9. The City Clerk shall make and file in its office a factual record of all Zoning Board of Appeals proceedings, including keeping minutes, the reading of the case, public

hearing, deliberation, voting and decisions of the Zoning Board of Appeals. The minutes of each meeting shall contain a statement of findings for each decision and shall record the vote of each member upon each question or if absent of failing to vote, indicating such fact.

10. The Chairman of the Zoning Board of Appeals, or in his or her absence the Acting Chairman, may administer oaths to compel the attendance of witnesses in the manner and to the extent permitted by the New York General City Law and the Civil Practice Law and Rules.

