City of Lackawanna
Department of Development
2838 South Park Avenue – Room 113
Lackawanna, NY 14218
Tel: (716) 827-6421 Fax: (716) 827-1866

Agenda Checklist
Zoning Board of Appeals
Planning and Development Board

Date 10/16/26

Property Address NYS GRANT-FUNDED ZONING CODE UPDATE

Reason in Front of Board REQUESTING TO ADOPT THE PROPOSED CHANGES

Special Use Permit needed for: Zoning? Yes / (No) || Planning? Yes / (No)

Agenda Applicant CHARLES CLARK / THOMAS VOIGT

Agenda Item

Zone

Use variance needed? Yes / (No)

Description of use variance (not allowed in that zone)

Area variance needed? Yes / (No)

Description of area variances needed (parking, height, etc.) /

Description of agenda use SEE ATTACHED

Code Enforcement research (attached if applicable)

Legal opinion / research (attached if applicable)

Scott Hayes
Code Enforcement Officer

CHARLES CLARK
Director of Development, Marketing & Public Information

City Hall – Room 113
Lackawanna, NY 14218
Office: 716-827-6475
Mobile: [redacted]
Email: chuck.clark@lackny.com

To: Planning and Development Board Members
From: Charles Clark, Director
Date: October 23, 2026
RE: Zoning Code Update Project

At the October 28 Planning and Development Board meeting, you will be asked to review and make a recommendation to the City Council regarding proposed amendments to the City's Zoning Code.

Since January 2024, the Department of Development, in partnership with C&S Companies, has been working on this New York State Department of State (DOS) grant-funded initiative to update the City's Zoning Code. The grant period concludes on December 31, 2026, by which time all project-related work must be completed in accordance with DOS guidelines, including adoption of the updated Zoning Code by the City Council.

To facilitate your review, your meeting packet includes the following:

1. **Project Narrative** – An overview of the project and proposed changes.
2. **SEQR Part I** – Environmental Assessment Form.
3. **Updated Zoning Map** – Reflecting the proposed zoning changes.

Due to its length, the proposed updated Zoning Code has not been included in the printed packet. However, the complete document is available for review on the City's website as part of the October 28 meeting materials under **Development / Planning Board**:

www.lackawannany.gov/development/planning-board/

Tom Voigt of C&S Companies and I will be at the meeting to present the proposed zoning amendments and answer any questions.

Should you have any questions prior to the meeting, please feel free to contact me.

[redacted]

New York State Environmental Quality Review (SEQR) Act
Environmental Assessment Narrative
In Support of City of Lackawanna Zoning Ordinance Adoption

Introduction

The City of Lackawanna has prepared an update to its Zoning Ordinance to replace the existing zoning regulations in place. The proposed ordinance modernizes the City's land use regulations, implements the goals and recommendations of the city's 2016 Comprehensive Plan, updates zoning terminology and development standards, and establishes a clearer framework for future growth and redevelopment. The ordinance is intended to provide predictable standards for development while protecting community character, environmental resources, and public health, safety, and welfare.

The proposed action under SEQR is the adoption of the new Zoning Ordinance by the City of Lackawanna. Adoption of a zoning ordinance is classified as a Type I Action under SEQR regulations (6 NYCRR §617.4(b)(1)).

The purpose of this narrative is to summarize the environmental review of the proposed action and support the determination that adoption of the City of Lackawanna's Zoning Ordinance will not result in significant adverse environmental impacts.

Description of the Action

The proposed Zoning Ordinance represents a comprehensive revision of the City's existing zoning regulations. Rather than making isolated amendments, the ordinance reorganizes and modernizes the City's development regulations into a unified framework that includes updated zoning districts, land use classifications, development standards, definitions, and administrative procedures. The ordinance is intended to implement the City's adopted Comprehensive Plan and provide greater consistency, transparency, and predictability in land use decision-making.

Key components of the proposed ordinance include:

- Modernization of zoning districts and district regulations.
- Updated use classifications and definitions that reflect contemporary land uses and development practices.
- A revised use table identifying permitted, special permit, and prohibited uses within each zoning district.

- Updated dimensional standards governing lot size, setbacks, building height, and lot coverage.
- Comprehensive development standards addressing parking, landscaping, lighting, stormwater management, erosion and sediment control, signs, outdoor storage, and other site design elements.
- New regulations for emerging land uses, including accessory dwelling units, renewable energy systems, cannabis facilities, community agriculture, and short-term rentals.
- Revised administrative procedures for zoning permits, site plan review, variances, special use permits, and enforcement.

Environmental Review

The proposed action is legislative in nature and does not itself authorize construction, redevelopment, or physical alteration of any property. Adoption of the zoning ordinance establishes the regulatory standards that will govern future development proposals but does not approve any specific project or authorize site disturbance.

Compared to the existing zoning regulations, the proposed ordinance primarily modernizes and clarifies development standards rather than substantially increasing the overall development potential of the City. The ordinance reorganizes zoning districts, updates permitted use classifications, and establishes clearer performance standards for future development while continuing to guide growth in accordance with the City's adopted Comprehensive Plan.

Although the ordinance expands regulations for certain contemporary land uses including accessory dwelling units, solar energy systems, cannabis facilities, community-scale agriculture, and short-term rentals, it also establishes more comprehensive review criteria and operational standards intended to minimize potential impacts on surrounding properties and environmental resources.

The updated ordinance also strengthens development regulations related to landscaping, lighting, parking, stormwater management, erosion and sediment control, sound, and outdoor storage. These provisions are intended to improve site design, reduce potential environmental impacts associated with future development, and enhance compatibility between adjacent land uses.

Future development proposals, redevelopment projects, rezonings, special use permits, site plans, and other discretionary actions undertaken pursuant to the zoning ordinance will continue to be subject to project-specific environmental review under SEQR, as applicable.

Environmental Benefits

The proposed ordinance provides several environmental and planning benefits over the existing zoning regulations by:

- Modernizing development standards to better address stormwater management, landscaping, lighting, erosion control, and other site design considerations.
- Providing clearer standards for renewable energy systems and other emerging land uses.
- Supporting infill and redevelopment in appropriate locations while maintaining compatibility with established neighborhoods.
- Providing updated regulations that encourage more predictable and consistent land use decisions.
- Implementing the policies and recommendations of the City's Comprehensive Plan through updated zoning regulations.
- Improving the administration and enforcement of zoning regulations through reorganized procedures and clearly defined development standards.

Conclusion

The proposed zoning ordinance constitutes a comprehensive modernization of the City's land use regulations. While it updates permitted uses, zoning districts, development standards, and administrative procedures, it does not itself authorize site-specific development or physical changes to the environment.

Any future projects facilitated by the ordinance will remain subject to applicable local approvals and environmental review under SEQR where required. Accordingly, adoption of the proposed zoning ordinance is not expected to result in significant adverse environmental impacts and instead provides an updated regulatory framework to guide orderly, coordinated, and environmentally responsible development within the City.

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Adoption of the City of Lackawanna Zoning Law		
Project Location (describe, and attach a general location map): City of Lackawanna		
Brief Description of Proposed Action (include purpose or need): The City of Lackawanna, through a New York State Smart Growth Zoning Grant is seeking to adopt a new Zoning Ordinance that is reflective of Lackawanna's desired development patterns in alignment with the NYS Smart Growth Principals. Within the new zoning language, the City has reduced the barriers to establishing new and diverse housing by reducing the required lot sizes, setbacks, and eliminating minimum requirements for buildable lot size. Additionally, the city has eliminated parking requirements. The elimination of parking requirements will help development take better shape on constrained sites and encourage the use of multi-modal and public transportation. Further, the introduction of new zoning districts allow for an expansion of permitted uses within existing neighborhoods to encourage thoughtful commercial development and the proliferation of community scale uses. These tenants together with new landscaping, signage, and use standards will allow the City of Lackawanna to develop in a manner consistent with the vision set forth in their Comprehensive Plan.		
Name of Applicant/Sponsor: City of Lackawanna	Telephone: E-Mail:	
Address: 714 Ridge Road		
City/PO: Lackawanna	State: NY	Zip Code: 14218
Project Contact (if not same as sponsor; give name and title/role): Charles Clark, Director of Development	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	**If Yes: Identify Agency and Approval(s) Required**	**Application Date (Actual or projected)**
a. City Council, Town Board, or Village Board of Trustees ☑Yes ☐No	City Council	August 2026
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Reccomendation only	August 2026
c. City, Town or Village Zoning Board of Appeals ☐Yes ☐No		
d. Other local agencies ☐Yes ☐No		
e. County agencies ☐Yes ☑No		
f. Regional agencies ☐Yes ☐No		
g. State agencies ☑Yes ☐No	NYSDEC, NYSHPO	
h. Federal agencies ☐Yes ☐No		

i. Coastal Resources.
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? ☐Yes ☑No

ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? ☑Yes ☐No

iii. Is the project site within a Coastal Erosion Hazard Area? ☐Yes ☑No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☑Yes ☐No

- **If Yes,** complete sections C, F and G.
- **If No,** proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☐Yes ☑No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☐Yes ☑No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☐Yes ☑No

If Yes, identify the plan(s):

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐Yes ☑No

If Yes, identify the plan(s):

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☑ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?

b. Is the use permitted or allowed by a special or conditional use permit? ☑ Yes ☐ No

c. Is a zoning change requested as part of the proposed action? ☑ Yes ☐ No
If Yes,
i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? City of Lackawanna Central School Distrcit

b. What police or other public protection forces serve the project site?
City of Lackawanna Police

c. Which fire protection and emergency medical services serve the project site?
City of Lackawanna Fire Division

d. What parks serve the project site?
Not Applicable

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)?

b. a. Total acreage of the site of the proposed action? _____ acres
b. Total acreage to be physically disturbed? _____ acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☐ No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☐ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No
iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will the proposed action be constructed in multiple phases? ☐ Yes ☐ No
i. If No, anticipated period of construction: _____ months
ii. If Yes:
- Total number of phases anticipated _____
- Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
- Anticipated completion date of final phase _____ month _____ year
- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? ☐Yes ☐No

If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase				
At completion of all phases				

g. Does the proposed action include new non-residential construction (including expansions)? ☐Yes ☐No

If Yes,

i. Total number of structures _____

ii. Dimensions (in feet) of largest proposed structure: _____height; _____width; and _____ length

iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☐Yes ☐No

If Yes,

i. Purpose of the impoundment: _____

ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☐Other specify:

_____

iii. If other than water, identify the type of impounded/contained liquids and their source.

_____

iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres

v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):

_____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? ☐Yes ☐No
(Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)

If Yes:

i. What is the purpose of the excavation or dredging? _____

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.

_____

_____

iv. Will there be onsite dewatering or processing of excavated materials? ☐Yes ☐No
If yes, describe. _____

_____

v. What is the total area to be dredged or excavated? _____ acres

vi. What is the maximum area to be worked at any one time? _____ acres

vii. What would be the maximum depth of excavation or dredging? _____ feet

viii. Will the excavation require blasting? ☐Yes ☐No

ix. Summarize site reclamation goals and plan: _____

_____

_____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐Yes ☐No

If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____

_____

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

_____

_____

_____

_____

iii. Will the proposed action cause or result in disturbance to bottom sediments? ☐Yes ☐No

If Yes, describe: _____

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☐Yes ☐No

If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____

_____

- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

_____

c. Will the proposed action use, or create a new demand for water? ☐Yes ☐No

If Yes:

i. Total anticipated water usage/demand per day: _____ gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☐Yes ☐No

If Yes:

- Name of district or service area: _____
- Does the existing public water supply have capacity to serve the proposal? ☐Yes ☐No
- Is the project site in the existing district? ☐Yes ☐No
- Is expansion of the district needed? ☐Yes ☐No
- Do existing lines serve the project site? ☐Yes ☐No

iii. Will line extension within an existing district be necessary to supply the project? ☐Yes ☐No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

_____

- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☐No

If, Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

_____

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☐Yes ☐No

If Yes:

i. Total anticipated liquid waste generation per day: _____ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

_____

_____

iii. Will the proposed action use any existing public wastewater treatment facilities? ☐Yes ☐No

If Yes:

- Name of wastewater treatment plant to be used: _____
- Name of district: _____
- Does the existing wastewater treatment plant have capacity to serve the project? ☐Yes ☐No
- Is the project site in the existing district? ☐Yes ☐No
- Is expansion of the district needed? ☐Yes ☐No

- Do existing sewer lines serve the project site? ☐Yes ☐No
- Will a line extension within an existing district be necessary to serve the project? ☐Yes ☐No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

_____

_____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐Yes ☐No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):

_____

_____

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

_____

_____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☐Yes ☐No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

_____ Square feet or _____ acres (impervious surface)

_____ Square feet or _____ acres (parcel size)

ii. Describe types of new point sources. _____

_____

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

_____

_____

- If to surface waters, identify receiving water bodies or wetlands: _____

_____

_____

- Will stormwater runoff flow to adjacent properties? ☐Yes ☐No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☐Yes ☐No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☐Yes ☐No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

_____

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

_____

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

_____

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐Yes ☐No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐Yes ☐No

ii. In addition to emissions as calculated in the application, the project will generate:

- _____Tons/year (short tons) of Carbon Dioxide (CO_2)
- _____Tons/year (short tons) of Nitrous Oxide (N_2O)
- _____Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____Tons/year (short tons) of Sulfur Hexafluoride (SF_6)
- _____Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)
- _____Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐Yes ☐No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

_____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐Yes ☐No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust):

_____

_____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐Yes ☐No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐Morning ☐Evening ☐Weekend
☐Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____

_____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? ☐Yes ☐No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe:

_____

vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐Yes ☐No

vii Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐Yes ☐No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐Yes ☐No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☐Yes ☐No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

_____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):

_____

iii. Will the proposed action require a new, or an upgrade, to an existing substation? ☐Yes ☐No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: _____
- Saturday: _____
- Sunday: _____
- Holidays: _____

ii. During Operations:

- Monday - Friday: _____
- Saturday: _____
- Sunday: _____
- Holidays: _____

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☐Yes ☐No

If yes:

i. Provide details including sources, time of day and duration:

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? ☐Yes ☐No

Describe:

n. Will the proposed action have outdoor lighting? ☐Yes ☐No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐Yes ☐No

Describe:

o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐Yes ☐No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☐Yes ☐No

If Yes:

i. Product(s) to be stored

ii. Volume(s) _____ per unit time _____ (e.g., month, year)

iii. Generally, describe the proposed storage facilities:

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☐No

If Yes:

i. Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☐No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☐ Yes ☐No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: _____ tons per _____ (unit of time)
- Operation : _____ tons per _____ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction:
- Operation:

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction:
- Operation:

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☐ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☐ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility:

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☐ Urban ☐ Industrial ☐ Commercial ☐ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____

ii. If mix of uses, generally describe:

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces			
• Forested			
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)			
• Agricultural (includes active orchards, field, greenhouse etc.)			
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: _____			

c. Is the project site presently used by members of the community for public recreation? ☐Yes☐No
i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☐Yes☐No
If Yes,
i. Identify Facilities:

_____
_____

e. Does the project site contain an existing dam? ☐Yes☐No
If Yes:
i. Dimensions of the dam and impoundment:
- Dam height: _____ feet
- Dam length: _____ feet
- Surface area: _____ acres
- Volume impounded: _____ gallons OR acre-feet

ii. Dam's existing hazard classification: _____
iii. Provide date and summarize results of last inspection:

_____
_____

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☐Yes☐No
If Yes:
i. Has the facility been formally closed? ☐Yes☐ No
- If yes, cite sources/documentation: _____

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:

_____
_____

iii. Describe any development constraints due to the prior solid waste activities: _____
_____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐Yes☐No
If Yes:
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:

_____
_____

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐Yes☐ No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐Yes☐No

☐ Yes – Spills Incidents database — Provide DEC ID number(s): _____
☐ Yes – Environmental Site Remediation database — Provide DEC ID number(s): _____
☐ Neither database

ii. If site has been subject of RCRA corrective activities, describe control measures: _____

_____
_____

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☐Yes☐No
If yes, provide DEC ID number(s): _____

iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):

_____
_____

v. Is the project site subject to an institutional control limiting property uses? ☐Yes ☐No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? ☐Yes ☐No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? _____ feet

b. Are there bedrock outcroppings on the project site? ☐Yes ☐No
If Yes, what proportion of the site is comprised of bedrock outcroppings? _____%

c. Predominant soil type(s) present on project site: _____ _____%
_____ _____%
_____ _____%

d. What is the average depth to the water table on the project site? Average: _____ feet

e. Drainage status of project site soils: ☐ Well Drained: _____% of site
☐ Moderately Well Drained: _____% of site
☐ Poorly Drained _____% of site

f. Approximate proportion of proposed action site with slopes: ☐ 0-10%: _____% of site
☐ 10-15%: _____% of site
☐ 15% or greater: _____% of site

g. Are there any unique geologic features on the project site? ☐Yes ☐No
If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☐Yes ☐No

ii. Do any wetlands or other waterbodies adjoin the project site? ☐Yes ☐No

If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☐Yes ☐No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name _____ Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☐Yes ☐No

If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? ☐Yes ☐No

j. Is the project site in the 100-year Floodplain? ☐Yes ☐No

k. Is the project site in the 500-year Floodplain? ☐Yes ☐No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☐Yes ☐No
If Yes:

i. Name of aquifer: _____

m. Identify the predominant wildlife species that occupy or use the project site: _____

n. Does the project site contain a designated significant natural community? ☐Yes ☐No

If Yes:

i. Describe the habitat/community (composition, function, and basis for designation): _____

ii. Source(s) of description or evaluation: _____

iii. Extent of community/habitat:

- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☐Yes ☐No

If Yes:

i. Species and listing (endangered or threatened): _____

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐Yes ☐No

If Yes:

i. Species and listing: _____

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐Yes ☐No

If yes, give a brief description of how the proposed action may affect that use: _____

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐Yes ☐No

If Yes, provide county plus district name/number: _____

b. Are agricultural lands consisting of highly productive soils present? ☐Yes ☐No

i. If Yes: acreage(s) on project site? _____

ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐Yes ☐No

If Yes:

i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature

ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐Yes ☐No

If Yes:

i. CEA name: _____

ii. Basis for designation: _____

iii. Designating agency and date: _____

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? ☐ Yes ☐ No

If Yes:

i. Nature of historic/archaeological resource: ☐ Archaeological Site ☐ Historic Building or District

ii. Name: _____

iii. Brief description of attributes on which listing is based:

_____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☐ Yes ☐ No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☐ Yes ☐ No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within fives miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☐ Yes ☐ No

If Yes:

i. Identify resource: _____

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____

iii. Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☐ No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

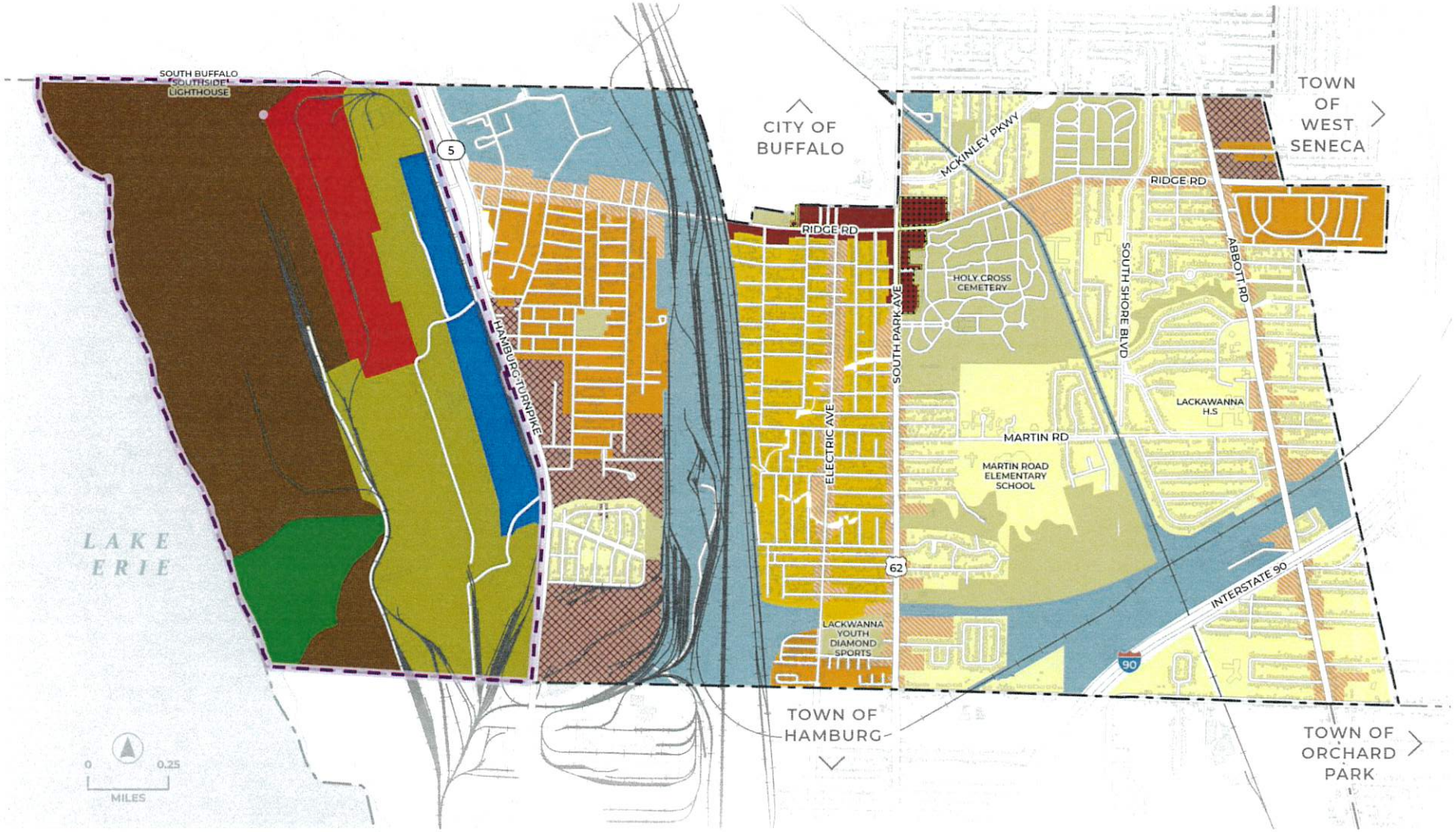
G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Charles Clark Date 10/23/26

Signature [redacted] Title Director of Development

PRINT FORM



PROPOSED ZONING

WITHIN CITY OF LACKWANNA

- CITY OF LACKWANNA BOUNDARY
- MAJOR ROAD
- RAILROAD

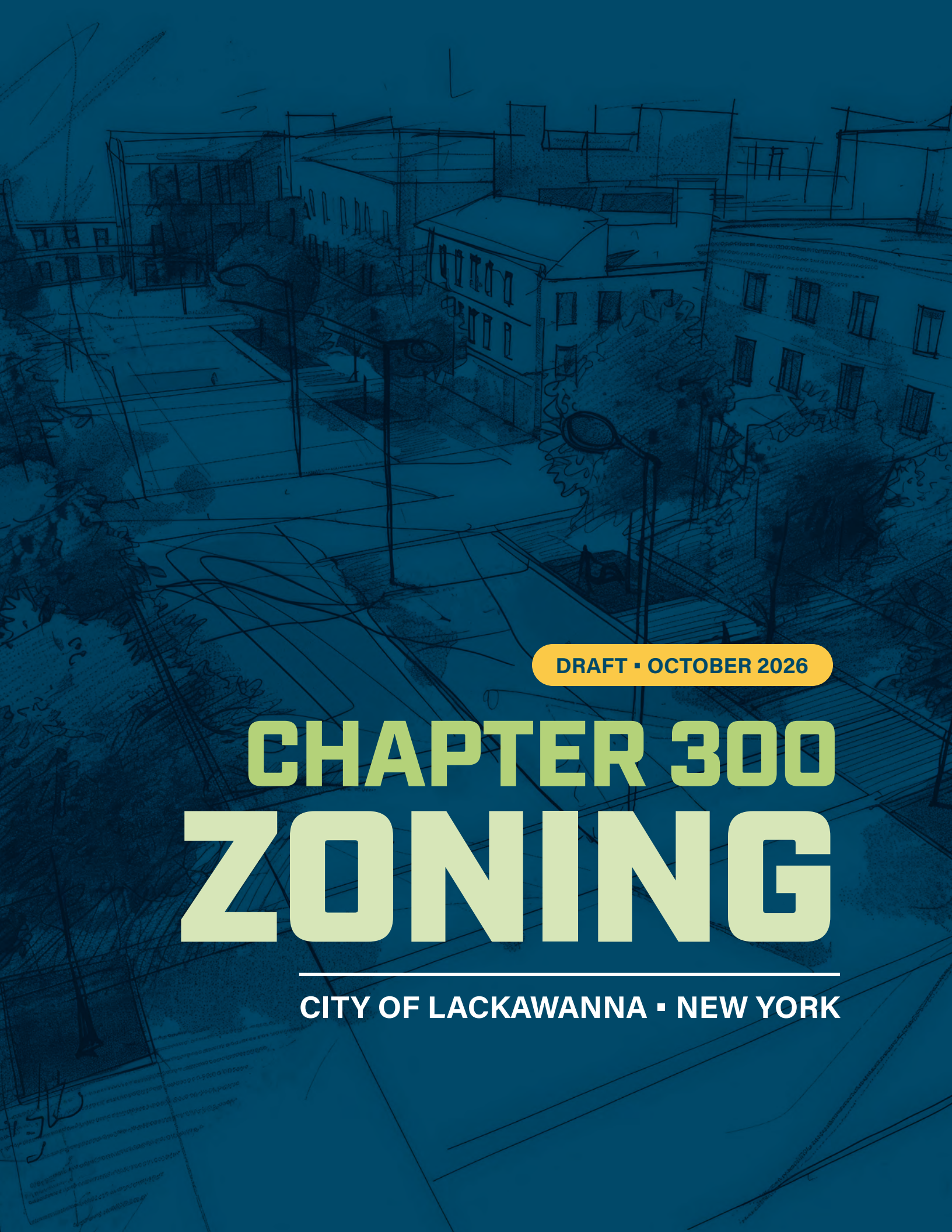
BASE ZONING DISTRICT

- RESIDENTIAL DISTRICT 1
- RESIDENTIAL DISTRICT 2
- RESIDENTIAL DISTRICT 3
- CENTRAL BUSINESS DISTRICT
- NEIGHBORHOOD TRANSITION
- REGIONAL COMMERCIAL
- ENTERPRISE
- OPEN SPACE
- BETHLEHEM REDEVELOPMENT AREA

OVERLAY DISTRICTS

- LIGHT INDUSTRIAL OVERLAY
- MEDIUM INDUSTRIAL OVERLAY
- HEAVY INDUSTRIAL OVERLAY
- INTERMODAL PORT OVERLAY
- LAKEFRONT OPEN SPACE OVERLAY
- HISTORIC PROPERTY OVERLAY

SOURCE: NYS GEOSPATIAL SERVICE STREET DATA 2024, USGS NHD HYDROGRAPHY 2020, NYS GEOSPATIAL SERVICE CIVIL BOUNDARIES PROGRAM 2024



DRAFT ▪ OCTOBER 2026

CHAPTER 300
ZONING

CITY OF LACKAWANNA ▪ NEW YORK

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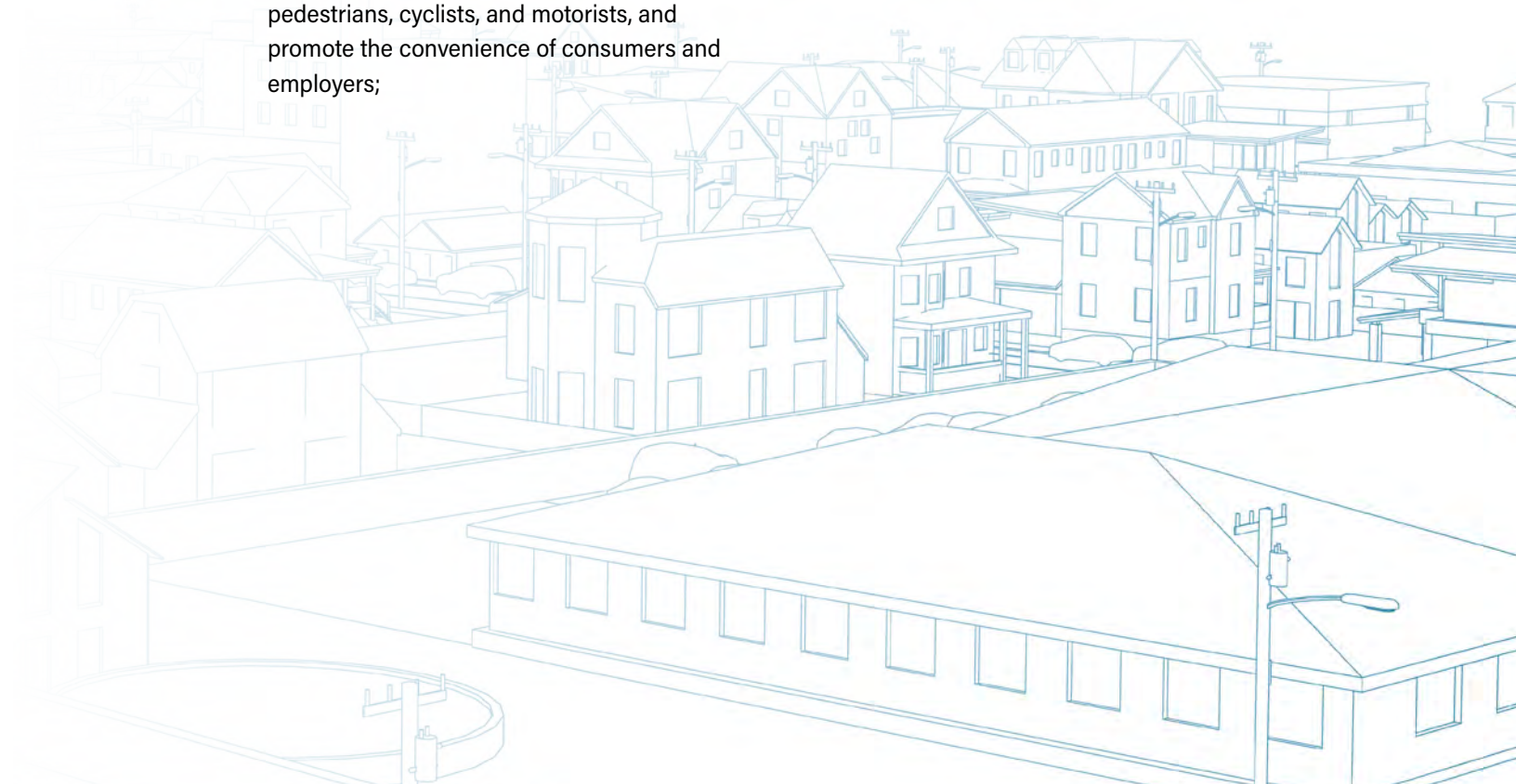
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PART 1
TITLE AND PURPOSE

§1-1 PURPOSE

A. The purpose of this chapter is to provide for the orderly and equitable development of the City of Lackawanna in accordance with the goals and land use patterns outlined in the City of Lackawanna Comprehensive Plan. The Zoning Chapter is developed to achieve, among others, the following objectives:

1. Protect the character and values of open space, residential, commercial, industrial and institutional land uses;
2. Regulate the location and intensity of buildings and uses;
3. Preserve and protect significant natural resources that contribute to the health and wellness of the local and regional ecosystems,
4. Preserve and promote the aesthetic values of the City to ensure that structures and land use arrangements are harmonious with surrounding structures and land uses;
5. Facilitate the provision of adequate transportation and parking facilities to maximize the utility of transportation infrastructure, protect the safety of pedestrians, cyclists, and motorists, and promote the convenience of consumers and employers;
6. Encourage the efficient use of public infrastructure while preventing the overcrowding of land and excessive concentration of population
7. Provide adequate open spaces for light, air and outdoor uses;
8. Protect persons and property from damage and injury due to fire or flood;
9. To accomplish the specific intents and goals set forth in the introductions to the respective sections; and,
10. To protect the community from visual pollution resulting from the unregulated use of signs and other advertising devices.



§1-2 AUTHORITY

This Zoning Chapter is adopted under the grant of power set forth in §20 of NYS General City Law.

§1-3 TITLE

This chapter shall be known and may be cited as the "City of Lackawanna Zoning Law" for the City of Lackawanna, County of Erie, State of New York.

§1-4 REPEALER

A. The Zoning Chapter of the City of Lackawanna adopted January 22, 2002, the corresponding Zoning Map, together with all subsequent amendments, are repealed on the effective date of this Zoning Chapter.

§1-5 APPLICATION

A. General application. This chapter shall apply on its effective date to all uses that have not commenced and structures that have not been constructed regardless of the status of permits or certificates of occupancy issued pursuant to the New York State Uniform Fire Prevention and Building Code.

B. Buildings under construction. Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been issued and which the entire building shall be completed within one year from the date of the passage of this chapter.

C. Future projects. No building, structure or land shall hereafter be used or occupied, and no building or structure shall be erected, relocated, extended, enlarged or altered except in conformity with the regulations hereinafter designated for the district in which such building, structure or land is located.

§1-6 INTERPRETATION

A. Conflict with other laws and regulations.

1. The provisions of this chapter shall not annul or in any way interfere with existing deed or plat restrictions, easements or other agreements between persons, codes, laws, rules, regulations or permits previously adopted or issued, except those ordinances or sections which are contrary to, or in conflict with, this Zoning Chapter.
2. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter are inconsistent with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the highest standards, shall govern.
3. Minimum requirements declaration.
4. In the interpretation, application and enforcement of the provisions of this chapter, the provisions thereof shall be held to be minimum requirements necessary for the protection of the public health, safety, convenience, comfort and prosperity and general welfare of the City and shall apply uniformly to each class or kind of structure or land therein, except as otherwise provided in this chapter.

§1-7 OFFICIAL RECORD

The official record of this Zoning Chapter and any amendments thereto is kept by the City of Lackawanna City Clerk, all other representations, digital or otherwise are a reproduction.

PART 2
WORD USAGE AND DEFINITIONS

§2-1 WORD USAGE

Except where specifically defined, all words used in this chapter shall carry their customary meanings. The following rules shall apply to the text of this chapter:

A. Words in their present tense include the future.

B. Words in the singular include the plural and the plural the singular.

C. The word "shall" is intended to be mandatory.

D. The word "lot" shall include the word "plot" or "parcel."

E. The word "person" shall include an individual, firm, corporation, society, agency or institution.

F. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

G. A building or structure includes any part.

H. The word "and" indicates that all connected items, conditions, provisions or events shall apply.

I. The word "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

J. The words "either ...or" indicate the connected items, conditions, provisions or events may apply singly or in any combination.

K. Any question as to the precise meaning of any word used in this chapter may be appealed to the Zoning Board of Appeals and clarified under their powers of interpretation.



§2-2 DEFINITIONS

#

1-Unit Housing. One-unit housing, or single-family housing, refers to a single dwelling unit built as a principal use on an individual lot. 1-unit housing can be detached, semi-detached, or attached (like a townhome)

2-Unit Housing. Two-unit housing refers to two dwelling units built as a principal use on an individual lot. 2-unit housing, sometimes called duplexes, can appear as two units in the same building, two buildings attached, or two buildings detached.

3-Unit Housing. Three-unit housing refers to three dwelling units built as a principal use on an individual lot. 3-unit housing, sometimes called triplexes, can appear as three units in the same building, three buildings attached, or three buildings detached

Multi-Unit Housing. Multi-unit housing refers to four or more dwelling units built as a principal use on an individual lot. These building types, often referred to as multi-family housing, apartments, or quadplexes (if four units exactly), are designed to accommodate multiple households within a single building, or can appear as a group of interconnected structures, like condominiums, townhouses, or large apartment blocks.

A

Accessory Dwelling Unit. A separate dwelling unit that is within or substantially attached to a principal residential dwelling used for the living, sleeping, cooking, and bathroom facilities of individuals for a period of time longer than 6 months.

Accessory Use or Structure. A use or structure which is customarily incidental and subordinate to the principal use of a lot, water area, or a building, and located on the same lot or water area therewith.

ADT. Average daily traffic.

Adult Uses. Whenever used in this Zoning Chapter, the words "adult use" or "adult uses" apply to the following types of establishments:

- **Adult Bookstore.** An establishment which has as a substantial or significant portion of its stock-in-trade books, pamphlets, magazines and other periodicals, sculptures, photographs, pictures, slides, videotapes, films or sound recordings and which establishment excludes any minor by reason of age.
- **Adult Entertainment Cabaret.** A public or private nightclub, bar, restaurant or similar establishment which presents topless or bottomless dancers, go-go dancers, strippers, male or female impersonators, exotic dancers or other similar entertainment, and which establishment excludes any minor by reason of age.
- **Adult Video Store.** An establishment having as a substantial or significant portion of its stock-in-trade videotapes or films for sale or viewing on premises by use of motion picture devices, video equipment or other coin-operated means and which establishment excludes any minor by reason of age.
- **Peep Show.** A theater which presents material in the form of live shows, films or videotapes viewed from an enclosure for which a fee is charged and which excludes any minor by reason of age.

- **Massage Establishment.** Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic or the office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist or duly licensed massage therapist, or barber shops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs that have facilities for physical exercise such as tennis courts, racquetball courts or exercise rooms and which do not receive their primary source of revenue through the administration of massages.
- **Adult Motel.** A motel which excludes minors by reason of age or which make available to its patrons in their rooms films, slide shows or videotapes which if presented in a public movie theater would exclude any minor by reason of age.
- **Adult Theater.** A theater that customarily presents motion pictures, films, videotapes or slide shows and which excludes minors by reason of age.
- **Body Painting Studio.** An establishment or business which provides the service of applying paint or other substance whether transparent or nontransparent to or on the human body and which excludes minors by reason of age.
- **Adult Model Studio.** Any establishment where, for any form of consideration or gratuity, figure models are provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by persons other than the proprietor, paying such consideration or gratuity and which excludes any minor by reason of age. This provision shall not apply to any school of art which is operated by an individual firm, association, partnership, corporation or institution which meets the requirements established in the NYS Education Law for the issuance or conferring of and is in fact authorized to issue or confer a diploma.
- **Animal Service Facilities.** establishments primarily engaged in the care, grooming, training, boarding, or medical treatment of domesticated animals. This use includes, but is not limited to, veterinary clinics, animal hospitals, pet grooming salons, boarding kennels, pet daycare centers, and animal training facilities.

Automotive Sales. business primarily engaged in the retail sale, lease, or rental of new or used motor vehicles, including but not limited to cars, trucks, motorcycles, and recreational vehicles.

utomotive Service Stations. A commercial establishment primarily engaged in the sale of motor fuel, automotive repair, maintenance, and related services. Automotive services uses can include fuel dispensing (gas stations), minor and major vehicle repairs, oil changes, tire services, and engine diagnostics, as well as auto detailing services such as cleaning, polishing, and cosmetic vehicle restoration.

B

Berm. A man-made mound of earth in excess of two feet in vertical height used to shield or buffer properties from adjoining uses, highways, noise or control the flow of surface water.

Building. A structure designed, used, or intended to be used as a shelter of humans, animals or objects, permanently fixed to a site or hauled to a site using an external source of propulsion. Mobile homes shall be buildings for purposes of this code.

Building Area. The maximum horizontal projected area measured from the exterior walls of the building and its accessory buildings. The building area includes all overhanging building parts such as the edges of roofs and window ledges. The extension of the building area across lot lines is prohibited.

Building Coverage. That percentage of the plot or land area covered by the building area.

Building Height. The vertical distance measured from the average level of the ground surrounding the building to the highest point of the roof, but not including: chimneys, spires, towers, tanks and similar projections; elevator or stair bulkheads, roof tanks or cooling towers, provided such structures do not occupy more than 10% of the roof area; or parapet walls less than four feet high.

Building Inspector. The Building Inspector of the City of Lackawanna, New York.

Building, Principal. A structure in which the principal use of the site is situated or conducted. In any residential district, any dwelling shall be deemed to be a "principal building" on the lot on which the structure is located.

C

Car Wash. An establishment for the washing of motor vehicles, which may employ production-line methods, mechanical devices, staffed hand wash facilities, or unstaffed self-wash facilities.

Cemetery. Land or structures dedicated to the internment of human or animal remains.

Crematory/Crematorium(s). A facility in which the remains of deceased human beings are processed by cremation.

Civic/Government Buildings. Offices owned, operated, or occupied by a government agency, including government officials and departments, social service facilities, public works facilities, and courthouses.

Cluster Development. A planned development of five or more acres in which lots are plotted which have less than the minimum lot size and setback requirements but which have access to common open space that is part of the overall site development plan approved by the Planning and Development Board. However, not more than the maximum density of dwelling units permitted by the existing zoning shall be allowed.

Common Party Wall. Any interior wall or portion thereof located between adjacent residential units or uses provided for the separation of the individual and separate living or use areas.

Common Property. A parcel or parcels of land together with improvements, the use of which is shared by the owners or occupants of the individual building sites.

Comprehensive Plan. A plan as defined and adopted in accordance with § 20, Subdivisions 24 and 25 of the General City Law of the State of New York and any amendments or master plans attached thereto by resolution of the City Council of the City of Lackawanna.

Community Scale Agriculture. A form of agricultural activity that has a gross area of greater than 1,000 gross SQFT intended primarily to serve local markets and meet the food needs of the surrounding community. These practices typically occur on small to medium-sized parcels of land and include the cultivation of crops or related food production activities.

Condominium. A building or group of buildings in which residential, business or industrial units are owned individually while the structure, common areas and facilities are owned jointly by all the owners on a proportional basis.

Council. The City Council of the City of Lackawanna, Erie County.

County. Erie County, New York.

Cultural Facility. A facility open to the public for cultural services and exhibitions including, but not limited to, museums, cultural centers, historical societies, and libraries operated by a government.

D

Day Care Center. Care of seven or more individuals away from their own home, for less than 24 hours a day, in a facility licensed by the state for such purposes, for compensation or otherwise, for at least three hours a day.

Data Center. An establishment engaging in the storage, management, processing, and/or transmission of digital data, and housing computer and/or network equipment, systems, servers, appliances, and other associated components related to digital data operations.

Density. The number of individual residential units divided by the buildable area available for residential units reduced by an allowance for recreation space and dedication of streets and other public improvements. Expressed as units per acre.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings, structures, minim, dredging, filling, grading, paving, excavation or drilling.

Drive-Through/Drop-Off Window. An outdoor service window or similar area that allows for a service to be provided from a building to persons in vehicles.

Dwelling. Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, except a manufactured home or camping trailer.

Dwelling Unit. One or more rooms, including cooking facilities and sanitary facilities in a dwelling structure, designed as a unit for owner occupancy, rent or lease on a weekly, monthly or longer basis by not more than one family for living and sleeping purposes.

E

Enlargement. An increase in floor area of an existing building or an increase in the size of an existing structure or an increase in the area of land use for an existing open space. The word "enlargement" shall include the word "extension."

Electric Vehicle Charging Station. A structure that supplies electric energy for the recharging of electric vehicles, such as plug-in electric vehicles, including electric cars, neighborhood electric vehicles and plug-in hybrids.

Essential Public Services. The erection, construction, alteration or maintenance by public utilities, City or other governmental agencies of underground or overhead gas, electrical, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment, buildings and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or City or other governmental agencies or for the public health or safety or general welfare.

F

Farmers Market. an organized market, conducted on a recurring basis, where two or more vendors offer agricultural products, food products, and related goods for sale directly to the public. A farmers' market may be held indoors or outdoors and may include products grown, raised, produced, or processed by participating vendors. This definition does not include a grocery store, or other retail businesses that sell food or other goods directly to consumers.

Floor Area. The total horizontal area of a building as outlined by its exterior main walls, not including any space the habitation of which is prohibited by any law, built-in or attached garages, porches, or terraces.

Footcandle. The amount of light that is produced by a candle at the distance of one foot. A footcandle is also the equivalent of one lumen per square foot.

Fraternal Organization/Private Club. A facility for the use of a membership organization or association with elected officers and directors, pursuant to a charter or bylaws, that excludes the general public from its premises and holds property for the common benefit of its members.

Freight Terminal. A facility for freight pick-up, transfer, or distribution by rail, truck, or water.

Funeral Services. A facility where the deceased are prepared for burial displays and for rituals before burial or cremation. Such facilities may include chapels, crematoriums, and showrooms for the display and sale of caskets, vaults, urns, and other items related to burial services.

G

Garage, Private. A building, accessory to dwellings, used exclusively for the parking or temporary storage of motor vehicles, boats, and trailers.

Group Home. A dwelling licensed, certified, or accredited by the appropriate local, state, or federal agencies, in which unrelated persons with disabilities, including those who have undergone treatment for alcohol or drug addiction, function as a single housekeeping unit and share responsibilities, meals, recreation, social activities, and other aspects of residential living. A group home does not include a residence that services persons as an alternative to incarceration, or that services people transitioning from incarceration.

H

Historic Resources. Any historic building, structure, facility, site or prehistoric site that is listed on the State and/or National Registers of Historic Places. Any historic building, structure, facility, site or district or prehistoric site that has been proposed by the NY Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for a nomination for inclusion in the National Register of Historic Places. Any locally significant historic resource designated pursuant to Article 5-K of the NYS General Municipal Law is also included.

Home Occupation. an occupation carried on inside of a dwelling unit by the resident thereof, provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit and does not change the character thereof.

I

Industrial Uses, Light. businesses that are engaged in the processing, assembly, packaging, storage, and distribution of products. Light industrial uses generally take place withing an enclosed building and generate limited noise, odor, traffic, vibration, or air pollution.

Industrial Uses, Medium. Enterprises in which goods are generally mass-produced from raw materials through the use of an assembly line or similar process, usually for sale to wholesalers or other industrial or manufacturing uses. Medium industrial uses produce moderate external effects such as smoke, noise, soot, dirt, vibration or odor. Medium industrial uses shall exclude enterprises which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides or other hazardous materials in the manufacturing or other process.

J

Junkyard. A building, structure, parcel of land or portion thereof, used for the storage, abandonment or sale of junk, scrap material or similar waste, including the dismantling, demolition or abandonment of automobiles, other vehicles, machinery or parts. Automobile junkyards as defined in General Municipal Law § 136 shall be included within this definition. "Junkyard" shall be synonymous with "salvage yard."

K

Kennel. An establishment where four or more dogs over six months of age are boarded, bred, raised, and trained.

L

Lodging. establishments primarily engaged in providing temporary accommodation for travelers, tourists, and other short-term occupants (less than 3 months). This includes, but is not limited to, hotels, motels, or other extended stay commercial accommodations. inns, bed-and-breakfasts, and similar facilities that offer sleeping accommodation. Short-term rentals are not considered under this definition and are prohibited within the City of Lackawanna.

Lot. A parcel or piece of land, designated as a separate parcel on a plat map or deed filed or recorded in the office of the Erie County, New York Clerk, occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this chapter, and having frontage on a public street.

Lot, Corner. A lot abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135°. The point of intersection of the street lot lines is the "corner."

Lot, Coverage. The portion of a site that is covered by impervious surfaces, including structures and paving.

Lot, Depth. The mean horizontal distance between the front and rear lot lines.

Lot, Frontage. The horizontal distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way. All sides of a lot that abut a street shall be considered lot frontage. On curvilinear streets, the arc between the side lot lines shall be considered the lot frontage.

Lot Line, Front. The line separating the lot from the public right-of-way.

Lot Line, Rear. The lot line opposite and most distant from the front lot line.

Lot Lines. The property lines bounding the lot.

Lot Line, Side. Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a "side street lot line."

Lot, Interior. A lot other than a corner lot.

Lot, Through. An interior lot having frontage on more than one street.

Lot Width. The distance between the two side lot lines measured at the required setback line, which is determined by the minimum front yard permitted in the district.

M

Medical Office/Health Care Facility (Major). hospitals and similar facilities engaged primarily in providing diagnostic services, and extensive medical treatment, including surgical and other hospital services. These establishments have organized medical staff, inpatient beds, and equipment and facilities to provide complete health care. May include on-site accessory uses such as clinics and laboratories, retail uses and emergency heliports.

Medical Office/Health Care Facility (Minor). A facility other than a hospital where medical, dental, mental health, surgical, and/or other personal health care services are provided on an outpatient basis. Includes medical offices (for example, offices for chiropractors, dentists, medical doctors, optometrists, prescription opticians, psychologists, etc.), outpatient facilities which may include surgery, urgent care facilities, dental laboratories, and medical laboratories. Minor medical office/health care facility uses can include but are not limited to:

Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

Manufactured Home Park. A parcel of land held by one owner that has been planned and improved for the placement of two or more mobile homes for living purposes.

Municipality. The City of Lackawanna, New York.

N

Neighborhood Garden. A small-scale agricultural use that has an area of less than 1,000 gross SQFT intended primarily for personal consumption, community sharing, or donation. Neighborhood gardens typically consist of individual or shared plots used for the cultivation of vegetables, fruits, herbs, and ornamental plants.

Nonconforming Lot, Use or Structure. A lot, use or structure or land lawfully occupied at the time of the enactment of this chapter by a use that does not conform to the regulation of the district in which it is situated. The definition of nonconformin.

O

Overlay Zone. Zoning districts that superimpose additional requirements upon a base zoning district to protect certain critical features and resources. Where the standards of the overlay and base zoning district are different, the more restrictive standards shall apply.

P

Personal Services. Businesses providing personal or household services typically by appointment or on a walk-in basis during normal business hours with some limited weekend hours. Examples include barber and beauty shops, nail salons, spas, shoe repair, tailors, massage therapists, dry cleaning and laundry pickup and drop-off locations without on-site processing equipment and other personal or household services accomplished on or off site.

Place of Worship. A facility primarily used for religious ceremonies, services, and activities conducted by a faith-based organization. This use includes, but is not limited to, churches, temples, synagogues, mosques, and similar religious institutions.

Places of Assembly. A facility primarily used for gatherings of people for civic, cultural, educational, social, or entertainment purposes. This use includes, but is not limited to, auditoriums, conference centers, banquet halls, event venues, theaters, community centers, and similar establishments designed to accommodate groups of people.

Planning and Development Board. The City of Lackawanna Planning and Development Board.

Professional Office. A commercial or institutional establishment primarily used for conducting business, administrative, or professional services. This use includes, but is not limited to, offices for businesses, government agencies, nonprofit organizations, and professionals such as attorneys, accountants, consultants, architects, engineers, and similar occupations. Professional Offices do not include retail sales or the on-site storage of goods.

Public Park/Open Space. A site reserved for active or passive recreation or natural resources protection.

Public Safety Facility. A facility operated by a public safety agency, including fire stations and firefighting facilities, police and sheriff substations and headquarters, emergency medical services substations.

Public Utility. Facilities and services that primarily serve local distribution needs, including, but not limited to, water and sewer pump stations, electrical transforming substations, water conveyance stations, gas regulating stations, telephone exchange/ switching centers, and emergency communication warning/ broadcast facilities.

R

Railway Facilities. Facilities for switches, spurs, tracks, structures, rail yards, and other facilities used in connection with the transportation of persons or goods by rail, including related equipment such as locomotives and shipping containers.

Recreation Facility, Indoor. A facility for spectator and participatory uses conducted within an enclosed building, such as movie theaters, sports arenas, bowling alleys, tumbling centers, ice rinks, roller rinks, video game arcades, indoor child play centers, and pool halls. Recreation Facility, Outdoor - A facility for spectator and participatory uses conducted outdoors or within partially enclosed structures, such as fairgrounds, campgrounds, batting cages, drive-in movie theater, recreational vehicle parks, petting zoos, golf courses, miniature golf courses, and amusement parks.

Recycling Facility. A building in which discarded nontoxic objects and materials are sorted and reclaimed using means that do not require chemical, electrical, or heating processes. This term shall specifically exclude the reclamation or treatment of any liquids, gases, vehicles or parts thereof, machinery, tools, or toxic solids. This term further excludes the outdoor stockpiling of material to be processed.

Research & Development Facility. A facility where research and development is conducted in industries including, but not limited to, biotechnology, pharmaceuticals, medical instrumentation or supplies, communication and information technology, electronics and instrumentation, and computer hardware and software. A research/laboratory facility does not involve the manufacture, fabrication, processing, or sale of products, with the exception of prototype development.

Residential Care Facility. A licensed care facility that provides 24-hour medical or non-medical care to persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living. Residential care facilities include nursing homes, independent living, assisted living, continuum of care, and hospice facilities.

Restaurant/Tavern. A business enterprise engaged in serving and preparing food and beverages selected from a full menu by patrons seated at a table or counter and consumed on the premises. Alcoholic beverages may also be sold for consumption on the premises

Retail Establishment. A business primarily engaged in the sale of goods, merchandise, or consumer products directly to the general public for personal or household consumption. This use typically includes, but is not limited to, department stores, specialty shops, supermarkets, convenience stores, pharmacies, and similar commercial enterprises. Retail establishments may operate within standalone buildings, shopping centers, or mixed-use developments and may include incidental services related to the sale of goods, such as delivery or repair services, provided they remain subordinate to the primary retail function.

S

Scenic Resource. Any road, highway, lane, district or corridor designated pursuant to Article 49 of the NYS Environmental Conservation Law. Any area designated a Scenic Area of Statewide Significance pursuant to the NYS Coastal Management Program is also included.

School, Public or Private. An educational facility concerned with the teaching of students which satisfies the applicable laws of the State of New York for students in including but not limited to pre-school, early childhood learning centers, elementary or secondary levels of education. Accessory facilities may include recreational fields, gymnasiums, auditoriums, and stadiums.

School, Vocational or Trade. A secondary or higher education facility primarily teaching usable skills that prepares students for jobs in a trade or in the arts, industry, construction, or commerce, and meeting all applicable state requirements for a facility of its type.

Self-Storage. A building or group of buildings in a controlled access and fenced outdoor area that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customers' goods or wares.

Short Term Rental. The rental of a dwelling unit for a period of time between 1 and 30 days.

Site Plan. Site plans shall, in narrative or graphic form, illustrate the intended design, arrangement and planned improvements to the land and describe the proposal's physical, social and economic effects on the community. The terms "site plan" and "site development plan" are interchangeable.

Slaughterhouse. A building or part thereof or premises used or kept for the purpose of killing, dressing or packing any cattle, sheep, hogs, calves or other animals, or the meat thereof, intended for human consumption.

Solar Energy System. See §8-15: Solar Energy and Battery Energy Storage Systems

Storage Yard. The use of land to store material, equipment, or vehicles for a period greater than 24 hours, and any structures associated with the outdoor storage.

Structure. Anything constructed, the use of which requires permanent location on the ground or attachment to something having permanent location on the ground, including stationary and portable carports.

Swimming Pool. Any receptacle for water having a depth at any point of more than two feet, or having a surface area exceeding 250 square feet, which is intended for recreation purposes, and including all appurtenant decks, walks and equipment constructed, installed, and maintained in or above the ground outside of the principal structure to which the pool is accessory

T

Telecommunication Facility. Any commercial equipment used in connection with the provision of wireless communication services, including cellular telephone services, personal communications services, radio and television broadcast communications and private radio communications services, and are regulated by the Federal Communications Commission, both in accordance with the Telecommunications Act of 1996 and other federal laws. A "telecommunication facility" shall include monopole, guyed, or latticework tower(s), as well as antenna(s), switching stations, principal accessory telecommunication equipment and supporting masts, wires, structures, and buildings.

Townhouse. A building or dwelling designed for or occupied by no more than one family and attached to other similar buildings or dwellings by not more than two common walls extending from the foundation to the roof thereof and providing two direct means of access from the outside. A townhouse is individually owned, with an owner receiving a deed enabling him/her to sell, mortgage or exchange his/her dwelling unit independent of the owners of any other dwelling unit attached thereto by common wall.

Trade and industrial schools. An educational institution focused on workforce training by providing vocational, technical, or skilled trades instruction to prepare individuals for employment in various industries. This use includes, but is not limited to, training programs for automotive repair, welding, plumbing, electrical work, carpentry, cosmetology, culinary arts, manufacturing, and mechanical trades.

Training Facility. A secure building or lot owned, operated, or occupied by a governmental agency or public authority to provide instructional, practical, and tactical training for public safety and emergency protection personnel. This includes, but is not limited to, law enforcement training centers, live-burn fire training towers, driver-training tracks, and indoor or outdoor firing ranges

U

Utility Shed (Shed). An accessory building used or intended for use as vehicle or equipment storage.

Use. The specific purpose for which land, water or a building or structure is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

V

Vehicle Use Area. an area primarily used for parking, circulation, and storage of vehicles, including but not limited to parking lots, loading areas, stacking spaces, and driveways.

W

Warehouse & Distribution Facility. A facility for the storage, wholesaling, and distribution of goods. If a warehouse/distribution use is ancillary to another principal use and has a floor area of less than 10,000 square feet, it is considered part of the principal use and is not considered a separate principal use.

Waste Transfer Station. A facility for the collection, storage, and transference of solid waste, which may include the collection, storage, processing, and transference of recyclables, and organic and yard waste. A waste transfer facility does not include industrial or sanitary landfills, or waste incineration facilities.

Water Line, Mean. The annual average water height of a water body.

Wind Energy System. See §8-17 Wind Energy Conservation Systems.

Y

Yard. Any open space which lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as herein permitted.

Yard, Front. An open space which lies between the principal building or group of buildings and the street lot line, unoccupied and unobstructed from the ground upward. In case of a corner lot or a through lot, the owner may select either street lot line as the front and shall designate same on any request for a building or use permit; however, the front yard requirements shall apply to yards fronting on any street.

Yard, Rear. An open space extending the full width of the lot between a principal building and the rear lot line, unoccupied and unobstructed from the ground upward.

Yard, Side. An open space extending from the front yard to the rear yard between a principal building and the nearest side lot line, unoccupied and unobstructed from the ground upward.

Z

Zoning Board of Appeals. The City of Lackawanna, New York Zoning Board of Appeals.



PART 3
ZONING DISTRICTS AND MAP

§3-1 DISTRICTS ESTABLISHED

For the purpose of this chapter, the City of Lackawanna is hereby divided into the following districts:

DISTRICT NAME	MAP SYMBOL/ ABBREVIATION
BASE DISTRICTS	
Residential District 1	R-1
Residential District 2	R-2
Residential District 3	R-3
Neighborhood Transition	NT
Central Business District	CBD
Regional Commercial	RC
Enterprise	ENT
Open Space	OS
Bethlehem Redevelopment Area	BRA
OVERLAY DISTRICTS	
Historic Property Overlay	HPO
Light Industry	LI
Medium Industry	MI
Heavy Industry	HI
Intermodal	INT
Lakefront Open Space	LOS

§3-2 ZONING MAP

The boundaries of the zoning districts are hereby established on a map entitled "City of Lackawanna Zoning Map" which accompanies and is hereby declared to be a part of this chapter.

§3-3 INTERPRETATION OF BOUNDARIES

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

A. Where the designation on the Zoning Map indicates a boundary approximately upon a road, the center line of the road shall be construed to be the boundary.

B. Where the designation on the Zoning Map indicates a boundary approximately on a lot line, such lot line shall be construed to be the boundary.

C. Distances on the Zoning Map are perpendicular distances from road center lines where distances are given parallel to the road center line.

D. In other cases, the district boundary shall be determined by the use of the scale of the Zoning Map.

E. Where a district boundary divides a lot of record at the time such boundary is adopted, the district requirements of the greater portion of the lot will become the requirements of the entire lot.

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PART 4
PERMITTED USES

§4-1 USE SCHEDULE

The following table outlines the permitted uses in each zoning district.

P **1.** Uses marked with a "P" are permitted within the district as indicated.

S **2.** Uses marked with an "S" require a Special Use Permit pursuant to the requirements in §11-9.

P* S* **3.** An asterisk (*) signifies that the use has additional requirements that must be met for the use to be established. These additional requirements are listed in Part 8 of this Ordinance.

4. Uses that do not have one of the markings listed in this section are expressly prohibited.

	R-1	R-2	R-3	CBD	NT	RC	OS	ENT	BRA				
PRINCIPAL USE									LI	MI	HI	INT	LOS
RESIDENTIAL													
1-Family Housing	P	P	P	P	P	–	–	–	–	–	–	–	–
2-Family Housing	P	P	P	P	P	–	–	–	–	–	–	–	–
3-Family Housing	–	P	P	P	P	–	–	–	–	–	–	–	–
Manufactured Home Park	–	–	P*	–	–	–	–	–	–	–	–	–	–
Multi-Family Housing	–	P	P	P	P	P	–	–	–	–	–	–	–
Group Home	–	–	–	S	S	S	–	–	–	–	–	–	–
Residential Care Facility	–	–	–	S	S	S	–	–	–	–	–	–	–

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PRINCIPAL USE	R-1	R-2	R-3	CBD	NT	RC	OS	ENT	BRA				
									LI	MI	HI	INT	LOS
COMMERCIAL													
Adult Uses	–	–	–	–	–	–	–	S*	–	–	–	–	–
Animal Service Facilities	–	–	–	P*	P*	P*	–	P*	–	–	–	–	–
Automotive Sales	–	–	–	S	S	P	–	P	–	–	–	–	–
Automotive Service Facility	–	–	–	S*	S*	P*	–	P*	–	–	–	–	–
Car Wash	–	–	–	–	–	P	–	P	–	–	–	–	–
Cannabis Facilities	–	–	–	–	–	–	–	–	–	–	–	–	–
Day Care Center	–	–	S	P	P	P	–	–	–	–	–	–	–
Lodging	–	–	–	P	P	P	–	–	–	–	–	–	–
Medical Office/Health Care Facility (Major)	–	–	–	P	S	P	–	P	–	–	–	–	–
Medical Office/Health Care Facility (Minor)	–	–	–	S	P	P	–	P	–	–	–	–	–
Personal Services	–	–	–	P	P	P	–	–	–	–	–	–	–
Professional Office	–	–	–	P	P	P	–	P	P	P	–	–	–
Restaurant/Tavern	–	–	–	P	P	P	–	–	–	–	–	–	–
Retail Establishment	–	–	–	P	P	P	–	–	–	–	–	–	–
Nursery/Home and Garden Supply	–	–	–	S	P	P	–	P	S	–	–	–	–

PRINCIPAL USE	R-1	R-2	R-3	CBD	NT	RC	OS	ENT	BRA				
									LI	MI	HI	INT	LOS
CIVIC/PUBLIC USES													
Recreation Facility, Indoor	–	–	–	P	P	P	–	P	P	–	–	–	–
Recreation Facility, Outdoor	–	–	–	S	P	P	P	P	–	–	–	–	–
Cemetery	P*	P*	P*	–	P*	P*	P*	–	–	–	–	–	–
Civic/Government Buildings	P	P	P	P	P	P	P	P	–	–	–	–	–
Community Scale Agriculture	–	–	P*	–	–	–	P*	–	–	–	–	–	–
Cultural Facility	–	–	–	P	P	P	P	–	–	–	–	–	–
Farmers Market	–	–	–	–	–	–	–	–	–	–	–	–	–
Funeral Services	–	–	–	P	P	P	–	P	–	–	–	–	–
Lodge/Private Club	–	–	–	P	P	P	–	–	–	–	–	–	–
Neighborhood Garden	S*	P*	P*	S*	P*	–	P*	–	–	–	–	–	–
Place of Worship	P	P	P	P	P	P	P	P	–	–	–	–	–
Places of Assembly	–	–	–	P	P	P	P	–	–	–	–	–	–
Public Park/Open Space	P	P	P	P	P	P	P	P	–	–	–	–	P
Public Safety Facility	P	P	P	P	P	P	P	P	–	–	–	–	–
School, Public or Private	P	P	P	P	P	P	–	–	–	–	–	–	–
School, Vocational or Trade	–	–	–	P	P	P	–	P	P	–	–	–	–
Trails	P	P	P	P	P	P	P	P	–	–	–	–	P

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PRINCIPAL USE	R-1	R-2	R-3	CBD	NT	RC	OS	ENT	BRA				
									LI	MI	HI	INT	LOS
INDUSTRIAL/ENTERPRISE													
Bulk cargo storage and handling facilities and loading/unloading equipment, including cranes, conveyors, and hoppers	–	–	–	–	–	–	–	–	–	–	–	–	–
Asphalt Plant	–	–	–	–	–	–	–	–	–	–	–	–	–
Data Facility/Crypto Currency Mining	–	–	–	–	–	–	–	–	–	–	–	–	–
Coal and Coke Handling	–	–	–	–	–	–	–	–	–	–	S	–	–
Concrete Production (Batch Plant), Precast Concrete and Aggregate Products	–	–	–	–	–	–	–	–	–	–	S	–	–
Electrical and Power Production and Power Facilities	–	–	–	–	–	–	–	P	–	–	S	–	–
Energy and Fuel Production, Including but Not Limited to Biomass; Ethanol; and Biodiesel;	–	–	–	–	–	–	–	–	–	–	S	–	–
Extraction Industries Related to the Mining of On-Site Materials	–	–	–	–	–	–	–	–	–	–	S	–	–
Freight Terminal	–	–	–	–	–	–	–	–	–	–	S	–	–
Junkyard	–	–	–	–	–	–	–	–	–	–	–	–	–
Production or Refining of Petroleum-Related Products	–	–	–	–	–	–	–	–	–	–	S	–	–
Production of Bio-Mass-Derived Fuels	–	–	–	–	–	–	–	–	–	–	S	–	–
Public Utility	P	P	P	P	P	P	P	P	P	P	P	P	P
Railway Facilities	–	–	–	–	–	–	–	P	–	S	P	–	–
Recycling Facility	–	–	–	–	–	–	–	P	–	P	–	–	–
Research & Development Facility	–	–	–	–	–	–	–	P	P	–	–	–	–

PRINCIPAL USE	R-1	R-2	R-3	CBD	NT	RC	OS	ENT	BRA				
									LI	MI	HI	INT	LOS
Self-Storage	–	–	–	–	–	P	–	P	–	–	–	–	–
Solar Energy System	–	–	–	–	–	–	–	–	–	–	–	–	–
Tier 1	–	–	–	–	–	–	–	–	–	–	–	–	–
Tier 2	–	–	–	–	–	–	–	–	–	–	–	–	–
Tier 3	–	–	–	–	–	–	–	S*	S*	S*	S*	–	–
Tier 4	–	–	–	–	–	–	–	–	–	–	S*	–	–
Solid Waste Management Facility Under Permit or License by the NYSDEC	–	–	–	–	–	–	–	P	–	–	S	–	–
Storage Yard	–	–	–	–	–	–	–	P	S	S	–	–	–
Telecommunications Facility	–	–	–	–	–	P*	–	P*	–	–	–	–	–
Warehouse & Distribution Facility	–	–	–	–	–	–	–	P	S	S	S	P	–
Waste Transfer Station	–	–	–	–	–	–	–	P	–	–	–	–	–
Wind Energy System	–	–	–	–	–	–	–	–	–	–	S*	–	–
Laboratory	–	–	–	–	–	–	–	P	P	P	–	–	–

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PRINCIPAL USE	R-1	R-2	R-3	CBD	NT	RC	OS	ENT	BRA				
									LI	MI	HI	INT	LOS
Component and Equipment Assembly Including: • Electronic Component and Equipment Assembly • Food and Beverage Products • Household Items and Furniture • Office Equipment • Panels, Sheets, Tubes or Rods • Pharmaceutical Products, Cosmetics or Toiletries • Plastic and Rubber Components and Finished Products • Printing, Publishing and Engraving, Including Newspapers • Recreation Equipment or Toys	–	–	–	–	–	–	–	P	P	–	–	–	–
Manufacturing, Assembly, and/or Fabrication of: • Food and Beverage Products • Household Items and Furniture • Office Equipment • Panels, Sheets, Tubes or Rods • Pharmaceutical Products, Cosmetics or Toiletries • Plastics and Plastic Components • Printing, Publishing and Engraving • Recreational Equipment or Toys • Aluminum and Aluminum Products • Automobile, Marine and Heavy Equipment • Electrical and Electronic Equipment and Appliances • Extruded Products from Plastics, Metals and Ceramics • Fabrication of Metal Products • Household and Industrial Chemical Compounds • Machinery, Including Parts and Components • Plastic and Rubber Components and Finished Products • Steel Refinishing • Alternative Energy Components and Assembly • Other Related Materials	–	–	–	–	–	–	–	P	–	P	–	–	–

	R-1	R-2	R-3	CBD	NT	RC	OS	ENT	BRA				
PRINCIPAL USE									LI	MI	HI	INT	LOS
Manufacturing and/or Assembly of the Following Products: • Cement, Lime, Gypsum, Plaster of Paris, and Abrasives • Fabrication and Finishing of Steel or Other Metal Products • Fertilizer, Glue, Gelatin, Grain Drying and Feed • Steel	–	–	–	–	–	–	–	–	–	–	S	–	–
Manufacturing or Production of Gases with Approval from the Fire Department	–	–	–	–	–	–	–	–	–	–	S	–	–
Lumber Yard	–	–	–	–	–	–	–	P	S	–	–	–	–
Enclosed Bulk Cargo Storage and Handling	–	–	–	–	–	–	–	P	–	P	–	–	–
Motor Freight Facility & Depot	–	–	–	–	–	–	–	P	–	S	S	P	–
Intermodal Facility	–	–	–	–	–	–	–	–	–	S	–	P	–
Maritime Terminal	–	–	–	–	–	–	–	–	–	–	–	P	–
Training Facility	–	–	–	–	–	–	–	P	P	–	–	–	–
Noncommercial Land Treatment and Land Filling of On-Site Remediation Material	–	–	–	–	–	–	–	–	–	–	P	–	–
Slag Reclamation	–	–	–	–	–	–	–	–	–	–	P	–	–
Slaughterhouse	–	–	–	–	–	–	–	S	–	–	–	–	–

§4-2 USES NOT LISTED

The City of Lackawanna Zoning Enforcement Officer shall determine whether or not an unlisted use is similar to an existing use or substantially similar to an already defined use. To determine similarity of an unlisted use, the following shall be considered:

A. Actual or projected characteristics of the proposed use

B. iThe relative amount of lot area or floor area and equipment devoted to the proposed use:

C. Relative amounts of sales;

D. The customer type;

E. The relative number of employees;

F. Hours of operation;

G. Building and site arrangement;

H. Types of vehicles used and their parking requirements;

I. The number of vehicle trips generated;

J. How the proposed use is advertised;

K. The likely impact on surrounding properties; and

L. Whether the activity is likely to be found independent of the other activities on the lot.

PART 5
DISTRICT REGULATIONS

§5-1 RESIDENTIAL DISTRICT 1 (R-1)

A. Purpose. The intent of the R-1 District is to permit the construction and/or reconstruction of homes in a manner that generally consists of owner-occupied, detached homes on varied lot sizes, with unobstructed front yards, sidewalks, street trees, and other amenities.

B. Principal and Special Uses. Permitted uses within the R-1 District are listed within the schedule of uses in §4-1. There shall not be more than one principal residential structure permitted on a lot in the R-1 District, however, the principal structure may contain up to 2 dwelling units.

C. Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Lot Size	6000 sq. ft.
Minimum Lot Frontage	60 ft.
Maximum Building Height	2.5 Stories or 25 ft.
Minimum Front Yard Setback	25 ft.
Rear Yard Setback	25 ft.
Side Yard Setback	8 ft. Each Side
Maximum Lot Coverage (Including Accessory Structures)	40%

D. Accessory Uses and Structures

ACCESSORY USE/STRUCTURE	STANDARDS
Detached Garage	
Shed	
Off Street Parking	§7-2
Accessory Dwelling Unit	§8-3
Home Occupation	§8-10
Neighborhood Garden	§8-13
Private Recreational Structures and Uses	
Fences	§7-4-6
Private Schools and Day Cares, Accredited when Required by NYS, when Accessory to a Place of Worship	
Swimming Pools	
Signs	§7-9
Solar energy system	§8-15
Other Uses and Structures that are Customarily Incidental to the Principal Use	

E. Accessory Use Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Building Separation	5 ft.
Minimum from Lot Line	5 ft.
Maximum Height	20 ft. or Height of the Principal Structure

F. General Development Standards. Development in the R-1 District shall comply with the general development standards listed in Part 7 of this Chapter as applicable.

§5-2 RESIDENTIAL DISTRICT 2 (R-2)

A. Purpose. The intent of the R-2 District is to promote the development of a diversity of housing types including attached and detached residential structures. This district intends to provide flexibility in style, and placement while protecting the value and character of existing neighborhoods.

B. Principal and Special Uses. Permitted uses within the R-2 District are listed within the schedule of uses in §4-1.

C. Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Lot Size	3,000 sq. ft.
Minimum Lot Frontage	30 ft.
Maximum Building Height	2.5 Stories or 25 ft.
Front Yard Setback	10 ft.
Rear Yard Setback	20 ft.
Side Yard Setback	5 ft./10 ft. Combined
Maximum Lot Coverage (Including Accessory Structures)	40%

D. Accessory Uses and Structures

ACCESSORY USE/STRUCTURE	STANDARDS
Detached Garage	
Shed	
Off Street Parking	§7-2
Accessory Dwelling Unit	§8-3
Home Occupation	§8-10
Neighborhood Garden	§8-13
Fences	§7-4-6
Swimming Pools	
Solar Energy System	§8-15
Private Schools and Day Cares, Accredited When Required by NYS, When Accessory to a Place Of Worship	
Swimming Pools	
Signs	§7-9
Other Uses and Structures that are Customarily Incidental to the Principal Use	

E. Accessory Use Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Building Separation	5 ft.
Minimum From Lot Line	5 ft.
Maximum Height	20 ft. or Height of the Principal Structure

§5-3 RESIDENTIAL DISTRICT 3 (R-3)

A. Purpose. The intent of the R-3 District is to provide opportunity for the development of medium density housing where the style, orientation, and character blend into the existing fabric of the neighborhood.

B. Principal and Special Uses. Permitted uses within the R-3 District are listed within the schedule of uses in §4-1.

C. Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Lot Size	7,500
Minimum Lot Frontage	75 ft .
Maximum Building Height	4 Stories or 45 ft.
Minimum Front Yard Setback	20 ft.
Rear Yard Setback	20 ft.
Side Yard Setback	10 ft .
Maximum Lot Coverage (Including Accessory Structures)	N/A

D. Accessory Uses and Structures

ACCESSORY USE/STRUCTURE	STANDARDS
Detached Garage	
Shed	
Off Street Parking	§7-2
Accessory Dwelling Unit	§8-3
Home Occupation	§8-10
Neighborhood Garden	§8-13
Fences	§7-4-6
Swimming Pools	
Solar Energy System	§8-15
Other Uses and Structures that are Customarily Incidental to the Principal Use	

E. Accessory Use Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Building Separation	5 ft.
Minimum From Lot Line	5 ft.
Maximum Height	20 ft. or Height of the Principal Structure

§5-4 CENTRAL BUSINESS DISTRICT (CBD)

A. Purpose. The Central Business District intends to foster the development of the City's commercial, civic and tourism center. The CBD encourages residential, commercial and public uses acting together to create a vibrant, mixed-use activity center. The scale and design of buildings should seek to preserve and enhance the urban character of the corridor.

B. Principal and Special Uses. Permitted uses within the Central Business District are listed within the schedule of uses in §4-1.

C. Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Lot Size	4,000 sq. ft.
Minimum Lot Frontage	N/A
Maximum Building Height	4 Stories or 40 ft.
Maximum Front Yard Setback	10 ft.
Rear Yard Setback	10 ft.
Side Yard Setback	0 ft.
Maximum Lot Coverage (Including Accessory Structures)	80%
Minimum Floor Area (Ground Story)	1,000 sq. ft.

D. Accessory Uses and Structures

ACCESSORY USE/STRUCTURE	STANDARDS
Shed	
Off Street Parking, Loading, and Stacking Facilities	§7-2
Fences	§7-4-6
Signs	§7-9
Solar Energy System	§8-15
Other Uses and Structures that are Customarily Incidental to the Principal Use	

E. Accessory Use Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Building Separation	5 ft.
Minimum From Lot Line	5 ft.
Maximum Height	20 ft. or Height of the Principal Structure

§5-5 NEIGHBORHOOD TRANSITION DISTRICT (NT)

A. Purpose. The purpose of the Neighborhood Transition District is to encourage the development of pedestrian scale commercial and residential uses that serve the day-to-day needs of local residents, to support neighborhood activities and insure the compatibility of development with the surrounding sensitive residential uses.

B. Principal and Special Uses. Permitted uses within the Neighborhood Transition District are listed within the schedule of uses in §4-1.

C. Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Lot Size	2,500 sq. ft.
Minimum Lot Frontage	30 ft
Maximum Building Height	3 Stories or 35 ft.
Maximum Front Yard Setback	10 ft.
Rear Yard Setback	10 ft.
Side Yard Setback	3 ft.
Maximum Lot Coverage (Including Accessory Structures)	80%
Minimum Floor Area (Ground Story)	1,000 sq. ft.

D. Accessory Uses and Structures

ACCESSORY USE/STRUCTURE	STANDARDS
Detached Garage	
Shed	
Off Street Parking	§7-2
Accessory Dwelling Unit	§8-3
Home Occupation	§8-10
Neighborhood Garden	§8-13
Private recreational structures and uses	
Fences	§7-4-6
Private Schools and Day Cares, Accredited when Required by NYS, when Accessory to a Place of Worship	
Swimming Pools	
Signs	§7-9
Solar Energy System	§8-15
Other Uses and Structures that are Customarily Incidental to the Principal Use	

§5-6 REGIONAL COMMERCIAL (RC)

A. Purpose. The Regional Commercial District focuses on the encouragement of commercial uses, while protecting surrounding uses from increased traffic, lighting, noise and other encroachments.

B. Principal and Special Uses. Permitted uses within the Regional Commercial District are listed within the schedule of uses in §4-1.

C. Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Lot Size	5,000 sq. ft.
Minimum Lot Frontage	50 ft.
Maximum Building Height	3 Stories or 35 ft.
Maximum Front Yard Setback	20 ft.
Rear Yard Setback	
• Adjacent to a Residential Use	20 ft.
• Adjacent to a Non-Residential Use	5 ft.
Side Yard Setback	
• Adjacent to a Residential Use	20 ft.
• Adjacent to a Non-Residential Use	5 ft.
Maximum Lot Coverage (Including Accessory Structures)	80%

D. Accessory Uses and Structures

ACCESSORY USE/STRUCTURE	STANDARDS
Off Street Parking	§7-2
Fences	§7-4-6
Signs	§7-9
Solar Energy System	§8-15
Other Uses and Structures that are Customarily Incidental to the Principal Use	

§5-7 ENTERPRISE DISTRICT (ENT)

A. Purpose. The Enterprise District within the City of Lackawanna provides a balanced employment mix and diversified tax base for the city. The district is designed to accommodate light industrial, assembly, and office uses while providing the opportunity for large scale warehousing and distribution.

B. Principal and Special Uses. Permitted uses within the Regional Commercial District are listed within the schedule of uses in §4-1.

C. Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Lot Size	20,000 sq. ft.
Minimum Lot Frontage	75 ft.
Maximum Building Height	3 Stories or 35 ft.
Maximum Front Yard Setback	20 ft.
Rear Yard Setback	
• Adjacent to a Residential Use	20 ft.
• Adjacent to a Non-Residential Use	5 ft.
Side Yard Setback	
• Adjacent to a Residential Use	20 ft.
• Adjacent to a Non-Residential Use	5 ft.
Maximum Lot Coverage (Including Accessory Structures)	80%

D. Accessory Uses and Structures

ACCESSORY USE/STRUCTURE	STANDARDS
Off Street Parking	§7-2
Fences	§7-4-6
Signs	§7-9
Solar Energy System	§8-15
Other uses and Structures that are Customarily Incidental to the Principal Use	

§5-8 OPEN SPACE DISTRICT (OS)

A. Purpose. The Open Space District has been designated in the City of Lackawanna to preserve and protect natural and open space resources in the City of Lackawanna while allowing for the placement of essential public services, utilization of property for recreation and open space uses.

B. Principal and Special Uses. The permitted principal uses within this district are listed in the use schedule in §4-1.

C. Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Lot Size	N/A
Minimum Lot Frontage	N/A
Floor Area—Maximum	5,000 sq. ft.
Maximum Building Height	2.5 stories or 25 ft.
Minimum Front Yard	As Determined Through Site Plan Review
Minimum Side Yard	As Determined Through Site Plan Review
Minimum Rear Yard	As Determined Through Site Plan Review
Maximum Building Coverage	As Determined Through Site Plan Review
Maximum Lot Coverage	As Determined Through Site Plan Review

D. Accessory Uses and Structures

ACCESSORY USE/STRUCTURE	STANDARDS
Accessory storage buildings	
Solar Energy Systems	§8-15
Fences	§7-4-6
Off-Street Parking and Loading Facilities	§7-2
Picnic and Transit Shelters	
Signs	§7-9
Other Uses and Structures that are Customarily Incidental to the Principal Use	

§5-9 BETHLEHEM REDEVELOPMENT AREA (BRA)

A. Purpose. The purpose of the Bethlehem Redevelopment Area is to redevelop the former industrial site into a driver of economic activity for Lackawanna and Western New York.

B. Principal and Special Uses. The Permitted principal uses within this overlay district are listed in the use schedule in §4-1.

C. Dimensional Standards. The dimensional standards of the Bethlehem Redevelopment Area are vested within the Light Industrial, Medium Industrial, Heavy Industrial, Intermodal, and Lakefront Open Space Overlay Districts.

D. Accessory Uses and Structures

ACCESSORY USE/STRUCTURE	STANDARDS
Accessory Storage Buildings	
Fences	§7-4-6
Off-Street Parking and Loading Facilities	§7-2
Transit Shelters	
Signs	§7-9
Solar Energy System	§8-15
Other uses and Structures that are Customarily Incidental to the Principal Use	

E. Prohibited Uses. Per deed restrictions placed on the former Bethlehem Steel Corporation property, the following land uses are prohibited in the BRA:

1. Residential (All Densities);
2. Schools;
3. Day-care Facilities and Nursery Schools, or Other Facilities Primarily used for Multiple Numbers of Persons Under the Age of 18 Years; and,
4. Wells for Extraction of Water, Other than for Monitoring, Treating or Remediation.

F. Site Plan Review. All changes in land use or expansion of existing land uses are subject to site plan review in accordance with §11-5 of this chapter.

G. Design Standards.

1. **Intent.** These supplemental regulations are intended to establish design standards for all development occurring in the portions of the Bethlehem Redevelopment Area immediately adjacent to New York State Route 5 and/or the Hamburg Turnpike (which are both segments of the Great Lakes Seaway Trail and National Scenic Byway). Properties visible from these roadways are part of the gateway into the City of Lackawanna and should be held to a higher design standard to maintain a quality image of this part of the City. It is the intent of this section to guide site development as it relates to building and parking orientation, general building design, landscaping, site lighting, signage and outdoor storage for all development that occurs in this area of the BRA.
2. **Applicability.** The following supplemental regulations and design guidelines shall apply to development sites located within the BRA that have property boundaries adjoining New York State Route 5 and/or the Hamburg Turnpike rights-of-way. These regulations apply to all areas zoned BRA-LI, and some property zoned BRA-MI.

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3. **Building and Lot Orientation.** Unless otherwise specified, the following provisions are supplemental to the applicable regulations outlined in Part 5 of this Chapter.
   a. All lots shall have primary frontage along the internal public roadway, with access to buildings and their associated parking lots provided from the internal roadway.
   b. For lots situated along New York State Route 5 or the Hamburg Turnpike, the portion of the building facing these roadways shall be considered a secondary frontage. No driveway access will be allowed onto New York State Route 5 or the Hamburg Turnpike with the issuance of a Special Use Permit pursuant to §11-9.
   c. The rear facades and side walls of buildings that face the Hamburg Turnpike shall be designed in a manner that is in keeping with an aesthetic image for this gateway area. Properties shall abide by all design standards.
   d. Primary building entrances shall be oriented towards the internal roadway with secondary entrances on the side or rear facing the parking area.
   e. The subdivision of any BRA lots situated along New York State Route 5 shall result in sublots that are symmetrical in layout (square or rectangle); the creation of oddly shaped lots is discouraged.
   f. Loading docks shall have access to the internal public roadway and shall be properly screened from view.
4. **Parking and Circulation.** Unless otherwise specified, the following provisions are supplemental to the applicable existing regulations of §7-2:

A. **Parking and Pedestrian Circulation.**
   i. Minimum off-street parking requirements for site development shall be as established pursuant to §7-2.
   ii. All parking areas shall be paved and striped with the surfaces in good condition and designed for proper drainage.
   iii. No parking shall be permitted within eight feet of any portion of a building other than for loading area and access to the loading dock.
   iv. The eight-foot area between parking lots and buildings shall be used for sidewalks, foundation plantings and other site amenities, such as benches, bike racks and lighting.
   v. Shared parking and shared access between parking lots is encouraged in order to reduce the total area dedicated to parking.
   vi. Where parking areas abut parking areas on adjacent lots, a minimum five-foot vegetative buffer strip shall be installed to break up the monotony of the paved areas.
   vii. Clearly marked pedestrian pathways shall be provided within the interior of parking lots to avoid large expanses of asphalt and to enhance pedestrian safety.
   viii. As per §7-4, shade trees shall be provided in parking lots to ensure that within 15 years after the establishment of the lot at least 40% of the lot, calculated by using the diameter of the tree crown at 15 years, will be shaded. This can be accomplished with center islands and plantings along the parking lot edges.

ix. Areas that will be utilized by trucks shall be built to a standard that can effectively support the anticipated weight.

B. Sidewalks.

i. Sidewalks measuring six feet in width shall be provided along the internal public roadway in the BRA-LI District.

ii. Interior sidewalks or striped crosswalks shall be provided to ensure safe pedestrian travel between building and the sidewalk along the internal public roadway.

iii. Sidewalks shall be provided to connect parking areas located to the sides and rear of buildings with the front entrance.

iv. Pedestrian amenities such as benches and trash receptacles shall be provided where appropriate.

5. Building Character and Materials.

(A) Building Scale and Design.

(1) Diversity in architectural style is encouraged; however, multiple buildings on the same site shall be designed to present a coordinated or compatible visual relationship.

(2) Exterior building design features shall be encouraged to provide individual character to buildings. Such features may include decorative cornices, pilasters, columns, relief, medallions, dormers and eave breaks.

(3) No building facade that faces a street shall have a blank, uninterrupted wall of more than 20 linear feet (40 feet for buildings greater than 120 feet in length). This can be achieved through the use of a combination of divisions or breaks in the materials, separate entrances and entry treatments, windows, vegetation or other visual design elements, colors and textures.

(4) In multistory buildings, the ground floor shall be distinguished from the floors above. This can be achieved through a combination of an intermediate cornice line, a difference in building materials or detailing, an awning, trellis or arcade, special window lintels or brick corbels or quoins.

(5) Architectural elements and features should be designed at a scale to be visible from the street.

(6) Buildings that front more than one street shall have a front facade facing each street.

(7) Rooftop screening shall be incorporated in the design of buildings to shield vents and rooftop-mounted equipment from view of the street.

(8) Equipment that emits noise shall be appropriately screened to prevent sound from traveling beyond the property line.

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(B) Accessory Structures

(1) Mobile office trailers, truck trailers, shipping containers or other storage trailers shall not be permitted for permanent use as office or production space, or for storage purposes.

(C) Building Materials

(1) No fewer than two exterior materials shall be utilized for building facades.

(2) Building materials shall be comprised of materials of high quality and durability. Walls shall be clad in a mix of stone, brick, marble, metal paneling, cast concrete, vinyl siding, Dryvit® and Hardie board, cement paneling or similar material.

(3) All walls visible from a public right-of-way shall be clad with the same material required for the front facade of the building.

(4) Roofing systems shall be comprised of materials appropriate to the architectural style and color palette of the building.

(5) Deteriorated or damaged exterior building materials shall be repaired or replaced using appropriate materials.

(D) Landscaping

(1) The entrance points to any site shall be well designed and landscaped as a unique element of each business.

(2) Foundation landscaping shall consist of trees, shrubs, and flower beds.

(3) Trees shall be planted along the street frontage every 30 feet on center.

(4) Trees shall be provided in setback areas to ensure that within 15 years of establishment at least 60% of the setback, calculated as the diameter of the tree crown, will be shaded.

(5) Landscaped islands, planted with trees and shrubs, shall be provided within parking areas for more than 30 vehicles to break up the monotony of pavement and provide shaded areas. One island shall be placed between every 15 parking spaces.

(4) Landscaping shall be protected from impacts of snow clearance and storage.

vii. All on-site landscaping shall comply with additional standards found in § 230-34.

viii. All landscape features identified for site development as part of an approved site plan shall be properly maintained and, as necessary, replaced to ensure compliance with this approval.

6. Screening and Outdoor Storage

(A) Screening. Unless otherwise specified, the following provisions are supplemental to the applicable regulations outlined in §7-7:

(1) Parking areas situated between buildings and the New York State Route 5 corridor shall utilize a combination of berms, shrubs and trees to effectively screen these areas from view.

(2) Loading docks shall be effectively screened from view from both Route 5 and primary interior roadways through the use of fencing, partitions constructed of brick or other acceptable materials, berming, vegetation or any combination thereof.

(3) Dumpsters shall be properly screened from view with fencing or a masonry enclosure that exceeds the height of the trash receptacles contained therein.

(4) Dumpster enclosures shall be gated and gates shall be kept closed when not in use.

(5) Trash compactors and recycling bins shall be properly screened with dense vegetation, wood fencing or masonry enclosures that match the design of the building.

(B) Mechanical and Utility Equipment

(1) Ground-mounted mechanical and utility equipment shall be properly screened from view with vegetative plantings or other measures to not be visible from New York State Route 5 and the interior public roadway.

(2) Roof-mounted mechanical equipment shall be screened with parapet walls or other appropriate measures to not be visible from New York State Route 5 or the interior public roadway.

(C) Outdoor Storage. Outdoor storage or display of bulk materials, equipment, component products or finished products shall not be allowed in the BRA-LI District or portions of the BRA-MI District located along Route 5.

vii. Utilities. All on-site utilities shall be designed and constructed in compliance with the provisions of §7-13.

viii. Lighting and Signage.

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(A) Lighting

(1) All site lighting, both freestanding and fixtures attached to structures, shall be properly screened to prevent glare, uplighting and spill off the property.

(2) Night lighting must be provided for all pedestrian facilities.

(3) Bollard lighting can be used as accent lighting along pedestrian paths and to highlight pedestrian crossings in parking lots and across streets.

(4) Lighting within industrial sites for security and nighttime operation shall be limited and properly screened.

(5) Lighting on buildings to highlight architectural detail is permissible.

(6) Lighting shall comply with additional standards found in §7-5.

(G) Signage. Unless otherwise specified, the following guidelines are supplemental to the applicable existing regulations §7-9:

(1) The size and color of signs shall complement the facade, scale and architectural style of the building.

(2) Street numbers shall be prominently displayed at the main entrance to every business and be clearly visible from the street.

(3) Exterior signs shall be limited to business identification and description; signs advertising products shall be prohibited.

(4) External signage that is illuminated shall be properly controlled to prohibit excessive light that spills outward or upward.

(5) Rooftop signs and billboards on buildings shall be prohibited.

(6) Directional signage may be provided at key locations within a site that has more than one primary structure for wayfinding purposes.

(7) No off-premises signs are permitted.

§5-10 LIGHT INDUSTRY OVERLAY (LI)

A. Purpose. The primary purpose of the Light Industry Overlay District is to encourage the development of a mix of uses, such as offices, research and development facilities, wholesale, warehousing/distribution, and light manufacturing uses, with the intent of offering a wide range of job opportunities with a focus on contributing to the City's tax base. Properties in the BRA-LI are visible from New York State Route 5 and/or the Hamburg Turnpike and help establish the image of the area. Development in this district is subject to higher design standards in order to present an attractive setting.

B. Principal and Special Uses. The Permitted principal uses within this overlay district are listed in the use schedule in §4-1.

C. Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Lot Size	5 Acres; or 50 Acres for PUD
Minimum Lot Frontage	300 ft.
Maximum Building Height	45 feet or 3 Stories
Minimum Front Yard	30 ft./50-foot Setback Required from New York State Route 5 Right-of-Way/Hamburg Turnpike Right-of-Way
Minimum Side Yard	25 ft.
Minimum Rear Yard	N/A
Minimum Buffer to Smokes Creek Mean Water Line	50 ft.
Minimum Building Coverage	15%
Maximum Lot Coverage	75%
Minimum Landscaping Coverage	25%
Minimum Setback for Parking from Right-of-Way	10 ft.

D. Accessory Uses and Structures. The following are permitted in the Light Industry Overlay District:

1. Communication towers/dishes required for operation of primary use;
2. Employee services, such as cafeterias, credit unions and recreational facilities, which are located within the primary structure and occupy no more than 10% of the developed floor area;
3. Satellite television receiving antenna;
4. Truck shipping and delivery facilities accessory to primary operation;
5. Warehouse and distribution facilities ancillary to the primary use and limited to a floor area not to exceed 35% of the gross floor area of the primary use; and,
6. Rooftop solar energy system apparatus, if not visible from a public right-of-way, and if attached to a primary structure, and if not creating an exceedance of area height restrictions measured from top of apparatus to ground [Amended 3-29-2021].

E. Accessory Use and Structure Dimensional Standards. Accessory use and structures shall meet the minimum dimensional requirements of the principal uses and structures of the Light Industrial Overlay District.

§5-11 MEDIUM INDUSTRY OVERLAY (MI)

A. Purpose. The Medium Industry (MI) Overlay has been created to establish a transitional zone between the Light Industry Overlay (LI) District along New York State Route 5 and the Heavy Industry Overlay District (HI) to the interior of the site. This transitional zone is intended to encourage "non-smokestack" manufacturing and high employment uses to promote redevelopment, while remaining compatible with both the HI and LI Districts.

B. Principal and Special Uses. The Permitted principal uses within this overlay district are listed in the use schedule in §4-1.

C. Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Lot Size	8 Acres, or 50 Acres for PUD
Minimum Lot Frontage	500 ft.
Maximum Building Height	60 ft.
Minimum Front Yard	50 ft.
Minimum Side Yard	50 ft.
Minimum Rear Yard	50 ft.
Minimum Buffer to Smokes Creek Mean Water Line	50 ft.
Minimum Building Coverage	18%
Maximum Lot Coverage (Including Parking)	80%
Minimum Landscaping Coverage	20%

D. Accessory Uses and Structures. The following are permitted in the Medium Industry Overlay District:

1. Communication towers/dishes required for operation of primary use;
2. Employee services such as cafeterias, credit unions and recreational facilities, which are located within the primary structure and occupy no more than 10% of the developed floor area;
3. Outdoor storage of finished goods produced on-site (limited to 50% of site) and screened from all internal roads and bike paths and public recreational amenities, Route 5, and all external roads to the Bethlehem Redevelopment Area; [Amended 3-29-2021]
4. Rail sidings and service;
5. Satellite television receiving antenna, if attached to the primary structure;
6. Truck shipping and delivery accessory to primary operation;
7. Warehouse and distribution facilities ancillary to the primary use and limited to a floor area not to exceed 35% of the gross floor area of the primary use.

E. Accessory Use and Structure Dimensional Standards. Accessory use and structures shall meet the minimum dimensional requirements of the principal uses and structures of the Medium Industrial Overlay District.

§5-12 HEAVY INDUSTRY OVERLAY (HI)

A. Purpose. he Heavy Industry (HI) Overlay District has been designated to accommodate the redevelopment of the site for wind power, heavy industry and general manufacturing and production uses. The HI District allows for a continuation of uses that have shaped Lackawanna's industrial past. The intent is to utilize the site's size, history, environmental limitations and existing infrastructure to take advantage of one of the region's best-suited sites for developing new heavy industry. This district is intended to co-locate compatible industries on large lots in an organized manner to ensure the efficient development of the interior of the site. The district is established to encourage the development of a broad range of employment opportunities within the City and to enhance the City's tax base.

C. Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Lot Size	20 Acres Individual Site or 50 Acres for PUD Development
Minimum Lot Frontage	500 ft.
Maximum Building Height	100 ft.
Minimum Front Yard (Landscaped)	50 ft.
Minimum Side Yard	50 ft.
Minimum Rear Yard	50 ft.
Minimum Buffer To Smokes Creek Mean Water Line	50 ft.
Minimum Building Setback to the Canal	75 ft.
Minimum Building Coverage	10%
Maximum Lot Coverage	85%
Minimum Open Space	15%

B. Principal and Special Uses. The Permitted principal uses within this overlay district are listed in the use schedule in §4-1.

D. Accessory Uses and Structures. The following are permitted in the Heavy Industry Overlay District:

1. Rooftop energy system apparatus for on-site operations, if attached to a primary structure; [Amended 3-29-2021];
2. Employee services such as cafeterias, credit unions and recreational facilities, which are located within the primary structure and occupy no more than 10% of the developed floor area;
3. Outdoor storage of equipment and bulk materials, provided all such material must be fully screened from an elevation from all on-site bike paths, internal and external roads to the Bethlehem Redevelopment Area, and all on-site recreational amenities, including Smokes Creek; [Amended 3-29-2021];
4. Rail sidings and service; and,
5. Satellite television receiving antenna, if attached to the primary structure.

E. Accessory Use and Structure Dimensional Standards. Accessory use and structures shall meet the minimum dimensional requirements of the principal uses and structures of the Heavy Industrial Overlay District.

§5-13 INTERMODAL OVERLAY (INT)

A. Purpose. The intent of the Intermodal (INT) Overlay District is to encourage continued use and expansion of the BRA's existing shipping and rail infrastructure. The area within this district uniquely benefits from the location of the Gateway Trade Center, the Lackawanna Ship Canal and an extensive network of rail lines and open areas to move, temporarily store and transfer goods between ship, rail and truck transport. Activities permitted in this district shall facilitate the continuation of traditional water-related industrial uses and promote water-based and rail-based materials handling facilities on both sides of the Lackawanna Ship Canal.

B. Principal and Special Uses. The Permitted principal uses within this overlay district are listed in the use schedule in §4-1.

C. Dimensional Standards

ACCESSORY USE/STRUCTURE	STANDARDS
Minimum Setback to Canal (for Structures)	N/A
Minimum Lot Frontage	N/A
Maximum Building Height	100 ft.
Minimum Front Yard	50 ft.
Minimum Side Yard (Buildings and Outdoor Storage of Bulk Materials)	50 ft.
Minimum Rear Yard (Buildings and Outdoor Storage of Bulk Materials)	50 ft.
Minimum Building Coverage	N/A
Maximum Lot Coverage	N/A
Minimum Landscaping Coverage	N/A

D. Accessory Uses and Structures. The following are permitted in the Heavy Industry Overlay District:

1. Motor freight facilities for loading and unloading.
2. Rail service lines and extensions.
3. Offices related to operations.

E. Accessory Use and Structure Dimensional Standards. Accessory use and structures shall meet the minimum dimensional requirements of the principal uses and structures of the Heavy Industrial Overlay District.

F. Outdoor Storage and Screening Requirements.

1. Screening or enclosures shall be of sufficient height and density to obstruct the view of the component or finished products stored on-site from New York State Route 5, Bethlehem Redevelopment Area interior public roadways, all public bike paths, and all recreational amenities, including Smokes Creek and all exterior roads. [Amended 3-29-2021].
2. Bulk materials stored outdoors must be contained or controlled in such a manner as to not allow fugitive dust or blowing of bulk materials or odors migrating off premises and negatively affecting neighboring properties.

§5-14 LAKEFRONT OPEN SPACE OVERLAY (LOS)

A. Purpose. The intent of the Lakefront Open Space Overlay (LOS) is to provide for habitat restoration and limited opportunities for passive public open space within the constraints of the site. This area shall include the establishment of a 100-foot vegetative buffer along the top of the bluff. Site conditions preclude public access along most of the shoreline, but scenic overlooks may be feasible near Smokes Creek

B. Principal and Special Uses. The Permitted principal uses within this overlay district are listed in the use schedule in §4-1.

C. Setback Requirement. A 100-foot setback from the top of the bluff shall be established. No uses or structures may be placed within the setback area.



§5-15 HISTORIC PROPERTY OVERLAY (HPO)

A. Purpose. The Historic Property Overlay (HPO) District is meant to provide additional protections to buildings, properties, and features that are deemed architecturally and/or culturally significant to the City of Lackawanna. Development that occurs within the Historic Property Overlay District must be consistent with the style of existing buildings and features on site and other buildings and features within the district. This district is intended to:

1. Promote the protection and enhancement of the historic buildings, sites and districts which represent distinctive elements of Lackawanna's historic, architectural and cultural heritage as well as archaeological sites;
2. Foster civic pride in the accomplishments of the past; and
3. Protect and enhance Lackawanna's attractiveness to visitors and the support and stimulus to the economy thereby provided.

B. The Historic Preservation Overlay District regulations and procedures are intended to be imposed in addition to those of the underlying zoning district.

C. Principal and Special Uses. The Permitted principal uses within this overlay district follow the principal uses allowed in the base districts listed in the use schedule in §4-1, with the exception of:

1. Pedestrian-oriented commercial uses, including retail and/or personal service establishments, restaurants, hotels, private clubs.

D. Dimensional Standards. The dimensional requirements of the base zoning district shall be met for all properties within the Historic Property Overlay District.

E. Accessory Use and Structure Dimensional Standards. All accessory uses permitted within the underlying zoning district are permitted within the Historic Property Overlay District. Additionally, the following uses are permitted as subordinate to a permitted principal use:

1. Public Parking.
2. Uses that are customarily incidental to the principal use.

F. Design Standards.

1. Exterior wall surfaces of principal buildings shall be of masonry, brick, metal or a combination thereof. Exterior building walls shall not include Exterior Insulation Finish Systems (EFIS), vinyl siding, glass block, or vertical aluminum or metal siding.
2. Side or rear walls of principal buildings facing a street right shall be comprised of the same exterior finish materials as the building front.

F. Design Standards.

1. Exterior wall surfaces of principal buildings shall be of masonry, brick, metal or a combination thereof. Exterior building walls shall not include Exterior Insulation Finish Systems (EFIS), vinyl siding, glass block, or vertical aluminum or metal siding.
2. Side or rear walls of principal buildings facing a street right shall be comprised of the same exterior finish materials as the building front.



PART 6
PLANNED UNIT DEVELOPMENTS (PUD)

§6-1 PURPOSE

Planned Unit Developments (PUDs) permit the establishment of areas where diverse uses may be brought together in a unified plan of development. This flexibility will lead to more creative design of development than what is currently allowed in the conventional zoning districts.

§6-2 USES

A. In PUDs, land and buildings may be used for any lawful purposes, as determined by the City Council, based upon a review and recommendations by the Planning and Development Board and subject to the limitations and procedures of this chapter.

B. No uses, buildings, or structures which deviate from the approved PUD scheme, or the City of Lackawanna Comprehensive Plan shall be allowed.

§6-3 LOCATION

A. The PUD District shall be permitted in any area of the City of Lackawanna where the applicant demonstrates that the characteristics of the development will satisfy the intent and objectives of the City of Lackawanna Comprehensive Plan and the provisions of this chapter.

B. Where a PUD is deemed appropriate, the rezoning of land to a PUD District in accordance with Part 11 of this chapter will replace all uses and dimensional specifications contained elsewhere in this chapter.

§6-4 MINIMUM AREA

Planned Unit Developments shall be comprised of at least 50 acres. Public roads shall be permitted to divide such acreage, provided that at least one acre of contiguous land area exists in each portion.

§6-5 OPEN SPACE

A minimum of 25% of the site shall be used as open space, with a minimum of 10% of the entire acreage devoted to free public recreation space. Open space may include walkways, plazas, landscaped areas and recreation areas. Parking areas and vehicle access facilities shall not be considered in calculating open space.

§6-6 COMMON PROPERTY

The landowner shall provide for and establish a perpetual organization for the ownership and maintenance of any common property in the PUD. Such organization shall not dispose of any common property by sale or otherwise except to dedicate such property to the City of Lackawanna for public use. The City may refuse the dedication of land if deemed appropriate.



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PART 7
GENERAL DEVELOPMENT STANDARDS

§7-1 MEASUREMENTS AND EXCEPTIONS

§7-1-1 Building Height

A. Building height refers to the vertical distance from the finished grade line to:

1. The highest point of the coping of a flat roof;
2. The ridge line of a gable, shed, hip, or gambrel roof; and,
3. The highest point of the roof and any parapets of a mansard roof.

B. Mechanical equipment may exceed the maximum height of the roof given that the equipment is full screened from view from the public right-of-way and does not exceed 15 feet in height.

C. Chimneys or antenna that are located upon or integrally part of the roof may exceed the maximum allowable height provided that they do not extend greater than 15 feet above the height of the roof.

§7-1-2 Corner Visibility

A. Within the triangular area formed by two intersecting right-of-way lines and a line connecting points on such right-of-way 30 feet from their point of intersection, the following regulations shall apply to allow maximum vehicular visibility:

1. Maximum structure height: two feet;
2. Trees shall be maintained to allow between 2 and 10 feet of vertical clearance below lowest branches; and,
3. Signs are prohibited within the corner visibility triangle.

§7-1-3 Driveways

A. The parking of vehicles shall be prohibited in any required front yard except on a paved surface.

B. Driveways may be located within the required front yard and are not subject to the required setbacks of the district in which they are located.

C. For parcels containing one to four residential dwelling units, the area of the driveway, measured from the front lot line to the setback line of the principal structure, shall not exceed 35% of the area between the front lot line and the front façade of the principal structure.

D. Parking shall not be permitted within areas that are intended for sidewalks, walkways, or lawn areas.

E. Driveways or parking areas shall be constructed of concrete, asphalt, or other materials approved by the Building Department.

§7-1-4 Flag Lots

A. No lot shall be divided so that the minimum lot size and minimum lot width are less than required by this chapter.

B. Any application to establish a flag lot must be accompanied by a fire safety plan that demonstrates the ability to accommodate emergency vehicles in accordance with the requirements of the Lackawanna Fire Department. Flag lots in existence as of the effective date of this section shall constitute nonconforming lots, provided that the pole does not meet minimum frontage requirements for the district in which the lot is located.

§7-1-5 Yards on Corner Lots

A. The shorter property line abutting two streets on a residential corner lot shall be considered the front lot line. The exterior side yard shall be considered the side yard that abuts a public right-of-way.

B. The exterior side yard for any building or structure on a corner lot shall meet the front yard requirement for the district within which it is located.

C. Fences may project into an exterior side yard in accordance with the following:

1. For lots that are less than 60 feet in width, a fence may be established within the exterior side yard provided that it is a minimum of 3 feet from the public right-of-way.
2. For lots that are greater than or equal to 60 feet in width, a fence may be established within the exterior side yard provided that it is a minimum of 10 feet from the public right-of-way.
3. Yards that abut a driveway must incorporate a chamfer into the fence in the area adjacent to the driveway in order to maintain visibility for pedestrians and passing vehicles.

§7-2 CIRCULATION, PARKING, LOADING AND STACKING

§7-2-1 Purpose

Regulations for parking, loading and stacking are established to advance the safety, organization, and compatibility with their surroundings. Requirements for parking loading and stacking are set forth to achieve the following:

A. To promote the safety and convenience of pedestrians, motorists, and bicyclists by designing and locating parking areas to lessen the potential for conflicts among these groups;

B. Reduce congestion on the primary street networks of the City;

C. Protect the users of adjacent properties from nuisances caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles;

D. Minimize further expansion of impervious surfaces within the City and reduce loss of green space; and,

E. Provide safe traveling conditions and off-street accommodations for motorists, pedestrians, and bicyclists.

§7-2-2 Applicability

A. All nonresidential, mixed-use, and multi-family development shall meet the requirements of this chapter. No building permit shall be issued for any use that does not conform to the requirements herein.

1. 1, 2, and 3-Unit Housing shall be exempt from the requirements of this article, except for those located within the Central Business District (CBD).
2. The provision and maintenance of off-street parking and loading areas is a continuing obligation of the property owner.
3. New construction and infill development shall be in conformance with all requirements of this article, unless otherwise provided herein.

§7-2-3 No Minimum Parking Requirements

The regulations do not mandate a minimum number of automobile parking spaces and recognize that excessive off-street parking for automobiles conflicts with the city's goals related to transportation, land use, and sustainability.

§7-2-4 Continuation of Facilities

Existing parking, loading or stacking facilities shall be continued and maintained, and shall not be reduced below the requirements of this chapter, for the duration that the principal use is maintained.

§7-2-5 Fractional Requirements.

Where the determination of minimum loading, stacking, electric vehicle charging, or minimum bicycle parking requirements result in a fractional number, any fraction of ½ or less shall be disregarded, while a fraction greater than ½ shall be counted as (1) space.

§7-2-6 General Provisions

A. Parking facilities shall be unobstructed and free of other uses.

B. Parking facilities shall not be used for automobile storage, commercial repairs, sales or service.

C. The parking and storage of inoperable vehicles shall be located within an enclosed structure only. Parking of such inoperable vehicles outdoors shall be prohibited.

D. All off-street parking facilities shall be provided as set forth in this chapter at the time of the construction, enlargement or conversion of any use, building or structure.

E. All parking facilities required for uses subject to site plan review shall be landscaped and screened from public view in accordance with §7-4, Landscaping.

F. Off-street parking facilities shall be located on the same lot as the building to which it is an accessory use.

G. Parking areas shall not be located within a required front yard.

H. No vehicles shall be parked on a lawn area.

§7-2-7 Off Street Parking Space and Parking Lot Design

A. Parking Space Dimension

1. Off street parking spaces shall have a minimum width of 9′ and a minimum length of 19′.
2. Parallel parking spaces shall have a minimum width of 9′ and a minimum length of 22′.
3. Minimum aisle width shall be as follows:

§7-2-8 Parking, Loading, and Stacking Area Design Requirements

	MINIMUM AISLE WIDTH	
ANGLE OF PARKING	ONE WAY	TWO WAY
Parallel	13	24
30 degrees	13	
45 degrees	13	
60 degrees	18	
90 degrees	24	

A. **Grading and Paving.** Parking, Loading, and Stacking areas and access driveways shall be graded and drained so that surface water does not run off onto adjacent properties. Parking areas and driveways shall be constructed as required by the Code Enforcement Officer.

B. **Features.** Parking Loading and Stacking areas shall be arranged, marked and maintained in accordance with the approved site plan on record to provide the orderly and safe parking and storage of vehicles.

1. Parking spaces shall be delineated by painted lines.
2. The use of parking bumpers is prohibited within parking lots.

C. **Illumination.** Parking Loading and Stacking areas shall be illuminated in accordance with the standards set forth in §7-5, Site Lighting.

D. **Pedestrian Accommodations.** Pedestrian walks shall be provided from the parking facilities to the main building entrances.

E. **Driveways to Parking, Loading, and Stacking Areas.**

1. Entrance and exit driveways that serve parking, loading, and stacking facilities shall be provided in a location, size, and number as to interfere as little as possible with the use of adjacent property and the flow of traffic onto streets to which they connect.

Parking Rooms. Parking areas that serve a development of 100,000 SQFT or greater shall be divided into parking rooms.

1. Each parking room shall not exceed 80 parking spaces and shall be connected to an internal system of roadways.

§7-2-9 Shared Parking

Nonresidential uses may make arrangements for shared parking with other nonresidential uses. All shared parking agreements must meet the following standards:

A. Shared parking facilities must be located within 500 feet of the primary building entrance.

B. Off-site shared parking facilities that serve a nonresidential use shall not be located within a residential zoning district.

C. If an off-site shared parking facility is not under the same ownership as the use that it serves, a written copy of the agreement attested by both parties shall be provided to the Code Enforcement Officer for recordation.

§7-2-10 Bicycle Parking

A. Bicycle parking must be provided in the CBD, NB, RC, ENT, and OS zoning districts, in a quantity not less than the following:

Residential Uses (more Than 4 units)	.5 per unit, 20 max
Commercial Uses	1 per 3,000 SF, 20 spaces max
Public and Civic Uses	1 per 3,000 SF, 20 spaces max
Industrial Uses	1 per 10,000 GSF

B. Bicycle parking must be located on site and be publicly available in a location that is visible from the public right-of-way.

C. Each required bicycle parking space must be 1.5 feet by 6 feet to accommodate the ability for a bike to be locked on both sides of the parking space. Each side of the bicycle parking space shall be counted as (1) required space.

D. Required bicycle parking spaces must be located on a paved or pervious surface.

§7-2-11 Electric Vehicle Charging Stations

A. For multi-family residential uses (more than 4 units), commercial uses, and industrial uses, 1% of all parking spaces must be electric vehicle ready, with a minimum of 2 EV-ready spaces for parking lots over 20 spaces. At a minimum, EV-ready spaces must have conduit or other means connected to power to each space at the time of construction of the parking facility.

§7-2-12 Residential Parking Requirements

A. The following standards apply in the residential districts:

1. Parking is permitted within the required front yard provided that the vehicles are located on an approved driveway.

2. Parking is prohibited on grass areas and yard

space that is not hard-surfaced and properly designated for such use.

3. Only one curb cut shall be permitted per residential lot and shall conform to the standards set forth by the City of Lackawanna in Chapter of 194: Streets and Sidewalks of City Code.
4. The parking or storage of any vehicle or trailer being used for commercial purposes over the tare weight of 5 tons shall not be permitted on a residential parcel other than being completely enclosed within a garage or other structure.
4. Parking of personal seasonal vehicles, boats, trailers, or recreational vehicles is permitted from May 1st to October 31st, provided such vehicles:
    a. Are registered and licensed;
    b. Are not used for living purposes;
    c. Are not parked within the front yard area;
    d. Are parked on an approved surface; and,
    e. Do not obstruct vehicular, pedestrian, or bicyclist vision and access.

§7-2-13 Loading Facilities

All commercial and industrial uses shall provide adequate off-street facilities for loading and unloading. Loading facilities shall be provided and maintained as long as the building is occupied, unless equivalent facilities are provided in accordance with this chapter. Loading facilities shall meet the following standards:

A. Required off-street loading facilities shall not face or be visible from the frontage street, shall not be located in a required front yard and may not be located in a required side or rear yard if adjoining a residential district.

B. Each required off-street loading space shall be designed for vehicular access by means of a driveway(s) to a public street.

C. Off-street loading facilities and driveways shall not be designed or used to interfere with the free use of any street, alley, or adjoining property.

D. An off-street loading facility shall not be used for the repair or service of any motor vehicles.

E. Each off-street loading space shall be at least 20 feet long by 12 feet wide.

F. The following off-street loading facilities shall be provided:

USE	SQUARE FEET	NUMBER OF BAYS
Retail	Under 5,000	1
	5,001 – 10,000	2
	Each Additional 10,000	1 Additional Space
Wholesale and Industrial Operations	Under 40,000	1
	40,001 - 100,000	2
	100,000 and greater	3
Health-care facilities with ambulatory service	50,000 and greater	2 Bays, 1 of Which is for Emergency Vehicles

§7-2-14 Stacking

A. In addition to minimum parking and loading requirements, drive-in facilities shall provide five spaces per lane, booth, customer facility or service window.

B. Drive-in facilities shall be sited to facilitate principal on-site vehicular circulation and discourage vehicle stacking on the adjacent street.

C. The size of each stacking space shall be 20 feet in length by nine feet in width.

§7-3 EROSION AND SEDIMENTATION

[Amended 2-5-2008]

A. All land development activities subject to regulation under Article XII of this chapter shall comply with the performance and design criteria and other requirements set forth therein, including the preparation of a stormwater pollution prevention plan.

B. For all construction activities that are not subject to regulation under Article XII of this chapter, and where a significant soil erosion or sediment deposition may occur as a result of the disturbance of the land, the City Planning and Development Board may require an application for site plan review to be accompanied by an erosion and sediment control plan conforming to the standards and practices contained in the USDA Natural Resources Conservation Service Engineering Field Services Manual (EFM) and the New York Standards and Specifications for Erosion and Sediment Control, or other erosion and sediment control manual recognized by the Engineering Department or Planning and Development Board.

C. Final grading shall coincide with the planting season to ensure quick soil stabilization;

D. Construction phase topsoil stockpiles shall be graded and covered or seeded within one month of deposition;

E. Upon construction completion, temporary berms, swales, settling ponds and other erosion control mechanisms shall be reshaped and planted or otherwise maintained to conform with an approved site plan and to comply with any stormwater pollution prevention plan approved by the City for the project; and,

F. All new developments must meet the following gradient standards:

	MINIMUM SLOPE	MAXIMUM SLOPE
Planting areas	2%	12%
Parking lot pavement	2%	4%
Driveways, access drives	2%	6%
Pedestrian pavements	1%	2%
Sidewalks	1%	5%
Cut and fill slopes		12%

§7-4 LANDSCAPING

§7-4-1 Purpose

A. It is the purpose of this chapter to promote better site design, introduce shade and habitat, prevent the erosion of soils, provide water absorption and retention to limit excess stormwater runoff, enhance air quality, provide natural buffers to development, and enhance the aesthetic and scenic beauty of the City of Lackawanna.

B. The standards set forth in this chapter are intended to:

1. Dissuade the unnecessary clearing and disturbing of land and preserve the natural growth of existing flora.
2. Conserve and stabilize property values, preserve a healthy environment, and facilitate the creation of a convenient, attractive, and harmonious community environment.
3. Provide shade.
4. Reduce the level of carbon dioxide and airborne pollutants and return oxygen to the atmosphere.
5. Provide unpaved areas for the absorption of surface waters.

§7-4-2 Applicability

A. All developments subject to site plan review in accordance with §11-5shall meet the requirements of this Section. A separate landscape plan shall be submitted and approved, approved with conditions or denied as a part of this review procedure.

B. The landscape plan shall be prepared by a licensed landscape architect unless the landscape plan is submitted as part of a minor site plan as defined in §11-5.

C. A revised site plan shall not diminish the landscaping of the site below the requirements of this section.

§7-4-3 General Requirements

A. Existing and natural features and vegetation shall be preserved and incorporated in the landscaped area wherever possible.

B. Required landscaped areas shall be designed as an integral part of the site development and shall be dispersed throughout the development site and vehicle use areas.

C. Plastic or other types of artificial plantings or vegetation shall not be permitted.

D. All shrubs planted shall have a minimum height of 24 inches above the ground except when being used as ground cover. All evergreen shrubs used for screening shall have a minimum height of 48 inches (4 feet) above the finished grade. All large and small deciduous trees planted shall have a minimum caliper of two and one-half inches, measured six inches above the ground.

§7-4-4 Buffers and Screening

A. General Requirements

1. Landscaping is required along all side and rear property boundaries except when approved shared parking lots adjoin abutting properties.

2. One planting unit shall consist of 1 deciduous shade tree and 5 shrubs.

3. A minimum of one planting unit shall be required per 30 linear feet or fraction thereof.

4. Properties with 80% or greater building coverage shall be excluded from providing site landscaping.

5. The Planning and Development Board may alter the number of required planting units if existing site landscaping is present and will be retained.

B. Screening of Mechanical Equipment.

1. Non-single-family residential properties which may be viewed from residential uses, public streets or public park areas shall screen all roof, ground and wall mounted mechanical equipment (utility structures, multiple meter boards, generators, air conditioning units, backflow preventor [RPZ] hot boxes, etc.) from view at ground level of the property line.

2. Roof-mounted mechanical equipment shall be screened or arranged so as to not be visible from residential uses, public streets or park areas and be shielded from view on four sides. Screening shall consist of materials consistent with the principal building materials.

3. Mechanical equipment shall not be mounted on the roof or located in the front yard in any single-family residential district.

4. Wall or ground-mounted equipment screening shall be constructed of:

a. Planting screens;

b. Brick, stone, reinforced concrete, vinyl stockade or other similar material; and,

c. Redwood, cedar, preservative pressure treated wood, or other similar materials.

§7-4-5 Dumpsters and Refuse Containers

A. The following standards shall apply to dumpsters and other refuse collection areas in the R-3, CBD, NC, RC, and ENT districts.

B. Dumpster containers, other refuse containers, and all refuse shall be visually screened on all sides from adjacent properties and private or public rights of way with an opaque material, which may include shrubs, walls, fences or berms. Materials and dumpsters stored in said areas shall not protrude above the screen.

C. The setbacks for dumpsters in nonresidential districts shall be five (5) feet from the property line of adjacent nonresidential districts and ten (10) feet from the property line of adjacent residential districts.

§7-4-6 Fences

A. Front yard fencing may not exceed three feet in height if comprised of a solid material. A front yard fence may be a maximum of four feet in height if comprised of a transparent material.

B. Perimeter fencing is prohibited in all front yards within three feet of any sidewalk.

C. The use of barbed wire and other security fencing is prohibited.

D. The maximum height if a fence shall not exceed six feet measured from average finished grade, except,

1. Tennis courts and basketball courts may be fully enclosed with a fence up to 12 feet in height.

E. All fencing must follow the grade of the property on which it is installed.

§7-4-7 Parking Lots and Vehicle Use Areas

A. An interior landscaped island shall be provided for every 15 spaces. Each island shall have a minimum width of eight feet inside the curb and a minimum length of 16 feet for a single row and 32 feet for a double row. Interior islands may be consolidated, or intervals may be expanded to preserve existing trees or facilitate snow plowing if approved by the Planning and Development Board, as applicable.

B. All rows of spaces shall terminate in a landscaped island. Each island shall conform to the specifications described in (A) above. Terminal island intervals may be modified to preserve existing trees or facilitate snow plowing if approved by the Planning and Development Board, as applicable.

C. A minimum of one large deciduous tree shall be provided for each landscaped island that is equal to or greater than 128 square feet. One additional large deciduous shade tree shall be provided within landscaped islands for each 100 square feet in excess of 128 square feet.

D. In addition to trees, all landscaped islands and divider medians shall be landscaped with grass, ground cover, shrubs or other landscape material acceptable to the Planning Board or Director of Development.

E. All islands and medians shall have six-inch-high concrete curbing as a minimum to protect plant materials from damage.

§7-4-8 Enforcement and Maintenance

A. All landscaped areas required and/or permitted by these regulations shall be maintained and preserved according to the approved landscape plan. Landscaped areas shall be kept free of trash, litter, weeds and other such materials. Failure to maintain the landscaping in accordance with the approved landscape plan or to keep landscaped areas free of trash, litter, weeds and other such materials shall be a violation of this Ordinance, and this requirement shall be enforced by the Code Enforcement Office.

B. All plant materials provided for a development in accordance with the approved landscape plan shall be in a healthy and vigorous growing condition and exhibit good form. All plant materials which are considered to be unacceptable for the purposes of compliance with these regulations shall be replaced with acceptable plant material prior to the issuance of a final Certificate of Occupancy or Certificate of Compliance by the Code Enforcement Office.

C. Plantings intended to serve as a visual screen which die or are not maintained in a healthy and growing condition after three years from the date of issuance of the final Certificate of Occupancy or Certificate of Compliance by the Code Enforcement Office shall be replaced with plantings of a size and nature sufficient to achieve the visual screen intended.

§7-5 LIGHTING

A. Applicability. These regulations shall apply to all exterior lighting on any property utilized for the following purposes:

1. Nonresidential uses, including industrial uses;
2. Mixed-uses, whether located on the same site or within the same structure; and,
3. Multi-family dwellings over four units.

B. Lighting Plan. A lighting plan shall be submitted as part of the site plan review process. Lighting plans must be prepared by a lighting professional and just include the following:

1. Location of all exterior lights and their specifications.
2. The level of illumination at each property line, measured in footcandles.
3. Height of pole and fixture and/or distance above grade for wall-mounted lighting fixtures.
4. A detail of the proposed light fixtures and any shielding.

C. The following minimum lighting levels shall be provided for uses requiring site plan review:

1. Parking lots: 0.5 footcandles.
2. Driveways: 0.25 footcandles.
3. Pedestrian walkways: 0.18 footcandles.
4. Building entrances: 0.5 footcandles.
5. Accent illumination: 0.5 footcandles.

D. All outdoor lighting shall be designed and located such that the maximum illumination measured in footcandles at the property line does not exceed 0.2 on adjacent residential use, and 0.5 on adjacent commercial sites and public rights-of-way.

E. Light sources shall not be higher than 20 feet; pedestrian light fixtures shall not exceed 15 feet in height.

F. Security lighting fixtures and exterior wall-mounted floodlights are restricted to enclosed service courtyards.

G. High intensity lighting is prohibited.

§7-6 MCKINLEY PARKWAY

A. Design standards. Along McKinley Avenue, from McKinley Circle to South Park Avenue, the following regulations shall apply in addition to those regulations of the underlying zone:

1. The use of the following high canopy street tree species is encouraged:
    a. Acer plananoides Cleveland—Norway Maple cultivar.
    b. Acer rubrim Autumn Blaze or Karpick—Red Maple cultivar.
    c. Fraxinux excelsior Empire—European Ash cultivar.
    d. Quercus rubrum—Northern Red Oak.
    e. Tilia cordata Crimean, Glen Haven, Greenspire or Redmuond—Littleleaf Linden Cultivar.
    f. Ulmus Delaware, Homestead, or Liberty—Elm cultivar.
2. Sign design.
    a. Signposts and signs shall be finished in a dark color, preferably black with green in it, so as to be visually recessive and provide a parklike image.
    b. Sign lettering and graphics should be white, silver or gold.
3. Paving materials.
    a. Where slope, durability or reduced maintenance is required, asphalt or a dark-pigmented concrete should be used.
    b. The use of unit pavers such as brick should be limited to areas of special importance such as entrances.

§7-7 OUTDOOR STORAGE AND DISPLAY

A. Outdoor display and storage shall be allowed in the RC and ENT districts in accordance with this Section. Any merchandise, material or equipment situated outdoors shall be subject to the requirements of this Section.

B. Outdoor Display. Outdoor Display constitutes the display of items that are actively for sale.

1. Outdoor Display shall be permitted only in a location that is adjacent to a wall of the principal building and shall not be permitted to block windows, entrances or exits, and shall not impair the ability of pedestrians to use the building and sidewalk.

C. Outdoor Storage is the temporary storage of goods in individual packaging and not in storage containers. Organic materials stored on pallets are considered limited outdoor storage.

1. No outdoor storage shall be permitted within the following areas:
    a. The public right-of-way;
    b. Any required landscape area;
    c. A required front or side setback;
    d. Between a front setback and the building front;
    e. Between a side setback along a public right-of-way and any structure; and,
    d. Any required off-street parking areas.

§7-8 SEAWAY TRAIL

A. Design standards. Where a property abuts Route 5/Seaway Trail it shall comply with the following design guidelines in addition to those regulations of the underlying zone:

1. A public view of Lake Erie shall not be obstructed for more than 400 feet.
2. Where a building obstructs a public view of Lake Erie, side yards shall be a minimum of 100 feet in width.
3. Parking lots shall be screened from view on the Seaway Trail through the use of dense vegetation.
4. No fences, walls or hedges greater than four feet shall be erected, placed or maintained between the waters of Lake Erie and the nearest point of the principal building located on the premises.
5. Seaway Trail, Inc., logo shall be incorporated in signs visible from Route 5.
6. Daffodils should be incorporated in landscaped areas along Route 5.
7. Pedestrian and bicycle facilities shall be provided along the entire length of Route 5 with pedestrian overlooks on bridges where possible.

§7-9 SIGNS

§7-9-1 Purpose

These sign regulations are intended to control the size, style, and location of signage within the City of Lackawanna to achieve the following purposes:

A. To create a more attractive business atmosphere and to protect against the effects of out-of-scale signage.

B. To provide reasonable, yet appropriate, conditions for advertising goods sold or services rendered in business districts by relating the size, type and design of signs to the type of establishment.

C. To reduce signs or advertising distractions or obstructions that may contribute to traffic accidents.

§7-9-2 Definitions

Sign. Any device visible from a public place whose purpose and design is to convey messages by means of words or images. A sign is not used to describe public art that contains no commercial messages.

Sign Face. The surface upon, against, or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, non- structural thematic or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.

Sign, Off Premise. A permanent sign erected, maintained, or used for the purpose of the display of messages not related to the use of, products sold on, or the sale or lease of, the property on which it is displayed. Also called a billboard.

Sign, On-Premise. A sign erected, maintained, or used for the purpose of the display of messages relating to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

Pole Sign. A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign is a minimum of 8 feet above finished grade.

Ground Sign. A sign supported by uprights or braces placed upon or in the ground and not attached to any building.

Wall Sign. A sign integral with or attached to and supported by the exterior wall of a building.

Message Center Sign. A sign supported by uprights or braces placed upon or in the ground and not attached to any building which contains an illuminated, programmatic message, or graphic, whether fixed or moving.

Projecting Sign. A sign attached perpendicular to a building or other structure.

Awning Sign. A sign painted on, attached to or otherwise displayed on an awning. This sign type does not include canopies over gas pumps.

Window Sign. A temporary, non-structural sign located in the interior of a window or door or any other sign inside a building that contains a message legible from the public right-of-way or adjacent property clearly intended for public recognition from outside the building.

§7-9-3 Prohibited Signs

A. Any sign mounted, attached or painted on a trailer, boat, or motor vehicle when parked, stored, or displayed conspicuously on the public right-of-way or private premises in a manner intended to attract attention of the public for advertising purposes. This provision expressly excludes business signs that are permanently painted on, or magnetically attached to, motor vehicles that are regularly used to conduct normal business activities.

B. Signs, as regulated by this Ordinance, used to attract attention to an object, product, place, activity, institution, organization or business not available or located on the premises where the sign is located.

C. Signs advertising or identifying a business which is no longer operating. Any sign accessory or incidental to a business shall be removed within 30 days after the business ceases to operate.

D. Signs that create a traffic hazard by obstructing the view at any street intersection or by design resemblance through color, shape or other characteristics common to traffic control devices.

E. Rotating or revolving signs.

F. Banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices or strings of lights.

G. Signs for businesses that have not received an approved business registration from the City of Lackawanna.

§7-9-4 Signs Exempt from Regulation

A. Customary holiday decorations;

B. House addresses, family name signs, "no trespassing" and similar signs;

C. Traffic control signs;

D. Gasoline price signs attached to a gasoline dispenser or service island canopy and not exceeding one square foot per face;

E. Political signs not exceeding four square feet in area erected no earlier than three weeks before an election and removed within seven calendar days following the election;

F. Real estate signs not exceeding six square feet in area;

G. No more than two directional and parking signs not exceeding two square feet per face and no taller than seven feet high per business;

H. Signs, flags or emblems erected and maintained pursuant to any government function;

I. Decorative or architectural features of a building, except letters or trademarks;

J. Memorial or historic plaques, markers, monuments or tablets;

K. Safety signs; and,

L. One construction or renovation sign, four square feet in size or less, erected by a contractor, engineer, architect or similar professional or business and removed at the termination of their portion of the project activity.

§7-9-5 General Standards

A. No person shall erect, alter, construct or relocate any sign without having first obtained a sign permit from the Zoning Officer, upon a demonstration of full compliance with the provisions of this chapter.

B. Signs located along state highways, including NY Route 5, should be submitted to the New York State Department of Transportation for review and approval where appropriate.

C. In general, all signs shall be permanently mounted and securely anchored. All ground signs must be sufficiently secured to prevent movement from wind.

D. Illumination.

1. Sign illumination shall not cause direct light rays to cross any property line.

2. Sign illumination shall not cause an increase in light measured at any property line, other than a street line, of more than one foot-candle.

§7-9-6 Measurement

A. Sign Area.

1. One-sided sign. The area of a sign shall be computed by means of the smallest square, circle, rectangle, triangle, or geometric combination thereof that will encompass the extreme limits of the writing, representation, graphic, and/or other display, together with any material, backdrop, or structure on which it is placed.

2. Two-sided sign. In the case of a two-sided sign, only one side of the sign is considered in determining sign area if the sides of the sign are back-to-back or diverge at an angle of 45° or less. No sign shall be permitted to have more than two sides.

3. The supporting structure of a sign shall not be computed as part of the sign area unless such supporting structure or bracing is made a part of the message with the inclusion of any text or graphics.

B. Sign Height.

1. The height of a freestanding sign shall be calculated by measuring the vertical distance between the top part of such sign or its structure, whichever is highest, to the elevation of the ground directly beneath the center of the sign.

2. The height of an awning, projecting, suspended, wall, or window sign shall be determined by measuring the vertical distance between the top part of the sign face or structure, whichever is highest, to the bottommost edge of the sign face.

§7-9-7 Signs Requiring a Permit

Upon issuance of a building permit in accordance with *Chapter 75: Building Code Administration,* the following sign types are permitted pursuant to the following standards:

A. Building Mounted Signs.

1. Wall Sign.

a. Wall signs shall not extend beyond the above or beyond the ends of a building or its parapet, or the highest point of the roof, whichever is higher.

b. Wall signs shall not project more than 12 inches from the wall face.

2. Awning Sign.

a. No sign shall exceed 20% of the area of the awning on which it is located.

3. Projecting Sign.

a. Only one projecting sign is permitted per building frontage that has an entrance for the general public

b. A projecting sign shall not exceed 16 square feet per side.

c. Signs that encroach into a public right-of-way shall require a permit by the appropriate issuing body prior to their installation.

d. The bottom edge of the sign shall be a minimum height of 8 feet from finished grade.

4. Window Sign.

a. No sign shall exceed 20% of the area of an individual windowpane.

B. Free Standing Signs.

1. Ground Sign

a. One ground sign shall be permitted per building on a single parcel.

b. Ground signs shall have a maximum height of 8 feet, measured from finished grade to the tallest point of the sign structure.

c. The maximum total face area for a ground sign shall be 160 square feet.

d. Ground signs shall be setback a minimum of 15 feet from any public right-of-way, 25 feet from any residential lot, and 10 feet from any non-residential lot.

e. The base of the sign shall be no less than 75% of the width of the sign.

2. Message Center Sign.

a. A message center sign shall only be permitted as part of a permitted freestanding sign.

b. Message center signs are not permitted in the R-1, R-2, R-3, and NC zoning districts.

c. The information displayed on a message center sign shall stay static for a minimum of 10 minutes.

d. Each message center sign shall be equipped with dimming capabilities.

e. Message center signs shall not located on a site in a manner that the sign is visible from any residential use.

f. Pole SignPole signs shall be prohibited within the City of Lackawanna.

3. Menu Board Sign.

a. There shall be a maximum of two menu board signs per drive thru lane.

b. Menu board signs shall have a maximum sign area of 36 square feet. The sign area of a menu board will not count towards the total sign area for a development permitted.

C. Other Signs.

1. Home Occupation Sign.

a. There shall only be one sign permitted per home occupation.

b. Home occupation signs shall be non-illuminated and shall be a maximum of 2 square feet in area.

c. Home occupation signs must be affixed to a building wall and are not permitted as a freestanding sign.

§7-9-8 Sign Area

A. The maximum area of all signs, excluding those that are listed as exempt in §7-9-4 of this Chapter, shall be calculated based on the zoning district in which the property is located and the length of the façade of the principal building in linear feet that faces a public right-of-way.

B. In the instance that a building on a corner lot has two or more principal building facades that face a public right-of-way, the allowable sign area shall be calculated by taking a sum of the lengths of each right-of-way facing façade in linear feet.

C. The minimum allotted sign face area for any non-residential building shall be 50 square feet.

D. The following table shall be used to calculate the allowable sign face area:

DISTRICT	MULTIPLIER
Neighborhood Commercial (NC)	1.0
Central Business District (CBD)	2.0
Regional Commercial (RC)	1.5
Enterprise (ENT)	1.5
Open Space (OS)	1.0
Bethlehem Redevelopment Area (BRA)	1.5

§7-10 SMOKES CREEK

A. Design standards.

1. Within 15 feet of the mean water line of Smokes Creek, an undisturbed buffer of native or naturalized vegetation shall be established through the natural succession of existing plant materials. Within this buffer area no more than 10% of vegetation may be cleared to provide creek access.
2. Within 50 feet of the mean water line of Smokes Creek the following uses shall be permitted:
   a. Trailways, overlooks, picnic shelters and other structures appropriate to passive recreational uses.
   b. Access for water-related activities.

   Stormwater detention/retention.
3. Within 50 feet of the mean water line of Smokes Creek the following uses shall be prohibited:
   a. Sand and gravel excavations;
   b. Dumping of snow or ice containing deicing agents;
   c. Bulk storage of salt, chemicals or petroleum products; and,
   d. Parking lots.

§7-11 SOUND

A. All sound and noise shall comply with the standards set forth in Chapter 159 of City of Lackawanna Code.

§7-12 STORMWATER MANAGEMENT

[Added 2-5-2008]

§7-12-1 Findings; purpose.

A. Findings. It is hereby determined that:

1. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
2. This stormwater runoff contributes to increased quantities of waterborne pollutants, including siltation of aquatic habitat for fish and other desirable species;
3. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
4. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff, thereby increasing streambank erosion and sedimentation;
5. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
6. Substantial economic losses can result from these adverse impacts on the waters of the City;
7. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
8. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety; and,
9. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

A. Purpose. The purpose of this article is to establish

minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this This article seeks to meet those purposes by achieving the following objectives:

1. Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges From Municipal Separate Storm Sewer Systems (MS4s), Permit No. GP-02-02, or as amended or revised;
2. Require land development activities to conform to the substantive requirements of the SPDES General Permit for Stormwater Discharges From Construction Activity, Permit No. GP-02-01, or as amended or revised;
3. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
4. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
5. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and,
6. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and ensure that these management practices are properly maintained and eliminate threats to public safety.

§7-12-2 Definitions

As used in this article, the following terms shall have the meanings indicated:

Agricultural Activity. The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

Applicant. A property owner or agent of a property owner who has filed an application for a land development activity

Building. Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal or property, and occupying more than 100 square feet of area.

Channel. A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Clearing. Any activity that removes the vegetative surface cover.

DEC. The New York State Department of Environmental Conservation.

Dedication. The deliberate appropriation of property by its owner for general public use.

Design Manual. The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation), most recent version or its successor, including applicable updates, which serves as the official guide for stormwater management principles, methods and practices.

Developer. A person who undertakes land development activities.

Erosion Control Manual. The New York Standards and Specifications for Erosion and Sediment Control (Empire State Chapter of the Soil and Water Conservation Society, 2004), most current version or its successor, commonly known as the "Blue Book."

Grading. Excavation or fill of material, including the resulting conditions thereof.

Impervious Cover. Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

Industrial Stormwater Permit. A State Pollutant Discharge Elimination System (SPDES) permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration. The process of percolating stormwater into the subsoil.

Jurisdictional Wetland. An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

Land Development Activity. Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale disturbing one acre or more in the aggregate, even though multiple separate and distinct land development activities may take place at different times on different schedules.

Landowner. The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Licensed Professional. A professional engineer or landscape architect licensed to practice his or her profession in New York State.

Maintenance Agreement. A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

Nonpoint source pollution. Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Phasing. Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

Pollutant of Concern. Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

Project. Land development activity.

Recharge. The replenishment of underground water reserves.

Sediment Control. Measures that prevent eroded sediment from leaving the site.

Sensitive Areas. Coldwater fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, or habitats for threatened, endangered or special concern species.

SPDES General Permit For Stormwater Discharges From Construction Activity, Permit NO. GP-02-01. A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES General Permit For Stormwater Discharges From Municipal Separate Storm Sewer Systems GP-02-02. A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

Stabilization. The use of practices that prevent exposed soil from eroding.

Stop-Work Order. An order issued which requires that all construction activity on a site be stopped.

Stormwater. Rainwater, surface runoff, snowmelt and drainage.

Stormwater Management. The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

Stormwater Management Facility. One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

Stormwater Management Officer (SMO). An employee or officer of the City of Lackawanna designated by the City Council to accept and review stormwater pollution prevention plans (SWPPPs), forward the plans to such employee, officer or board of the City of Lackawanna which may be reviewing any application for a construction activity requiring submission of a SWPPP, and inspect stormwater management practices.

Stormwater Management Practices (SMPs). Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

Stormwater Pollution Prevention Plan (SWPPP). A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

Stormwater Runoff. Flow on the surface of the ground resulting from precipitation.

Surface Waters of The State Of New York. Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

Watercourse. A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Waterway. A channel that directs surface runoff to a watercourse or to the public storm drain.

§7-12-3 Applicability; Exemptions; Conflict with Other Provisions

A. Applicability. This article shall be applicable to all land development activities within the City.

B. Exemptions. The following activities shall be exempt from review under this article:

1. Agricultural activity;
2. Silvicultural activity, except that landing areas and log haul roads are subject to this article;
3. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility;
4. Repairs to any stormwater management practice or facility deemed necessary by the SMO;
5. Land development activities for which a building permit has been approved on or before the effective date of this article;
6. Cemetery graves;
7. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles;

8. Emergency activity immediately necessary to protect life, property or natural resources;
9. Activities of an individual engaging in home gardening by growing flowers, vegetables or other plants primarily for use by that person and his or her family; and
10. Landscaping and horticultural activities in connection with an existing structure.

C. Conflict. Where the conditions imposed by any provisions of this article are either more restrictive or less restrictive than comparable conditions imposed by any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

§7-12-4 Procedure

A. The City shall designate an SMO who shall accept and review all SWPPPs. The SMO may.

1. Review the SWPPPs;
2. Upon approval by the City Council, engage the services of a registered professional engineer to review the SWPPPs, specifications and related documents at a cost not to exceed a fee schedule established by the City Council; or
3. Accept the certification of a licensed professional that the SWPPPs conform to the requirements of this article.

B. For all land development activities subject to review and approval by the Zoning Officer or Planning and Development Board under mobile home or site plan regulations, the applicant or developer shall be required to submit a SWPPP that complies with the requirements of this article to the SMO, and the land development activity shall be reviewed subject to the standards contained in this article.

1. Review by SMO. Within 60 days of receipt of a SWPPP, the SMO shall forward the SWPPP, together with his or her written recommendation to approve, approve with modifications, or disapprove the SWPPP, to the employee, officer, or board of the City which is reviewing an application for approval of a land development activity requiring submission of a SWPPP. A recommendation of approval shall only be given if the SWPPP complies with the requirements of this article. In making a recommendation to approve with modifications or disapprove the SWPPP, the SMO shall state the reasons for the decision in writing.
2. Review by final reviewing body. The employee, officer or board of the City reviewing the application for approval of a land development activity shall review the SWPPP and recommendation of the SMO and shall act to approve, approve with modifications, or disapprove the SWPPP. Such reviewing body shall not act to approve the SWPPP unless it complies with the requirements of this article. If the reviewing body acts to approve with modifications or disapprove the SWPPP, the reasons for the decision shall be stated in writing. In order to be approved, the applicant shall revise a SWPPP that has been approved with modifications or disapproved in accordance with the recommendations of the reviewing body and shall submit the revised SWPPP to such body for review.

C. For all land development activities not subject to review by the Zoning Officer or Planning and Development Board as stated in § 230-93B of this article, the applicant or developer shall be required to submit a SWPPP prepared in accordance with the standards contained in this article to the SMO, and such SWPPP must be approved prior to commencement of the land development activity. Within 60 days of receipt of a SWPPP, the SMO shall approve, approve with modifications, or disapprove the SWPPP. Approval shall only be given if the SWPPP complies with the requirements of this article. In approving with modifications or disapproving the SWPPP, the SMO shall state the reasons for the decision

in writing. In order to be approved, an applicant shall revise a SWPPP that has been approved with modifications or disapproved in accordance with the recommendations of the SMO and shall submit the revised SWPPP to the SMO for review.

§7-12-5 Stormwater Pollution Prevention Plans

A. Stormwater pollution prevention plan requirement. No application for approval of a land development activity shall be reviewed and no land development activity shall be commenced until the SMO or such employee, officer or board of the City which may be reviewing an application for approval of a land development activity requiring submission of a SWPPP has received a SWPPP the complies with the specifications in this article and has approved such SWPPP.

B. Contents of stormwater pollution prevention plans.

1. All SWPPPs shall provide the following background information and erosion and sediment controls:

a. Background information about the scope of the project, including the location, type and size of the project;

b. (Site map/construction drawing(s) for the project, including a general location map. The site map should be at a scale of no smaller than one inch to 100 feet. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the land development activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);

c. Description of the soil(s) present at the site;

d. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the Erosion Control Manual, not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP;

e. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;

f. Description of construction and waste materials expected to be stored on site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill-prevention and response;

g. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project, from initial land clearing and grubbing to project close-out;

h. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

i. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;

j. Temporary practices that will be converted to permanent control measures;

k. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

l. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;

m. Name(s) of the receiving water(s);

n. Delineation of SWPPP implementation responsibilities for each part of the site;

o. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and

p. Any existing data that describes the stormwater runoff at the site.

2. Land development activities meeting Condition A, B or C below shall also include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in § 230-94B(3) of this article as applicable:

a. Condition A: stormwater runoff from land development activity discharging a pollutant of concern to either an impaired water identified on DEC's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

b. Condition B: stormwater runoff from land development activity disturbing five or more acres.

c. Condition C: stormwater runoff from land development activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.

3. SWPPP requirements for Conditions A, B or C (postconstruction stormwater runoff controls):

a. All information in § 230-94B(1) of this article;

b. Description of each postconstruction stormwater management practice;

c. Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice;

d. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;

e. Comparison of post development stormwater runoff conditions with predevelopment conditions;

f. Dimensions, material specifications and installation details for each postconstruction stormwater management practice;

g. Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice;

h. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;

i. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 230-96 of this article; and,

j. For any land development activity meeting Condition A in § 230-94B(2), the SWPPP shall be prepared by a licensed professional and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this article.

C. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

D. Contractor certification.

1. Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the stormwater pollution prevention plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

2. The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

3. The certification statement(s) shall be included with and become part of the SWPPP for the land development activity.

E. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§7-12-6 Performance and Design Criteria

All land development activities shall be subject to the following performance and design criteria:

A. Technical standards. For the purposes of this article, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this article:

1. The Design Manual; and

2. The Erosion Control Manual.

B. Equivalence to technical standards. Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in § 230-95A of this article and the SWPPP shall be prepared by a licensed professional.

C. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

§7-12-7 Maintenance, inspection and repair of stormwater facilities.

A. Maintenance and inspection during construction.

1. The applicant or developer of the land development activity or his or her representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

2. For land development activities meeting Condition A, B or C in § 230-94B(2) of this article, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. Inspection reports shall be maintained in a site logbook.

B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the City to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the City.

C. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this article shall ensure they are operated and maintained to achieve the goals of this article. Proper operation and maintenance also includes, as a minimum, the following:

1. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article.

2. Written procedures for operation and maintenance and training new maintenance personnel.

3. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 230-95 of this article.

4. Maintenance agreements. The City shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Appendix A of this chapter entitled "Sample Stormwater Control Facility Maintenance Agreement. The City, in lieu of a maintenance agreement, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§7-12-8 Administration and Enforcement; Penalties for Offenses; Fees

A. Construction inspection.

1. Erosion and sediment control inspection.

a. The SMO may require such inspections as necessary to determine compliance with this article and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this article and the SWPPP as approved. To obtain inspections, the applicant shall notify the SMO at least 48 hours before any of the following, as required by the SMO:

i. Start of construction;

ii. iInstallation of sediment and erosion control measures;

iii. Completion of site clearing;

iv. Completion of rough grading;

v. Completion of final grading;

vi. Close of the construction season;

vii. Completion of final landscaping; or

viii. Successful establishment of landscaping in public areas.

b. If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the SMO.

c. Stormwater management practice inspections. The SMO is responsible for conducting inspections of SMPs. All applicants are required to submit as-built plans for any SMPs located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

d. Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher-than-usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

e. Submission of reports. The SMO may require monitoring and reporting from entities subject to this article as are necessary to determine compliance with this article.

f. Right-of-entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in § 230-97A(3) of this article.

B. Performance guarantee.

1. Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the City in its approval of the SWPPP, the may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the City as the beneficiary. The security shall be in an amount to be determined by the City based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the City, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to City. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

2. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the City with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the City may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.
3. Recordkeeping. The City may require entities subject to this article to maintain records demonstrating compliance with this article.

C. Enforcement and penalties.

1. Notice of violation. When the City determines that a land development activity is not being carried out in accordance with the requirements of this article, it may issue a written notice of violation to the landowner. The notice of violation shall contain:
   a. The name and address of the landowner, developer or applicant;
   b. The address, when available, or a description of the building, structure or land upon which the violation is occurring;
   c. A statement specifying the nature of the violation;
   d. A description of the remedial measures necessary to bring the land development activity into compliance with this article and a time schedule for the completion of such remedial action;
   e. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,
   f. A statement that the determination of violation may be appealed to the City Council by filing a written notice of appeal within 15 days of service of notice of violation.
2. Stop-work orders. The City may issue a stop-work order for violations of this article. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the City confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article.
3. Violations. Any land development activity that is commenced or is conducted contrary to this article, may be restrained by injunction or otherwise abated in a manner provided by law.
4. Penalties. Except as otherwise stated in this article, violations of this article are punishable as provided in §11-10 of this Code.
5. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this article, the SMO may prevent the occupancy of said building or land.
6. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

D. Fees. In addition to any other fees required by law, any person undertaking a land development activity regulated by this article shall, upon submission of a stormwater pollution prevention plan (SWPPP) to the City, pay the following fees for review of the SWPPP and any subsequent revisions thereto and for related inspections authorized by this article. Such fees may be amended by the City Council from time to time by resolution.

1. Fees for land development activities. Any applicant or developer submitting a SWPPP to the City for a project to be completed in a single phase shall pay the City a fee based on the acreage of the entire development, in accordance with the following fee schedule. Any applicant or developer submitting a SWPPP to the City for a project to be completed in multiple phases shall pay the City a fee based on the acreage of the entire development, including the acreage of subsequent phases that are part of a common scheme of development or sale, in accordance with the following fee schedule, and shall also submit the fees required under §7-12-8D(2) below.

ACREAGE OF ENTIRE DEVELOPMENT	SWPPP REVIEW AND INSPECTION FEE
0 to 5 Acres	$500
5 to 10 Acres	$850
Over 10 Acres	$850 + $300 for Every 5 Acres above 10 Acres

2. Fees for subsequent phases. For all land development activities to be completed in multiple phases over time, the applicant or developer, in addition to the fee provided for in §7-12-8D (1) above, shall pay the City an additional $500 for each subsequent phase after the first phase of the project, to be paid at the beginning of each such subsequent phase.

§7-13 UTILITIES

A. All exterior on-site utilities shall be installed and maintained underground.

B. On-site underground utilities shall be designed and installed to minimize surface disruption.

C. Temporary overhead power and telephone facilities are permitted during construction only.

PART 8
ADDITIONAL USE REGULATIONS

§8-1 PURPOSE

This article provides additional regulations for uses that are generally considered to have a higher potential for incompatibility with residential or low impact commercial uses without proper mitigation measures.

§8-2 APPLICABILITY

The following requirements are applicable to all uses, permitted (P) and specially permitted (S), as noted in the use tables of §4-1 of this chapter.

§8-3 ACCESSORY DWELLING UNITS

Where permitted as an accessory use in Part 5, an accessory dwelling unit may be constructed within any single-family detached dwelling following approval of a Special Use Permit as set forth in §11-9, subject to the following standards:

A. General Standards for Accessory Dwelling Units.

1. A maximum of one (1) accessory dwelling unit is permitted on an individual lot.
2. Accessory dwelling units shall be within or substantially attached to the principal structure that satisfy the minimum dimensional standards listed in Part 5 as amended.
3. Accessory dwelling units shall be a minimum of 500 sq. ft and the accessory dwelling unit shall not exceed 49% of the gross floor area of the principal dwelling up to 900 sq. ft., whichever is less restrictive.
4. The maximum height of an accessory dwelling unit is limited to the maximum height of the principal structure in the respective zoning district.
5. A maximum of 2 bedrooms shall be permitted for an accessory dwelling unit. A third bedroom is permitted if built within the roof portion of the structure.
6. The accessory dwelling unit shall have its own entrance, which may be shared with the principal dwelling by a common area.
7. A minimum of one (1) off street parking space shall be provided with a maximum of two (2) parking spaces permitted. Driveways shall not be expanded in the area between the front wall of the principal structure and the right-of-way line to accommodate required ADU parking.
8. The principal dwelling or accessory dwelling unit must be owner occupied. The property owner must certify that either unit is their principal place of residence and legal domicile. Both the principal structure and accessory dwelling unit must remain in common ownership.
9. Accessory dwelling units must maintain a complementary exterior finish to the principal structure.
10. Exterior lighting shall meet the standards listed in § 7-5 of this Ordinance.

B. The Special Use Permit for an accessory dwelling unit shall be valid for a period not exceeding two years. Thereafter the Code Enforcement Officer, with concurrence from the Zoning Enforcement Officer, may renew a Special Use Permit upon satisfactory proof of compliance with the standards listed above and any conditions placed by the Planning and Development Board on the original permit.

1. A Special Use Permit renewal shall be valid for a period not exceeding two years.
2. The original Special Use Permit or any subsequent renewal by the Code Enforcement Officer shall not be transferable. A new property owner shall seek approval from the Zoning Board of Appeals.
3. The Code Enforcement Officer may deny the renewal of a Special Use Permit based on the following:
   a. Failure to comply with NYS Building Code for property maintenance.
   b. Falsification of a certification of legal residence.
4. If a Special Use Permit renewal is denied, the property owner must seek a new Special Use Permit approval from the Zoning Board of Appeals pursuant to §11-9 of this Ordinance.

§8-4 ACCESSORY STRUCTURES

A. In any district, the distance between a principal building and an accessory building shall be a minimum of ten (10) feet.
   1. Accessory Dwelling Units as defined in this chapter, are required to be substantially attached to the principal structure.

B. All accessory structures shall be located in the side or rear yard.

C. Accessory structures shall not exceed the lot coverage of the principal structure.

D. Accessory structures shall have a maximum height that is equal to the height of the principal structure or 20 feet, whichever is more restrictive.

§8-5 ADULT USES

A. Purpose. The nature of adult uses is such that they are recognized as having adverse secondary characteristics, particularly when they are accessible to minors and located near residential property or related residential uses such as schools, day-care centers, libraries or parks. Furthermore, the concentration of adult uses has an adverse effect upon the use and enjoyment of adjacent areas. The nature of adult uses requires that they not be allowed within certain zoning districts, or within minimum distances from each other or residential uses. Special regulation of adult uses is necessary to ensure that the adverse secondary effects would not contribute to or enhance criminal activity in the area of such uses, nor will it contribute to the blighting or downgrading of the surrounding property and lessening of its value. [Amended 7-2-2007]

B. Requirements. [Amended 7-2-2007]
   1. General. Adult uses, as defined in this chapter, shall be subject to the following general provisions:
      a. Activities classified as obscene, as defined by Minnesota Statutes 617.241, are not permitted and are prohibited.
      b. Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.
      c. Adult uses, either principal or accessory, shall be prohibited from locating in any place which is also used to dispense or consume alcoholic beverages.
      d. An adult use which does not qualify as an accessory use shall be classified as an adult use-principal.

2. Adult uses-principal.
    a. Adult uses both principal and accessory, shall be permitted in the Enterprise District and only upon site plan approval.
    b. Adult uses-principal shall be located at least 1,000 radial feet as measured in a straight line from the closest point of the property line of the building upon which the adult use-principal is located to the property line of:
        i. Residentially zoned property.
        ii. A licensed day-care center.
        ii. A public or private education facility classified as elementary, junior high or senior high.
        iv. A public library.
        v. A public park.
        vi. Another adult use-principal.
        vii. An on-site liquor retail sales establishment.
        viii. An historic or scenic resource; historic route or highway; or a civic or cultural facility.
    c. Adult uses-principal shall be located at least 500 radial feet, as measured in a straight line, from one another.
    d. Adult use-principal activities, as defined by this chapter, shall be classified as one use. No two adult uses-principal shall be located in the same building or upon the same property, and each use shall be subject to Subsection B(1)(b) and (c), above.
    e. Adult uses-principal shall adhere to the following signing regulations:
        i. Sign messages shall be generic in nature and shall only identify the type of business which is being conducted; and
        ii. Shall not contain material classified as advertising; and
        ii. Shall comply with the size and number requirements for the district in which they are located.
    e. Adult use-principal activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical, or other performance or exhibition presented to the general public where minors are permitted.
3. Adult uses-accessory.
    a. Adult uses-accessory shall:
        i. Comprise no more than 10% of the floor area of the establishment in which it is located.
        ii. Comprise no more than 20% of the gross receipts of the entire business operation.
        iii. Not involve or include any activity except the sale or rental of merchandise.
    b. Adult uses-accessory shall be restricted from and prohibit access to minors by the physical separation of such items from areas of general public access.
        i. Movie rentals. Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation.
        ii. Magazines. Publications classified or qualifying as adult uses shall not be accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.
        iii. Other use. Adult uses-accessory not specifically cited shall comply with the intent of this section subject to the approval of the Zoning Enforcement Officer.

c. Adult uses-accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.

d. Adult use-accessory activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition presented to the general public where minors are permitted.

C. All building openings, including doors and windows, shall be coated, covered or screened in such a manner as to prevent a view into the establishment from any public street, sidewalk or parking area.

D. No loudspeakers or sound equipment shall be used by adult uses that can be heard by the public outside the establishment.

§8-6 ANIMAL SERVICE FACILITIES

A. All animals shall be retained within a wholly enclosed building during the hours of 6:00 p.m. and 8:00 a.m.

B. All outdoor animal exercise areas or runs shall be fully enclosed within a fenced area that meets the requirements of §7-4-6 of this Zoning Ordinance.

C. All outdoor animal exercise areas or runs shall be located a minimum of 25 feet from all property boundaries.

§8-7 AUTOMOTIVE SERVICE FACILITIES

A. An automotive service facility is permitted in accordance with the district use tables in §4-1, subject to the following standards.

1. Wheel stops or other permanent barriers shall be installed to prevent vehicles from encroaching on required setbacks or landscaping.

2. Display vehicles shall be arranged in an orderly fashion and provide reasonable room for pedestrian and vehicular maneuvering.

3. No vehicle storage, display or parking shall be permitted within the required front setback.

4. Overhead doors shall not face a residential district and doors must remain closed except for the entry and exit of vehicles.

§8-8 CANNABIS FACILITIES

All cannabis facilities and uses shall conform to the requirements of City of Lackawanna Code Chapter 93: Cannabis.

§8-9 CEMETERIES

A. Any cemetery must be a contiguous parcel of land containing at least 20 acres.

B. Mausoleums shall be located at least 200 feet from any adjoining residential parcel.

§8-10 HOME OCCUPATIONS

Following the issuance of a Special Use Permit in accordance with §11-9 of this Chapter, a home occupation may be established. Upon demonstration of continued compliance with the conditions of the original approval, the Code Enforcement Officer shall annually renew the special use permit. Based on compliance with applicable building codes and this chapter, the Special Use Permit may be revoked by the Code Enforcement Officer. An application for a new special use permit shall be submitted to the Zoning Board of Appeals. The Code Enforcement Officer may inspect the premises without prior notice during normal business hours. Such home occupation shall meet the following standards

A. There shall be no change in the exterior of the building or other evidence that a home occupation is being conducted within.

B. All activities involving outside visitors, clients or deliveries shall be limited to the hours between 8 A.M. and 9 P.M.

C. No parking spaces, other than driveways, may be located in the required front yard.

D. A home occupation shall not be permitted within an Accessory Dwelling Unit.

E. No more than one unlighted sign not more than two square feet in size, identifying the resident and the business, attached flat against the building, shall be permitted.

F. One (1) sign shall be permitted with a maximum of two (2) square feet in area. The sign shall be located on the premises conducting the home occupation.

G. The following uses are prohibited from being established as home occupations:

1. Automotive Service Facilities
2. Restaurants/Taverns
3. 3Sale of Firearms and/or weapons
4. Uses which require the boarding, training, raising or treatment of dogs, cats, or other animals on site
5. Food handling and/or processing/ catering

§8-11 MANUFACTURED HOMES

A Manufactured Home shall not be parked and/ or occupied in any district outside of an approved Manufactured Home Park for more than 48 hours.

§8-12 MANUFACTURED HOME PARKS

Manufactured Home parks shall be allowed in the R-3 zoning district subject to site plan approval and the following standards:

A. A minimum development size of five acres;

B. A street system shall be provided which gives access to all Manufactured Home spaces with an adequate entrance drive from the public street at least 20 feet wide;

C. Manufactured Homes shall be organized so that each unit resides on land of at least 3,000 square feet in size with a minimum width of 40 feet and a minimum depth of 75 feet are established.

D. Manufactured Homes shall be set back at least 100 feet from public streets, roadways and other property lines; and

E. The maximum allowable density shall not exceed 12 units/gross acre.

§8-13 NEIGHBORHOOD GARDEN

A Neighborhood Garden is permitted in accordance with the use schedule in §4-1, subject to the following standards:

A. Garden areas shall be setback a minimum of 10 feet from all property lines.

B. The garden area must be fully enclosed by a fence that meets the standards listed in §7-4-6 Fences.

1. Fences shall not be opaque.

C. All materials and equipment shall be stored in a fully enclosed structure when not in use.

D. Site lighting shall not be permitted.

E. Accessory structures are permitted and are subject to the dimensional standards set forth within the district in which the garden is located.

§8-14 COMMUNITY SCALE AGRICULTURE

Community Scale Agriculture is permitted in accordance with the use schedule in §4-1, subject to site plan review and the following standards:

A. Garden areas shall be setback a minimum of 20 feet from all property lines.

B. The garden area must be fully enclosed by a fence that meets the standards listed in §7-4-6 Fences.

1. Fences shall not be opaque.

C. All materials and equipment shall be stored in a fully enclosed structure when not in use.

D. Site lighting shall not be permitted.

E. Accessory structures are permitted and are subject to the dimensional standards set forth within the district in which the garden is located.

F. Operations shall be limited to the hours of 7am – 7pm.

G. A maintenance plan is required as part of site plan approval and at a minimum must include:

1. The location of refuse containers and schedule of refuse pickup.
2. An odor mitigation/control plan.
3. A pest mitigation/control plan.
4. Emergency contact information for the owner or their representative responsible for the operations of the garden.

§8-15 SOLAR ENERGY SYSTEMS

§8-15-1 Authority

This Solar Energy Local Law is adopted pursuant to Sections 19 and 20 of the City Law and Section 20 of the Municipal Home Rule Law of the State of New York, which authorize the City of Lackawanna to adopt land use regulations and zoning provisions that advance and protect the health, safety, and welfare of the community, and, in accordance with the City law of New York State, "to make provision for, so far as conditions may permit, the accommodation of Solar Energy Systems and equipment and access to sunlight necessary therefor."

§8-15-2 Statement of Purpose

This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the City of Lackawanna by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

A. To take advantage of a safe, abundant, renewable and non-polluting energy resource;

B. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;

C. To increase employment and business development in the City of Lackawanna, to the extent reasonably practical, by furthering the installation of Solar Energy Systems; and,

D. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources.

§8-15-3 Definitions

Active Agricultural Land. Land used for a Farm Operation in accordance with Agriculture and Markets Law § 301 – uses of which include production of crops, livestock, and livestock products—within the past five years.

Battery Energy Storage System. One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time (not to include a stand-alone 12-volt car battery or an electric motor vehicle).

Building-Integrated Solar Energy System. A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

Facility Area. The cumulative land area occupied during the commercial operation of the solar energy generating facility. This shall include all areas and equipment within the facility's perimeter boundary – including the solar energy system, onsite interconnection equipment, onsite electrical energy storage equipment, and any other associated equipment – as well as any site improvements beyond the facility's perimeter boundary such as access roads, permanent parking areas, or other permanent improvements. The facility area shall not include site improvements established for impact mitigation purposes, including but not limited to vegetative buffers and landscaping features.

Farm Operation. Land and on-farm buildings, equipment, facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise (in accordance with Agriculture & Markets Law § 301[11]).

Glare. The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

Ground-Mounted Solar Energy System. A Solar Energy System which is secured to the ground via a pole, ballast system, or other mounting system; is detached from any other structure; and which generates electricity for onsite oroffsite consumption.

Kilowatt (kW). A unit of power equal to 1,000 watts. The nameplate capacity of residential and commercial solar energy systems may be described in terms of kW.

Megawatt (MW). A unit of power equal to 1,000 kW. The nameplate capacity of larger solar energy systems may be described in terms of MW.

Mineral Soil Groups 1-4 (MSG 1-4). Soils recognized by the New York State (NYS) Department of Agriculture and Markets as having the highest value based on soil productivity and capability, in accordance with the uniform statewide land classification system developed for the NYS Agricultural Assessment Program.

Nameplate Capacity. A solar energy system's maximum electric power output under optimal operating conditions. Nameplate Capacity may be expressed in terms of Alternating Current (AC) or Direct Current (DC).

Native Perennial Vegetation. Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for Pollinators and shall not include any prohibited or regulated invasive species as determined by the NYS Department of Environmental Conservation.

On-Farm Solar Energy System. A Solar Energy System located on a farm which is a "farm operation" (as defined by Article 25-AA of the Agriculture and Markets Law, which may include one or multiple contiguous or non-contiguous parcels) in an agricultural district, which is designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated do not exceed more than 110 percent of the anticipated annual total electrical energy consumed by the farm operation.

Pollinator. Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

Roof-Mounted Solar Energy System. A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

Solar Access. Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

Solar Energy Equipment. Electrical material, hardware, inverters, conduit, energy storage devices, or other electrical and photovoltaic equipment associated with the production and storage of electricity.

Solar Energy System. The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

1. Roof-Mounted Solar Energy Systems.
2. Building-Integrated Solar Energy Systems.
3. Ground-Mounted Solar Energy Systems with a total solar panel surface area of up to 4,000 square feet.

B. Tier 2 Solar Energy Systems include the following:

1. Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Facility Area of up to 8 acres in size and which generate up to 110 % of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems include the following:

1. Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Facility Area of up to 40 acres in size.

D. Tier 4 Solar Energy Systems are Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems.

E. Solar Panel: A photovoltaic device capable of collecting and converting solar energy into electricity.

§8-15-4 Applicability

A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the City of Lackawanna after the effective date of this Local Law, excluding general maintenance and repair.

B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.

C. Modifications to an existing Solar Energy System that increase the Facility Area by more than 5 % of the original Facility Area (exclusive of moving any fencing) shall be subject to this Local Law.

§8-15-5 General Requirements

A. A Building permit shall be required for installation of all Solar Energy Systems.

B. Prior to the issuance of the building permit or final approval by the Code Enforcement Officer, construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer or NYS Registered Architect.

C. Local land use boards are encouraged to condition their approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.

D. Issuance of permits and approvals by the City of Lackawanna Planning and Development Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].

E. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Uniform Code"), the NYS Energy Conservation Code ("Energy Code"), and the City of Lackawanna Code.

F. For Solar Energy Systems subject to site plan review, the City of Lackawanna shall impose, and may update as appropriate, a schedule of fees to recover expenses associated with engineering, environmental, or legal services determined to be reasonably necessary in the processing of an application under this law.

§8-15-6 Permitting Requirements for Tier 1 Solar Energy Systems

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

A. Roof-Mounted Solar Energy Systems.

1. Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements (exceptions may be approved by the Code Enforcement Official):
    a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system.
    b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
    c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
    d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
2. Glare. All Solar Panels shall have anti-reflective coating(s).
3. Height. All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

B. Building-Integrated Solar Energy Systems.

1. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

C. Ground-Mounted Solar Energy Systems

1. Glare. All Solar Panels shall have anti-reflective coating(s).
2. Setbacks. Tier 1 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.
3. Height. Tier 1 Solar Energy Systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district.
4. Lot Size. Tier 1 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.
5. Lot coverage. Tier 1 Solar Energy Systems are exempt from the lot coverage requirements in the underlying zoning district.
6. Screening and Visibility.
    a. All Tier 1 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.
    b. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate Solar Access.

§8-15-7 Permitting Requirements for Tier 2 Solar Energy Systems

All Tier 2 Ground-Mounted Solar Energy Systems shall be permitted in the Enterprise district as an accessory structure and shall be subject to site plan approval. Tier 2 Solar Energy Systems shall adhere to the standards and requirements established for Tier 1 Ground-Mounted Systems in Section 8-15-6, in addition to (or in some cases amended by) the following requirements:

A. Application & Site Plan Review Requirements. Applications for Tier 2 Solar Energy Systems, including materials for site plan review, shall include the following:

1. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
2. Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
3. Nameplate Capacity of the Solar Energy System (as expressed in kW or MW).
4. Zoning district designation for the parcel(s) of land comprising the Facility Area.
5. Property lines and physical features, including roads, for the project site.
6. Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
7. Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
8. A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Battery Energy Storage System components if applicable and should include applicable setback and other bulk and area standards.
9. A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

B. Standards. Tier 2 Systems shall adhere to the following standards.

1. Lot coverage. Tier 2 Solar Energy Systems are exempt from the lot coverage requirements in the underlying zoning district.
2. Screening/Visibility. Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
3. Environmental Resources
   a. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
   b. To the extent practicable, Tier 2 Solar Energy System Owners shall utilize and maintain native perennial vegetation to provide foraging habitat for pollinators in all appropriate areas within the Facility Area.

c. Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

§8-15-8 Permitting Requirements for Tier 3 Solar Energy Systems

All Tier 3 Solar Energy Systems are permitted through the issuance of a Special Use Permit within the BRA and Enterprise zoning districts, and subject to site plan application requirements set forth in this Section.

A. Applications for the installation of Tier 3 Solar Energy System shall be:

1. Reviewed by the Zoning Enforcement Officer for completeness. Applicants shall be advised within 30 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
2. Subject to a public hearing to hear all comments for and against the application. This hearing shall be in compliance with all existing public hearing requirements established under law by the City of Lackawanna.
3. Referred to the Erie County Department of Planning pursuant to General Municipal Law § 239-m if required.
4. Upon closing of the public hearing, the Planning and Development Board shall take action on the application within 60-days of the public hearing, which can include approval, approval with conditions, or denial. The 60-day period may be extended upon consent by both the Planning and Development Board and applicant.

B. Application & Site Plan Review Requirements. Applications for Tier 3 Solar Energy Systems, including materials for site plan review, shall include the following:

1. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
2. Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
3. Nameplate Capacity of the Solar Energy System (as expressed in MW).
4. Zoning district designation for the parcel(s) of land comprising the Facility Area.
5. Property lines and physical features, including roads, for the project site.
6. Map(s) of MSG 1-4 soils and Active Agriculture Lands on the parcel(s) comprising the Facility Area and adjacent parcels.
7. Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
8. Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
9. Erosion and sediment control and storm water management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.

10. A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Battery Energy Storage System components if applicable and should include applicable setback and other bulk and area standards.
11. A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
12. A Property Operation and Maintenance Plan that describes continuing site maintenance, anticipated dual-use, and property upkeep, such as mowing and trimming.
13. A Decommissioning Plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant. The decommissioning plan shall address the following:
    a. The time required to decommission and remove the Solar Energy System and any ancillary structures.
    b. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
    c. The cost of decommissioning and removing the Solar Energy System, as well as all necessary site remediation or restoration.
    d. The provision of a decommissioning security which shall adhere to the following requirements:
        i. The deposit, executions, or filing with the City Clerk of cash, bond, or other form of security reasonably acceptable to the City attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal.
            (A) The amount of the bond or security shall be 115% of the cost of removal and site restoration for the Tier 3 Solar Energy System and shall be revisited every 5 years and updated as needed to reflect any changes (due to inflation or other cost changes). The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System.
        ii. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the City of Lackawanna, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

C. Special Use Permit Standards. The Planning and Development Board may issue a special use permit for a Tier 3 Solar Energy System only after it has found that all the following standards and conditions have been satisfied:

1. Underground Requirements. All utility lines located outside of the Facility Area shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

2. Vehicular Paths. Vehicular paths within the Facility Area shall be designed in compliance with Uniform Code requirements to ensure emergency access, while minimizing the extent of impervious materials and soil compaction.

3. Signage.

a. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than [8] square feet.

b. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

4. Glare. All Solar Panels shall have anti-reflective coating(s).

5. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

6. Multiple lots. At the discretion of the Planning and Development Board, where a Tier 3 Solar Energy System's Facility Area comprises multiple lots (regardless of ownership by an individual or multiple participating landowners), the combined lots may be treated a single lot for the purposes of applying specific standards and requirements.

7. Lot size. The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements of the underlying zoning district.

8. Setbacks. The Tier 3 Solar Energy Systems shall have a minimum setback of 100 feet from all property boundaries. Fencing, collection lines, access roads and landscaping may occur within the setback.

9. Height. The Tier 3 Solar Energy Systems shall have a maximum height of 20 feet to the apex of the panel at its maximum tilt.

a. This height requirement can be waived by the Planning and Development Board if the panels are being raised to accommodate continued or new agricultural purposes.

10. Lot coverage. Tier 3 Solar Energy Systems are exempt from the lot coverage requirements in the underlying zoning district.

11. Fencing Requirements. All mechanical equipment, including any structure for Battery Energy Storage System components, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.

12. Screening and Visibility.
    a. Solar Energy Systems smaller than 1 acre shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
    b. Solar Energy Systems larger than 1 acre shall be required to:
        i. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to submitted by the applicant.
        ii. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.
        iii. iThe screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the City of Lackawanna.
        iv. The Planning and Development Board may elect to waive certain screening and landscaping requirements in select locations based on an applicant's demonstration of non-impact or impact mitigation on adjacent parcels.
13. Environmental Resources
    a. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
    b. Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing Native Perennial Vegetation and foraging habitat beneficial to game birds, songbirds, and Pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes and seed all appropriate areas within the Facility Area. Any project which is designed to incorporate agricultural or farm-related activities or uses within the Facility Area may be excluded from this requirement based on the amount of space actually occupied by the agricultural use(s). This exclusion will only be allowed based on the Planning and Development Board determination that these lands are being used for actual agricultural uses.
    c. Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

D. Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the decommissioning plan. A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator within 30 days of the ownership change.

§8-15-9 Permitting Requirements for Tier 4 Solar Energy Systems

All Tier 4 Solar Energy Systems are permitted through the issuance of a Special Use Permit within BRA-HI zoning district, and are subject to the site plan and special use permit application requirements established for Tier 3 Solar Energy Systems in Section 8-15-8, in addition to (or in some cases amended by) the following requirements:

A. Applications for Tier 4 Solar Energy Systems shall:

1. Be reviewed by the Zoning Enforcement Officer for completeness. Applicants shall be advised within 60 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

B. Pre-Application Meeting.

1. At least 60 days prior to the submission of an application, the Applicant shall conduct a pre-application meeting with the City staff to ensure all parties have clear expectations regarding any City requirements applicable to the proposed Solar Energy System. A written request for this purpose shall be sent to the Chairperson of the City Council. Submission and review of the application shall not be delayed based on the failure of the Chairperson to respond in a timely manner to a properly filed meeting request.

2. At the pre-application meeting, the Applicant must provide:

a. a brief description of the proposed facility and its environmental setting;

b. a map of the proposed facility showing project components;

c. the proposed facility's anticipated impacts;

d. a designated contact person with telephone number, email address, and mailing address from whom information will be available going-forward basis; and,

e. an anticipated application submission date.

C. Special Use Permit Standards

1. Setbacks: Tier 4 Solar Energy Systems shall have a setback of 100 feet from all property boundaries. Fencing, collection lines, access roads and landscaping may occur within the setback.

§8-15-10 Safety

A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.

B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corps.

C. If a Battery Energy Storage System is included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the City of Lackawanna and any applicable federal, state, or county laws or regulations.

D. Where deemed necessary by the Planning and Development Board, the Applicant shall ensure emergency access to the Facility Area for local first responders by installing an emergency lock box or similar device, in a location subject to approval by the City of Lackawanna Fire Department.

§8-15-11 Permit Timeframe and Abandonment

A. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 36 months, provided that a building permit is issued for construction. In the event construction is not completed in accordance with the final site plan – as may have been amended and approved – as required by the Planning and Development Board, within 36 months, the applicant may request to extend the time to complete construction for 12 months. Approval of a request to extend the time to complete construction shall not be unreasonably withheld by the City of Lackawanna. If the owner and/or operator fails to perform substantial construction within 48 months, the approvals shall expire.

B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the City of Lackawanna may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 12 months of notification.

C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the City of Lackawanna may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

§8-15-12 Enforcement

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of City of Lackawanna.

§8-15-13 Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

§8-16 SHORT-TERM RENTALS

Short Term Rentals are prohibited in the City of Lackawanna pursuant to Chapter 207 of City Code.

§8-17 WIND ENERGY CONSERVATION SYSTEMS (WECS)

§8-17-1 Purpose

The City of Lackawanna has determined that a comprehensive local law regulating the development of WECS is necessary to protect the interests of the City and its residents. The City adopts this article to promote the effective and efficient use of the City's wind energy resource through WECS and to regulate the placement of such systems so that the public health, safety and welfare will not be jeopardized and that the WECS will not have a significant adverse impact on the aesthetic qualities of the City.

§8-17-2 Definitions

Commercial Wind Energy System. A wind energy conversion system consisting of one wind turbine, one tower and associated control or conversion electronics which has a rated capacity greater than 250 kilowatts and a total height of more than 150 feet and is intended to solely supply electrical power into a power grid for sale.

Noncommercial Wind Energy System. A wind energy conversion system consisting of one wind turbine, one tower and associated control or conversion electronics which has a rated capacity of not more than 250 kilowatts and a total height of less than 150 feet.

Total Height or Maximum Overall Height. The height of the wind energy conversion system measured from the ground elevation to the top of the tip of the blade in the vertical position.

Tower. The support structure, including guyed, monopole and lattice types, upon which a wind turbine or other mechanical device is mounted.

Tower Height. The height above grade of the uppermost fixed portion of the tower, excluding the length of any axial rotating turbine blades.

Wind Energy Conversion Systems (WECS). One or more mechanical devices such as wind chargers, windmills or wind turbines which are designed and used to convert wind energy into a form of useful energy for use on site to reduce power costs for sale or redistribution to others. WECS include both commercial and noncommercial systems.

Wind Energy Facility. Any wind energy conversion system or wind measurement tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

Wind Energy System. The equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, substation, maintenance or control facilities or other component used in the system.

Wind Measurement Tower. A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

§8-17-3 Applicability

[Amended 3-5-2008]

The requirements of this article shall apply to all wind energy facilities proposed, operated, modified, or constructed after the effective date of this article except for those which began operation shall to the effective date of this article and also except for wind energy facilities within the Bethlehem Redevelopment Area (BRA) where the requirements of this article shall apply to all wind energy facilities proposed, operated, modified, or constructed after the effective date of this article unless the Planning Board has issued final approval for such wind energy facilities prior to December 31, 2007.

§8-17-4 Permits required; Allowable/Zoning Districts

[Amended 10-1-2007; 3-5-2008]

A. No wind energy facilities shall be constructed, reconstructed, modified, or operated in the City of Lackawanna except in compliance with this article.

B. No wind energy facilities shall be constructed, reconstructed, modified, or operated in the City of Lackawanna except in Enterprise (ENT) or Bethlehem Redevelopment Area (BRA), and with the issuance of a special use permit approved pursuant to this article, the completion of SEQR, and upon issuance of a building permit.

C. Any future construction of wind energy facilities shall be located in an area west of the canal but in no event shall be closer than 2,000 feet west of the westerly line of Hamburg Turnpike.

D. No wind measurement tower shall be constructed in the City of Lackawanna except in the allowable districts pursuant to a special use permit and this article.

§8-17-5 Applications for Wind Energy Facilities

[Amended 3-5-2008]

A. Applications for a special use permit for WECS will follow the general process for the issuance of a special use permit as described in Part 11 of the City Code and this article, and shall be made as follows:

1. Applicants for a special use permit for wind energy conversion systems within the City of Lackawanna shall submit the following information to the City for its referral to a professional engineer or consultant and to the Planning Board of the City for review and recommendation to the City Council:

a. Name and address of the applicant.

b. Evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application.

c. Visual environmental assessment form (visual EAF), landscaping plan, and visual assessment report, including appropriate models and photography assessing the visibility from key viewpoints identified in the visual EAF or by the City of Lackawanna, existing tree lines and proposed elevations. The visual EAF shall include a detailed or photographic simulation showing the site fully developed with all proposed wind turbines and accessory structures.

d. (A SEQR full environmental assessment form (EAF).

e. A site plan drawn in sufficient detail to show the following:

i. Location of the tower(s) on the site and the tower height, including blades, rotor diameter and ground clearance.

ii. Utility lines, both above and below ground, within a radius equal to the proposed tower height, including the blades.

iii. Property lot lines and the location and dimensions of all existing structures and uses on site within 1,000 feet of the wind energy conversion systems.

iv. Surrounding land use and all structures within 1,500 feet of the wind energy conversion systems.

v. Dimensional representation of the various structural components of the tower construction, including the base and footing.

vi. Certification by a registered New York State professional engineer that the tower's design is sufficient to withstand wind loading requirements for structures as established by the New York State Uniform Construction Code.

vii. Existing topography.

viii. Proposed plan for grading and removal of natural vegetation.

ix. Proposed plan for restoration after construction according to City of Lackawanna and NYS Department of Environmental Conservation guidelines.

x. Wind characteristics and dominant wind direction from which 50% or more of the energy contained in the wind flows.

xi. Plan for ingress and egress to the proposed project site, including:

(A) A description of the access route from the nearest state, county, and/or City-maintained roads to include:

(1) Road surface material, stating the type and amount of surface cover.

(2) Width and length of access route.

(3) Dust control procedures.

(B) A road maintenance schedule or program.

(C) Review of railroad accessibility for deliveries.

xii. Detailed construction plan, including but not limited to a construction schedule; hours of operation; designation of heavy haul routes; a list of material equipment and loads to be transported; identification of temporary facilities intended to be constructed; and a contact representative in the field with a name and phone number.

xiii. Tree removal. All groves of trees shall be located on the site plan at the time of application. No grove or woodlots of trees shall be removed without approval of the Planning Board, excluding the BRA area.

f. Turbine information: must contain specific information on the type, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each commercial wind turbine model, tower, and electrical transmission equipment.

g. Turbine drawings: must contain photographs or detailed drawings of each wind turbine model, including the tower and foundation.

h. Noise report. A noise report shall be furnished which shall include the following:

i. A description and map of the projects noise-producing features, including the range of noise levels expected, and the tonal and frequency characteristics expected. The noise report shall include low frequency, infrasound, pure tone, and repetitive/impulsive sound.

ii. A description and map of the noise-sensitive environment, including any sensitive noise receptors (i.e., residences, hospitals, libraries, schools, places of worship and other facilities where quiet is important) within two miles of the proposed facilities.

iii. A survey and report prepared by a qualified engineer that analyzes the preexisting ambient noise regime, including seasonal variation, including but not limited to separate measurements of low frequency and A-weighted noise levels across a range of wind speeds, including near cut-in, turbulence measurements, distance from the turbines, location of sensitive receptors relative to wind direction and analyses at affected sensitive receptors, located within two miles of the proposed project site.

iv. A description and map showing the potential noise impacts, including estimates of expected noise impacts upon construction and operation workers and estimates of expected noise levels at sensitive receptor locations.

v. A description and map of the cumulative noise impacts.

vi. A description of the project's proposed noise-control features, including specific measures proposed to protect workers and specific measures proposed to mitigate noise impacts for sensitive receptors consistent with levels in this article.

vii. Identification of any problem areas.

viii. Manufacturers' noise design and field testing data, both audible dB(A) and low frequency (deep bass vibration), for all proposed structures.

ix. A report that out lines issues and considerations for individuals that use hearing aids.

i. A geotechnical report shall be furnished which shall, at a minimum, include the following:

i. Soils engineering and engineering geologic characteristics of the site based on oil-site sampling and testing.

ii. Foundation design criteria for all proposed structures.

iii. Slope stability analysis.

iv. Grading criteria for ground preparation, cuts and fills, and soil compaction.

j. Ice throw calculations: a report from a New York State professional engineer that calculates the maximum distance that ice from the turbine blades could he thrown. The basis of the calculation and all assumptions must be disclosed.

k. Blade throw calculations: a report from a New York State professional engineer that calculates the maximum distance that pieces of the turbine blades could be thrown. The basis of the calculation and all assumptions must be disclosed.

l. Catastrophic tower failure: a report from the turbine manufacturer stating the wind speed and conditions that the turbine is designed to withstand, including all assumptions.

m. FAA notification: a copy of written notification to the Federal Aviation Administration.

n. (Utility notification: utility interconnection data and a copy of a written notification to the utility of the proposed interconnection.

o. (Notification to microwave communications link operators. An application that includes any wind turbine which is located within two miles of any microwave communications link shall be accompanied by a copy of a written notification to the operator of the link.

p. Floodplain. An application that includes any wind turbine which is located within a one-hundred-year floodplain area, as such flood hazard areas are shown on the floodplain maps, shall be accompanied by a detailed report which shall address the potential for wind erosion, water erosion, sedimentation and flooding, and which shall propose mitigation measures for such impacts.

q. Other information: such additional information as may be reasonably requested by the Technical Support Department, Code Enforcement Officer, Planning Board, or City Council.

B. Special use permits issued for wind energy conversion systems shall be subject to the following conditions:

1. Setbacks. The applicant shall adhere to the following setbacks:
   a. No commercial wind energy systems shall be allowed in any residential district.
   b. One thousand feet from any residential district boundary line.
   c. A minimum of 1.5 times the total WECS height from any building located outside the applicant's property line.
   d. A minimum of 1,500 feet from any dwelling.
   e. (From property lines (excluding residential zones and the BRA):
      i. A minimum of 1.5 times the total WECS height from any property line, excluding adjoining lot lines of project participants.
   f. A minimum of 1.5 times the total WECS height from any public road and highway.
   g. Where the lot line abuts a public right-of-way, the setbacks specified above shall be measured from the center line of such right-of-way.
   h. From aboveground transmission lines greater than 12 kilovolts:
      i. A minimum of 1.5 times the total WECS height from any aboveground transmission line greater than 12 kilovolts, excluding where transmission lines are located within PUD Zones and those transmission lines associated with the WECS and in the BRA.
      i. Notwithstanding the provisions set forth in these subsections, such setbacks from lot lines do not apply if the application is accompanied by a legally enforceable agreement for a period of 25 years or the life of the permit, whichever is longer, that the adjacent landowner agrees to the elimination of the setback.
2. Maximum overall height. The maximum overall height of any wind energy conversion system shall be 450 feet. The maximum height shall be measured from the ground elevation to the top of the tip of the blade in the vertical position.
3. Signage. No advertising sign shall be placed or painted on any commercial wind energy facility.
4. Color and finish. Wind turbines shall be painted a nonobtrusive (e.g., light environmental color such as white, gray, or beige) color that is nonreflective. The design of commercial wind energy facility buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility to the natural setting and the existing environment.
5. Lighting. The applicant shall submit a commercial wind energy facility lighting plan that describes all lighting that will be required, including any lighting that may be required by the FAA. Such plan shall include but is not limited to the planned number and location of lights, light color, whether any such lights will be flashing, and mitigation measures planned to control the light so that it is does not spill over onto neighboring properties.

C. Compliance with regulatory agencies. The applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county, and local agencies having jurisdiction and approval related to the completion of the wind energy conversion system.

D. Safety and security requirements. The applicant shall adhere to the following safety and security requirements:

1. Safety shutdown. Each wind turbine shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind turbine structure. No wind turbine shall be permitted that lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades, and turbine components.
2. Grounding. All structures which may be charged with lightning shall be grounded according to applicable electrical codes.
3. Wiring. All wiring between the wind turbines and the wind energy facility substation shall be underground. The applicant is required to provide a site plan showing the locations of all overhead and underground electric utility lines, including substations for the project.
4. All transmission lines from wind energy conversion systems to oil-site substations shall be underground. The City Council shall have the authority to waive this requirement if the owner of the property upon which the transmission line will be sited consents to aboveground transmission lines or if the City Council has sufficient engineering data submitted by the applicant to demonstrate that underground transmission lines are unfeasible.
5. Ground clearance. The blade tip of any wind turbine shall, at its lowest point, have a ground clearance of not less than 50 feet.
6. Climb ability. Wind turbine towers shall not be climbable up to 15 feet above ground level.
7. Access doors locked. All access doors to wind turbine towers and electrical equipment shall be lockable and shall remain locked at all times when operator personnel are not present.
8. Self-supporting structures. All wind energy conversion system structures shall be of monopole construction (single pole). No lattice structures or guy-wire-supported structures shall be permitted.
9. Signage. Appropriate warning signage shall be placed on wind turbine towers, electrical equipment, and wind energy facility entrances. Signage shall also include two twenty-four-hour emergency contact numbers to the owner of the wind turbine in accordance with local, state, and federal codes.
10. Ice throw. The permit shall determine the acceptable ice throw range based on the activities in the area, location and calculations of the ice throw.

E. Noise requirements. The applicant shall adhere to the following noise requirements:

1. Compliance with noise regulations required. A WECS permit shall not be granted unless the applicant demonstrates that the proposed project complies with all noise regulations.
2. Noise study required. The applicant shall submit a noise study based on the requirements set out in Subsection B of this section. The Planning Board and Technical Support Department shall determine the adequacy of the noise study and, if necessary, may require further submissions. The noise study shall consider the following:
   a. Low-frequency noise.
   b. Infrasound noise.
   c. (Pure tone.
   d. Repetitive/impulsive sound.

3. Noise setbacks. The City Council may impose a noise setback that exceeds the other setbacks set out in this section if it deems that such greater setbacks are necessary to protect the public health, safety and welfare of the community.
4. Audible noise standard. The audible noise standard due to wind turbine operations shall not be created which causes the noise level at the boundary of the proposed project site to exceed the greater of 45 dB(A) for more than five minutes out of any one-hour time period or 6 dB(A) greater than the prevailing background noise.
5. Operations, low-frequency noise. A WECS facility shall not be operated so that impulsive sound below 20 Hz adversely affects the habitability or use of any dwelling unit, hospital, school, library, nursing home, or other sensitive noise receptor.
6. Noise complaint and investigation process required. The applicant shall submit a noise complaint and investigation process. The Planning Board shall determine the adequacy of the noise complaint and investigation process.

F. Fire hazard protection. The applicant shall submit a fire control and prevention program that is appropriate and adequate for the proposed facility. The proposed program may include, but is not limited to, the following:

1. Fireproof or fire-resistant building materials.
2. Buffers or fire-retardant landscaping.
3. iAvailability of water.
4. An automatic fire-extinguishing system for all buildings or equipment enclosures of substantial size containing control panels, switching equipment, or transmission equipment without regular human occupancy.
5. Provision of training and fire-fighting equipment for local fire protection personnel.

G. Impact on wildlife species and habitat. The applicant shall adhere to the following regarding the impact on wildlife species and habitat:

1. Endangered or threatened species. Development and operation of a WECS facility shall not have a significant adverse impact on endangered or threatened fish, wildlife, or plant species or their critical habitats, or other significant habitats identified in the City of Lackawanna Comprehensive Plan and/or the studies and plans of the regional planning commissions based on criteria established by federal or state regulatory agencies.
2. Migratory birds. Development and operation of a commercial wind energy facility shall be evaluated based on SEQRA findings.

H. Unsafe and inoperable wind energy facilities; site reclamation. The applicant shall adhere to the following:

1. Removal and site restoration. Unsafe WECS facilities, inoperable WECS facilities and WECS facilities for which the permit has expired shall be removed by the owner at his or her expense. All safety hazards created by the installation and operation of the commercial wind energy facility shall be eliminated, and the site shall be restored to its natural condition to the extent feasible as per Subsection B(11)(b) of this section. A bond or other appropriate form of security shall be required to cover the cost of the removal and site restoration at the time of building permit application. The bond shall be payable to the City of Lackawanna for the removal of nonfunctional towers and appurtenant facilities in an amount to be determined by the City for the period of the life of the facility. Any fund established may consist of a letter of credit from a State of New York licensed financial institution. All costs of the financial security shall be borne by the applicant.

2. Removal and site restoration plan required. The applicant shall submit a removal and site restoration plan and removal and site restoration plan cost estimate to the Code Enforcement Officer and City Council for review and approval. The restoration plan shall identify the specific properties it applies to and shall indicate removal of all buildings, structures wind turbines, access roads and/or driveways and foundations to four feet below finish grade; road repair costs, if any: and all regrading and revegetation necessary to return the subject property to the condition existing prior to establishment of the WECS facility. The restoration shall reflect the site-specific character, including topography, vegetation, drainage, and any unique environmental features. The plan shall include a certified estimate of the total cost (by element) of implementing the removal and site restoration plan.
3. Public nuisance. Every unsafe WECS facility and every inoperable WECS facility is hereby declared a public nuisance which shall be subject to abatement by repair, rehabilitation, demolition, or removal. An inoperable WECS facility shall not be considered a public nuisance, provided that the owner can demonstrate that modernization, rebuilding or repairs are in progress or planned and will be completed within no more than six months.
4. "Inoperable" defined. A commercial wind energy facility shall be deemed inoperable if it has not generated power within the preceding six months.
5. Interference with residential television, microwave and radio reception. The applicant must submit proof that the proposed construction of the wind energy conversion system will not cause interference with microwave transmissions, cellular transmissions, residential television interference or radio reception of domestic or foreign signals. The applicant shall include specific measures proposed to prevent interference, a complaint procedure, and specific measures proposed to mitigate interference impacts.
6. Compliance with FAA regulations. All commercial wind energy siting shall comply with Federal Aviation Administration (FAA) regulations.
    a. Locking mechanisms to limit radar interference required. All WECS facilities shall include a locking mechanism which prevents the blades from rotating when not producing power, in order to limit airport radar interference or "clutter." This provision does not apply while the WECS is "free-wheeling" during startup and shutdown. The City Council may modify or eliminate the requirement for a locking mechanism if sufficient evidence is presented that no significant airport radar interference or "clutter" will be caused by the WECS facility.

I. Erosion control. The applicant shall adhere to the following:

1. Erosion control plan required. Before the City of Lackawanna shall issue a grading or building permit for the WECS facility, the applicant shall submit an erosion control plan to the Technical Support Department for review and approval. The plan shall minimize the potential adverse impacts on wetlands and Class I and II streams and the banks and vegetation along those streams and wetlands and to minimize erosion or sedimentation.
2. If the proposed project disturbs over one acre, the applicant must comply with the New York State Department of Environmental Conversion SPDES General Permit for Stormwater Discharges from Construction Activity (Permit No. GP-02-01). A copy of the notice of intent (N.O.I.) and stormwater pollution prevention plan (SWPPP), as required by the general permit, must be filed with the City of Lackawanna prior to construction. Per the general permit, construction cannot begin until the required time period for NYSDEC review has passed.

J. Certification. The applicant shall provide the following certifications:

1. Certification of structural components. The foundation, tower and compatibility of the tower with the rotor and rotor-related equipment shall be certified in writing by a structural engineer licensed and registered in New York. The engineer shall certify compliance with good engineering practices and compliance with the appropriate provisions of the Uniform Building and Construction Code that have been adopted in New York State.
2. Certification of post construction. After completion of the wind energy conversion system, the applicant shall provide a postconstruction certification from a licensed professional engineer licensed and registered in the State of New York that the project complies with applicable codes and industry practices and has been completed according to the design plans.
3. Certification of electrical system. The electrical system shall be certified in writing by an electrical engineer registered in New York. The engineer shall certify compliance with good engineering practices and with the appropriate provisions of the Electric Code that have been adopted by New York State.
4. Certification of rotor overspeed control. The rotor overspeed control system shall be certified in writing by a mechanical engineer licensed and registered in New York State. The engineer shall certify compliance with good engineering practices.
5. Certification of project. A certificate of completion must be supplied by the applicant and approved by the City of Lackawanna Code Enforcement Officer.

K. Monitoring requirements for wind energy conversion systems.

1. Right to enter premises for monitoring. Upon reasonable notice, City of Lackawanna officials or their designated representatives may enter a lot on which a WECS facility permit has been granted for the purpose of compliance with any permit requirements. Twenty-four hours' advance notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice.
2. Avian/bat impact study plan. The applicant shall submit a plan for monitoring the avian impact of the commercial wind energy facility to the Planning Board for its review and approval. Such plan shall document and follow accepted scientific study procedures. In addition, the applicant shall agree to submit a report to the Planning Board according to the requirements of the applicable regulatory agencies that identifies all dead birds found within 500 feet of the commercial wind energy facility.
3. Periodic reporting required. The applicant shall agree to submit periodic monitoring reports to the City. The report shall contain data on the operations and environmental impacts and shall be in the form prescribed by the Code Enforcement Officer.
4. Power production report required. The applicant shall agree to submit as requested by the City Council a power production report to the City. The power production report shall include actual power production in kilowatt hours for each WECS facility.

5. Inspections. Unless waived by the City Council, wind turbines or poles over 150 feet in height shall be inspected annually by a New York State licensed professional engineer that has been approved by the City or at any other time upon a determination by the City's Code Enforcement Office that the wind turbine, tower or pole may have sustained structural damage, and a copy of the inspection report shall be submitted to the City Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder.
6. General complaint process.
    a. During construction, the City of Lackawanna Code Enforcement Officer can issue a stop-work order at any time for any violations of the permit.
    b. (Postconstruction. After construction is complete, the permit holder shall establish a contact person, including name and phone number, for receipt of any complaint concerning any permit requirements. Upon receipt of a complaint from the City of Lackawanna Code Enforcement Officer, the permit holder contact person shall have seven working days to reply to the City in writing.

L. Application and development fees and costs.
1. Application fee. The applicant shall pay a fee of $5,000 per wind energy system associated with the City of Lackawanna's review and processing of the application. The applicant shall submit a deposit with the application in the amount as set forth above. Following action on the application, any unused amount of the deposit(s) shall be returned to the applicant with a summary of the costs incurred.
2. Development fees to be paid. A one-time or periodic fee and a requirement to provide public works or services may be imposed as a condition of a commercial wind energy system permit. Such fees must be related to the public need created by the wind energy development. The purposes for which the permit fee may be used include, but are not limited to, providing roads required by the wind development, providing fire protection services, and establishing and operating a monitoring system.
3. Proof of insurance. Prior to the issuance of a building permit, the applicant shall provide the City Clerk with proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with the construction and operation thereof.

M. Findings.
1. Findings necessary to grant a WECS facility permit. In order to grant a WECS facility permit, the City of Lackawanna shall review the application and all filings by any other party and conduct a public hearing. A commercial wind energy facility permit shall not be granted unless the City of Lackawanna makes the following findings based on substantial evidence:
2. Consistent with the Comprehensive Plan. The proposed commercial wind energy facility project is consistent with the Comprehensive Plan of the City of Lackawanna.
3. Will not unreasonably interfere with the orderly land use and development plans. The proposed WECS facility will not unreasonably interfere with the orderly land use and development plans of the City of Lackawanna.
4. Benefits to the applicant and public will exceed any burdens. The benefits of the proposed WECS facility project to the applicant and the public will exceed any burdens.

5. Not detrimental to the public health, safety and general welfare of the community. The proposed WECS facility will not he detrimental to the public health, safety or general welfare of the community.

6. Complies with all required provisions of the Zoning Ordinance. The proposed WECS facility shall comply with all required provisions of the Zoning Ordinance, unless variances have been properly applied for and granted pursuant to Part 11 of this Chapter.

N. The City Council may grant the special use permit, deny the special use permit, or grant the special use permit with written stated conditions. Denial of the special use permit shall be by written decision based upon substantial evidence submitted to the Board. Upon issuance of the special use permit, the applicant shall obtain a building permit for each tower.

O. WECS permits approved by the City Council of the City of Lackawanna shall be renewed annually. The permit holder shall make renewal application to the Supervising Building Inspector 60 days prior to expiration to allow for inspection and full compliance with all applicable laws and regulations. The renewal application will include a fee as set by the City Council of no more than $500 per wind energy system.

P. The special use permit shall not be assignable or transferable without the approval of the City Council.

Q. Amendments to special use permit. Any changes or alterations postconstruction to the WECS shall be done only by amendment to the special use permit and subject to all requirements of this article.

R. The applicant licensee shall agree to indemnify and hold the City, its City Council, officers, agents and employees harmless from any liability imposed upon the City, its officers, agents and/or employees arising from the construction, operation or maintenance of the WECS.

S. The applicant shall certify to the City that appropriate security will be in place to restrict access to the WECS and facilities following completion of construction.

§8-17-6 Wind measurement towers

[Amended 3-5-2008]

The City Council acknowledges that prior to construction of a WECS, a wind site assessment is conducted to determine the wind speeds and feasibility of using particular sites. Installation of wind measurement towers, also known as "anemometer ("met") towers," shall be permitted as a special use in the same zoning districts as the WECS.

A. An application for a wind measurement tower shall include:

1. Name, address and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

2. Name, address and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner confirming that the property owner is familiar with the proposed applications and authorizing the submission of the application.

3. Address of each proposed tower site, including Tax Map section, block and lot number.

4. Site plan.

5. Decommissioning plan, including a security bond or cash for removal.

B. The City Council may attach such conditions as it deems appropriate to variance approvals as it deems necessary to minimize the impact of the variance.

C. The "Met" towers installed prior to February 1, 2008 shall be exempt from the requirements set forth in this section.

§8-17-7 Permit Revocation

A. Testing fund. A special use permit shall contain a requirement that the application fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as every two years or more frequently upon request of the City Council in response to complaints by residents. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the special use permit and this article and shall also include an evaluation of any complaints received by the City. The applicant shall have 90 days after written notice from the City Council to cure any deficiency. An extension of the ninety-day period may be considered by the City Council, but the total period may not exceed 180 days.

B. Operation. A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate permit conditions, the owner or operator shall remedy the situation within 90 days after written notice from the City Council. The applicant shall have 90 days after written notice from the City Council to cure any deficiency. An extension of the ninety-day period may be considered by the City Council, but the total period may not exceed 180 days.

C. Notwithstanding any other abatement provision under this article, if the WECS is not repaired or made operational or brought into permit compliance after said notice, the City may, after a public hearing at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, either order remedial action within a particular timeframe or order revocation of the wind energy permit or the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the City Council shall have the right to use the security posted as part of the decommission plan to remove the WECS.

§8-17-8 Fees and costs

[Amended 3-5-2008]

A. All fees required under this article shall be approved by the City Council by resolution. Nothing in this article shall he read as limiting the ability of the City to enter into host community agreements with any applicant to compensate the City for expenses or impacts on the community. The City shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required by SEQRA.

§8-17-9 Enforcement; Penalties for Offenses; Remedies

A. Any person owning, controlling or managing any building, structure or land who shall undertake a WECS or wind measurement tower in violation of this article or in noncompliance with the terms and conditions of any permit issued pursuant to this article or any order of the enforcement officer and any person who shall assist in so doing shall be guilty of an offense and subjected to a fine of not more than $250 or to imprisonment for a period of not more than six months, or both. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The City may institute a civil proceeding to collect civil penalties in the amount of $250 for each violation, and each week said violation continues shall be deemed a separate violation.

B. In case of any violation or threatened violation of any of the provisions of this article, including the terms and conditions imposed by any permit issued pursuant to this article, in addition to other remedies and penalties herein provided, the City may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation to prevent the illegal act.

PART 9
NON-CONFORMING USES, LOTS, AND STRUCTURES

§9-1 PURPOSE

Within the districts established by this Chapter or amendments that may be adopted, there exist lots, structures, uses of land and characteristics of use that were lawful before this Chapter or amendments thereto were passed, but that would be prohibited, regulated or restricted under terms of this Chapter or future amendments. Regulations for the continuance, maintenance, repair, restoring, moving and discontinuance of such nonconforming lots, structures, land and uses are established for the following purposes:

A. To permit these nonconformities to continue, but to minimize any adverse effect on the adjoining properties and development;

B. To regulate their maintenance and repair;

C. To restrict their rebuilding if substantially destroyed;

D. To require their permanent discontinuance if not operated for certain periods of time; and

E. To require conformity if they are discontinued, to bring about eventual conformity in accordance with the objectives of the Comprehensive Plan and Zoning Chapter of the City of Lackawanna.

§9-2 NONCONFORMING USES

A. Continuation of existing use. Except as provided in this article, any use of land, building, structure or part thereof existing at the time that this chapter or any amendment hereto becomes effective may be continued after the passage of this chapter, provided that the use and character of the premises at the time of the enactment of this chapter remains unchanged.

B. Change in use. A nonconforming use may only be changed to a conforming use. A conforming use may not thereafter be changed back to any nonconforming use.

C. Discontinuance of a Nonconforming Use.

1. When a nonconforming use has been discontinued for a period of at least six consecutive months, the use shall not thereafter be reestablished, and the future use shall be in conformance with the provisions of this chapter.

2. Discontinuance of the active and continuous operation of a nonconforming use, a part or portion of the operation of the nonconforming use, for a period of 12 consecutive months is construed and considered to be an abandonment of such nonconforming use, regardless of any reservation of an intent not to abandon same or of an intent to resume active operations.

3. If actual abandonment in fact is evidenced by the removal of buildings, structures, machinery, equipment and other evidences of such nonconforming use of the land and premises, then the abandonment shall be construed and considered to be completed within a period of less than six months, and all rights to reestablish or continue such nonconforming use shall terminate.

§9-3 NONCONFORMING STRUCTURES

A. When a nonconforming structure is damaged or destroyed to the extent of 50% or more of its replacement value, the structure may be repaired or rebuilt only if it conforms to the provisions of this Ordinance.

B. When a nonconforming structure is damaged or destroyed to the extent of less than 50% of its replacement value, it may be repaired and rebuilt to its previous condition, so long as the cause of damage was not by any means within the control of the owner, the nonconformity is not expanded, and no new nonconformity is created.

C. A building permit for repairs or reconstruction must be granted within one year of the date of damage or destruction, unless an additional one year extension is granted by the Zoning Board of Appeals.

D. The replacement value of the structure is based on:

1. the sale of that structure within the previous year or, if that is not available;
2. an appraisal within the last two years or, if that is not available;
3. the amount for which the structure was insured prior to the date of the damage or destruction or, if that is not available; d) an alternative method determined acceptable by the Zoning Administrator; and,
4. In the event that a building permit is not obtained within one year of the date of damage or destruction, and no extension has been applied for, the structure may be repaired or rebuilt only if it conforms to the provisions of this Ordinance.

E. Extensions and Enlargements.

1. Nonconforming structures may be enlarged or extended, provided that the enlargement does not increase the degree of the existing nonconformity, and the enlargement or extension does not create a new nonconformity.
2. In any commercial or industrial district, any nonconforming use may be enlarged to an extent not exceeding 25% of the gross floor area devoted to such nonconforming use. In no case shall such enlargement extend beyond the lot occupied by such nonconforming use.
3. When the total of all enlargements equals 25% of the gross floor area existing at the time such use became a nonconforming use, no further enlargement shall be permitted.

§9-4 NONCONFORMING LOTS

A. In any R-1, R-2 or R-3 district in which single-family detached dwellings are permitted, a single-family detached dwelling and customary accessory structures may be erected on any single nonconforming lot of record at the effective date of adoption or amendment of this Chapter, notwithstanding limitations imposed by other provisions of this Chapter. Such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership.

B. This provision shall apply even though the nonconforming lot of record fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the nonconforming lot of record shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Zoning Board of Appeals.

C. If two or more lots or combinations of lots or portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Chapter, and if all or part of the lots do not meet the requirements established for width and area, the lands involved shall be considered an undivided parcel for the purposes of this Chapter. The provisions of this Section shall not apply if any portion of said parcel shall, after the adoption of this Chapter or amendment, be used or divided in a manner which prevents or diminishes compliance with the requirements established by this Chapter or amendment thereto.

§9-5 NONCONFORMING PARKING, LOADING, AND STACKING FACILITIES

A. A structure, use or occupancy existing lawfully at the time this Chapter or any amendment thereto becomes effective, but which does not conform with the off-street parking, loading and stacking regulations, may be occupied or continued without such parking and/or loading spaces being provided.

B. Any such spaces that may be provided thereafter shall comply with the regulations of this Chapter.

C. If an existing structure, use or occupancy is altered so that there is an increase of the number of dwelling units, seating capacity or floor area, or if the use or occupancy is changed to one requiring more off-street facilities, then off-street parking, stacking and loading spaces shall be provided at least equal to the number required for the increased area for the structure or use in accordance with all provisions of this Chapter.

§9-6 REPAIRS AND MAINTENANCE

A. Normal maintenance, including nonstructural repairs and incidental alterations of a building or structure containing a nonconforming use shall be permitted.

B. No structural alterations shall be made in a building or other structure containing a nonconforming use except:

1. When required by law.
2. To restore to a safe condition any building or structure declared unsafe by the Building Inspector.
3. To permit enlargements as provided in this article.



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PART 10
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. cApplications for review of an Open Area Development 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
    i. Make recommendations to the Planning and Development Board, Zoning Board of Appeals and City Council as may be appropriate or requested;
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.
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; and,

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.

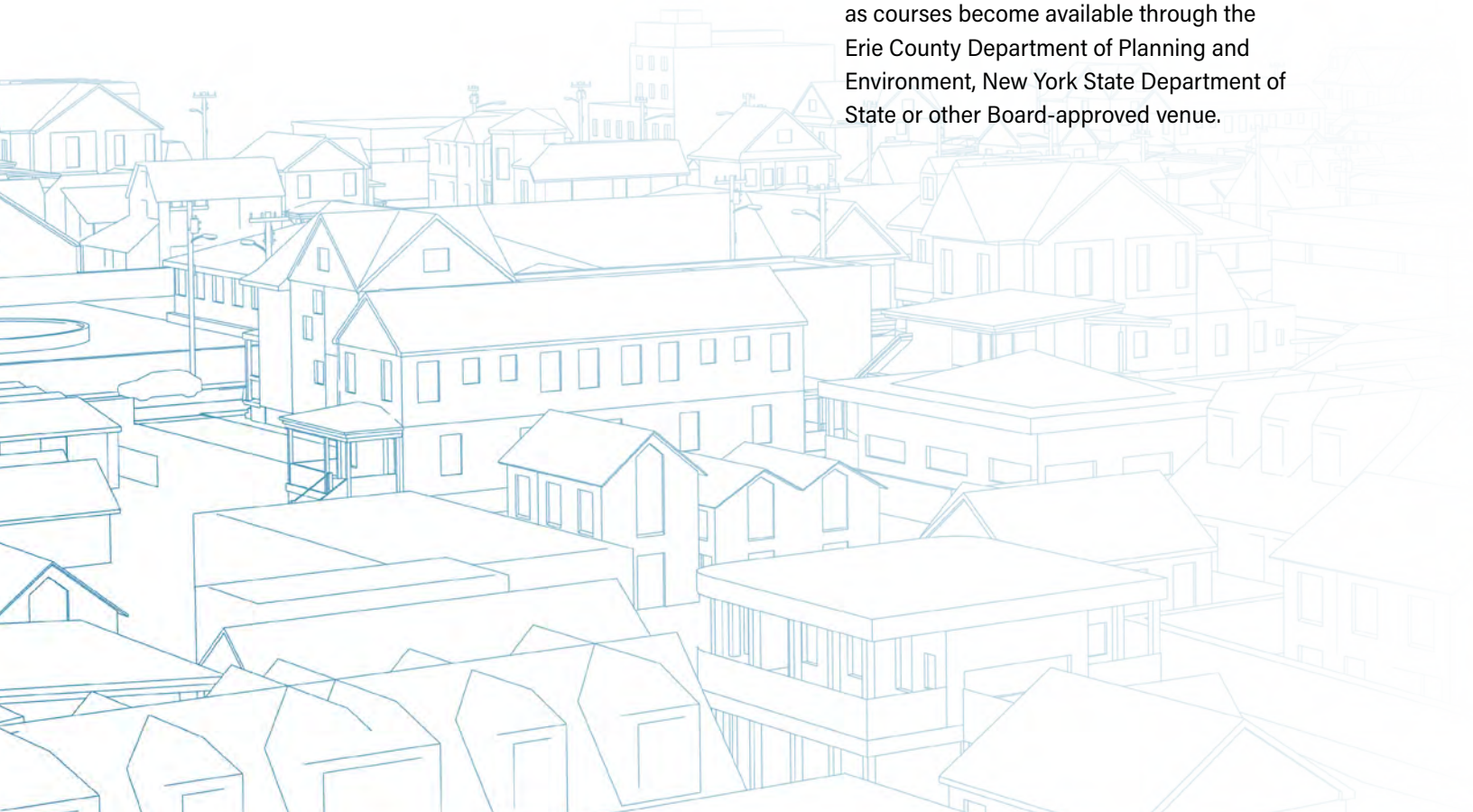
C. Membership.

1. 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.
2. 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.

3. If a vacancy shall occur otherwise than by expiration of term, the Mayor shall appoint the new member for the unexpired term.
4. 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.
5. 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:
        i. Reverse any order, decision or determination of any administrative official of the City charged with enforcement of the provisions of this chapter; or
        ii. 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.



PART 11
PERMIT AND SITE PLAN PROCEDURES; ENFORCEMENT AND PENALTIES

§11-1 ADMINISTRATIVE STANDARDS

Whenever in the course of the administration and enforcement of this chapter it is necessary or desirable to make any administrative decision, then, unless other standards are in this chapter provided, the decision shall be made so that the result will not be contrary to the spirit and purpose of this chapter or injurious to the surrounding neighborhood.

§11-2 FLOOD DEVELOPMENT PERMITS.

[Amended 2-5-2008; 6-19-2018; 4-29-2019]

A. Statutory authorization and purpose.

1. Findings. The City Council of the City of Lackawanna finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the City of Lackawanna and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this section is adopted.

2. Statement of purpose. It is the purpose of this section to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

a. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

c. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

d. Control filling, grading, dredging and other development which may increase erosion or flood damages;

e. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and

f. Qualify for and maintain participation in the National Flood Insurance Program.

3. Objectives. The objectives of this section are:

a. To protect human life and health;

b. To minimize expenditure of public money for costly flood control projects;

c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

d. To minimize prolonged business interruptions;

e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

g. To provide that developers are notified that property is in an area of special flood hazard; and

h. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

B. Definitions. Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application.

100-Year Flood. Has the same meaning as "base flood."

Accessory Structure. A structure used solely for parking (two-car detached garages or smaller) or limited storage, represents a minimal investment of not more than 10% of the value of the primary structure, and may not be used for human habitation.

Appeal. A request for a review of the local administrator's interpretation of any provision of this section or a request for a variance.

Area of Shallow Flooding. A designated AO, AH or VO Zone on a community's FIRM with a one-percent-or-greater annual chance of flooding to an average annual depth of one foot to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area Of Special Flood Hazard. The land in the floodplain within a community subject to a one-percent-or-greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this section, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

Base Flood. The flood having a one-percent chance of being equaled or exceeded in any given year.

Basement. That portion of a building having its floor subgrade (below ground level) on all sides.

Breakaway Wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Building. See "structure."

Cellar. Has the same meaning as "basement."

Coastal A Zone. Area within a SFHA, landward of a V1-V30, VE, or V Zone or landward of an open coast without mapped coastal high hazard areas. In a Coastal A Zone, the principal source of flood must be astronomical tides, storm surges, seiches or tsunamis, not riverine flooding. During the base flood conditions, the potential for breaking wave height shall be greater than or equal to 1 1/2 feet (457 mm). The inland limit of Coastal A Zone is: a) the limit of moderate wave action if delineated on a FIRM; or b) designated by the authority having jurisdiction.

Coastal High Hazard Area. An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1-V30, VE, VO or V.

Crawl Space. An enclosed area beneath the lowest elevated floor, 18 inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

Critical Facilities.

1. Structures or facilities that produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;
2. Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;
3. Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and
4. Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during and after a flood.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

Elevated Building. A non-basement building:

1. Built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and ,
2. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

Federal Emergency Management Agency. The federal agency that administers the National Flood Insurance Program.

Flood Boundary And Floodway Map (Fbfm). An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

Flood Elevation Study. An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

Flood Hazard Boundary Map (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

Flood Insurance Rate Map (Firm). An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study. See "flood elevation study."

Flood or Flooding.

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
   a. The overflow of inland or tidal waters;
   b. The unusual and rapid accumulation or runoff of surface waters from any source.

2. "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1)(a) above.

Floodplain or Flood-Prone Area. Any land area susceptible to being inundated by water from any source (see definition of "flooding").

Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. Has the same meaning as "regulatory floodway."

Functionally Dependent Use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

Highest Adjacent Grade. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic Structure. Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
   a. By an approved state program as determined by the Secretary of the Interior; or
   b. Directly by the Secretary of the Interior in states without approved programs.

Limit Of Moderate Wave Action (LiMWA). Line shown on FIRMs to indicate the inland limit of the 1 1/2 foot (457 mm) breaking wave height during the base flood.

Local Administrator. The person appointed by the community to administer and implement this section by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

Lowest Floor. Lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this section.

Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "recreational vehicle."

Manufactured Home Park Or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum to which base flood elevations shown on a community's FIRM are referenced.

Mobile Home. Has the same meaning as "manufactured home."

New Construction. Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

Primary Frontal Dune. A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Principally Aboveground. At least 51% of the actual cash value of the structure, excluding land value, is aboveground.

Recreational Vehicle. A vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Subsection D(4)(b) of this section.

Sand Dunes. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Start of Construction. The date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. A walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, as well as a manufactured home.

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of an historic structure provided that the alteration will not preclude the structure's continued designation as an historic structure.

Variance. A grant of relief from the requirements of this section which permits construction or use in a manner that would otherwise be prohibited by this section.

Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

C. General provisions.

1. Lands to which this section applies. This section shall apply to all areas of special flood hazard within the jurisdiction of the City of Lackawanna.
2. Basis for establishing the areas of special flood hazard. [Amended 5-18-2021]
    a. The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
        i. Flood insurance rate maps:
            (A) 36029C0333H, 36029C0337H, 36029C0341H whose effective dates are June 7, 2019;
            (B) 36029C0309J, 36029C0328J, 36029C0329J, 36029C0336J whose effective dates are June 16, 2021, and any subsequent revisions to these map parcels that do not affect areas under our community's jurisdiction.
        ii. A scientific and engineering report entitled "Flood Insurance Study, Erie County, New York (All Jurisdictions)," dated June 16, 2021.
            (A) The above documents are hereby adopted and declared to be a part of this section. The Flood Insurance Study and/or maps are on file at: Office of Code Enforcement, City Hall, City of Lackawanna.
3. Interpretation and conflict with other laws.
    a. This section includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
    b. In their interpretation and application, the provisions of this section shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this section are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.
4. Severability. The invalidity of any section or provision of this section shall not invalidate any other section or provision thereof.

5. Penalties for noncompliance. No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this section and any other applicable regulations. Any infraction of the provisions of this section by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this section or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than $250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the City of Lackawanna from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this section for which the developer and/or owner has not applied for and received an approved variance under Subsection F will be declared noncompliant and notification sent to the Federal Emergency Management Agency.
6. Warning and disclaimer of liability. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the City of Lackawanna, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this section or any administrative decision lawfully made there under.

D. Administration.

1. Designation of the local administrator. The Code Enforcement Officer is hereby appointed local administrator to administer and implement this section by granting or denying floodplain development permits in accordance with its provisions.
2. The floodplain development permit.
    a. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Subsection C(2), without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.
    b. Fees. All applications for a floodplain development permit shall be accompanied by an application fee of $25. In addition, the applicant shall be responsible for reimbursing the City of Lackawanna for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than $500 to cover these additional costs.

3. Application for a permit. The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.
   a. The proposed elevation, in relation to mean sea level, of the top of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permitee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
   b. The proposed elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of any new or substantially improved structure to be located in Zones V1-V30 or VE, or Zone V if base flood elevation data are available. Upon completion of the lowest floor, the permitee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
   c. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permitee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
   d. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
   e. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in Subsection E(5), Nonresidential structures.
   f. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Subsection C(2), when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
   g. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
   h. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.
   i. In Zones V1-V30 and VE, and also Zone V if base flood elevation are available, designs and specifications, certified by a licensed professional engineer or architect, for any breakaway walls in a proposed structure with design strengths in excess of 20 pounds per square foot.

j. In Zones V1-V30 and VE, and also Zone V if base flood elevation are available, for all new and substantial improvements to structures, floodplain development permit applications shall be accompanied by design plans and specifications, prepared in sufficient detail to enable independent review of the foundation support and connection components. Said plans and specifications shall be developed or reviewed by a licensed professional engineer or architect, and shall be accompanied by a statement, bearing the signature of the architect or engineer, certifying that the design and methods of construction to be used are in accordance with accepted standards of practice and with all applicable provisions of this section.

4. Duties and responsibilities of the local administrator. Duties of the local administrator shall include, but not be limited to, the following:

a. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:

i. Review all applications for completeness, particularly with the requirements of Subsection D(3), Application for a permit, and for compliance with the provisions and standards of this section.

ii. Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Subsection E, Construction standards, and, in particular, Subsection E(1)(b), Subdivision proposals.

iii. Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of Subsection E, Construction standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.

IV. Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.

b. Use of other flood data.

i. When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to Subsection D(3)(h), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this section.

ii. When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this section.

c. Alteration of watercourses.

i. Notification to adjacent municipalities that may be affected and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.

ii. Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

d. Construction stage.

i. In Zones A1-A30, AE, AH, and Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

ii. In Zones V1-V30, VE, and V if base flood elevation data are available, upon placement of the lowest floor of a new or substantially improved structure, the permit holder shall submit to the local administrator a certificate of elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns). The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. An elevation certificate must also be submitted for a recreational vehicle if it remains on a site 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

iii. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

e. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

f. Stop-work orders.

vii. The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in Subsection C(5) of this section.

viii. The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this section and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in Subsection C(5) of this section.

g. Certificate of compliance.

i. In areas of special flood hazard, as determined by documents enumerated in Subsection C(2), it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this section.

ii. A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.

iii. Issuance of the certificate shall be based upon the inspections conducted as prescribed in Subsection D(4)(e), Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

h. Information to be retained. The local administrator shall retain and make available for inspection copies of the following:

i. Floodplain development permits and certificates of compliance;

ii. Certifications of as-built lowest floor elevations of structures required pursuant to Subsection D(4)(d)[1] and [2], and whether the structures contain a basement;

iii. Floodproofing certificates required pursuant to Subsection D(4)(d)[1], and whether the structures contain a basement;

iv. Variances issued pursuant to Subsection F, Variance procedures; and

v. Notices required under Subsection D(4)(c), Alteration of watercourses.

vi. Base flood elevations developed pursuant to Subsection D(3)(g) and supporting technical analysis.

E. Construction standards.

1. General standards. The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Subsection C(2).

a. Coastal high hazard areas and Coastal A Zones. The following requirements apply within Zones V1-V30, VE and V:

i. All new construction, including manufactured homes and recreational vehicles on site 180 days or longer and not fully licensed for highway use, shall be located landward of the reach of high tide.

ii. The use of fill for structural support of buildings, manufactured homes or recreational vehicles on site 180 days or longer is prohibited.

iii. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

b. Subdivision and development proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

i. Proposals shall be consistent with the need to minimize flood damage.

ii. Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed to minimize flood damage.

iii. [Adequate drainage shall be provided to reduce exposure to flood damage.

iv. Proposed development shall not result in physical damage to any other property (e.g., stream bank erosion or increased flood velocities). If requested by the local administrator, the applicant shall provide a technical analysis, by a licensed professional engineer, demonstrating that this condition has been met.

v. Proposed development shall be designed, located, and constructed so as to offer the minimum resistance to the flow of water and shall be designed to have a minimum effect upon the height of floodwater.

vi. Any equipment or materials located in a special flood hazard area shall be elevated, anchored, and floodproofed as necessary to prevent flotation, flood damage, and the release of hazardous substances.

vii. No alteration or relocation of a watercourse shall be permitted unless:

(A) A technical evaluation by a licensed professional engineer demonstrates that the altered or relocated segment will provide conveyance equal to or greater than that of the original stream segment and will not result in physical damage to any other property;

(B) If warranted, a conditional revision of the Flood Insurance Rate Map is obtained from the Federal Emergency Management Agency, with the applicant providing the necessary data, analyses, and mapping and reimbursing the City of Lackawanna for all fees and other costs in relation to the application; and

(C) The applicant provides assurance that maintenance will be provided so that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be diminished.

c. Encroachments.

i. Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(A) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or

(B) The City of Lackawanna agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the City of Lackawanna for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City of Lackawanna for all costs related to the final map revision.

ii. On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Subsection C(2), no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(A) A technical evaluation by a licensed professional engineer demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or

(B) The City of Lackawanna agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the City of Lackawanna for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City of Lackawanna for all costs related to the final map revisions.

iii. In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, if any development is found to increase or decrease base flood elevations, the City of Lackawanna shall as soon as practicable, but not later than six months after the date such information becomes available, notify FEMA and the New York State Department of Environmental Conservation of the changes by submitting technical or scientific data in accordance with standard engineering practice.

iv. Whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavations shall be construed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating excavation.

2. Standards for all structures. The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Subsection C(2).

a. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

b. Construction materials and methods.

i. New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

ii. New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

iii. Enclosed areas below lowest floor.

(A) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE, AO or A, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

(1) A minimum of two openings of each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(2) The bottom of all such openings no higher than one foot above grade; and

(3) Openings not less than three inches in any direction.

(B) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

iv. Within Zones V1-V30 and VE, and also within Zone V if base flood elevation are available, new construction and substantial improvements shall have the space below the lowest floor either free from obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. The enclosed space below the lowest floor shall be used only for parking vehicles, building access or storage. Use of this space for human habitation is expressly prohibited. The construction of stairs, stairwells and elevator shafts are subject to the design requirements for breakaway walls.

(B) Utilities.

(1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation, or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations; [Amended 6-29-2021]

(2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and

(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(D). Storage tanks.

(1) Underground tanks shall be anchored to prevent flotation, collapse and lateral movement during conditions of the base flood.

(2) Aboveground tanks shall be:

a. Anchored to prevent flotation, collapse or lateral movement during conditions of the base flood; or

b. Installed at or above the base flood elevation as shown on the Flood Insurance Rate Map enumerated in Subsection C(2) plus two feet.

3. Residential structures (except coastal high hazard areas).

a. Elevation. The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in Subsections E(1)(b), Subdivision proposals, and E(1)(c), Encroachments, and Subsection E(2), Standards for all structures.

i. Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the top of the lowest floor (including basement) elevated to or above two feet above the base flood elevation.

ii. Within Zone A: [Amended 6-29-2021]

b. When no base flood elevation data are available, a base flood elevation shall be determined by either:

i. Obtain and reasonably use data available from a federal, state, or other source plus two feet of freeboard; or

ii. Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering practice, plus two feet of freeboard.

b. Determinations shall be undertaken by a registered design professional who shall document that the technical methods used reflect currently accepted engineering practice. Studies, analyses, and computations shall be submitted in sufficient detail to allow thorough review and approval.

c. Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Subsection C(2) plus two feet (at least three feet if no depth number is specified).

d. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

4. Residential structures (coastal high hazard areas and Coastal A Zones). The following standards, in addition to the standards in Subsections E(1)(a), Coastal high hazard areas and Coastal A Zones, and E(1)(b), Subdivision proposals, and Subsection E(2), Standards for all structures, apply to new and substantially improved residential structures located in areas of special flood hazard shown as Zones V1-V30, VE or V on the community's Flood Insurance Rate Map designated in Subsection C(2).

a. Elevation. New construction and substantial improvements shall be elevated on pilings, columns or shear walls such that the bottom of the lowest horizontal structural member supporting the lowest elevated floor (excluding columns, piles, diagonal bracing attached to the piles or columns, grade beams, pile caps and other members designed to either withstand storm action or break away without imparting damaging loads to the structure) is elevated to or above two feet above base flood elevation so as not to impede the flow of water.

b. Determination of loading forces. Structural design shall consider the effects of wind and water loads acting simultaneously during the base flood on all building components.

i. The structural design shall be adequate to resist water forces that would occur during the base flood. Horizontal water loads considered shall include inertial and drag forces of waves, current drag forces, and impact forces from waterborne storm debris. Dynamic uplift loads shall also be considered if bulkheads, walls, or other natural or man-made flow obstructions could cause wave runup beyond the elevation of the base flood.

ii. Buildings shall be designed and constructed to resist the forces due to wind pressure. Wind forces on the superstructure include windward and leeward forces on vertical walls, uplift on the roof, internal forces when openings allow wind to enter the house, and upward force on the underside of the house when it is exposed. In the design, the wind should be assumed to blow potentially from any lateral direction relative to the house.

iii. Wind loading values used shall be those required by the building code.

c. Foundation standards.

i. The pilings or column foundation and structure attached thereto shall be adequately anchored to resist flotation, collapse or lateral movement due to the effects of wind and water pressures acting simultaneously on all building components. Foundations must be designed to transfer safely to the underlying soil all loads due to wind, water, dead load, live load and other loads (including uplift due to wind and water).

ii. Spread footings and fill material shall not be used for structural support of a new building or substantial improvement of an existing structure.

d. Pile foundation design.

i. The design ratio of pile spacing to pile diameter shall not be less than 8:1 for individual piles (this shall not apply to pile clusters located below the design grade). The maximum center-to-center spacing of wood piles shall not be more than 12 feet on center under load-bearing sills, beams, or girders.

ii. Pilings shall have adequate soil penetration (bearing capacity) to resist the combined wave and wind loads (lateral and uplift) associated with the base flood acting simultaneously with typical structure (live and dead) loads, and shall include consideration of decreased resistance capacity caused by erosion of soil strata surrounding the piles. The minimum penetration for foundation piles is to an elevation of five feet below mean sea level (msl) datum if the BFE is +10 msl or less, or to be at least 10 feet below msl if the BFE is greater than +10 msl.

iii Pile foundation analysis shall also include consideration of piles in column action from the bottom of the structure to the stable soil elevation of the site. Pilings may be horizontally or diagonally braced to withstand wind and water forces.

iv. The minimum acceptable sizes for timber piles are a tip diameter of eight inches for round timber piles and eight inches by eight inches for square timber piles. All wood piles must be treated in accordance with requirements of EPEE-C3 to minimize decay and damage from fungus.

v. Reinforced concrete piles shall be cast of concrete having a twenty-eight-day ultimate compressive strength of not less than 5,000 pounds per square inch, and shall be reinforced with a minimum of four longitudinal steel bars having a combined area of not less than 1% nor more than 4% of the gross concrete area. Reinforcing for precast piles shall have a concrete cover of not less than 1 1/4 inches for No. 5 bars and smaller and not less than 1 1/2 inches for No. 6 through No. 11 bars. Reinforcement for piles cast in the field shall have a concrete cover of not less than two inches.

vi. Piles shall be driven by means of a pile driver or drop hammer, jetted, or augered into place.

vii. Additional support for piles in the form of bracing may include lateral or diagonal bracing between piles.

viii. When necessary, piles shall be braced at the ground line in both directions by a wood timber grade beam or a reinforced concrete grade beam. These at-grade supports should be securely attached to the piles to provide support even if scoured from beneath.

ix. Diagonal bracing between piles, consisting of two-inch-by-eight-inch (minimum) members bolted to the piles, shall be limited in location to below the lowest supporting structural member and above the stable soil elevation, and aligned in the vertical plane along pile rows perpendicular to the shoreline. Galvanized steel rods (minimum diameter 1/2 inch) or cable type bracing is permitted in any plane.

x. [Knee braces, which stiffen both the upper portion of a pile and the beam-to-pile connection, may be used along pile rows perpendicular and parallel to the shoreline. Knee braces shall be two-by-eight lumber bolted to the sides of the pile/beam, or four-by-four or larger braces framed into the pile/beam. Bolting shall consist of two 5/8-inch galvanized steel bolts (each end) for two-by-eight members, or one 5/8-inch lag bolt (each end) for square members. Knee braces shall not extend more than three feet below the elevation of the base flood.

e. Column foundation design.

i. Masonry piers or poured-in-place concrete piers shall be internally reinforced to resist vertical and lateral loads, and be connected with a movement-resisting connection to a pile cap or pile shaft.

f. Connectors and fasteners. Galvanized metal connectors, wood connectors, or bolts of size and number adequate for the calculated loads must be used to connect adjoining components of a structure. Toe nailing as a principal method of connection is not permitted. All metal connectors and fasteners used in exposed locations shall be steel, hot-dipped galvanized after fabrication. Connectors in protected interior locations shall be fabricated from galvanized sheet.

g. Beam to pile connections. The primary floor beams or girders shall span the supports in the direction parallel to the flow of potential floodwater and wave action and shall be fastened to the columns or pilings by bolting, with or without cover plates. Concrete members shall be connected by reinforcement, if cast in place, or (if precast) shall be securely connected by bolting and welding. If sills, beams, or girders are attached to wood piling at a notch, a minimum of two 5/8-inch galvanized steel bolts or two hot-dipped galvanized straps 3/16-inch by four inches by 18 inches each bolted with two 1/2-inch lag bolts per beam member shall be used. Notching of pile tops shall be the minimum sufficient to provide ledge support for beam members without unduly weakening pile connections. Piling shall not be notched so that the cross section is reduced below 50%.

h. Floor and deck connections.

i. Wood two-by-four-inch (minimum) connectors or metal joist anchors shall be used to tie floor joists to floor beams/girders. These should be installed on alternate floor joists, at a minimum. Cross bridging of all floor joists shall be provided. Such cross bridging may be one-by-three-inch members, placed eight feet on center maximum, or solid bridging of same depth as joist at same spacing.

ii. Plywood should be used for subflooring and attic flooring to provide good torsional resistance in the horizontal plane of the structure. The plywood should not be less than 3/4-inch total thickness, and should be exterior grade and fastened to beams or joists with 8d annular or spiral thread galvanized nails. Such fastening shall be supplemented by the application of waterproof industrial adhesive applied to all bearing surfaces.

(A) Exterior wall connections. All bottom plates shall have any required breaks under a wall stud or an anchor bolt. Approved anchors will be used to secure rafters or joists and top and bottom plates to studs in exterior and bearing walls to form a continuous tie. Continuous 15/32-inch or thicker plywood sheathing-overlapping the top wall plate and continuing down to the sill, beam, or girder-may be used to provide the continuous tie. If the sheets of plywood are not vertically continuous, then two-by-four-nailer blocking shall be provided at all horizontal joints. In lieu of the plywood, galvanized steel rods of 1/2-inch diameter or galvanized steel straps not less than one inch wide by 1/16-inch thick may be used to connect from the top wall plate to the sill, beam, or girder. Washers with a minimum diameter of three inches shall be used at each end of the 1/2-inch round rods. These anchors shall be installed no more than two feet from each corner rod, no more than four feet on center.

j. Ceiling joist/rafter connections.

i. All ceiling joists or rafters shall be installed in such a manner that the joists provide a continuous tie across the rafters. Ceiling joists and rafters shall be securely fastened at their intersections. A metal or wood connector shall be used at alternate ceiling joist/rafter connections to the wall top plate.

ii. Gable roofs shall be additionally stabilized by installing two-by-four blocking on two-foot centers between the rafters at each gable end. Blocking shall be installed a minimum of eight feet toward the house interior from each gable end.

k. Projecting members. All cantilevers and other projecting members must be adequately supported and braced to withstand wind and water uplift forces. Roof eave overhangs shall be limited to a maximum of two feet and joist overhangs to a maximum of one foot. Larger overhangs and porches will be permitted if designed or reviewed and certified by a registered professional engineer or architect.

l. Roof sheathing.

i. Plywood, or other wood material, when used as roof sheathing, shall not be less than 15/32 inch in thickness, and shall be of exterior sheathing grade or equivalent. All attaching devices for sheathing and roof coverings shall be galvanized or be of other suitable corrosion-resistant material.

ii. All corners, gable ends, and roof overhangs exceeding six inches shall be reinforced by the application of waterproof industrial adhesive applied to all bearing surfaces of any plywood sheet used in the sheathing of such corner, gable end, or roof overhang.

iii. In addition, roofs should be sloped as steeply as practicable to reduce uplift pressures, and special care should be used in securing ridges, hips, valleys, eaves, vents, chimneys, and other points of discontinuity in the roofing surface.

m. Protection of openings. All exterior glass panels, windows, and doors shall be designed, detailed, and constructed to withstand loads due to the design wind speed of 75 mph. Connections for these elements must be designed to transfer safely the design loads to the supporting structure. Panel widths of multiple panel sliding glass doors shall not exceed three feet.

n. Breakaway wall design standards.

i. The breakaway wall shall have a design safe loading resistance of not less than 10 and not more than 20 pounds per square foot, with the criterion that the safety of the overall structure at the point of wall failure be confirmed using established procedures. Grade beams shall be installed in both directions for all piles considered to carry the breakaway wall load. Knee braces are required for front row piles that support breakaway walls.

ii. Use of breakaway wall strengths in excess of 20 pounds per square foot shall not be permitted unless a registered professional engineer or architect has developed or reviewed the structural design and specifications for the building foundation and breakaway wall components, and certifies that: 1) the breakaway walls will fail under water loads less than those that would occur during the base flood; and 2) the elevated portion of the building and supporting foundation system will not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by the building code.

5. Nonresidential structures (except coastal high hazard areas). The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in Subsections E(1)(b), Subdivision proposals, and E(1)(c), Encroachments, and Subsection E(2), Standards for all structures.

a. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:

   i. Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or,

   ii. Be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood elevation must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

b. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:

   i. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM plus two feet (at least three feet if no depth number is specified); or

   ii. Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection E(5)(a)[2].

c. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection E(5)(a)[2], including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

d. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

e. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

6. Nonresidential structures (coastal high hazard areas and Coastal A Zones). In Zones V1-V30, VE and also Zone V if base flood elevations are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall have the bottom of lowest member of the lowest floor elevated to or above two feet above the base flood elevation. Floodproofing of structures is not an allowable alternative to elevating the lowest floor to two feet above the base flood elevation in Zones V1-V30, VE and V.

7. Manufactured homes and recreational vehicles. The following standards in addition to the standards in Subsections E(1), General standards, and E(2), Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

a. Recreational vehicles.

i. Recreational vehicles placed on sites within Zones A, A1-A30, AE, AH, AO, V1-V30, V, and VE shall either:

(A) Be on site fewer than 180 consecutive days;

(B) Be fully licensed and ready for highway use; or

(C) Meet the requirements for manufactured homes in Subsection E(7)(b), (c) and (d).

ii. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

b. A manufactured home that is placed or substantially improved in Zones A1-A30, AE, and AH shall be elevated on a permanent foundation such that the bottom of the frame of the manufactured home chassis is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

c. Within Zone A, the bottom of the frame of the manufactured home shall be elevated to meet the requirements of Subsection E(3)(a)[2]. [Amended 6-29-2021]

d. Within Zone AO, the bottom of the frame of the manufactured home chassis shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Subsection C(2) plus two feet (at least three feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

e. Within V or VE, manufactured homes must meet the requirements of Subsection E(4).

8. Accessory structures, including detached garages. The following standards apply to new and substantially improved accessory structures, including detached garages, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Subsection C(2).

a. Within Zones A1-A30, AE, AO, AH, A, accessory structures must meet the standards of Subsection E(2)(a), Anchoring.

b. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, areas below two feet above the base flood elevation shall be constructed using methods and practices that minimize flood damage.

c. Within Zones AO and Zone A, if base flood elevation data are not available, areas below three feet above the highest adjacent grade shall be constructed using methods and practices that minimize flood damage.

d. Structures must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters in accordance with Subsection E(2)(c), Utilities.

e. Within Zones V1-V30, VE, and V, accessory structures (unless properly elevated to the base flood elevation plus two feet on piles or columns) must be limited to small, low-value structures that are disposable. If a community wishes to allow unelevated accessory buildings, it must define "small" and "low cost."

f. Within Zones V1-V30, VE, and V, unelevated accessory buildings must be unfinished inside, constructed with flood-resistant materials, and used only for storage.

g. Within Zones VI-V30, VE, and V, when an accessory building is placed, the design professional must determine the effect that debris from the accessory building will have on nearby buildings. If the accessory building is large enough that its failure could create damaging debris or divert flood flows, it must be elevated above the base flood elevation plus two feet.

9. Critical facilities. In order to prevent potential flood damage to certain facilities that would result in serious danger to life and health, widespread social or economic dislocation, no new critical facility shall be located within any area of special flood hazard, or within any 500-year flood zone shown as a B Zone or a Shaded X Zone on the Community's Flood Insurance Rate Maps.

F. Variance procedure.

1. Appeals board.

a. The Zoning Board of Appeals as established by the City of Lackawanna shall hear and decide appeals and requests for variances from the requirements of this section.

b. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this section.

c. (c) the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

d. In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this section and:

i. The danger that materials may be swept onto other lands to the injury of others;

ii. The danger to life and property due to flooding or erosion damage;

iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

iv. The importance of the services provided by the proposed facility to the community;

v. The necessity to the facility of a waterfront location, where applicable;

vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

vii. The compatibility of the proposed use with existing and anticipated development;

viii. The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;

x. The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

xi. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

xii. The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

e. Upon consideration of the factors of Section 6.1(4) and the purposes of this section, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this section.

f. The local administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

2. Conditions for variances.

a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

b. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

i. The proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and

ii. The variance is the minimum necessary to preserve the historic character and design of the structure.

c. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

i. The criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and

ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

d. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

e. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

f. Variances shall only be issued upon receiving written justification of:

i. A showing of good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

iii. [A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

g. Notification.

i. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:

(A) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and

(B) Such construction below the base flood level increases risks to life and property.

II. Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this section.

§11-3 BUILDING PERMITS

A. Applications for building permits shall be submitted to the City of Lackawanna Code Enforcement Officer in accordance with Chapter 75, Building Construction.

B. No building permit shall be issued unless the applicant has received a zoning permit from the City Zoning Officer in accordance with the provisions of this chapter.

§11-3 BUILDING PERMITS

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§11-4 ZONING PERMITS.

A. Authorization. The City Zoning Officer is authorized to approve or disapprove zoning permit applications in accordance with the standards outlined in this chapter.

B. Application. It shall be unlawful to commence the excavation for, or the construction of, any building or structure, including accessory buildings, or to commence the moving or alteration of any building structure, including accessory buildings, until the City Zoning Officer has issued a zoning permit for such work.

C. Permit Application Requirements. In order for a Zoning Permit application to be deemed complete it shall include the following at a minimum:

1. The property address and SBL

2. The contact information of the property owner and applicant (if different than the property owner).

3. A site plan that illustrates the proposed change. At a minimum the site plan drawing shall show the following,

d. A property survey that shows all property lines and easements,

e. A site plan that shows the locations of all existing and proposed buildings, roads, parking areas, and landscaping as well as all natural features (wetlands, floodplains, etc.).

D. Procedure.

1. Applications for zoning permits shall be submitted to the City Zoning Officer.

2. If the proposed excavations, construction, alterations or moving as set forth in the application are in conformity with the provisions of this chapter, the Zoning Officer may issue a zoning permit for such excavation, construction, alteration or moving. The issuance of a zoning permit shall in no case be construed as a waiver for any provision of this chapter that does not fall under the subject of the zoning permit.

3. If a zoning permit is denied, the Zoning Officer shall state such refusal, in writing, with the cause and shall immediately mail notice of such refusal to the applicant at the address indicated on the application.
4. Each order, requirement, decision, interpretation or determination of the Zoning Officer shall be filed in the Zoning Officer's office within five business days from the day its is rendered and shall be a public record.
5. Any applicant, after being denied zoning permit, may appeal the Zoning Officer's findings to the Zoning Board of Appeals for an interpretation or, if appropriate, a variance. An appeal shall be taken within 60 days after the filing of any order, requirement, decision, interpretation or determination of the Zoning Officer. Where an appeal is requested, the Zoning Officer shall notify and forward all necessary supporting information to the Zoning Board of Appeals Secretary.
6. A zoning permit shall become void 12 months from the date of issuance unless substantial progress has been made by that date on the project described therein.

§11-5 SITE PLAN REVIEW.

A. Authorization. The Planning and Development Board is authorized to review and approve, approve with modifications or conditions or disapprove site plans in accordance with the standards outlined in this chapter.

B. Applicability. Site plan review and site plan approval by the City of Lackawanna Planning and Development Board shall be required for all uses, buildings and structures that require site plan approval as outlined in this chapter. Fees outlined and adopted by the City of Lackawanna will apply to all site plan reviews.

1. No construction or site improvement may commence until site plan approval or a zoning permit, when required, has been granted,
2. Where the use is identified in the provisions of this chapter as requiring site plan review, the application shall be forwarded to the Planning and Development Board for approval in accordance with the provisions of this chapter.
3. Site plan review shall not be required for the development of two or fewer single- or two-family lots.
4. The addition of residential units to a mixed-use development shall be regulated by the provisions for residential development
5. The following table outlines the level of review required.

C. Procedure.

1. Before submitting an application for development approval, it is required that each petitioner schedule a pre-application conference with the Zoning Officer, as applicable, to discuss the procedures, standards and regulations required for development approval in accordance with the provisions of this Chapter. Applicants shall provide the following materials at the pre-application conference:
   a. A draft plan that shows the locations of all existing and proposed buildings, roads, parking areas, and landscaping as well as all natural features (wetlands, floodplains, etc.)
   b. An accurate property survey that demonstrates the property boundaries, easements, adjacent streets, topography, and other pertinent features.

TYPE OF DEVELOPMENT	SITE PLAN REVIEW	ZONING PERMIT
RESIDENTIAL		
Up to 4 Residential Units		
Proposed construction of 3 or 4 residential uses (not on individual lots)		✓
5 or More Residential Units		
Proposed construction of 5 or more residential units (not on individual lots) subdivision approval*	✓	
SEQRA Type I Actions		
Any proposed residential development classified as a Type 1 action per 6 NYCCR Part 617	✓	
Addition of Accessory Structures		
Proposed addition of accessory structures greater than 144 SF (garages, sheds, decks, etc.)		✓
Modifications to parking, loading, or stacking		✓
NON-RESIDENTIAL		
Addition of less than 750 SF		✓
Proposed addition of between 750 and 4000 SF of gross floor area closer than 100 feet to a residential property boundary, as measured from the limit of work shown on the site plan drawing. If no limit of work is shown, the closest property boundary shall be used.	✓	
Proposed addition of between 750 and 4000 SF of gross floor area and greater than 100 feet from a residential property boundary, as measured from the work limit show on the site plan drawing. If no limit of work is shown, the closest property boundary shall be used.		✓
Proposed addition of more than 4000 SF	✓	
Modifications to parking, loading, or stacking		✓
SEQRA Type I Actions		
OTHER		
Proposed modification to a previously approved site plan where the proposed scope is not included in any of the other categories of this section		✓

2. Application. Copies of a site plan and supplementary information along with the complete application and appropriate fees for site plan review shall be submitted to the City Zoning Officer in a quantity to be determined by the City Zoning Officer for distribution to the City Engineer, Fire Department, Police Department, Planning and Development Board and other review agencies as required (ex. County Planning Department, New York State Department of Transportation where project is on or affects state highways).
3. Who May Submit Applications. Applications shall only be accepted from persons having the legal authority to submit such applications. In general, applications shall be made by the owners or lessees of property, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary approval under this Zoning Ordinance.
4. Review. Staff and other review agencies shall review and notify the Planning and Development Board in writing of its comments or recommendations at least seven calendar days prior to the scheduled Planning and Development Board meeting regarding the application. The Planning and Development Board shall review the application, site plan and supporting data. In unique or large-scale cases, the Planning and Development Board may retain private, expert consultants to assist in the review.

D. Site plan contents. A complete site plan application shall include or be accompanied by the following information, as deemed appropriate by the Zoning Officer. During a preapplication meeting the Zoning Officer may waive the requirements set forth in this section as deemed appropriate but may not waive the requirement that a stormwater pollution prevention plan be submitted where required. The plan shall be prepared by a licensed engineer, architect, landscape architect or surveyor.

1. Complete application form
2. Title of drawings, including name of the development, name, telephone number and address of applicant and the name of the person who prepared the drawing.
3. Key plan, north point, professional stamp, scale (1 inch = 20 feet or other appropriate scale) and date.
4. Zoning, land use and ownership of surrounding and adjacent properties, including all structures on adjacent and surrounding properties.
5. A boundary survey of the proposed development plotted to scale and including its acreage, a legal description thereof and detailing existing topographic features, including contours, spot elevations, large trees, buildings, structures, streets, property lines, utility easements, rights-of-way and land use.
6. Layout and number of lots.
7. All lot dimensions, including, but not limited to, lot frontage, lot area, building coverage, lot coverage, front yard, side yard, rear yard, and building heights.
8. All improvement dimensions, including, but not limited to, access roads, streets, street names, snow removal/storage areas, parking area, sidewalks, buildings, drains, culverts, retaining walls, fences, etc.

9. Existing roadways, driveways, sidewalks and pedestrian paths immediately adjoining and opposite from the proposed site, including names.
10. Location and dimensions of all parking, loading and stacking areas.
11. Paving, including typical cross sections and profiles of proposed streets, crosswalks, pedestrian walkways and bikeways.
12. Location, proposed use, height, building elevations, floor plans and finished elevations of all structures.
13. Colors, materials, dimensions, access and roof top plans of all structures.
14. Location and proposed development of all open spaces, including parks and playgrounds.
15. Existing and proposed watercourses
16. Drainage plan showing existing and finished grades, stormwater management plan, impact of the watershed and any slopes greater than 5%. The best management practices employed to mitigate the impacts of stormwater management shall be set forth in detail. A copy of the storm drainage analysis shall be submitted for review when required by the City Engineer.
17. Water supply plan, including existing and proposed location of fire hydrants, fire lanes, size of service line and a note indicating backflow preventor.
18. A description of the method of securing public water and location, design and construction materials of such facilities.
19. Sewage disposal method and location, design and construction materials of such facilities.
20. Landscape plan indicating location, type and size of existing trees and vegetation and those to be preserved or removed as well as location, type and size of trees, vegetation, amenities to be provided, tree staking, plant installation, soil preparation details and all other applicable installation details and calculation of the total landscaped area.
21. Location and proposed development of all buffer areas, including existing vegetative cover.
22. Location, design and illumination field of all pools, ponds, water features, lighting fixtures, fences and walls.
23. Location, dimension, design and construction type of all signs.
24. Required screening and enclosures.
25. Location of public transit stops and shelters.
26. Proposed easements, restrictions, covenants and provisions for homeowners' associations and common ownerships.
27. Location, design and construction of all energy distribution facilities, including electrical, gas, solar and wind energy.
28. Identification of any state or county permits required for the project's execution and documentation of application for and approval status of all necessary permits from state and county officials.
29. Additional supporting data or plans deemed necessary and relevant to carry out the Planning and Development Board's responsibility for site plan review upon notification to the proposed developer and their decision to proceed with the application.
30. A stormwater pollution prevention plan (SWPPP), if required for the proposed development under Article XII of this chapter, together with the recommendation of the Stormwater Management Officer to approve, approve with modifications, or disapprove the SWPPP pursuant to § 230-93B of this chapter

E. Action By the Planning Board. Within 62 days of the public hearing, or receipt of the application if no public hearing is held, the Board shall, at a regular or special meeting:

1. Approve upon a finding that:

a. The proposed site plan is consistent with the goals and objectives of the Comprehensive Plan, and

b. The proposed site plan is consistent with the intent, objectives and specific requirements of this chapter, and

c. Adequate services and utilities will be available prior to occupancy, and

d. The site plan is consistent with all applicable laws, and

e. If a stormwater pollution prevention plan (SWPPP) was submitted in accordance with § 230-71D(35), the site plan and SWPPP comply with the requirements of Article XII of this chapter. [Added 2-5-2008]

2. Approve with modifications or conditions limiting the use and occupancy of the land or proposed buildings consistent with the intent or purposes of this chapter;

a. Criteria for review and recommendations. In considering and acting upon site plan reviews and approvals, the Planning and Development Board shall consider and may prescribe conditions as necessary to ensure:

i. The development complies with all applicable regulations of this chapter and all other applicable laws.

ii. The use is designed, located and proposed to be operated so the public health, safety, welfare and convenience will be protected.

iii. The use will not cause substantial injury to the value of the other property in the neighborhood where it is located.

iv. The use will be compatible with adjoining development and the character of the neighborhood where it is located.

3. Disapprove the site plan.

a. The Planning and Development Board shall file a full written record of its minutes and decision with all documents pertaining to the case with the City Clerk, with a copy to the Zoning Officer, and shall mail a copy to the applicant. Where a site plan is denied approval, the Planning and Development Board shall state its reasons for disapproval in writing.

b. Costs incurred by the Planning and Development Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant. The Board shall notify the applicant prior to it incurring any extraordinary expenses and provide an opportunity for the applicant to remove its application to avoid the expenses.

4. Expiration. Site plan approvals shall expire after 12 months unless a successful application for a building permit has been made within that period. One six-month extension may be granted by the Planning and Development Board to obtain the building permit.

5. Alterations. Property owners wishing to make any changes in an approved site plan shall submit a revised site plan review and approval in accordance with the table in §11-5.

6. Appeal. Any person aggrieved by any decision of the Planning and Development Board may apply to the Supreme Court for a review under Article 78 of the Civil Practice Law and Rules in accordance with General City Law § 27-a, Subdivision 11. Such proceedings shall be instituted within 30 days after the filing of a decision in the office of the City Clerk.

7. Security as condition of approval. As an alternative to the installation of required infrastructure and improvements, the Planning and Development Board may require, as a condition of site plan approval, the property owner to furnish cash, an irrevocable letter of credit, a performance bond or other security sufficient to cover the full cost of the same.

§11-6 NOTICE AND PUBLIC HEARING REQUIREMENTS.

A. Planning Board Discretion. The Planning and Development Board, by majority vote, may require a public hearing for an application under review. If a public hearing is required, it shall be conducted within 62 days of receipt of a complete application.

B. Mailing Requirements. The Planning and Development Board shall provide written notice by mail of said hearing to the applicant at least 10 days before said hearing and shall give public notice to said hearing in the official newspaper of the City at least five days prior to the date thereof. Where required under General Municipal Law § 239-m the Board shall mail notice of the hearing to the County Planning Board at least 10 days prior to the hearing.

§11-7 USE AND AREA VARIANCES

A. Authorization. The Zoning Board of Appeals is authorized to approve, approve with conditions or disapprove area and use variances in accordance with the standards outlined in this chapter.

B. Applications. On an appeal from an order, requirement, decision or determination of the Zoning Officer or any other administrative official charged with the enforcement of this chapter, where it is alleged that there are practical difficulties or unnecessary hardships in the way of carrying out the strict application of any provision of this chapter, the Zoning Board of Appeals may grant a variance in the strict application of such provision in accordance with this article.

C. Procedure.

1. Preapplication conference. A preapplication conference shall be held between the City Zoning Officer and the applicant prior to the preparation and submission of a formal application to the Zoning Board of Appeals to determine the basis for the variance request, advise the applicant on procedure, and to identify information necessary for a complete variance application package.

2. Application.

a. A complete application for variance shall be submitted to the Zoning Officer.

b. A complete application must include,

i. The name and address of the applicant. If the applicant is different from the property owner, a signed affidavit by the record owner granting permission to file the application will be required

ii. The address of the subject property and the zoning district it is in,

iii. A description of the present improvements and proposed changes to be made under the application, indicating the size of such proposed improvements, material and general construction thereof.

iv. A plot plan of the real property to be affected indicating the lot and size of improvements thereon and proposed to be erected thereon.

3. Public hearing.

   a. Within 62 calendar days of receipt of a complete application the Zoning Board of Appeals shall hold a public hearing.

   b. Notices of the public hearing shall be mailed at least five calendar days prior to the date of the hearing to the parties, property owners within 1,500 feet from the property line, to such other property owners as the Chairman of the Zoning Board of Appeals may direct, to the regional state park commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal and to the County Planning Board, as required by § 239-m of the General Municipal Law.

   c. The public hearing shall be advertised at least once in the official City paper or in a newspaper of general circulation at least five calendar days before the hearing. [Amended 10-19-2016]

   d. The Zoning Board of Appeals may adjourn the hearing for a reasonable period to deliver notice to such other property owners as it decides may be interested in said application or appeal.

4. Decision.

   a. Following the public hearing, the Zoning Board of Appeals shall render a decision of approval, conditional approval, or denial.

   b. The Zoning Board of Appeals shall file a full written record of its minutes and decision with the City Clerk, with a copy to the Zoning Officer and shall mail a copy to the applicant. Where an application is denied, the record shall state the reasons for denial.

   c. Variance application approvals shall expire if the applicant fails to obtain any necessary building permit or to comply with the conditions of said authorization within six months from the date of authorization thereof.

   d. Costs incurred by the Planning and Development Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant.

   e. Appeals.

1. The Zoning Board shall refuse to hold further hearings on a denied application or one substantially similar by the applicant for a period of one year unless the Zoning Board of Appeals shall find that changed conditions have occurred which warrant a reconsideration. Such a rehearing would be allowable only upon a motion initiated by a member of the Zoning Board of Appeals and adopted by the unanimous vote of the members present, but not less than a majority of all members.

2. Any person aggrieved by any decision of the Zoning Board of Appeals may apply to the NYS Supreme Court for a review under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30 days after the filing of a decision in the office of the City Clerk.

D. Criteria for use variance approvals. The Zoning Board of Appeals may grant a use variance, based upon unnecessary hardship, where the applicant has established all of the following factors:

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
3. The requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. The alleged hardship has not been self-created.

E. Criteria for area variance approvals. The Zoning Board of Appeals, in the granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. The Zoning Board of Appeals may grant an area variance, upon a consideration of the following:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
3. Whether the requested area variance is substantial;
4. Whether the proposed variance will have an adverse effect or impact on the physical and environmental conditions in the neighborhood or district; and,
5. Whether the alleged difficulty was self-created.

§11-8 AMENDMENTS.

A. Authority.

1. The regulations, restrictions and boundaries established by this chapter may be amended, supplemented, changed or repealed to meet the growing and changing needs of the City of Lackawanna.
2. The City Council, subject to the provisions and restrictions contained herein, on its own motion, on petition or on recommendation of the Planning and Development Board, by amendment, may supplement, repeal, or change the regulations and provisions of this chapter.

B. Procedure.

1. Application.
   a. A petition to amend, change or supplement the text of this chapter or any zoning district, as designated on the Zoning Map, shall be filed with the City Clerk on forms obtained by the Zoning Officer and transmitted to the City Council. The project's status under the State Environmental Quality Review Act shall be determined at this time.
   b. The petitioner shall submit a conceptual plan showing the extent, location and character of proposed structures, improvements and uses as well as the overall development density.
2. Planning and Development Board review. Each proposed amendment, except those initiated by the City Planning and Development Board, shall be submitted to the Planning and Development Board for an advisory report and recommendation prior to the public hearing held by the City Council.

3. Planning and Development Board Review Criteria. In making a favorable recommendation the Planning and Development Board shall take into consideration and make findings based on the following:
    a. The proposed zoning designation or language is generally consistent with the policies of the adopted Comprehensive Plan and this Chapter;
    b. Whether or not there are adequate services or utilities available or proposed to be made in the construction of the development;
    c. Compatibility with the present zoning and conforming uses of the nearby properties and with the character of the neighborhood;
    d. Suitability of the subject property for the uses permitted by the current versus the proposed district; and,
    e. Whether the proposed change tends to improve the balance of uses or meets a specific demand within the city.
4. Public hearing.
    a. Following the receipt of a recommendation by the Planning and Development Board, the City Council shall hold a public hearing for the proposed amendment within 62 days of the Planning and Development Board's recommendation.
    b. The public hearing shall be advertised at least once in the City of Lackawanna official newspaper at least 10 days before the hearing. The notice shall state the general nature of the proposed amendment in such reasonable detail as will give adequate notice of the subject of the hearing and shall name the place or places where copies of the proposed amendment may be examined.
    c. A written notice of any proposed change or amendment affecting property within 500 feet of the boundary of any state park shall be given to the regional state park commission having jurisdiction over such facilities at least 10 days prior to the date of such hearing. At the public hearing, full opportunities to be heard shall be given to any citizen and all parties in interest.
    d. Decision.
    f. An amendment shall be effected by a simple majority vote of the City Council except that the favorable vote of at least 75% of the members of the City Council shall be required for the passage of an amendment which is protested by the owners of 20% or more of the area of land included in the proposed change or the land within 100 feet from the street frontage of such land.
    e. The City Council shall file a full written record of its minutes and decision with all documents pertaining to the case with the City Clerk, with a copy to the Zoning Officer, and shall mail a copy to the applicant. Where an amendment is denied approval, the City Council shall state its reasons for disapproval in writing.

§11-9 SPECIAL USE PERMITS.

A. Applicability
    1. Special uses within the zoning districts are generally considered to be uses which are appropriate in a particular zoning district but because of their potential for incompatibility with adjacent uses require individual review and may require the imposition of conditions to assure the appropriateness of the use in a particular zoning district.
    2. A special use permit shall be required in accordance with the district use tables in Section 4-1.

3. The Planning and Development Board shall hear and decide all applications for special use permits in accordance with § 27-b of NYS General City Law, with the exception of Solar Energy Systems.
4. The City Council shall hear and decide all applications for special use permits in accordance with §27-b of NYS General City Law for Solar Energy Systems.

B. Application Requirements

   a. An application shall not be considered complete until a SEQR determination under 6 NYCCR Part 617 Environmental Quality Review, as amended, can be made.

C. Action by the Zoning Enforcement Officer. The Zoning Enforcement Officer shall prepare a report that reviews the request for a special use permit.

D. Action by the Zoning Board of Appeals.

1. Within 62 days following receipt of the application, the Planning and Development Board shall schedule a public hearing and give notice in accordance with §11-6, Notice and Public Hearing Requirements.
2. After review of the special use permit application and the public hearing, the Planning and Development Board shall make written findings of approval, approval with modifications or conditions, or denial.
3. After conducting the public hearing, the Planning and Development Board shall render a decision within 62 days thereafter. The time within which the decision shall be rendered may be extended by mutual consent of the petitioner and the Board.
4. The Planning and Development Board may approve, approve with modifications, or disapprove the application for a special use permit
5. (The Planning and Development Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Upon approval of a special use permit, any such conditions shall be met in connection with issuance of permits by applicable agents and officers of the City.

E. Action by the City Council.

1. Following completion of Planning and Development Board review of a request for a Tier III Solar Energy System, the City Council shall schedule a public hearing and give notice in accordance with §11-6, Notice and Public Hearing Requirements. A further public notice shall be published and paid for by the petitioner when a hearing postponement is requested by the petitioner.
2. If the petitioner does not request a public hearing before the City Council as provided for by this Chapter within six months after the Planning and Development Board makes its report of a request for a Tier III Solar Energy System, the petition shall be deemed withdrawn.
3. Upon request, the City Council shall hold the public hearing and render a decision on a request for a Tier III Solar Energy System within 62 days thereafter. The time within which the City Council shall render a decision may be extended by mutual consent of the petitioner and the City Council.
4. The City Council may approve, approve with modifications, or disapprove the application for a special use permit for a Tier III Solar Energy System.
5. The City Council shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit for a Tier III Solar Energy System. Upon approval of a special use permit, any such conditions shall be met in connection with issuance of permits by applicable agents and officers of the Town.

F. Review Criteria. In rendering a decision, the Planning and Development Board and the City Council, where applicable, shall consider and make findings that the proposed use:

1. Will be generally consistent with the policies of the Comprehensive Plan;
2. Meets any specific criteria set forth in this Chapter;
3. Will be compatible with existing uses adjacent to and near the property;
4. Will be in harmony with the general purpose of this Chapter;
5. Will not tend to depreciate the value of adjacent property;
6. Will not create a hazard to health, safety or the general welfare;
7. Will not alter the essential character of the neighborhood nor be detrimental to the neighborhood residents; and,
8. Will not otherwise be detrimental to the public convenience and welfare.

G. Conditions on Special Use Permits. The Planning and Development Board or the City Council, where applicable, may impose such conditions upon the premises benefited by a special use permit as may be necessary to prevent or minimize adverse effects upon other property in the neighborhood, including limitations on the time period for which the permit is granted. Such conditions shall be expressly set forth in the resolution authorizing the special use permit.

H. Notice of Decision. The decision of the Planning and Development Board or City Council, where applicable, shall be filed in the City Clerk's Office within five business days after the decision is rendered, and a copy mailed to the petitioner.

I. Renewal of Special Use Permits with Specific Time Periods. Special use permits that have been issued for specific time periods are subject to review for compliance with all of the conditions imposed at the time of approval of the initial permit. Following a public hearing on the matter, the Planning and Development Board or City Council, where applicable, may deny a renewal of a special use permit when any of the following apply:

1. The petitioner has failed to comply with one or more of the conditions of the prior approval;
2. Substantial new issues regarding the permit conditions during the operation of the use have arisen;
3. The general requirements of this Zoning Ordinance have not been met; and,
4. There are changes in the area or neighborhood which would be incompatible with the special use.

J. Period of Validity.

1. A special use permit shall become null and void twelve months after the date on which it was issued unless the special use is established within twelve months of the date of Planning and Development Board or City Council approval.
2. A special use permit shall become null and void upon a finding by the Zoning Enforcement Officer that any of the conditions in the permit have been violated.
3. A special use permit shall be deemed to authorize only the particular use or its operation for which it was issued, and such permit shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of six consecutive months.

§11-10 ENFORCEMENT AND PENALTIES.

A. No structure shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations.

B. Whenever a violation of this chapter occurs, any person may file a written complaint with the Zoning Officer who shall properly record such complaint and immediately investigate and report to the City Council. Complaints regarding the State Uniform Building Code shall be filed with the City Director of Development.

C. Whenever such persons shall have been duly notified by the City Council of the City of Lackawanna, New York, or its duly authorized official, or the Zoning Officer or by service or summons in a prosecution or in any other way that they are committing such violation of this chapter, each week that they shall continue such violation after such notification shall constitute a separate offense punishable by a like fine or penalty.

D. Any person, firm or corporation who violates, disobeys, neglects or refuses to comply with any provision of this chapter shall be guilty of an offense and upon conviction thereof shall be subject to a fine of not more than $350 or imprisonment for a period of not more than 15 days, or both, for conviction of a first offense. For conviction of a second offense within five years of the first, a fine not less than $350 nor more than $700 or imprisonment not to exceed 15 days, or both, may be imposed. Upon conviction of a third or subsequent offense, all of which were committed within a period of five years, a fine not less than $700 nor more than $1,000 or imprisonment for a period not to exceed 15 days, or both. Such fines or penalties shall be collected as like fines or penalties are now by law collected.

E. The City of Lackawanna may pursue each violation as a civil remedy for injunction or as criminal prosecution; each shall be mutually exclusive remedies. Nothing herein contained shall prevent the City of Lackawanna from taking such other lawful action as necessary to prevent or remedy an infraction.

F. Where appropriate, notification of noncompliance will be forwarded to appropriate government enforcement agencies including the Federal Emergency Management Agency.

§11-11 FEES

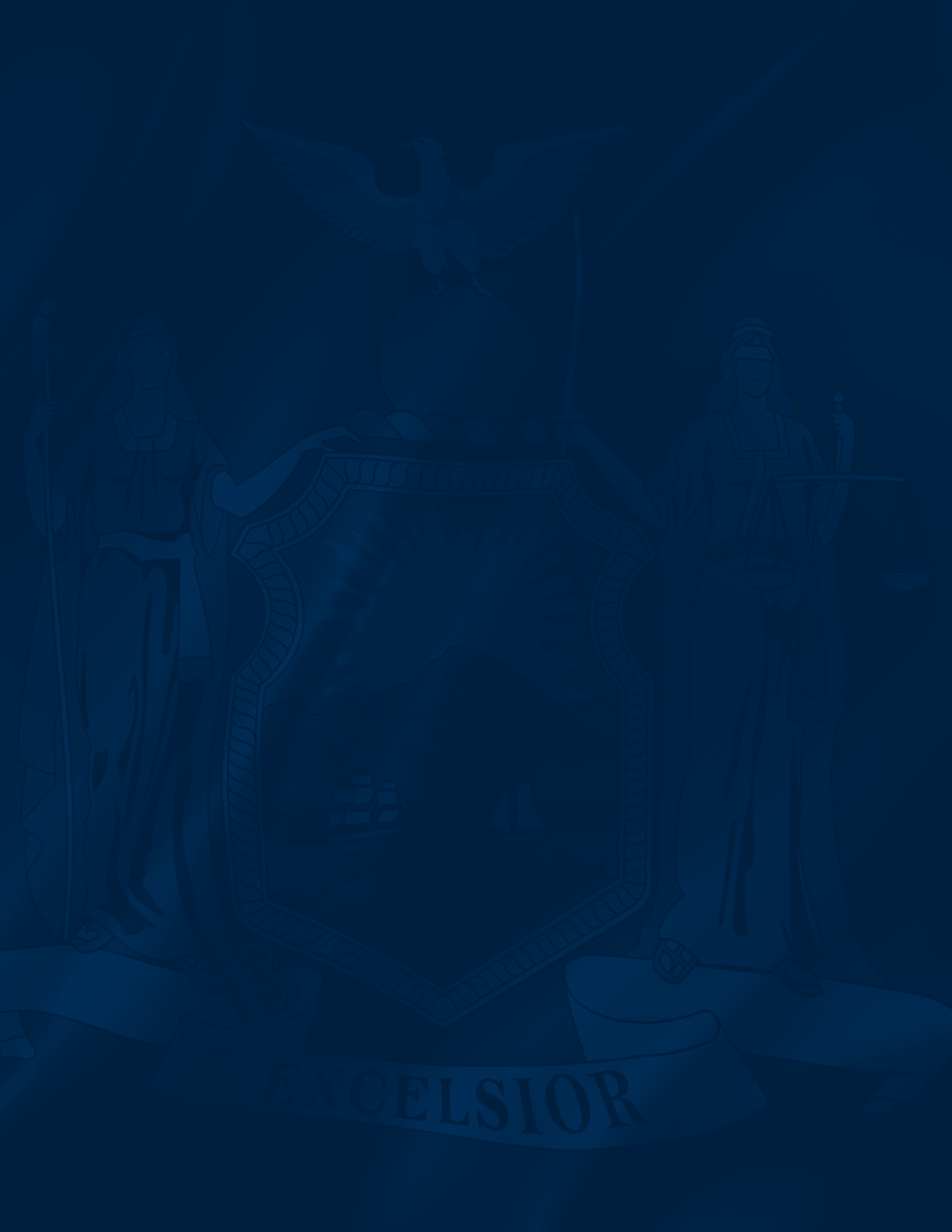
A. Special permit fees and site plan review fees shall be collected and paid according to the following fee structure as may be amended by the Council.

B. Special use permit/use and area variances/ zoning permit/zoning classification change: $100.

C. Site plan review.

AREA (ACRES)	FEE
Less than 0.5	$50
0.5 to 1.0	$75
1.0 to 2.0	$150
2.0 to 5.0	$250
Greater than 5.0	$250, plus $50 per acre.




EXCELSIOR

City of Lackawanna
Department of Development
2838 South Park Avenue – Room 113
Lackawanna, NY 14218
Tel: (716) 827-6421 Fax: (716) 827-1866

Agenda Checklist
Zoning Board of Appeals
Planning and Development Board

Date 10/16/26

Property Address 773 RIDGE ROAD.

Reason in Front of Board SITE PLAN APPROVAL

Special Use Permit needed for: Zoning? Yes / (No) || Planning? Yes / (No)

Agenda Applicant LAURA LANG

Agenda Item SITE PLAN APPROVAL

Zone CENTRAL BUSINESS DISTRICT

Use variance needed? Yes / (No)

Description of use variance (not allowed in that zone) —

Area variance needed? Yes / (No)

Description of area variances needed (parking, height, etc.) —

Description of agenda use REQUESTING SITE PLAN APPROVAL TO OPERATE A FABRIC AND SEWING SUPPLY STORE RETAIL

Code Enforcement research (attached if applicable) YES

Legal opinion / research (attached if applicable) NO

Scott Hayes
Code Enforcement Officer

CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

714 Ridge Road – Room 309
Lackawanna, NY 14218
Tel: (716) 827-6421 Fax: (716) 827-1866



APPLICATION
TO THE CITY OF LACKAWANNA
PLANNING AND DEVELOPMENT BOARD

Date: 10-06-2026 Application No._____

Site Plan Review	Filing Fee $10.00
_____Less than 0.5 acres	$ 50.00
_____0.5 to 1.0 acres	$ 200.00
_____1.0 to 2.0 acres	$ 400.00
_____2.0 to 5.0 acres	$ 400.00
_____Greater than 5 acres	
$ 400.00 plus $100.00 per acres	$_____
_____Special Use Permit	$ 500.00
✓ Development Plan Review	$ 50.00

Property Address: 723 Ridge Road Lackawanna NY 14218

S.B.L. No. _____

Description of Proposed Project: Retail Store for fabric and sewing supplies. See email for details.

_____

_____

Director of Development

APPLICATION IS HEREBY MADE to the City of Lackawanna Planning and Development Board for a site plan review, special use permit, development plan review or subdivision review as required by the Municipal Code of the City of Lackawanna. The applicant hereby agrees to comply with all applicable laws, rules, ordinances and regulations.

Laura Lang
Name of Applicant

[redacted]
Signature of Applicant

[redacted]
Address of Applicant

[redacted]
Applicant Phone No.

[redacted]
Applicant's Email

Lessee
Role of Applicant to Project
(owner, attorney, lessee, agent, architect, engineer, contractor...)

Property Owner:

NAME: [redacted]

Address: [redacted]

Director of Development

Mystic Fabrics Proposal

Presented by - Laura Lang - Owner, lessee of property

Location: 723 Ridge Road Lackawanna NY 14218 - Victoria Square Building

Description of proposed project:

- Use - Fabric Store
- Business Name - Mystic Fabrics
- Logo/Graphic -



- Description of services to be offered - Retail fabric store selling fabric and sewing supplies. Examples of items sold:

Fabrics	Notions and Supplies	
Satin	Hand sewing needles	Trim
Chiffon	Machine needles	Ribbon
Tulle	Pins	Marking pencils
Fleece	Thread	Scissors

- Hours of Operation
  - Sunday - 10am to 3pm
  - Monday - Closed
  - Tuesday - 5pm to 9pm
  - Wednesday - Closed
  - Thursday - 5pm to 9pm
  - Friday - Closed
  - Saturday - 10am to 3pm

Exterior Photo

Logo and hours will be made from window safe, removable vinyl.



Interior Photos





NOTE: Back doors lead to a bathroom and a storage closet, both doors will be kept closed/ locked with no customer access.

2D views - planned floor plan



3D views - planned floor plan





NOTE: All tall shelving units will be secured to studs with anti-tip brackets.

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LEASE

This Lease made as of the first day of September 2026, by and between [redacted] doing business at [redacted] hereinafter the "Lessor" and Mystic Fabrics LLC whose address is 723 Ridge Road, Lackawanna, NY 14218 hereinafter the "Lessee".

WITNESSETH

ARTICLE 1: THE PREMISES

In consideration of the payment of the rent and the performance by Lessee of the agreements contained herein, Lessor demises, lets and leases to Lessee and Lessee hires and accepts from Lessor, that certain real property located at 723 Ridge Road, City of Lackawanna, County of Erie, New York, more particularly described in the building known as Victoria Square Building at 727 Ridge Road, Lackawanna, New York (the building), and together with all rights, privileges, easements and appurtenances belonging to or in any way pertaining to the premises. An area approximately 31 feet in depth x 16 feet in width approximately 477 square feet in area as shown on attached schedule.

ARTICLE 2: THE TERM

1. The term of this lease shall be one year beginning on September 18, 2026 and ending September 30, 2027.

2. Lessee agrees to lease the premises after September 18, 2026 if premises are not ready by September 30, 2027.

ARTICLE 3: RENT

1. Lessee agrees to pay Lessor rent for the premises as follows:
   Starting September 18, 2026, the rent shall be $705.00 per month.
   Lessee agrees to take space in, as is condition.

2. Rent for the term of this Lease shall be paid in advance on the first day of each month during the term in monthly payments without abatement, deduction or setoff.

3. Rent for partial month at beginning of term shall be prorated on a daily basis.

4. If the rent or any other item agreed by Lessee to be paid hereunder is not paid within (5) days after it is due, Lessor shall be entitled to collect a late charge of five percent (5%) of any such late amount. This late charge to be collected on a one-time basis.

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a. If a check is returned from Bank, Lessee shall pay amount of charge $40.00 assessed by Bank to Lessor, and an amount equal to bank charge to cover Lessor's bookkeeping costs.

5. Lessee shall also pay as additional rent ten percent (10%) of any Assessment pursuant to any established commercial business district in the area adjacent to the Premises.

6. Lessor shall have the same remedies for a default in the payment of additional rent as it has for a default in the payment of base rent.

7. Lessee shall pay each and every month in addition to base rent, one-twelfth of additional rent as estimated by Lessor to the nearest $ 10.00 amount. And Lessee shall pay, or be reimbursed yearly by Lessor the difference between estimated and actual additional rent. Period of additional rent shall be from July 1 through June 30 of the following year.

ARTICLE 4: USE OF PREMISES

1. Lessee agrees that the Premises shall be used and occupied as an Bulk Fabrics Retail with no commercial cooking facilities and for no other purposes.

2. Lessee agrees that the Premises shall be used and occupied in compliance with all Federal, State and Municipal statutes and ordinances, and all regulations, orders and directives of any governmental authority having jurisdiction thereof; that the Premises shall be used, maintained and occupied in a careful, safe and proper manner; that it will not permit waste or the maintenance of a nuisance therein; that the Premises will not be abandoned or used in any way or anything brought onto or used on the Premises which will increase the current fire insurance rating of the building; that it will pay the cost of any increase in fire insurance premiums resulting from its use or occupancy of the Premises; and that it will comply with all regulations issued by the New York Board of Fire Underwriters.

ARTICLE 5: MAINTENANCE AND REPAIRS

1. Lessee agrees to keep and maintain the Premises in good order, condition and repair, and to make promptly all repairs or replacements of windows, doors, glass (which shall be replaced with glass of the same size and quality), interior walls, floor, any fixtures and ceilings for all repairs that are not occasioned by structural defects.

2. Lessee will keep the Premises in a clean, safe and healthy condition and free of snow and ice. Lessee, at its own expense, shall make whatever changes are necessary to comply with the requirements of utility companies, insurance underwriters and governmental authorities having jurisdiction of the Premises.

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3. Lessee, at its own expense, shall repair or replace any damage or destruction to the Premises or the building or the surrounding areas accessioned by the act or negligence of Lessee, its agents, contracts, employees, customers and invitees.

4. On default of Lessee in making any maintenance, repair or replacement required to be made by Lessor, Lessor may, but shall not be required to, make such repair or replacement or maintain the Premises for the Lessee's account, and the expense thereof shall constitute and be collectible as additional rent, payable by Lessee on demand. Lessor may maintain HVAC and bill Lessee.

5. Lessee shall retain the air conditioning and heating units that are already on the premises in full repair and pay all expenses pertaining thereto.

ARTICLE 6: ALTERATIONS/ALLOWANCES

1. Lessee agrees not to make or permit to be made any alternations, improvements or additions to the Premises or any part thereof, unless the Lessee obtains the prior written consent of Lessor, which consent shall not be unreasonably withheld.

2. All alterations, improvements and additions to the Premises made by Lessee shall be made in accordance with all applicable laws and, except for removable trade fixtures, shall be deemed to be attached to and a part of the Premises and to be the property of the Lessor, and shall remain for the benefit of the Lessor at the end of the term or any extension thereof or other termination of this Lease; provided, however, if prior to the end of the term or the termination of this Lease, Lessor directs by written notice by Lessee, Lessee shall promptly remove the additions, improvements, fixtures and installations which were placed in the premises by Lessee and which are designated in said notice, and repair any damage occasioned by such removal.

3. Lessee agrees to indemnify and hold harmless, Lessor from all costs, expenses, liens, claims or damages arising out of, or resulting from the making of any alterations, additions or improvements. Lessee further agrees to discharge by bonding or payment otherwise within 30 days of filing, any lien that may be filed against the Premises arising from any altercations, additions or improvements done for or by the Lessee.

4. Any Fire Alarm work or alterations to the existing fire alarm system must be done by Buffalo Alarm only. Any security alarms, camera systems or access control systems must be done by Buffalo Alarm only. No drilling into the building will be permitted without the Owner's consent. If Buffalo alarm is too expensive, then Lessee shall have the option to have another company that is licensed by the State of New York perform the work. All monitoring will be handled by Buffalo Alarm only. No other company will be allowed to monitor any alarm system on location. Buffalo Alarms rate must be competitive with the top five Alarm Companies serving the area.

5. Lessee shall pay any increase in real estate taxes, assessments or charges resulting from any alterations, additions or improvements made by Lessee, or any taxes assessed or

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imposed on or resulting from any fixtures, trade fixtures, machinery or equipment installed or used on the Premises by Lessee.

ARTICLE 7: UTILITIES

Lessee agrees to pay for all public utility services rendered or furnished to the premised during the term, including electricity charges and excessive water usage. Cold water is included in the rent. Lessee shall be responsible for telephone services and other services it desires on the premises.

ARTICLE 8: PARKING

Lessee agrees there is no parking offered for this location. Parking is for customer use only to benefit all tenants of the Victoria Square Building.

ARTICLE 9: SIGNS

Lessee must install or affix to the exterior front wall of the Premises, a sign identifying Lessee and its business conducted on the Premises only with the consent and approval of the Lessor, and in compliance with all applicable governmental laws, ordinances, regulations and other requirements. Lessee shall obtain the approval of Lessor as to the size, scale, design, location and content of any such sign. In no event is any sign, poster, or any other item to be placed in the window or on the sidewalk of the Premises. Should Lessor erect a sign listing Tenants of Building, Lessee shall pay pro-rata share of cost of said sign.

ARTICLE 10: INSURANCE AND INDEMNNITY

1. Lessee agrees that, at its own cost and expense, it will provide during the term and any extension thereof, policies of insurance covering the following:

   A. Public liability insurance insuring against liability for personal injury, death, and property damage occurring in, on or about the Premises, in the amount of $ 1,000,000.00 per person, $1,000,000.00 per accident, and $1,000,000.00 for property damage.

   B. Workmen's compensation insurance, employee disability and any other insurance required by the laws of New York State to be maintained by Lessee.

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C. Glass coverage insurance covering all commercial storefront glass, including exterior front windows, doors, display glass, and all other glass comprising or serving the Premises. Lessee shall, at its sole cost and expense, be responsible for the maintenance, repair, and replacement of all such glass throughout the term of this Lease, including replacement necessitated by accidental damage, vandalism, or any other cause. Lessee shall maintain insurance providing adequate coverage for such glass and shall furnish Lessor with evidence of such coverage upon request.

The above insurance policies required under Subsection A shall name Lessor and Lessee as additional insured's and insured as their interests may appear, and shall also include an endorsement naming any mortgagees of the Premises. All said policies shall be written with companies licensed in the State of New York. Lessee shall deliver to Lessor any mortgages, insurance policies evidencing such paid-up insurance prior to the date this lease is executed and upon renewal of such insurance. All such policies shall provide that the same may not be cancelled, terminated or modified except upon 30 days' prior written notice thereof to Lessor.

2. Without in any way being limited by the above insurance coverage's, Lessee agrees to protect, indemnify and hold harmless, Lessor against all losses, damages, expenses, liabilities and claims of every kind, including reasonable attorney's fees, arising out of or from (i) a failure by Lessee to perform any of the terms and conditions of this lease; (ii) a failure by Lessee to comply with any law, regulation, ordinance or other requirement of a governmental authority; or (iii) any injury, damage, accident or occurrence on or about the Premises causing injury to any person or damage to property, except those caused by the negligence of Lessor, its agents, employees, representatives and invitees.

ARTICLE 11: DESTRUCTION OF PREMISES

1. If the Premises are damaged or destroyed, Lessee shall immediately give written notice thereof to Lessor.

2. If damages or destruction of part of the premises from any cause occurs which could be repaired within four months from such damages or destruction, Lessor shall repair the same with all reasonable speed and shall restore the Premises to substantially the same condition in which they existed prior to such damage or destruction to the extent reasonably possible with the fire insurance proceeds received. Lessee shall not be entitled to terminate this Lease, but shall be entitled to an equitable and proportionate abatement in rent during the period required for repair and restoration of the Premises. If Lessor fails to substantially complete such work within four months from the damage or destruction, Lessee may at its option terminate this Lease by written notice thereof to Lessor.

3. If total destruction of the Premises from any cause or damage or destruction of part of the Premises from any cause occurs which could not be repaired within four months from such damage or destruction, Lessor shall notify Lessee within 30 days after receiving

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notice of such damage or destruction whether or not Lessor will repair or rebuild the Premises. If Lessor elects not to repair or rebuild, this Lease shall terminate as of the date of such damage or destruction. If Lessor elects to repair or rebuild the Premises to substantially the same condition in which they existed prior to such damage or destruction to the extent reasonably possible with the insurance proceeds received, Lessor shall give Lessee written notice of such and specify the time within which such repair or reconstruction shall be completed. Lessee shall then have the option within 15 days of receipt of such notice to elect to either terminate this Lease as of the date of such damage or destruction or affirm this lease with a total or partial abatement of rent for the period from the occurrence of the damage or destruction until the Premises are repaired or restored.

4. If any damages or destruction of the Premises thereof occurs during the last two months of the term, Lessor shall not be obligated to repair or rebuild the Premises and Lessee may elect to terminate this Lease as of the date the damage occurred.

ARTICLE 12: EMINENT DOMAIN

1. If the Premises or any part thereof shall be taken or condemned for public use or by right of eminent domain, the entire award thereof shall belong to Lessor, Lessee hereby assigning to Lessor all its right, title and interest to any such award. However, Lessee shall be entitled to receive an award for its fixtures, equipment, personality and relocation expenses.

2. If the whole or a substantial part of the Premises shall be taken or condemned, then this Lease shall terminate as of the date possession is required by the acquiring authority and rent and other amounts paid by Lessee under this lease shall be prorated, the amount attributable to the period prior to possession shall be retained by Lessor, and the balance shall be refunded to Lessee.

3. If part of the Premises shall be taken or condemned and this Lease is not terminated as provided in paragraph 2 above, Lessee shall surrender and vacate that part on the date possession is required by the acquiring authority. Lessor shall have the option of terminating this Lease or Lessor shall repair and restore the part not affected by the taking to the extent reasonably possible with the proceeds of the award received, this Lease shall continue in force and effect, and the rent and other amounts required to be paid by Lessee under this Lease shall be equitably and proportionately reduced as of the date possession is required by the acquiring authority.

ARTICLE 13: ACCESS TO PREMISES

Lessee agrees to permit Lessor and its agents to enter the Premises for purposes of showing the same to prospective mortgagees; inspecting and examining the Premises; correcting any violation of this Lease; making such repairs, alterations, improvements or modifications to the Premises or the buildings as may be necessary, and during the last six months of the term of this Lease, for the purposes of exhibiting the Premises to

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prospective Tenants. Except in emergency situations, any such entry shall be arranged by reasonable advance notice to Lessee and shall occur during normal business hours in such a manner as to avoid disruption of Lessee's use of Premises.

ARTICLE 14: SURRENDER OF PREMISES

1. Lessee agree to surrender to Lessor possession of the Premises upon the expiration of this Lease, or its earlier termination as herein provided, broom clean and in good condition and repair, ordinary wear and tear and damage by fire or other casualty excepted.

2. Before Lessee surrenders the Premises to Lessor, Lessee shall at its cost and expense, remove its property and all alterations, additions and improvements as to which Lessor has made the election provided for in Article 6 hereof, and shall repair any damage to the Premises caused by such removal. Any property not so removed shall be deemed to be abandoned by Lessee and may be retained or disposed by Lessor at Lessee's expense.

ARTICLE 15: ASSIGNMENT AND SUBLETTING

Lessee agrees not to sublet the premises or any part thereof, or assign, mortgage or pledge this lease or Lessee's interest therein without the written consent of Lessor, which consent shall not be unreasonably withheld.

ARTICLE 16: DEFAULT BY LESSEE

The following shall be events of default by Lessee under this Lease:

A. If Lessee fails to pay any item agreed by it to be paid in the amount and on the date it is due, and such failure continues for a period of more than 15 days.

B. If Lessee files or has filed against it a request or petition for liquidation, reorganization, adjustments of debts, arrangements, adjudication as insolvent or bankrupt under the bankruptcy act, or under any similar law or statute of the United States or any state, and the same shall not be dismissed or discharged within 30 days.

C. If Lessee becomes insolvent, or makes an assignment of its property for the benefit of creditors, or seeks the benefit of an insolvency act, or a Receiver or Trustee is appointed for Lessee's property, and the same is not dismissed or discharged within 30 days.

D. If Lessee vacates or abandons the Premises.

E. If Lessee fails to perform any of the terms, agreements and conditions of this Lease and such default continues for a period of more than 30 days after written notice and demand is given by Lessor to Lessee; provided, however, that if the

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cure of such failure involves action reasonably requiring a longer period of time to complete, there shall be deemed to be no event of default if Lessee has taken steps to cure such failure and diligently completes such action necessary to effect such cure.

F. If Lessee vacates or abandons the Premises, except however, Lessee shall have the right to notify Lessor of its intention to vacate the Premises and thereafter Lessee shall be entitled to vacate the Premises although Lessee shall continue to be liable for the rents due pursuant to this Lease Agreement. The Lessor shall have the affirmative obligation to mitigate damages by attempting to relet the Premises.

ARTICLE 17: REMEDIES OF LESSOR

If any event of default occurs, Lessor shall have the right and option to pursue any of the following remedies, each of which is cumulative and not exclusive and in addition to any other rights or remedies allowed by law:

A. Lessor may, but is not obligated to, cure the default and recover the costs and expense of curing the default from Lessee.

B. Lessor may terminate this Lease, enter upon and take possession of the Premises, and remove all persons and property therefrom.

C. Lessor reserves the right to reenter and regain the premises upon Tenant's breach of its obligation to pay rent. The Lessee waives the service of notice of intention to re-enter or to institute legal proceedings.

D. Lessor may enter upon and take possession of the Premises, remove all persons and property therefrom, elect to accelerate the rent reserved under this Lease for the remaining term less the fair rental value of the Premises for the remaining term, and terminate this Lease.

E. Lessor may enter upon and take possession of the Premises and remove all persons and property therefrom, and Lessor shall be obligated to, relet the Premises or any part thereof on terms, conditions and rentals Lessor deems appropriate as agent for and for the account of Lessee. Lessee shall be immediately liable for Lessor's expenses incurred in dispossessing Lessee and reletting the Premises, including broker's commissions, expenses of repairing and remodeling the Premises, attorney's fees, and like costs. Lessee shall be liable for the rent reserved under this Lease as it accrues, less the net rents Lessor receives from reletting the Premises.

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ARTICLE 18: SUBORDINATION

This Lease shall be subordinate to any prior or subsequent mortgage on the Premises. This Article shall be self-operative without any further act of either Lessor or Lessee. Furthermore, Lessee appoints Lessor attorney-in-fact to execute any instrument, which may be required to evidence this subordination.

ARTICLE 19: QUIET ENJOYMENT

Lessor agrees that if Lessee pays the rent and other charges and performs all of the agreements of this Lease, Lessee shall have quiet enjoyment of the Premises during the term.

ARTICLE 20: SECURITY DEPOSIT

Upon execution of this Lease, Lessee shall deposit with Lessor, Seven Hundred and Five dollars ($705.00). As security for the faithful performance by Lessee of the terms and agreements of this Lease, such sum shall be held by Lessor in accordance with the terms of New York General Obligations Law section 7-103. If Lessee fully and faithfully performs pursuant to the terms and agreements of this Lease and surrenders the Premises upon expiration of the term of this Lease or extension thereof of earlier termination thereof in accordance with the terms of this Lease, the Security Deposit shall be returned to Lessee.

ARTICLE 21: NOTICES

Any notice or communication which Lessor or Lessee may be required to give to the other shall be in writing and shall be sent registered or certified mail, return receipt requested, to, and the rent or other item agreed to be paid hereunder shall be sent to Lessor at, the address specified on Page 1 hereof, or to such other address as either party shall have designated in writing to the other. The time of the service of such notice shall be when the same is deposited in an official United States Post Office mail Box, postage prepaid. Lessor may also give notice to Lessee by hand delivery to the Premises.

ARTICLE 22: MISCELLANEOUS

1. The failure of Lessee to insist, in any one or more instances, upon a strict performance of any of the terms of this Lease or to exercise any right or remedy herein, shall not be constructed as an estoppel of Lessor or waiver or relinquishment for the future of such term or right or remedy, but Lessor shall be entitled to strict performance by Lessee of the terms of this Lease.
2. Lessee agrees to execute and acknowledge and deliver to Lessor a written statement certifying such matters as may be reasonably requested by Lessor, within 10 days after demand from Lessor.

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3. The headings of the Articles are for informational and reference purposes only, and in no way defines, limit or expand the terms and provisions of this Lease.
4. Whenever a reference is made to a singular number, it shall be deemed to include the plural and vice versa whenever the context so requires, and a reference to the masculine, feminine or neuter shall be deemed to include the other whenever the context so requires.

ARTICLE 23: PROVISIONS BINDING

The terms, agreements, conditions and covenants of this Lease shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors and assigns.

ARTICLE 24: COMPLETE AGREEMENT

This Lease contains the entire Agreement between the parties. Neither party is relying on any statement, agreement, or representation not contained herein. No modification of this Lease shall be binding unless it is in writing and signed by the party against whom such modification is sought to be enforced.

IN WITNESS WHEREOF, the Lessor and Lessee have caused this Lease to be executed on the day and year first above written.

LESSOR: LESSEE:

City of Lackawanna
Department of Development
2838 South Park Avenue – Room 113
Lackawanna, NY 14218
Tel: (716) 827-6421 Fax: (716) 827-1866

Application Notice

October 21, 2026

Laura Lang
[redacted]

Regarding: 723 Ridge Road, Lackawanna, NY 14218

The above item has been placed on the agenda for the next scheduled meeting of the City of Lackawanna's Planning and Development Board and/or Zoning Board of Appeals:

Zoning Board of Appeals	**Planning and Development Board**
Date: N/A	**Date: October 28, 2026**
Time: N/A	**Time: 6:00 P.M.**

Lackawanna City Hall
Council Chambers
2838 South Park Avenue
Lackawanna, NY 14218

If you have any questions regarding the meeting, please call (716) 827-6421.

Boarding Neighbors:

SJAMS 2025 LLC – 711 Ridge Road
SJAMS 2025 LLC – 715 Ridge Road
717 Ridge Road LLC – 717 Ridge Road
Adolf Development Co LLC – 727 Ridge Road
Adolf Development Co LLC – 731-739 Ridge Road

City of Lackawanna
Department of Development
2838 South Park Avenue – Room 113
Lackawanna, NY 14218
Tel: (716) 827-6421 Fax: (716) 827-1866

Bordering Property Notice

Dear Sir or Madam:

As an adjoining property owner in the City of Lackawanna, you are hereby notified that a neighbor has made an application to the City of Lackawanna's Planning and Development Board and/or Zoning Board of Appeals as follows:

1. ✓ Site Plan Review
2. _____ Special Use Permit
3. _____ Development Plan Review
4. _____ Variance
5. _____ Zoning Law Appeals
6. _____ SEQR Negative Declaration

Address: 723 Ridge Road, Lackawanna, NY 14218

Property owner: [redacted]

Applicant: Laura Lang

Regarding: Requesting site plan approval to operate a fabric and sewing supply retail store located in the Central Business District (CBD) Zone.

You are entitled to appear at the public hearing to express your support or opposition to the granting of the application scheduled for:

October 28, 2026 @ 6:00 P.M. (Planning & Development Board)

Lackawanna City Hall Council Chambers at 2838 South Park Avenue, Lackawanna, NY 14218

Communications, relating to the application, may be filed with the appropriate Board before the meeting by writing to:

Department of Development
Attn: Planning and Development Board / Zoning Board of Appeals
2838 South Park Avenue, Room 113
Lackawanna, NY 14218

If you have any questions regarding the meeting, please call (716) 827-6421.

City of Lackawanna
Department of Development

2838 South Park Avenue – Room 113
Lackawanna, NY 14218
Tel: (716) 827-6421 Fax: (716) 827-1866

Agenda Checklist
Zoning Board of Appeals
Planning and Development Board

Date 10/16/26

Property Address 3071 SOUTH PARK (OLD RITE AID)

Reason in Front of Board REVISED SITE PLAN

Special Use Permit needed for: Zoning? Yes / (No) || Planning? Yes / (No)

Agenda Applicant ZACHARY ALABADI

Agenda Item TO ADD A 45x20 WALK IN COOLER

Zone NEIGHBORHOOD COMMERCIAL

Use variance needed? Yes / (No)

Description of use variance (not allowed in that zone) —

Area variance needed? Yes / (No)

Description of area variances needed (parking, height, etc.) —

Description of agenda use REVISED SITE PLAN TO ADD A 45 x 20 WALK IN COOLER. ON SOUTH PARK SIDE OF PROPERTY. (REQUESTING)

Code Enforcement research (attached if applicable) YES

Legal opinion / research (attached if applicable) NO

Scott Hayes
Code Enforcement Officer

CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT
714 Ridge Road – Room 309
Lackawanna, NY 14218
Tel: (716) 827-6421 Fax: (716) 827-1866

APPLICATION
TO THE CITY OF LACKAWANNA
PLANNING AND DEVELOPMENT BOARD

Date: 10-06-26 Application No._____

Site Plan Review	Filing Fee $10.00
_____Less than 0.5 acres	$ 50.00
_____0.5 to 1.0 acres	$ 200.00
_____1.0 to 2.0 acres	$ 400.00
_____2.0 to 5.0 acres	$ 400.00
_____Greater than 5 acres	
$ 400.00 plus $100.00 per acres	$_____
_____Special Use Permit	$ 500.00
_____Development Plan Review	$ 50.00

Property Address: 3071 South Park ave.

S.B.L. No. _____

Description of Proposed Project: _____

45 x 20 walk in cooler on side of property 10 FEET FROM PROPERTY LINE

Director of Development

APPLICATION IS HEREBY MADE to the City of Lackawanna Planning and Development Board for a site plan review, special use permit, development plan review or subdivision review as required by the Municipal Code of the City of Lackawanna. The applicant hereby agrees to comply with all applicable laws, rules, ordinances and regulations.

Zachary Alabadi
Name of Applicant

[redacted]
Signature of Applicant

[redacted]
Address of Applicant

[redacted]
Applicant Phone No.

[redacted]
Applicant's Email

Owner
Role of Applicant to Project
(owner, attorney, lessee, agent, architect, engineer, contractor...)

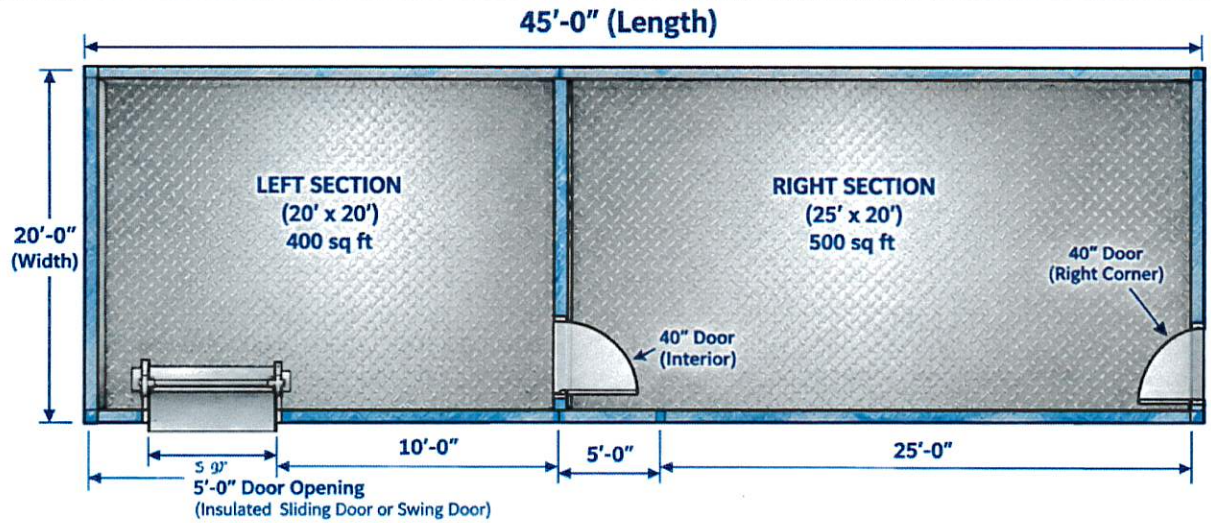
Property Owner:

NAME: [redacted]

Address: [redacted]

Director of Development

WALK-IN COOLER BLUEPRINT
WITH 4" DIAMOND STAINLESS STEEL FLOOR



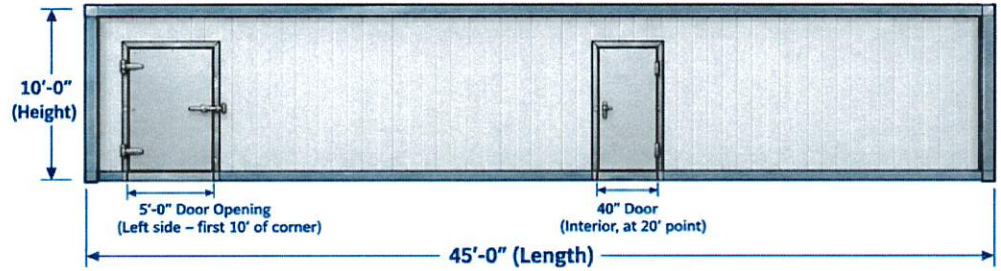
Overall Dimensions:
45'-0" (Length)
20'-0" (Width)
10'-0" (Height)

Interior Layout:

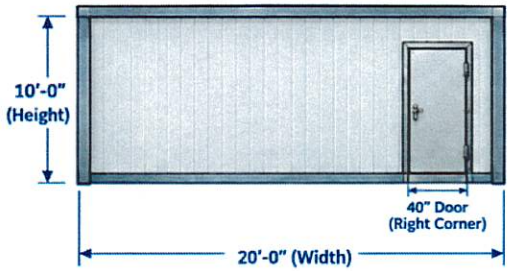
- 25' spray/brite wall (right section wall)
- 5' door opening in the 25' wall
- 40" interior door between sections (center of 25' wall)
- 5' main door on the 20' side (first 10' of corner, right side)
- 40" door on the 20' side (right corner)

Floor:

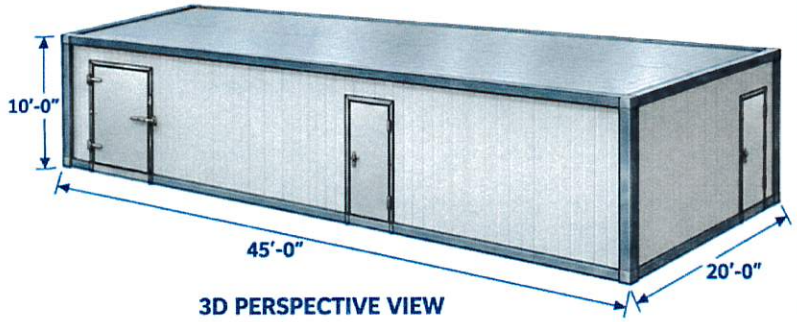
- 4" thick diamond stainless steel floor (with insulation underneath)



FRONT ELEVATION (45' Side)



SIDE ELEVATION (20' SIDE)



3D PERSPECTIVE VIEW

DOOR DETAILS



5' Door Opening
(Insulated Sliding or Swing Door)
Located on 20' side, first 10' of corner (right side).



40" Interior Door
Located in 25' wall (center, between sections).



40" Door
Located on 20' side, right corner.

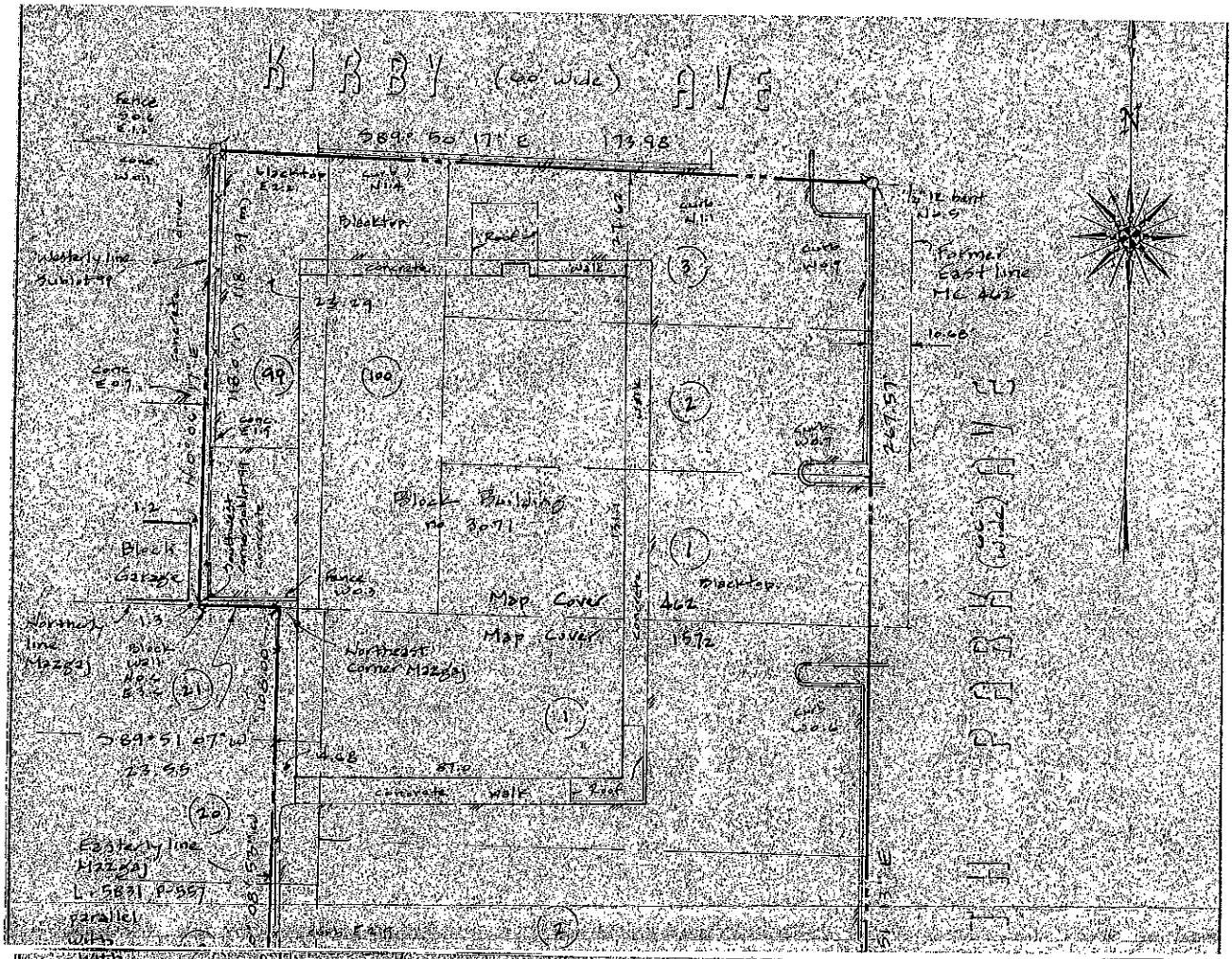
FLOOR DETAIL (CROSS SECTION)



KEY FEATURES

- ✓ 4" thick diamond stainless steel floor (durable & sanitary)
- ✓ 25' spray/brite wall (right section)
- ✓ 10' interior height
- ✓ 5' door opening in 25' wall
- ✓ 40" interior door (center)
- ✓ (e.g. polystyrene steel skid condition)
- ✓ 40" door on 20' side (right corner)

Note: Dimensions can be adjusted based on your exact site conditions and equipment requirements.



Survey

3071 South Park Avenue
City of Lackawanna
Erie County, New York
Part of Lot no. 21, Twp 10, Rng 8

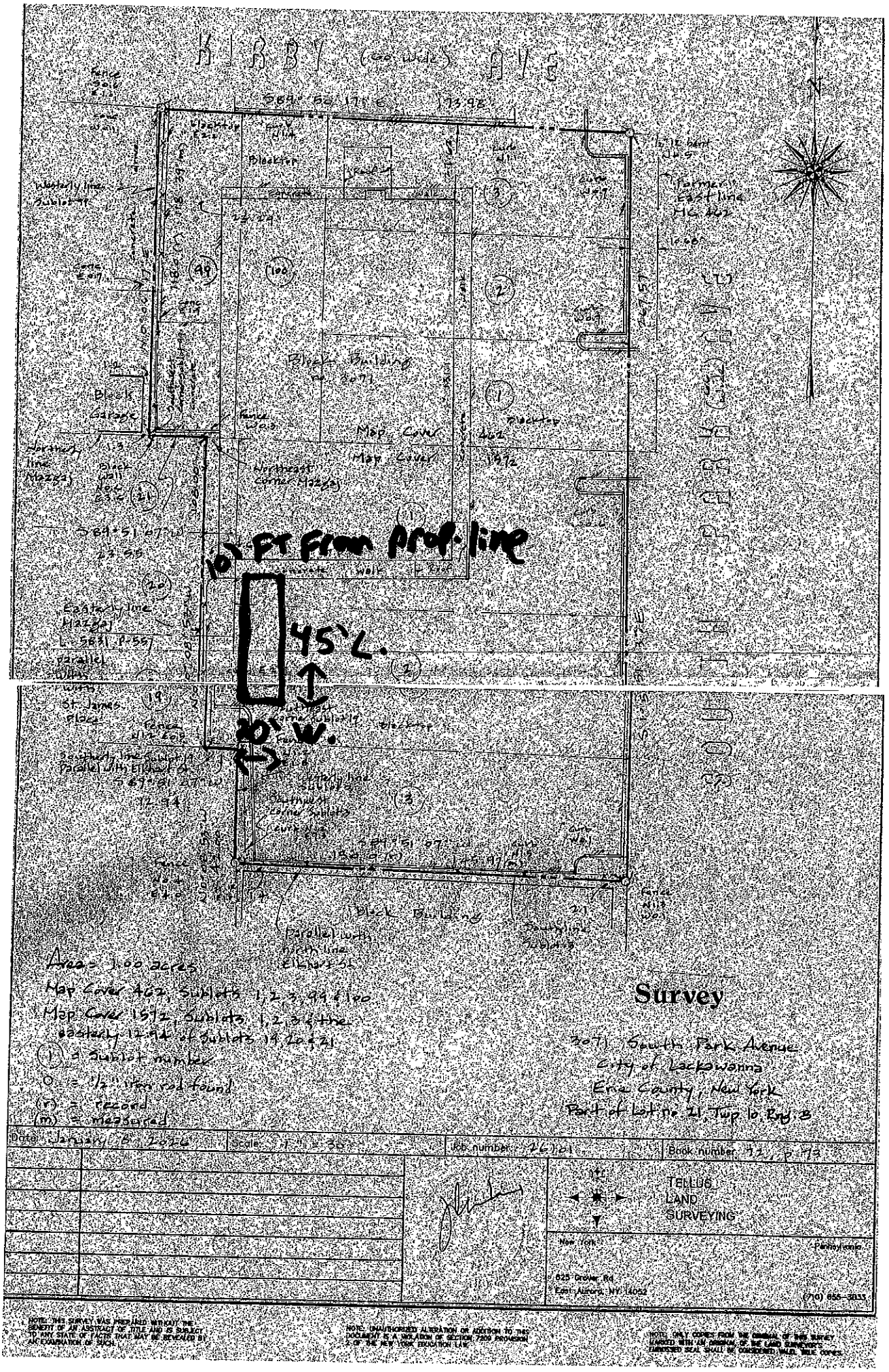
Date: January 8, 2024	Scale: 1" = 30'	Job number: 24101	Book number: 12, P. 19

TELLUS LAND SURVEYING
New York Pennsylvania
625 Grover Rd.
East Aurora, NY 14052
(716) 650-3833

NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH.

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Survey

2071 South Park Avenue
City of Lackawanna
Erie County, New York
Part of Lot No. 21, Twp 10, Rng 8

Date: January 8, 2026	Scale: 1" = 30'	Job number: 26101	Book number: 92, p. 113

TELUS LAND SURVEYING

New York Pennsylvania

625 Grover Rd
East Aurora, NY 14052
(716) 655-3033

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Google Maps 3090 South Park Ave

NOT TO SCALE

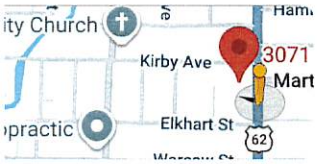
Lackawanna, New York

Google Street View

Jun 2025 See more dates



Image capture: Jun 2025 © 2026 Goog



From: [redacted]
To: [redacted]
Sent: Thursday, October 22, 2026 at 07:28:41 PM EDT
Subject: LuLu Grocery Store - South Park

Hello;

Please find enclosed PDF's of the drawings updated for 3071 South Park Avenue in Lackawanna, NY.
The owner was to drop off printed copies today.

The owner is also adding an outside cooler for the property at 20' by 45'. This will be a commercial building purchase from the owner. The cooler does not need a foundation and is limited to 800 psi.

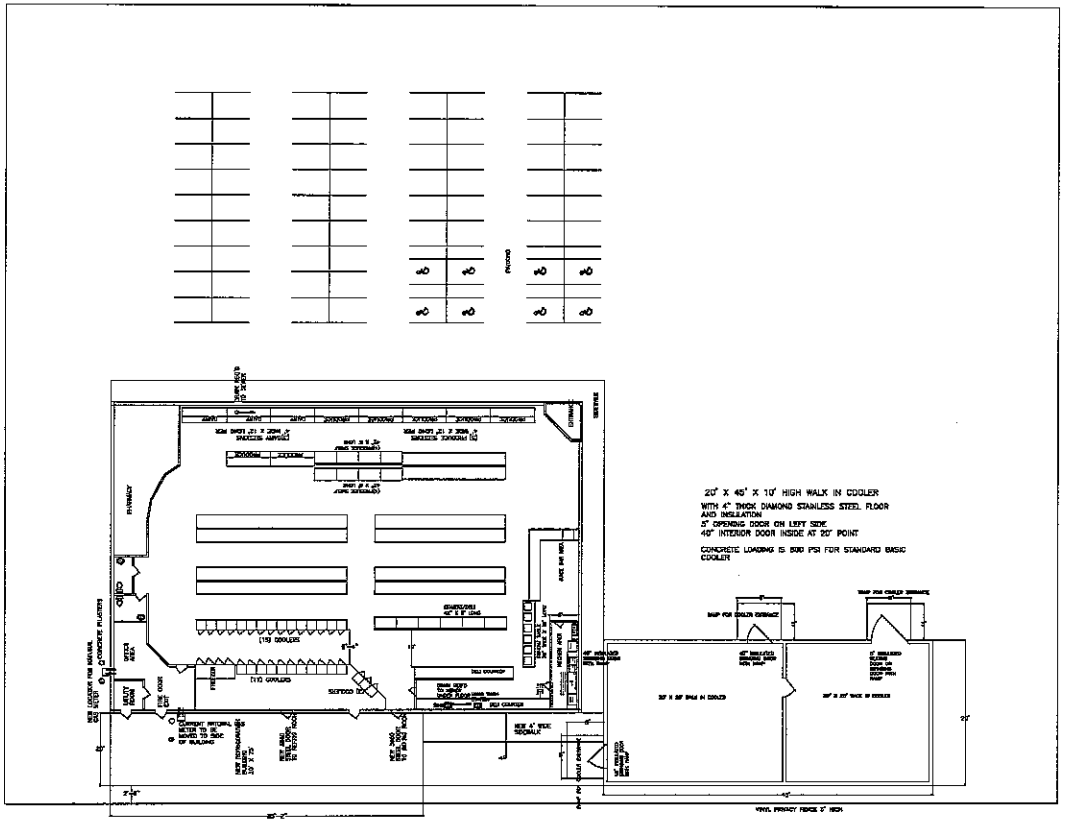
If you have any questions, please call me at [redacted]. Thank you.

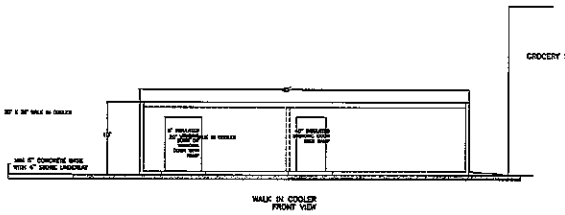
Regards

David Michalewski, P.E.

SOUTH PARK AVENUE

KIRBY AVENUE





3071 - 3085 SOUTH PARK AVENUE
LACKAWANNA, NEW YORK

REV.	DESCRIPTION	
B	ADDED METAL BUILDING ON NW SIDE	1/21/26
A	INITAL RELEASE	12/4/25

STATE OF NEW YORK — LICENSED PROFESSIONAL ENGINEER — No. 89406

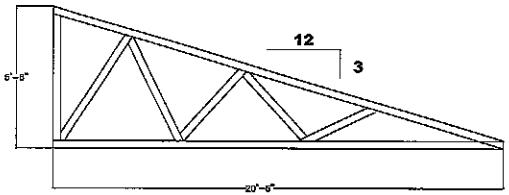
JOB	3071-3085 S. PARK, LACKAWANNA
DRAWN	D. NICHALEWSKI
DATE	12/4/2025
APPVD.	
DATE	
APPVD.	
DATE	
SCALE	1/8" = 1'
SHT	6 OF 6

UNAUTHORIZED ALTERATIONS OR ADDITION TO THIS SURVEY MAP IS A VIOLATION OF SECTION 7209 PARAGRAPH 2 OF THE NEW YORK STATE EDUCATION LAW.

CAD DRAWINGS AUTOCAD

FASTENER SCHEDULE FOR STRUCTURAL MEMBERS

DESCRIPTION OF BUILDING ELEMENT	FASTENER	LOCATION
JOIST TO SILL OR GIRDER	3 – 8D COM (3-1/2" X 0.131") 3 – 3"X0.131" X (NAILS) 3 – 3"STAG (STAPLES)	TOE NAIL
BRIDGING AT JOIST	3 – 8D COM (3-1/2" X 0.131") 3 – 3"X0.131" X (NAILS) 3 – 3"STAG (STAPLES)	TOE NAIL EACH END
1"X6"SUBFLOOR OR LESS TO EACH JOIST	2 – 8D COM (2-1/2" X 0.131")	FACE NAIL
WIDER THAN 1"X6" SUBFLOOR TO EACH JOIST	3 – 8D COM (3-1/2" X 0.131")	FACE NAIL
2" SUBFLOOR TO EACH JOIST OR GIRDER	2 – 16D COM (3-1/2" X 0.162")	FACE NAIL
SOLE PLATE TO JOIST OR BLOCKING	16D (3-1/2" X 0.135") @16" OR A 0.3375"W @ 8" OR B 1/4" S @ 12"	FACE NAIL
SOLE PLATE TO JOIST OR BLOCKING AT BRACED WALL PANEL	3 –16D (3-1/2" X 0.135") @16" 4 – 3" X 0.3375"W @ 8" 4 – 3" X 1/4" S @ 12"	BRACED WALL PANELS
TOP PLATE TO STUD	2 –16D (3-1/2" X 0.135") 3 – 3" X 0.3375"W 3 – 3" X 1/4" S	END NAIL
STUD TO SOLE PLATE	4 – 8D COM (2-1/2" X 0.131") 2 – 3"X0.131" X (NAILS) 2 – 3"STAG (STAPLES)	TOE NAIL
SOLE PLATE TO JOIST OR BLOCKING AT BRACED WALL PANEL	2 – 16D COM (3-1/2" X 0.131") 4 – 3"X0.131" X (NAILS) 2 – 3"STAG (STAPLES)	END NAIL
DOUBLE STUDS	16D (3-1/2" X 0.135") @24" 3" X 0.3375"W @ 8" 3" X 1/4" S @ 8"	FACE NAIL
DOUBLE TOP PLATE DOUBLE TOP PLATE	16D (3-1/2" X 0.135") @16" 3" X 0.3375"W @ 8" 3" X 1/4" S @ 12" 8 – 16D (3-1/2" X 0.135") 16" – 3" X 0.3375"W 12" – 3" X 1/4" S	FACE NAIL LAP SPLICE
BLOCKING BETWEEN JOIST OR RAFTER TO TOP PLATE	3 – 8D COM (2-1/2" X 0.131") 3 – 3"X0.131" X (NAILS) 3 – 3"STAG (STAPLES)	TOE NAIL
RIM JOIST TO TOP PLATE	8D COM (2-1/2" X0.131") 3"X0.131" X (NAILS) 3"STAG (STAPLES)	TOE NAIL
TOP PLATES, LAPS, AND INTERSECTIONS	2 –16D (3-1/2" X 0.135") 3 – 3" X 0.3375"W 3 – 3" X 1/4" S	FACE NAIL
CONT. HEADER, TWO PIECES	16D COM (3-1/2" X 0.162")	16" O.C. ALONG
CEILING JOIST TO PLATE	3 – 8D COM (2-1/2" X 0.131") 3 – 3"X0.131" X (NAILS) 3 – 3"STAG (STAPLES)	TOE NAIL
CONT. HEADER TO STUD	4 – 8D COM (2-1/2" X 0.131")	TOE NAIL
CEILING JOIST, LAPS OVER PARTITIONS (SEE TABLE 2308.10.4.1 IN CODE)	3 –16D (3-1/2" X 0.135") 4 – 3" X 0.3375"W 4 – 3" X 1/4" S	FACE NAIL
CEILING JOIST TO PARALLEL RAFTERS (SEE TABLE 2308.10.4.1 IN CODE)	3 –16D (3-1/2" X 0.135") 4 – 3" X 0.3375"W 4 – 3" X 1/4" S	FACE NAIL
RAFTER TO PLATE (SEE TABLE 2308.10.4.1 IN CODE	2 –16D (3-1/2" X 0.135") 4 – 3" X 0.3375"W 4 – 3" X 1/4" S	TOE NAIL
1" DIAGONAL BRACE TO EACH STUD AND PLATE	2 – 8D COM (2-1/2" X0.131") 2 – 3"X0.131" X (NAILS) 2 – 3"STAG (STAPLES)	FACE NAIL
1" X 8" SHEATHING TO EACH BEARING	3 – 8D COM (2-1/2" X 0.131")	FACE NAIL
WIDER THAN 1" X 8" SHEATHING TO EACH BEARING	3 – 8D COM (2-1/2" X 0.131")	FACE NAIL
BUILT UP CORNER STUD	16D (3-1/2" X 0.135") @ 24" O.C. 3" X 0.3375"W @ 16" O.C. 3" X 1/4" S @ 16" O.C.	FACE NAIL
BUILT UP GIRDER AND BEAMS	20D (4" X 0.192") @32" 3" X 0.3375"W @ 8" 3" X 1/4" S @ 24" 3 – 20D (4" X 0.192") 3 – 3" X 0.3375"W 3 – 3" X 1/4" S	TOP, BTM, TO BE NAILED AT APPROXIMATE ENDS ROOF, WALL & JOIST, AND @ EACH SPLICE
2" PLANKS	16D COM (3-1/2" X 0.162")	@ EACH BEARING
COLLAR TIE TO RAFTER	3 – 10D COM (3" X0.148") 4 – 3"X0.131" X (NAILS) 4 – 3"STAG (STAPLES)	FACE NAIL
JACK RAFTER TO HIP	3 – 16D COM (3" X0.148") 4 – 3"X0.131" X (NAILS) 4 – 3"STAG (STAPLES) 2 –16D (3-1/2" X 0.135") 3 – 3" X 0.3375"W 3 – 3" X 1/4" S	TOE NAIL FACE NAIL
ROOF RAFTER TO 2 – BY RIDGE BEAM	3 – 10D COM (3" X0.148") 4 – 3"X0.131" X (NAILS) 4 – 3"STAG (STAPLES) 5 –16D (3-1/2" X 0.135") 3 – 3" X 0.3375"W 3 – 3" X 1/4" S	TOE NAIL FACE NAIL
JOIST TO BAND JOIST	16D (3-1/2" X 0.135") @16" 3" X 0.3375" W @ 8" 3" X 1/4" S @ 12"	FACE NAIL
LEDGER STRIP	16D (3-1/2" X 0.135") @16" 3" X 0.3375" W @ 8" 3" X 1/4" S @ 12"	FACE NAIL
WOOD STRUCTURAL PANELS AND PARTICLE BOARD SUB-FLOOR, ROOF AND WALL SHEATHING (TO FRAMING)	3" OR LESS 4" TO 6" 8" TO 1"	8D 3/8" X 0.113N 1 3/4" X 16 GAUGE 8D 3/8" X 0.113N 2" X 16 GAUGE 8D
SINGLE FLOOR(COMBINATION SUB-FLOOR UNDERLAYMENT TO FRAMING	1 1/4" TO 1 1/2" 1 1/4" OR LESS	10D OR 8D 8D
PANEL SIDING TO FRAMING	1/2" OR LESS 5/8"	6D 8D
FINISHWOOD SHEATHING	3/8" 1/2"	NO. 11 GAUGE ROOFING NAIL OR 16GA. MIN.18 GAUGE STAPLE NO. 11 GAUGE ROOFING NAIL OR 16GA. MIN.18 GAUGE STAPLE
INTERIOR PANELING	1/4" 3/8"	4D 6D



TRUSS SIZING PLAN

SCALE 1/8"=1'-0"

GENERAL ROOF NOTES:

1. DOWN SPOUTS SHALL HAVE CROSS SECTIONS OF APPROX. 8 SQ. IN.
2. ASPHALT SHINGLES ON 15# FELT PAPER ON ½" PLYWOOD SHEATHING
3. 6'-0" INE SHIELDING ON ALL EAVES.
4. "SOV" STANDS FOR STATIC ROOF VENTS. EACH ONE SHALL HAVE A NET FREE AREA OF 91 SQ. IN. NUMBER AS SHOWN
5. CONTINUOUS RIDGE VEN, WHERE INDICATED, SHALL PROVIDE NET FREE VENTILATING AREA OF 18" PER LINEAR FOOT.
6. VALLEY LININGS SHALL BE INSTALLED IN ACCORDANCE WITH MANUFACTURERS INSTALLATION INSTRUCTIONSBEFORE APPLYING SHINGLES. VALLEY LININ OF ONE PLY OF SMOOTH ROOL ROOTIN COMPLYING WITH ASTM D 224 TYPE II, OR TYPE III AND AT LEAST 39" WIDE. SPECIALTY UNDERLAYMENT COMPLYING WITH ASTM D 1970 MAY BE USED IN LIEU OF THE LINING MATERIAL.
7. TRUSS INSTALLATION SHALL COMPLY WITH MANUFACTURERS INSTALLATION REQUIREMENTS AND INSTRUCTIONS. SIMPSON HURRICANE TIES ARE REQUIRED FROM THE TRUSS TO THE SUPPORTING LVL. OUTSIDE WALL TRUSS SECTIONS TO HAVE VERTICAL 2X4 CONSTRUCTION AT 16" O.C.

WOOD TRUSS GENERAL NOTES:

1. TRUSSES TO BE DESIGNED FOR 50 LB/SQ FT GROUND SNOW LOAD IN ACCORDANCE TO NYS BUILDING CODES 2015 FOR UNHEATED STRUCTURE. BUILDING CATEGORY II AND SHALL INCLUDE THE POTENTIAL FOR UNBALANCED SNOW LOAD.
2. TRUSSES TO BE DESIGNED FOR WIND AND SEISMIC LOAD IN ACCORDANCE WITH NYS BUILDING CODE 2015
3. TRUSSES TO BE DESIGNED AND STAMPED BY A STATE REGISTERED PROFESSIONAL ENGINEER OR ARCHITECT.
4. STRUCTURAL CALCULATIONS ARE TO BE SUBMITTED WITH STAMPED DRAWINGS.
5. TRUSS MANUFACTURER WILL PROVIDE BRACING MATERIAL AS SPECIFIED ON THE TRUSS INSTALLATION GUIDE.
6. DEFLECTION SHALL NOT EXCEED $\frac{1}{240}$ SPAN FOR TOTAL LOAD AND $\frac{1}{360}$ FOR SPAN FOR LIVE LOAD.
7. INSTALL ALL TRUSSES PER MANUFACTURERES INSTRUCTIONS.
8. DO NOT INSTALL ROOF TRUSSES UNTIL ALL WALL STUDS ARE FULLY BRACED AND STABILIZED.

STATE OF NEW YORK LICENSED PROFESSIONAL ENGINEER No. 89439

UNAUTHORIZED ALTERATIONS OR ADDITION TO THIS ARCHITECT MAP IS A VIOLATION OF SECTION 7209 PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.

REV.	DESCRIPTION	
B	ADDED METAL BUILDING ON NW SIDE	1/21/26
A	INITIAL RELEASE	12/4/25

DK DESIGN SERVICES
21 STONE HOOK DRIVE
LANCASTER, NY 14086

WORK: 3071-3085 S. PARK, LACKAWANNA

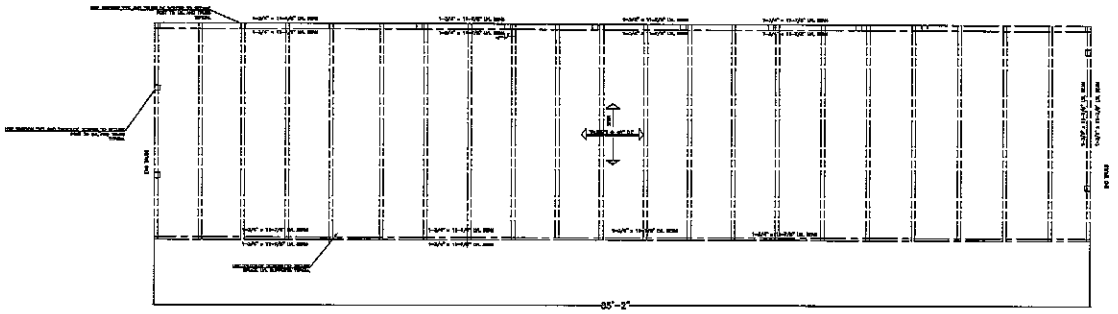
DRAWN: D. MICHALEWSKI | DATE: 12/4/2025

APPVD: | DATE:

APPVD: | DATE:

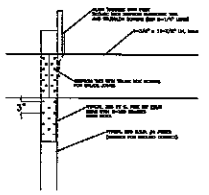
SCALE: 1/8" = 1' | SHT 5 OF 6

DRAWING CREATED WITH AUTOCAD



ROOF FRAMING PLAN

SCALE: 1/4" = 1'-0"



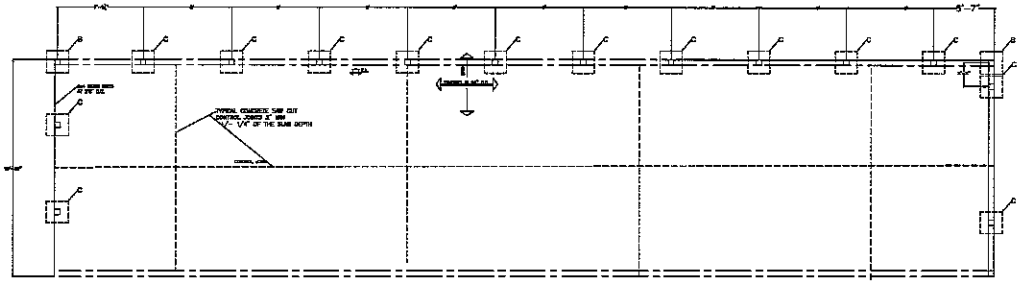
DETAIL SECTION AT SPLICE

GENERAL FOUNDATION NOTES:

1. GENERAL CONTRACTOR SHALL REPORT TO ARCHITECT TYPE OF SOIL ENCOUNTERED IN THE FIELD, NOTIFY ARCHITECT OF UNSUITABLE CONDITIONS BEFORE STARTING CONSTRUCTION.
2. CONTRACTOR SHALL VERIFY ALL DIMENSIONS PRIOR TO BUILD.
3. IF AFTER EVACUATION, IF THE SOIL CONDITIONS ARE NOT COMPATIBLE WITH A 1500 PSF CAPACITY, THE ARCHITECT SHALL BE NOTIFIED AND A REVISED FOOTING DESIGN WILL BE PROVIDED.
4. A LICENSED ENGINEER PROVIDED BY THE GENERAL CONTRACTOR SHALL DETERMINE THE SOIL CONDITIONS CANNOT BEAR A MINIMUM OF 1500 PSF, THE ARCHITECT SHALL BE NOTIFIED AND A REVISED FOOTER DESIGN WILL BE PROVIDED.
5. ALL FOOTINGS SHALL BEAR ON UNDISTURBED SOIL. COORDINATE ALL TOP OF FOOTER ELEVATIONS WITH ALL UTILITY ENTRANCES.
6. ALL FILL WITHIN 10'-0" OF THE BUILDING LIMITS SHALL BE COMPACTED WITH CLEAN SOIL MATERIAL.
5. ALL FOOTINGS TO BE A MINIMUM OF 4'-0" BELOW GRADE
7. CONFIRM THAT ALL FOUNDATION EXCAVATIONS ARE SEATED IN STABLE, NATURALLY DEPOSITED SOIL OR CLEAN, THOROUGHLY COMPACTED GRANULAR FILL MATERIAL SUCH AS NUMBER 2 CRUSHER RUN STONE, THAT EXTENDS TO VIRGIN SOIL.
8. ALL CONCRETE SHALL BE A MINIMUM STANDARD WEIGHT OF 3500 PSI COMPRESSIVE STRENGTH AT 28 DAYS UNLESS NOTED OTHERWISE.
9. ALL REINFORCING STEEL SHALL BE OF AMERICAN MANUFACTURER CONFORMING TO LOCAL BUILDING ORDINANCES AND ASTM STANDARDS. WHERE SPLICED REBARSHALL LAP 40 BAR DIA. WITH A MINIMUM OF 24".
10. IF REQUIRED IN THE FOOTINGS, ALL REINFORCING STEEL SHALL BE LOCATED 3" CLEAR FROM THE BOTTOM AND SIDES OF THE FOOTING AND 2" CLEAR FROM THE TOP.
11. REINFORCING BARS SHALL CONFORM TO ASTM A615. ALL BAR SIZES #3 AND SMALLER SHALL BE GRADE 40. BAR SIZES #4 AND LARGER TO BE GRADE 60.
12. AT POURED CONCRETE WALLS, PROVIDE CORNER BARS AT ALL CORNERS AND INTERSECTIONS OF FOOTINGS, BEAMS AND WALLS.

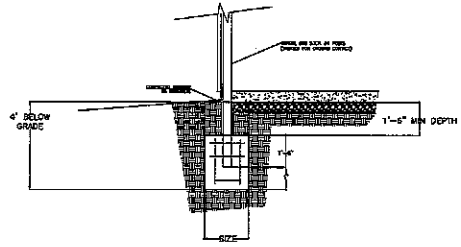
SLAB ON GRADE:

1. WELDED WIRE FABRIC SHALL CONFORM TO ASTM A82 AND A185, LAP LAP FABRIC A MINIMUM OF 6" AT EACH SIDE.
2. EXISTING TOP SOIL, VEGATATION, LOOSE, SOFT, UNSTABLE, AND ANY OTHER DELETERIOUS MATERIALS WITHIN THE PROPOSED SLAB ON GRADE AREA SHOULD BE REMOVED. RESULTING EVACUATIONS SHOULD BE BACKFILLED WITH GRANULAR FILL. THE EXPOSED SUBGRADES SHOULD BE COMPACTED AND PROOF ROLLED.
3. CONTROL JOINTS 10'X10' MAX AT SLABS FLOORS.
4. CONSTRUCTION OR CONTROL JOINTS SHALL BE PROVIDED IN SLABS ON GRADE SO THAT THE MAXIMUM AREA BETWEEN JOINTS SHALL BE 300 SF. THE LENGTH NOT MORE THAN TWICE THE WIDTH.



CONCRETE FLOOR PLAN

SCALE: 1/4" = 1'-0"



FOOTING SCHEDULE		
MARK	ROUND	SQUARE (OPT)
A	2'-0" DIA	2'-0" SQ
B	2'-6" DIA	2'-3" SQ
C	3'-0" DIA	2'-9" SQ

FOOTER SIZING PLAN

SCALE: 1/8" = 1'-0"

STATE OF NEW YORK — DAVID MICHALENSKI — LICENSED PROFESSIONAL ENGINEER — No. 084819

REV.	DESCRIPTION	
C	[illegible]	
B	ADDED METAL BUILDING ON NW SIDE	
A	INITIAL RELEASE	

JM DESIGN SERVICES
21 STONE MEDIC DRIVE
LANCASTER, NY 14086

TITLE: 3071-3085 S. PARK, LACKAWANNA

DRAWN: D. MICHALENSKI — DATE: 12/4/2025

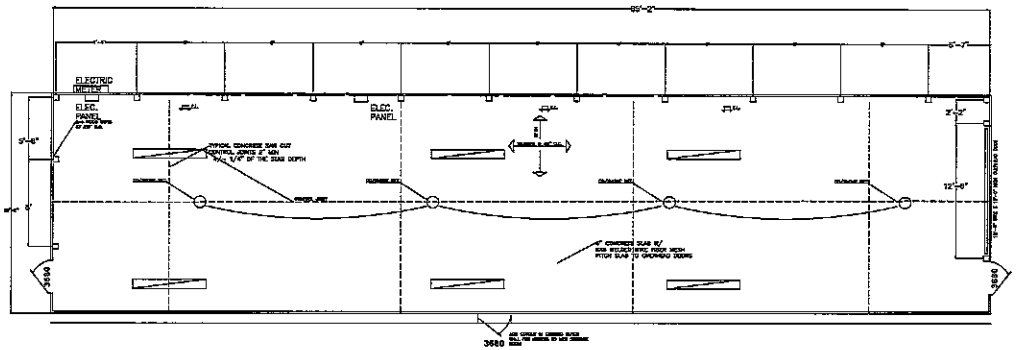
APPROVED — DATE

APPROVED — DATE

SCALE: 1/8" = 1" — SHEET 4 OF 6

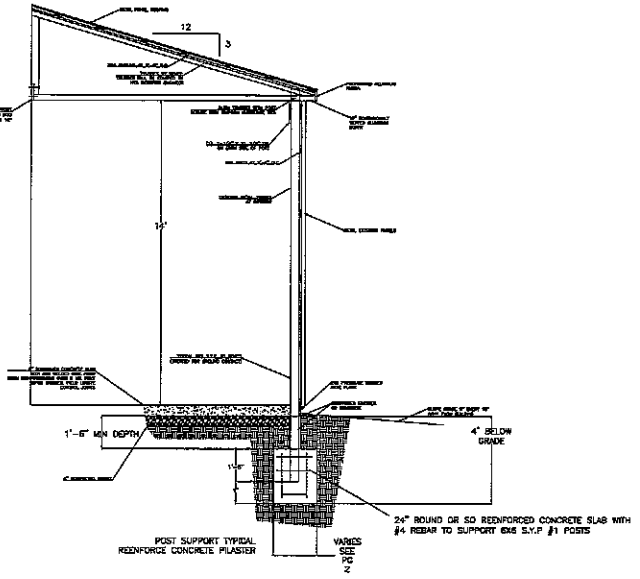
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DRAWN IN AUTOCAD



FIRST FLOOR PLAN

CONSTRUCTION VEHICLES
WINTER STORAGE GARAGE
40' X 60' POLE BARN CONSTRUCTION
(UNHEATED)
SB CONSTRUCTION



FIRST FLOOR PLAN

BUILDING CODE DATA
1. USEAGE: WINTER STORAGE CONSTRUCTION
2. OCCUPANCY CLASSIFICATION: S2 LOW HAZARD STORAGE
3. CONSTRUCTION CLASSIFICATION: SB
4. BUILDING AREA: 2400 SQ. FT.= 13,500 SQ. FT. ALLOWED
5. DISTANCE OF TRAVEL TO EXITS: 50'
6. EMERGENCY LIGHTING AS SHOWN
7. SPRINKLERS NOT REQUIRED
8. FIRE ALARMS AND SMOKE DETECTORS NOT REQUIRED
9. CARBON MONOXIDE DETECTORS ARE NOT REQUIRED PER 1228.4

DRAINAGE NOTES

LOT SHALL BE GRADED SO AS TO DRAIN SURFACE WATER AWAY FROM STRUCTURE. THE GRADE AWAY FROM THE STRUCTURE SHALL FALL A MINIMUM 6" WITHIN THE FIRST 10 FEET.

EXCEPTION: LOT LINES, WALLS SLOPES OR OTHER PHYSICAL BARRIERS PROHIBIT 6" OF FALL WITHIN 10',DRAINS OR SEWERS OR SWALES SHALL BE PROVIDED TO ENSURE DRAINAGE AWAY FROM THE STRUCTURE.

STRUCTURAL DESIGN CRITERIA

NOTE: ALL LOADS SHALL BE DETERMINED IN ACCORDANCE WITH NYS BUILDING CODES (2025)

DESCRIPTION	DESIGN CRITERIA
USE	
OCCUPANCY CATEGORY	II
ROOF LIVE LOAD	
ROOF CONSTRUCTION LOAD	20 PSF
SNOW LOAD	
IMPORTANCE FACTOR (Is)	1.0
GROUND SNOW LOAD (Pg)	50 PSF
SNOW EXPOSURE FACTOR (Ce)	1.0
THERMAL FACTOR (Ct)	1.2
FLAT ROOF SNOW LOAD (Pf)	42 PSF
DRIFTING SNOW	PER ASCE 7-05
WIND LOAD (MAIN WIND RESISTING SYSTEM)	
IMPORTANCE FACTOR (Iw)	1.0
BASIC WIND SPEED (3 SEC GUST: V3s)	90 MPH
WIND EXPOSURE CATROGRY	C
MAXIMUM WIND PRESSURE	PER ASCE 7-05
WIND LOAD (COMPONENTS AND CLADDING)	
MAX WIND PRESSURE FOR WALLS	PER ASCE 7-05
MAX WIND PRESSURE FOR ROOFING	PER ASCE 7-05

REQUIREMENTS/DESIGN NOTES:

THE OWNER/S ARE PROPOSING THE BUILDING AT 1-5 FOOTPRINT STAY ASPHALT A 2 WAY METAL BUILDING WITH POLE BARN CONSTRUCTION TO AN EXISTING STRUCTURE.
THIS SPECIFICATIONS AND CONSTRUCTION WILL MEET/INC 2014 IN ACCORDANCE OF NYS BUILDING CODES.

ALARMS AND SAFE SAFETY:
THE BUILDING WILL HAVE A SMOKE ALARM AND CARBON MONOXIDE DETECTORS INSTALLED.
THESE ALARMS WILL BE INTERCONNECTED SO THAT IF ONE ALARM IS ACTIVATED, ALL WILL ALARM.

ELECTRICAL:
TO BE COMPLETED IN ACCORDANCE OF NYS BUILDING CODES AND MEET NEC ELECTRICAL STANDARDS.
INSIDE WILL HAVE DUPLEX OUTLETS AT APPROX. 10' O.C.

NO PLUMBING IS REQUIRED FOR BUILDING

GENERAL FRAMING NOTES:
1. DOUBLE FLOOR JOISTS UNDER PARALLEL PARTITIONS
2. PROVIDE 1X3 CROSS BRIDGING AT MAX 8'-0" O.C.
3. PROVIDE SOLID BACKING AT MID HEIGHT AT ALL WALLS
4. ALL JOISTS AND TRUSSES TO BE ALIGNED WITH STUDS BELOW.
5. ALL MEMBERS IN CONTACT WITH CONCRETE SHALL BE PRESSURE TREATED OR PLASTIC LUMBER.
6. PROVIDE CONTINUOUS EAVE VENT FOR ATTIC VENTILATION
7. ALL WOOD COLUMNS SHOWN ON ANY OF THE FRAMING PLANS SHALL EXTEND DOWN THROUGH THE LEVELS BELOW AND TERMINATE AT A BEAM OR SOLID MAMBER. (BLOCK BETWEEN JOISTS AS REQUIRED).

STATE OF NEW YORK
LICENSED PROFESSIONAL ENGINEER
No. 89406

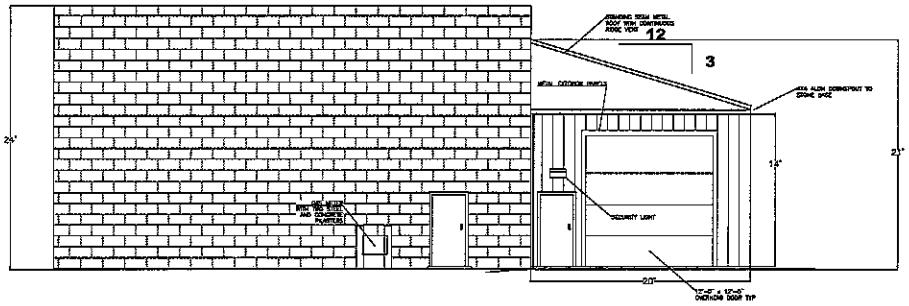
REV.	DESCRIPTION	
C	MODIFIED TRUSS SUPPORT, ADDED 3068 DOOR	9/15/25
B	ADDED METAL BUILDING ON NW SIDE	7/21/25
A	INITIAL RELEASE	12/4/24

3M DESIGN SERVICES
24 STONE HOUSE DRIVE
LANCASTER, NY 14086
Manager@3mDesignServices.com
(716)652-1620

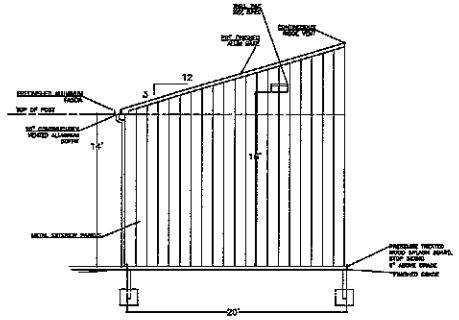
JOB: 3071--3085 S. PARK, LACKAWANNA
DRAWN: D. MICHALEWSKI
DATE: 12/4/2025
APPVD.
DATE
APPVD.
DATE
SCALE: 1/8" = 1'
SHEET: 3 of 6

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CAD GENERATED AUTOCAD



ELEVATION NORTH PLAN
NEW STEEL BLDG 20' WIDE X 75' DEEP
VIEW FROM KIRBY AVE



ELEVATION SOUTH PLAN

REV.	DESCRIPTION	
B	ADDED METAL BUILDING ON NW SIDE	1/21/26
A	INITAL RELEASE	12/4/25

3M DESIGN SERVICES
24 STONE MEDIUM DRIVE
LANCASTER, NY 14086

3071-3085 S. PARK, LACKAWANNA

DRAWN: D. MICHALEWSKI — DATE: 12/4/2025

APPVD: — DATE:

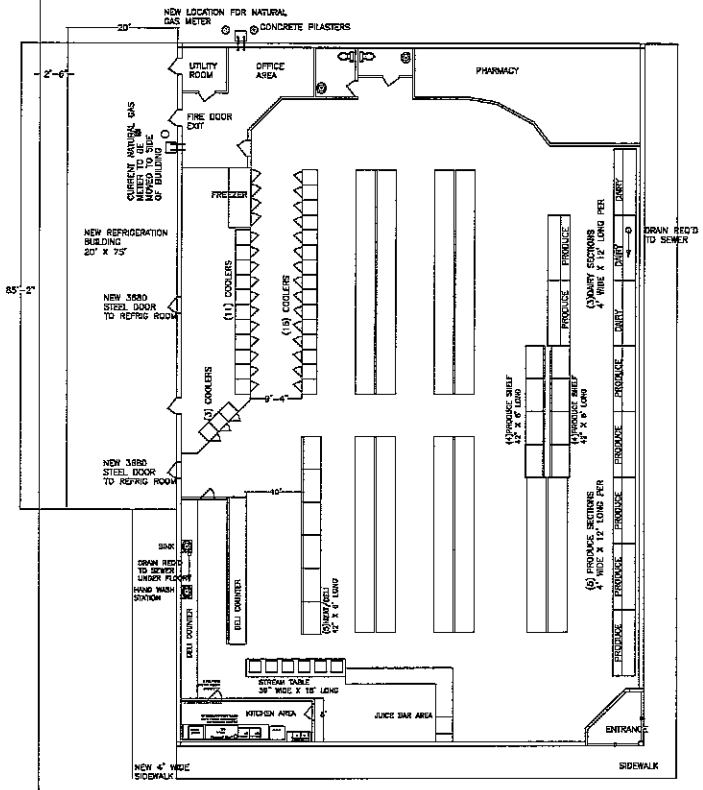
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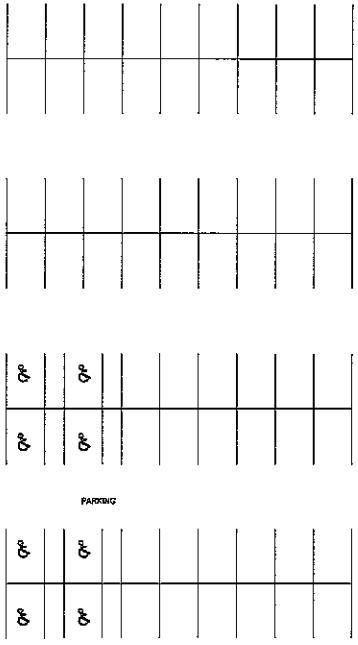
SCALE: 1/8" = 1' — SH. 2 OF 6

STATE OF NEW YORK — DAVID MICHALEWSKI — LICENSED PROFESSIONAL ENGINEER — No. 086469

CAD GENERATED ARTWORK

KIRBY AVENUE

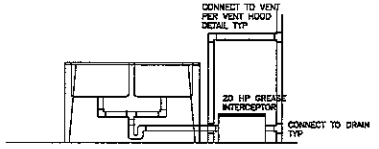




SOUTH PARK AVENUE

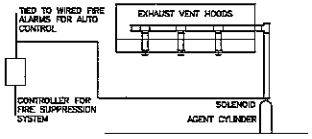
SCALE 1/4" = 1'

REFER TO SURVEY FOR PLACEMENT ON PROPERTY



THE ADDITION OF A FRYER REQUIRES A 20 GPM GREASE INTERCEPTOR UNDER THE TWO TWO BAY SINK. RECOMMEND STAINLESS STEEL CONSTRUCTION

GREASE INTERCEPTOR LAYOUT



THE EXHAUST HOOD REQUIRES A COMPLETE FIRE SUPPRESSION SYSTEM AND CONTROLLER INSTALLATION FOR THE KITCHEN

16' EXHAUST HOOD LAYOUT

3071 - 3085 SOUTH PARK AVENUE
LACKAWANNA, NEW YORK

STATE OF NEW YORK — DAVID MICHALEWSKI — No. 85485 — LICENSED PROFESSIONAL ENGINEER

REV.	DESCRIPTION	
C	ADDED SLOPED WALK IN DETAIL FOR PAGE 5 AND UPDATED POLE BARN LENGTH FOR AS BUILT CHANGES	11/11/25
B	ADDED METAL BUILDING ON NW SIDE	7/25/25
A	INITIAL RELEASE	12/4/25

DM DESIGN SERVICES
84 STONE HEDGE DRIVE
LANCASTER, NY 14086

TITLE: 3071-3085 S. PARK, LACKAWANNA

DRAWN: D. MICHALEWSKI — DATE: 12/4/2025

APPVD. — DATE

APPVD. — DATE

SCALE: 1/8" = 1' — SHT 1 OF 6

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City of Lackawanna
Department of Development
2838 South Park Avenue – Room 113
Lackawanna, NY 14218
Tel: (716) 827-6421 Fax: (716) 827-1866

Application Notice

October 21, 2026

Zachary Alabadi
[redacted]

Regarding: 3071-3085 South Park Avenue, Lackawanna, NY 14218

The above item has been placed on the agenda for the next scheduled meeting of the City of Lackawanna's Planning and Development Board and/or Zoning Board of Appeals:

Zoning Board of Appeals	**Planning and Development Board**
Date: N/A	**Date: October 28, 2026**
Time: N/A	**Time: 6:00 P.M.**

Lackawanna City Hall
Council Chambers
2838 South Park Avenue
Lackawanna, NY 14218

If you have any questions regarding the meeting, please call (716) 827-6421.

Boarding Neighbors:

Michael Gawlak – 150 Elkhart Street
Jason Roche – 156 Elkhart Street
4 Saint James LLC – 4 St. James Place
Charles Tuso Family Rev Trust – 10 St. James Place
Charles Tuso Family Rev Trust – 16 St. James Place
Anthony Agnello – 213 Kirby Avenue
William Atwill – 214-216 Kirby Avenue
Fair Rentals LLC – 217 Kirby Avenue
220 Kirby Ave LLC – 220 Kirby Avenue
Michael Wils – 221 Kirby Avenue
Diariou Bah – 222 Kirby Avenue
Mariam Alabadi – 226 Kirby Avenue
Mariam Alabadi – 228 Kirby Avenue

City of Lackawanna
Department of Development
2838 South Park Avenue – Room 113
Lackawanna, NY 14218
Tel: (716) 827-6421 Fax: (716) 827-1866

Bordering Property Notice

Dear Sir or Madam:

As an adjoining property owner in the City of Lackawanna, you are hereby notified that a neighbor has made an application to the City of Lackawanna's Planning and Development Board and/or Zoning Board of Appeals as follows:

1. ✓ Site Plan Review
2. _____ Special Use Permit
3. _____ Development Plan Review
4. _____ Variance
5. _____ Zoning Law Appeals
6. _____ SEQR Negative Declaration

Address: 3071 – 3085 South Park Avenue, Lackawanna, NY 14218

Property owner: [redacted]

Applicant: Zachary Alabadi / LuLu Super Market

Regarding: Requesting approval to amend the site plan for LuLu Super Market approved on January 28, 2026 to add a detached walk-in storage cooler (45' x 20' x 10') at the rear of the parking lot, parallel to South park Avenue, in the Neighborhood Commercial (NC) Zone.

You are entitled to appear at the public hearing to express your support or opposition to the granting of the application scheduled for:

October 28, 2026 @ 6:00 P.M. (Planning & Development Board)

Lackawanna City Hall Council Chambers at 2838 South Park Avenue, Lackawanna, NY 14218

Communications, relating to the application, may be filed with the appropriate Board before the meeting by writing to:

Department of Development
Attn: Planning and Development Board / Zoning Board of Appeals
2838 South Park Avenue, Room 113
Lackawanna, NY 14218

If you have any questions regarding the meeting, please call (716) 827-6421.

CHARLES CLARK
Director of Development, Marketing & Public Information

City Hall – Room 113
Lackawanna, NY 14218
Office: 716-827-6475
Mobile: [redacted]
Email: chuck.clark@lackny.com

To: Planning and Development Board Members
From: Charles Clark, Director
Date: October 23, 2026
RE: Request to Waive the Rules – SEQR Negative Declarations for City Hall Extension Demolition and Proposed New Municipal Building

At the October 28 Planning and Development Board meeting, you will be asked to 'Waive the Rules' in order to discuss and act upon the following:

Requesting the Planning Board's recommendation to the City Council (as Lead Agency) to adopt SEQR Negative Declarations pertaining to the demolition of the former City Hall Extension on Ridge Road and the proposed construction of a new municipal police and court building on the south side of the new City Hall campus at 2838 South Park Avenue.

To facilitate your review, your meeting packet includes the following:

1. **SEQR Part I** – Environmental Assessment Form for both projects.
2. **Map Renderings** – Each project site.

City Administration and the City Council are working on an accelerated schedule for SEQR adoption to align with bond market timing for these projects. Accordingly, the request to "Waive the Rules" is intended to facilitate this expedited timeline.

Should you have any questions prior to the meeting, please feel free to contact me.

[redacted]

Short Environmental Assessment Form
Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information

Name of Action or Project:
Lackawanna Old City Hall Partial Demolition

Project Location (describe, and attach a location map):
714 Ridge Road, Lackawanna, NY 14218

Brief Description of Proposed Action:
This project proposes the partial demolition of the front (south) 1967 addition to the original City Hall with the existing elevator and surrounding structure retained and refaced. The area subject to demolition (approx 80% of the 8,500 SF footprint) will be reclaimed as parking, landscaping and other supportive features. Other interior renovation, including accessibility improvements, are proposed for the original City Hall building for future use, to be determined. Parking surrounding the structure(s),sidewalk in front of site, and pocket-park on east will all be retained.

Name of Applicant or Sponsor:	Telephone: 716-827-6464
Mayor Annette Iafallo	E-Mail: mayor@lackny.com

Address:
714 Ridge Road

City/PO:	State:	Zip Code:
Lackawanna	NY	14218

	NO	YES
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If No, continue to question 2.	☑	☐
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: City of Lackawanna Development, SHPO, NYSDEC	☐	☑

3. a. Total acreage of the site of the proposed action? 1.68 acres
   b. Total acreage to be physically disturbed? 0.25 acres
   c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 1.68 acres

4. Check all land uses that occur on, are adjoining or near the proposed action:
   ☑ Urban ☐ Rural (non-agriculture) ☐ Industrial ☑ Commercial ☐ Residential (suburban)
   ☐ Forest ☐ Agriculture ☐ Aquatic ☑ Other(Specify): Municipal
   ☑ Parkland

	NO	YES	N/A
5. Is the proposed action,			
a. A permitted use under the zoning regulations?	☐	☑	☐
b. Consistent with the adopted comprehensive plan?	☐	☑	☐

	NO	YES
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	☐	☑

	NO	YES
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?		
If Yes, identify: _____	☑	☐

	NO	YES
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	☑	☐
b. Are public transportation services available at or near the site of the proposed action?	☐	☑
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	☐	☑

	NO	YES
9. Does the proposed action meet or exceed the state energy code requirements?		
If the proposed action will exceed requirements, describe design features and technologies:	☐	☑
_____		
_____		

	NO	YES
10. Will the proposed action connect to an existing public/private water supply?		
If No, describe method for providing potable water: _____	☐	☑
_____		

	NO	YES
11. Will the proposed action connect to existing wastewater utilities?		
If No, describe method for providing wastewater treatment: _____	☐	☑
_____		

	NO	YES
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	☐	☑
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	☐	☑

	NO	YES
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	☑	☐
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	☑	☐
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____		
_____		
_____		

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:

☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional
☐ Wetland ☑ Urban ☐ Suburban

	NO	YES
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	☑	☐
16. Is the project site located in the 100-year or 500-year flood plain?	☑	☐
17. Will the proposed action create storm water discharge, either from point or non-point sources?If Yes,	☑	☐
a. Will storm water discharges flow to adjacent properties?	☑	☐
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	☐	☑
If Yes, briefly describe: _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____	☑	☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	☑	☐
20.Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	☑	☐
21. Is the project located within, or within ½-mile of, a disadvantaged community?	☐	☑
If No, could impacts from the project affect a disadvantaged community?	☐	☐
If Yes to either question in 21, answer the following question:		
a. Identify the potential pollution impacts of the project, either direct or indirect, that may occur within the disadvantaged community (e.g., wastewater discharges, air emissions, noise, odors, solid or hazardous waste generation or management): Temporary dust and noise associated with demolition and construction, limited to site and utilizing best practices to minimize - operation hours, site watering, fencing, etc.		

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor/name: Justin Steinbach, AICP Date: 10/22/2026

Signature: [redacted] Title: Consultant/Planning Project Manager


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POLICE

Short Environmental Assessment Form
Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information

Name of Action or Project:
City of Lackawanna City Hall Building (Amendment 10/26 - And Police & Courts Building)

Project Location (describe, and attach a location map):
2838 South Park Avenue, Lackawanna NY 14218

Brief Description of Proposed Action:
This project will consist of the demolition of the existing structure on site and the construction of a new city hall building within a new footprint.

(Amendment 10/26 - This project includes upgrades to under utilized areas to the South and North of the current Lackawanna City Hall Site. To the south of the site, 0.57 acres of asphalt pavement will be demoed to allow for the installation of a new +/- 8,000 SF Police and Courts building and a new +/- 0.40 Acre asphalt parking area. To the North of the site, a 1,000 SF pavilion on a concrete pad, and 0.06 acres of concrete pavement surrounding the pavilion will be demoed in order to install a new +/- 0.60 Acre parking area.)

Name of Applicant or Sponsor:	Telephone: [redacted]
City of Lackawanna	E-Mail: dpwcommissioner@lackny.com

Address:
714 Ridge Road (Amendment 10/26 - 2838 South Park Avenue)

City/PO:	State:	Zip Code:
Lackawanna	NY	14218

	NO	YES
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If No, continue to question 2.	☑	☐
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:	☐	☑

3. a. Total acreage of the site of the proposed action? 3.357 acres
   b. Total acreage to be physically disturbed? 1.82 (3.46) acres
   c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 3.357 acres

4. Check all land uses that occur on, are adjoining or near the proposed action:
   ☑ Urban ☐ Rural (non-agriculture) ☐ Industrial ☐ Commercial ☑ Residential (suburban)
   ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other(Specify):
   ☑ Parkland

	NO	YES	N/A
5. Is the proposed action,			
a. A permitted use under the zoning regulations?	☐	☑	☐
b. Consistent with the adopted comprehensive plan?	☐	☑	☐

	NO	YES
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	☐	☑

	NO	YES
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?		
If Yes, identify:	☑	☐

	NO	YES
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	☑	☐
b. Are public transportation services available at or near the site of the proposed action?	☐	☑
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	☐	☑

	NO	YES
9. Does the proposed action meet or exceed the state energy code requirements?		
If the proposed action will exceed requirements, describe design features and technologies: _____	☐	☑

	NO	YES
10. Will the proposed action connect to an existing public/private water supply?		
If No, describe method for providing potable water: _____	☐	☑

	NO	YES
11. Will the proposed action connect to existing wastewater utilities?		
If No, describe method for providing wastewater treatment: _____	☐	☑

	NO	YES
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	☐	☑
(Amended 10/26 - Previous SHPO Consultation indicated no impact (24PR01124). Followup consultation to be conducted to ensure no adverse impacts prior to start of construction) b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	☐	☑

	NO	YES
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	☐	☑
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	☑	☐
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____		

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:

☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional

☐ Wetland ■ Urban ☐ Suburban

	NO	YES
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	☑	☐
16. Is the project site located in the 100-year or 500-year flood plain?	☑	☐
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	☐	☑
a. Will storm water discharges flow to adjacent properties?	☑	☐
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	☐	☑
If Yes, briefly describe: (Amended 10/26 - Storm water will be treated on site and detained on site via two separate underground or above ground storage systems prior to discharging to existing road side storm sewers.)		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: (Amended 10/26 - Two 25,000 Gallon detention systems are proposed in order to comply with SPDES GP-0-25-001 & City of Lackawanna stormwater runoff requirements.)	☐	☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	☐	☐
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: Upon referencing NYSDEC's remediation site database, the nearest site is the Lackawanna Incinerator Site (Code 915206) located 1,000' southeast of the project site.	☐	☑
21. Is the project located within, or within ½ mile of, a disadvantaged community?	☐	☑
If No, could impacts from the project affect a disadvantaged community?	☐	☐
If Yes to either question in 21, answer the following question.		
a. Identify the potential pollution impacts of the project, either direct or indirect, that may occur within the disadvantaged community (e.g., wastewater discharges, air emissions, noise, odors, solid or hazardous waste generation or management): No sources of potential pollution impacts are anticipated as part of this project		

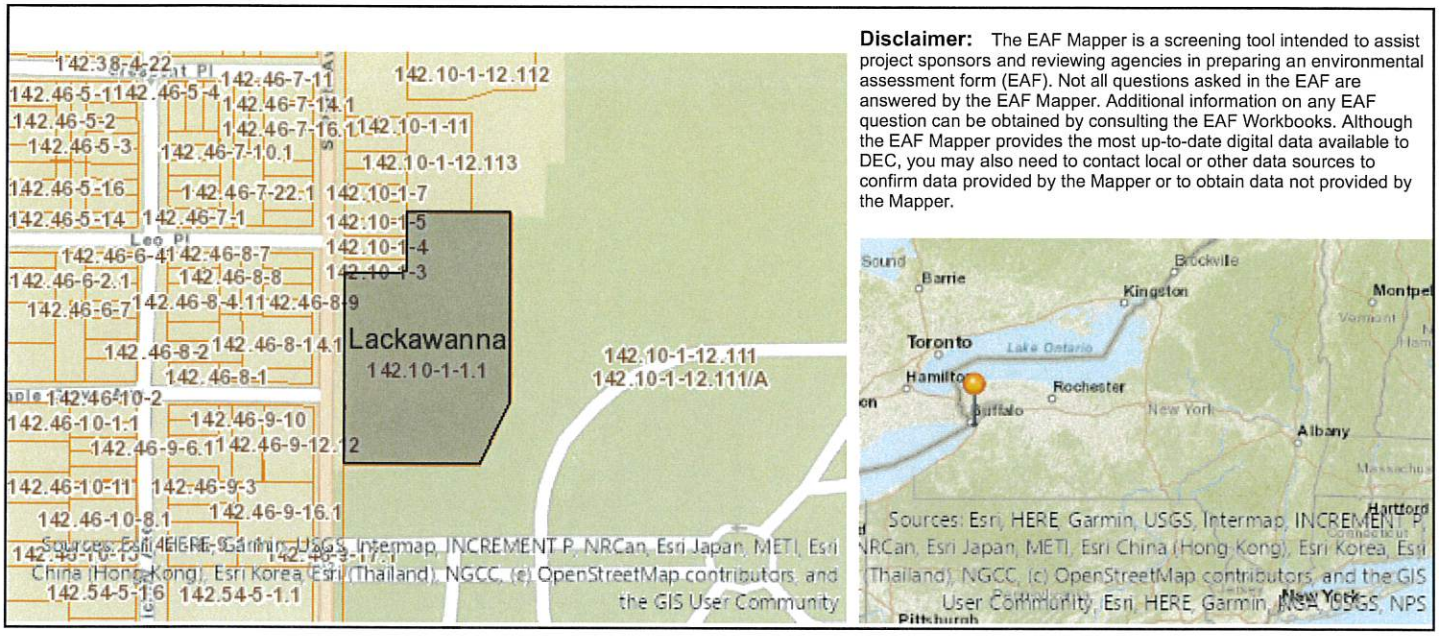
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor/name: Justin Steinbach, AICP Date: 10/22/2026

Signature: [redacted] Title: Consultant/Planning Project Manager

EAF Mapper Summary Report

Thursday, October 22, 2026 11:50 AM



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources to confirm data provided by the Mapper or to obtain data not provided by the Mapper.

Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	Yes
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local, New York State, and federal wetlands and waterbodies is known to be incomplete. Refer to the EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 or 500 Year Floodplain]	No
Part 1 / Question 20 [Remediation Site]	Yes
Part 1 / Question 21 [Disadvantaged Community]	Yes


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