

**REGULAR MEETING  
JANUARY 20, 2015  
COUNCIL CHAMBERS**  
[www.lackawannany.gov](http://www.lackawannany.gov)

Regular session of the Lackawanna City Council met in the Council Chambers, Council President Henry Pirowski presiding. The meeting was preceded by the Pledge of Allegiance led by Council President Pirowski.

Meeting called to order  
NB: Meeting being recorded

Roll Call: Council: Present: Noman, Iafallo, Jerge, Lewis, Pirowski  
Dept. Heads: Present: Law, Development, Public Works, Recreation,  
Public Safety, Comptroller

**Approval of Minutes:** of regular meeting of January 5, 2015

Moved by Pirowski, seconded by Lewis to adopt minutes of regular meeting of January 5, 2015 as written

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski Carried 5-0

**Departmental Reports:**

1. City Treasurer-receipts deposited into General Fund, December 2014
2. City Comptroller-A/P Check Listing #24-dated December 31, 2014
3. City Comptroller-A/P Check Listing #25-dated January, 2015

Moved by Pirowski seconded by Jerge to receive and file departmental reports one thru three

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski Carried 5-0

**Communications from the Council:**

**Council – Appropriations for Outside Counsel**

4. To: City Council

I am requesting the City Council appropriate funds to hire outside counsel concerning possible future litigation between an executive branch appointee and the legislative branch, due to previous precedent concerning a possible conflict of interest between the two branches.

**COUNCIL PRESIDENT PIROWSKI**

Moved by Pirowski seconded by Jerge to receive and file, move to executive session at the end of the meeting

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski Carried 5-0

**Communications from Department/Division Heads:**

**Police Dept-Sale of Vehicle**

5. To: City Council

On December 8<sup>th</sup>, 2014, I submitted a request to grant permission to sell a 2013 Chevrolet Tahoe, which had been in use by the Police Division, and was previously purchased through a Federal Asset Forfeiture Fund statue.

At the City Council meeting I was asked to determine if it would be feasible for said vehicle to be retained for further use in the Police Division. After consulting with the Chief of Police it was determined that this vehicle would not be practical for use in the patrol division due to its large size and low end miles per gallon fuel efficiency.

Therefore, it is respectfully requested that permission be granted for the sale of said vehicle and the proceeds from the sale be placed in the Police Department Asset Forfeiture Statue, as was previously requested.

Respectfully submitted.

**JAMES T KUNA-DIRECTOR OF PUBLIC SAFETY**

Moved by Pirowski seconded by Jerge to table for study

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Fire Dept. - Suppression Foam- Grant funds**

6. To: City Council

The fire department has received a grant in the amount of \$1,000 for the purchase of suppression foam for firefighting purposes. I respectfully request that \$1,000 be placed into account 3410.0253 Emergency Equipment to allow for the purchase of this foam.

If you have any questions feel free to call me.

**RALPH GALANTI-FIRE CHIEF**

Moved by Jerge seconded by Noman to receive and file, act on ordinance

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Development – Line Item – About Face T-shirts**

7. To: City Council

Please be advised that our efforts to continue the branding of our great City have begun to bear fruit. The current sale and distribution of the About FACE t-shirts is generating funds that I would request be placed within a special account to be used solely for future activities associated with the promotion of the About FACE brand.

Accordingly, I have prepared the appropriate ordinance for your support and adoption to assure our continued success with this promotion and related activities.

Thank you in advance for your continued support and direction.

**FRED K HEINLE-DIRECTOR OF DEVELOPMENT**

Moved by Pirowski seconded by Jerge to receive and file, act on ordinance

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Business Licensing & Registration – Proposed**

8. To: City Council

As this Honorable Body is aware, it has come to the attention of the Department of Development that a number of businesses have been opened and are operating within the City of Lackawanna without abiding by the requirements for our existing Business licensing and Registration Codes. Note: there are currently two (2) sections of the code that are applicable Chapter 87. “BUSINESS, LICENSING OF” and Chapter 88. ‘BUSINESSES, REGISTRATION OF” .

Please be advised that the Department of Development continues to actively enforce all sections of the City Code in general and those associated with the operation of a business in particular. We will continue to address this issue as it is brought to our attention and as time permits, however, in an effort to assure timely and proper adherence to these important Chapters of the City of Lackawanna Codes we are in the process of reviewing and updating same to provide a clearer and more enforceable set of rules and regulations.

Upon completion of this review and the drafting of proposed amendments to the current code same will be presented to the City Council for approval and adoption. I would anticipate that the review would be fully completed and proposed amendments ready for adoption for the Tuesday, February 17, 2015 Council Meeting.

Your suggestions and or comments on the existing codes would be greatly appreciated.

**FRED K HEINLE-DIRECTOR OF DEVELOPMENT**

Moved by Pirowski seconded by Jerge to receive and file

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Demolition Regulations**

9. To: City Council

Please put the attached ordinance on the agenda for Council Approval. Thank you.

**ANTONIO SAVAGLIO-CITY ATTORNEY**

Moved by Pirowski seconded by Lewis to receive and file, act on ordinance.

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Communications from Citizens:**

**Commissioner of Deeds-Debora Winkowski**

10. To: City Council

Please put this matter on your agenda at the next Council Meeting.

I am requesting a Commissioner of Deeds appointment for Debora A. Winkowski, residing at 166 Barbados Dr., Cheektowaga, New York, 14227. Debora is an employee of mine.

Thank you for your assistance in this matter.

**ANTONIO SAVAGLIO-ATTORNEY & COUNSELOR AT LAW**

Moved by Pirowski seconded by Iafallo to approve request for commissioner of deeds status for Debora Winkowski within the City of Lackawanna

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Commissioner of Deeds-Nancy Petricca & Joselyn Nieves**

11. To: City Council

Please put this matter on your agenda at the next Council Meeting. I request a Commissioner of Deeds re-appointment for Nancy Petricca, residing at 605 Ridge Road, Lackawanna, New York, and a Commissioner of Deeds reappointment for Joselyn Nieves residing at 28 Eagan Drive, Lackawanna, New York.

Thank you for your assistance.

**ARC J PETRICCA-ATTORNEY & COUNSELOR AT LAW**

Moved by Pirowski seconded by Jerge to approve request for commissioner of deeds status for Nancy Petricca and Joselyn Nieves within the City of Lackawanna

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Business Licenses:**

Nicole Cruz, 531 McKinley Parkway-JC Barbershop-738 Ridge Road

Moved by Pirowski seconded by Iafallo to approve business license for JC Barbershop

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Ordinances:**

**(1) Fire Dept-Grant Fund for Emergency Equipment**

**AN ORDINANCE AMENDING THE 2014-2015 BUDGET ORDINANCE ADOPTED JULY 14, 2014**

**BE IT ENACTED** by the City Council of the City of Lackawanna, New York as follows:

**SECTION 1.** That the 2014-2015 Budget Ordinance adopted July 14, 2014 is hereby amended to increase revenues and appropriations for the Enbridge Safe Community Program Grant

**SECTION 2.** That the 2014-2015 Budget Ordinance is hereby amended to add \$1,000 to budget Code A.0000.3860 fire Suppression Agent Grant

**SECTION 3.** That the 2014-2015 Budget Ordinance is hereby amended to increase Appropriations by \$1,000.00 in A.3410.253 Fire Department, Emergency Equipment

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY**

Moved by Pirowski seconded by Jerge to adopt ordinance as written

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**(2) Development-About Face T-shirts-Budget Line Item**

**AN ORDINANCE ESTABLISHING A SEPARATE LINE ITEM FOR THE DEPARTMENT OF DEVELOPMENT ASSOCIATED WITH THE PROCEEDS FROM THE SALE OF THE ABOUT FACE T-SHIRTS**

**BE IT ENACTED** by the City Council of the City of Lackawanna, New York as follows:

**SECTION 1.** That a separate budget line be established for the proceeds associated with the sale of the ABOUT face t-shirts for the Department of Development

**SECTION 2.** That the funds deposited in this budget line are to be used solely for the purpose of promoting the ABOUT FACE branding and associated activities by the Department of Development.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY**

Moved by Jerge seconded by Pirowski to adopt ordinance as written

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**(3) Demolitions-Ordinance – Regulations**

**AN ORDINANCE ADDING CHAPTER 84 OF THE CODE OF THE CITY OF LACKAWANNA ENTITLED DEMOLITION REGULATIONS**

**BE IT ENACTED** by the City Council of the City of Lackawanna, New York that the following sections of Chapter 194 shall be amended by adding the following:

**84-1. Purposes; intent.**

**A.** It is the purpose of this chapter to protect the public health, safety and welfare with respect to the demolition of structures located in the City of Lackawanna; to protect structures of special value to the community; and to enhance the visual environment of the City by regulating total and partial demolition of structures in the City of Lackawanna.

**B.** In relation to this purpose, the chapter is intended to:

- (1) Protect people and properties from unsafe demolition practices and exposure to hazardous substances or unsafe situations occurring before, during or after demolition.
- (2) Protect and preserve those structures of special historic, aesthetic, cultural or economic value
- (3) Ensure that, after demolition, sites are developed and maintained to give an attractive appearance
- (4) Ensure that development proposals that include demolition of structures are consistent with City policies regarding land use, visual character, health and safety

**84-2. Title.**

This chapter shall be known as the “Demolition Regulation Ordinance of the City of Lackawanna”.

**84-3. Applicability.**

All demolition activities requiring a building permit pursuant to Chapter 75 of the City Code shall be in conformance with the provisions set forth herein.

**84-4. Greater restrictions to prevail.**

Where this chapter imposes greater restrictions than are imposed by the provision of any law, ordinance, regulation or private agreement, this chapter shall control. Where greater restrictions are imposed by any law, ordinance or regulation than are imposed by this chapter, such greater restrictions shall control.

**84-5. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this chapter:

**DIRECTOR**

The Director of Development of the City or his or her authorized representative

**DEMOLITION**

The razing, disassembly or removal of:

- A. Any structure
- B. Any wall, roof, porch, beam or other constructed or essential element of any structure, where such element cannot be easily reused in its same configuration without reconstruction.
- C. The debris of any structure that has been demolished or has collapsed.

**EMERGENCY**

The condition when a building or structure is an imminent danger to life, health or safety as a result of structural violations of any code, ordinance or regulation enforced by the City of Lackawanna.

**HAZARDOUS SUBSTANCE**

A substance that:

- A. Because of its quantity, concentration or physical, chemical or infectious characteristics causes physical injury or illness when improperly treated, stored, transported, disposed of or otherwise managed.
- B. Poses a present or potential hazard to the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- C. Because of its toxicity or concentration within biological chains, presents a demonstrated threat to biological life cycles when discharged into the environment.
- D. Is a hazardous substance as defined under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.).

**PERMIT**

A building permit for demolition, pursuant to Chapter 75 of the City Code.

## **STRUCTURE**

Anything constructed or erected, the use of which requires permanent location on the ground, or anything attached to something having a permanent location on the ground, but not including paving or surfacing of the ground.

### **84-6. Permit Procedures**

- A.** Before any demolition activity is commenced, a demolition permit application shall have been filed with the Director, and this application shall have been approved and a building permit shall have been granted pursuant to the provisions of this chapter and of Chapter 75 of the Municipal Code.
- B.** A demolition permit application may be filed by a property owner(s) or his or her agent(s) or a demolition contractor(s) engaged by the City of Lackawanna in accordance with an order for demolition pursuant to 83 and 84-16.
- C.** At the time of filing a demolition permit application, a permit fee, as established in 75-16 of the Building Code, shall be made payable to the City Treasurer.
- D.** In addition to any other fee or penalty, the Director shall have the authority to charge a fee equal to the actual costs to the City of any special activity, including but not limited to inspection, investigation and/or monitoring, whether by City employees or paid consultants, deemed necessary to protect the public health, safety and welfare from any exposure to any hazardous substance or unsafe situation that could result from the proposed demolition. The owner shall be notified in writing, first-class mail with delivery confirmation at the address provided in the application, in advance of any special activity which may cause such fee to be assessed; shall be provided with a written estimate of the amount of the fee; and shall be permitted to withdraw the demolition application from consideration.
- E.** If the application is withdrawn prior to the commencement of the special activity, no fee pursuant to this section shall be charged. If the application is not withdrawn within 15 days from receipt of the notice of the proposed special activity, the estimate of the amount of the fee and the option to withdraw the application, then the City may proceed with special activity. The applicant shall pay the fee before a permit is issued or, if such permit has already been issued, the applicant shall pay the fee before a letter of completion is issued by the director. The applicant shall be liable for the full fee, representing the actual cost to the City of any special activity as described above, even if such fee shall exceed the written estimate. Such costs shall also be a lien upon the property from the first day the costs are billed to the owner. Such costs shall be assessed and billed to the owner as set forth in Chapter 201 of the City Code for the levy and collection of a special ad valorem levy.
- F.** The Director shall have the authority to grant or deny all permits pursuant to this chapter. In granting a permit for demolition, the Director may attach such conditions as are deemed necessary to assure compliance with the provisions of this chapter.
- G.** Prior to granting a permit for demolition, the Director shall determine that the request is consistent with the purpose and standards set forth in this chapter.
- H.** No permit for demolition shall be granted unless applicable requirements of Chapter 75 of the Building Code have been satisfied.

- I. Prior to the issuance of any building permit for demolition the applicant shall provide proof, satisfactory to the Director, that a comprehensive liability policy exists which covers the demolition work. The Director shall establish minimum limits of insurance and may require that the City be named as an additional insured.
- J. For all, demolition activity requiring a plumbing permit, no permit for demolition shall be granted unless such plumbing permit has been issued.
- K. For all demolition activity requiring a water cutoff permit, no permit for demolition shall be granted unless such water cutoff permit has been issued.
- L. Prior to the issuance of any permit for demolition, the applicant shall provide proof, satisfactory to the Director, that all rodents at the subject property have been exterminated.
- M. Modifications of the terms of approved applications or permits shall follow the same application review and approval procedures as those set forth in this section for the original permit.
- N. The director may order inspection of sites to be conducted as frequently as necessary to assure compliance with the terms of approved permits and the provisions of this chapter and may issue written notification of any violations of these terms or provisions.
- O. If at any time during the effective period of a permit, or upon its expiration, the terms of the permit are violated, the Director may revoke the permit and may require that the performance guaranty required by 84-9 be forfeited to the City.

#### **84-7. Permit application materials**

- A. A request for a permit for demolition activity shall be initiated by filing with the Director a demolition permit application. The Director may require that additional copies of the application be filed and may modify the requirements concerning materials to accompany the application by waiving or adding such requirements as is deemed necessary to determine the effect of the demolition on the environment and as is deemed appropriate to the nature and scope of the proposed activities. The Director may require the applicant(s) to submit amended application materials if those submitted are deemed to be of insufficient scale or quality or not to meet the standards of this section.
- B. Permit application data required. Except for modifications authorized or required by the Director, the plans and specifications accompanying the demolition application shall contain the following data:
  - (1) The applicant's name and address and his or her interest in the property
  - (2) The owner's name and address, if different from the applicant, and the owner's signed consent to the filing of the application.
  - (3) The street address, parcel identifier number or legal description of the property
  - (4) The zoning classification and present use of the subject property
  - (5) A description of the proposed demolition activity and of subsequent development plans for the property
  - (6) Identification of all structures, sites or properties of historic or archaeological significance to be affected by the proposal, including but not limited to the following:
    - (a) All buildings, structures, landscapes, sites, objects or properties which are local landmarks or are located within a Preservation district designated pursuant



to the City Code.

(b) All buildings, structures, landscapes, sites, objects or district properties listed on or determined eligible for listing on the National Register of Historic Places, pursuant to the provisions of the National Historic Preservation Act of 1966, as amended, and its implementing regulations.

(c) All Buildings, structures, landscapes, sites, objects or district properties listed on or determined eligible for listing on the State Register of Historic Places, pursuant to the provisions of the New York State Historic Preservation Act of 1980, as amended, and its implementation regulations.

(d) All buildings, structures, landscapes, sites, objects or district properties which have been identified by the Director as potentially eligible for listing on the National and State Registers of Historic Places.

(7) Identification of all hazardous substances to which people or properties may be exposed before, during or after the proposed demolition activity.

(8) A hazardous substances abatement and disposal plan, if applicable, including copies of any required state or federal certifications.

(9) An asbestos survey performed pursuant to New York State Industrial Code Rule 56 (12 NYCRR 56), if required by Code Rule 56.

(10) A building materials disposal plan, including proof of authorization to dispose of the full quantity of material

(11) A site plan at the scale of one inch to fifty feet (1"-50') or at the scale of one inch to twenty feet (1"-20') illustrating the following at the time of the application:

(a) The boundary lines and dimensions of the subject property; existing subdivision lots; available utilities; and easements, roadways, rail lines, areaways, vaults, tunnels, bridges, survey monuments and public rights-of-way crossing and adjacent to the subject property.

(b) All significant natural, topographical or physical features of the property and adjacent or crossing public rights-of-way, including, at least, watercourses, marshes, trees in excess of four inches in diameter and existing contours in excess of four feet in 100 feet.

(c) The location, size, use and arrangement of all structures on the property

(d) Identification of each structure on the property to be affected by the proposed demolition, annotated with the height in stories and feet and the total floor area of each such structure.

(e) Minimum distances between the structures(s) and the lot lines.

(f) The location and dimensions of all vehicular and pedestrian circulation elements, including streets and roadways, driveways, entrances, curbs, curb cuts, parking stalls, loading spaces and access aisles; and sidewalks, walkways and pathways.

(g) All surface and subsurface drainage facilities

(12) Clear photographs of all exterior elevations of each structure to be demolished or to be affected by the proposed demolition and photographs showing the condition of public rights-of-way crossing and adjacent to the subject property that might be affected by the proposed demolition.

(13) A site plan at the scale of one inch to fifty feet (1"-50') or at the scale of one inch to twenty feet (1"-20') illustrating the site once the proposed demolition and subsequent project improvements are completed, which shall include:

- (a) The boundary lines and dimensions of the subject property; subdivision lots; utilities; and easements, roadways, rail lines, areaways, vaults, tunnels, bridges, survey monuments and public rights-of-way crossing and adjacent to the subject property.
- (b) Any proposed regarding of the subject property and adjacent or crossing public rights-of-way as well as all significant natural, topographical or physical features, including, at least, watercourses, marshes, trees in excess of four inches in diameter and existing contours in excess of four feet in 100 feet.
- (c) The location, size, use and arrangement of all remaining and proposed structures on the property
- (d) Minimum distances between the structure(s) and the lot lines
- (e) The location and dimensions of all vehicular and pedestrian circulation elements, including streets and roadways, driveways, entrances, curbs, curb cuts, parking stalls, loading spaces and access aisles; and sidewalks, walkways and pathways.
- (f) All remaining and proposed surface and subsurface drainage facilities
- (g) Proposed landscaping, including the type, location and quantity of all plant materials, location and height of fences or screen plantings and the type or kind of building materials or plantings to be used for fencing or screening.
- (h) Identification of all walls or structural features to become exposed as a result of the proposed demolition
- (i) The location, designation and total area of all usable space and the extent to which it is to be improved
- (j) The location, size and arrangement of all outdoor signs and lighting
- (k) The location of any proposed outdoor storage of trash, along with the type and number of storage containers as well as evidence as to how the storage area and/or containers will be screened from view from adjoining properties or streets when viewed from ground level.

(14) For each wall or structural feature to become exposed as a result of the demolition, the following information:

- (a) Plans, specifications and elevations showing proposed treatment of the surface of the wall to be exposed, including any necessary structural or aesthetic modifications.
- (b) A written statement of a New York State licensed professional engineer or a New York State licensed registered architect as to the structural stability and

integrity of the wall or structural feature if the demolition and subsequent treatment is completed as proposed.

(15) Elevations of all structures proposed to be constructed on the site

(16) A time schedule indicating when major phases of the proposed project are to be initiated and completed.

(17) Where demolition activities encroach into the public right-of-way, a permit for work in the right-of-way. Permit requirements include a plan approved by the City Engineer for maintaining and protecting pedestrian and vehicular traffic and that specifies the location of equipment and schedule of activity. The City Engineer is authorized to waive permit fees for work being done as part of the demolition of City-owned structures.

C. Applications for demolition determined to be Type II actions under **114-12** of the City Code need not continue the data identified in Subsection B(6), (11), (13), (14), (15) or (16) above.

#### **84-8. Standards for application approval**

The Director shall issue written findings setting forth the manner in which any disapproved application fails to comply with the standards listed below. The Director shall not approve demolition applications submitted pursuant to this chapter unless the application complies with all of the following standards:

A. The application is complete and does not contain or reveal any violation of this chapter or other applicable regulations which the applicant has, after written request, failed or refused to supply or correct.

B. The proposed development that includes demolition does not unnecessarily endanger the safety, health or welfare of persons who live, work or recreate in the City by exposing or increasing the chance of exposure of persons to hazardous substances or unsafe structures or situations.

C. The proposed development that includes demolition does not unnecessarily destroy, damage, detrimentally modify or interfere with the enjoyment of significant natural, physical, historic, cultural or education features on or off the site.

D. The proposed development that includes demolition does not conflict with, or hinder the implementation of, provisions of the Comprehensive Plan or of other adopted plans or policies of the City.

#### **84-9. Performance guaranty**

A. After the approval of the application and before the issuance of any permit, the demolition contractor shall file with the Director one of the following performance guaranties in a total amount equal to the estimated cost of the demolition activities. The minimum amount of the performance guaranty filed by the demolition contractor shall be \$1,000, even if that amount is greater than the estimated cost of hazardous substances removal and disposal and the costs of meeting the minimum site restoration and design standards specified in **84-12**. The performance guaranties shall be in favor of the City and shall be unconditional and irrevocable until a certification of completion shall have been issued by the Director. The performance guaranty shall be:

- (1) A performance bond which shall be satisfactory to the Director as to form, sufficiency, manner of execution, surety and period of execution;
- (2) A letter of credit from a financial institution, the terms of which are approved by the Director; or
- (3) Similar security acceptable to the Director

**B.** Prior to the issuance of any permit, the owner shall submit a fully executed agreement, in a form provided by the City, which shall permit the City to enter the subject property and to perform any work required under the performance guaranty, subject to the requirements of **84-9C**. The agreement shall be irrevocable until a letter of completion is issued by the Director.

**C.** Should the owner fail to have the required actions or improvements performed within the agreed period of time, the director shall issue a written notice of such failure to the owner. It shall be sufficient service of such notice of it is mailed to the owner at the address provided in the application. If the owner fails to perform the required actions or improvements within 15 days of the issuance of such notice, the Director is authorized to draw upon the bond, letter of credit or other approved security as may be necessary to cover the costs to the City to perform work which the owner failed to have performed. The owner may request a hearing before the Director within five business days from the issuance of the notice. The hearing will be held before the expiration of the fifteen-day notice period.

**D.** If the owner is unable to have the work completed within the specified time, he or she may, at least 10 days prior to the expiration of the permit, present in writing to the Director a request for an extension of time setting forth the reasons for the requested extension. The Director is authorized to grant additional time for the completion of the work. In the event that the performance guaranty will expire during the requested extension period, the contractor shall secure and furnish evidence of an extension of said performance guaranty.

**E.** The Director may grant a waiver of such guaranty if he or she deems the proposed activities to be of minor scope and to be consistent with the provisions of this chapter or such a guaranty has already been made to the City for a more comprehensive project which is inclusive of the requirement determined necessary pursuant to this chapter.

#### **84-10. Variances**

**A.** The Director shall have the power to vary or modify, in whole or in part, any provision or requirement of this chapter in cases where strict compliance with such provision or requirement would entail practical difficulties or unnecessary hardship or would otherwise be unwarranted; provided, however, that any such variance or modification will not have a substantially adverse effect on provisions for health and safety and that equally safe and proper alternatives are prescribed.

**B.** When approving an application to vary or modify a provision or requirement of this chapter, the Director shall apply the following criteria and shall find that strict compliance with the provision or requirement:

- (1) Would create an undue economic burden
- (2) Would not achieve its intended objective

- (3) Would be physically impossible
- (4) Would be unnecessary in light of alternatives which ensure the achievement of the intended objective or which, without affecting health or safety, achieve the intended objective more efficiently, effectively or economically.
- (5) Would entail a change so slight as to produce a negligible additional benefit consonant with the purposes of this chapter.

C. The Director will conduct a hearing and render a written decision within 21 days of receipt of a complete written application to vary or modify a provision or requirement of this chapter. The Director's decision shall include findings setting forth, in writing, the basis for that determination and conclusions, citing the manner in which the application meets or fails to meet the criteria of Subsection B of this section. Failure of the Director to act on the application within such time period shall be deemed a denial of the application. Notice of the decision shall be mailed to the applicant within seven days following the decision or denial resulting from a failure to act. The Director's decision or denial resulting from a failure to act, shall be a final determination for purposes of judicial review pursuant to Civil Practice Law and rules 7803, subdivision 4.

**84-11. Compliance required**

In order to protect the public and adjacent public and private properties, all demolition activities shall be undertaken in accordance with standards prescribed by the Director.

**84-12. Minimum site restoration and design standards**

A. All site restoration shall be subject to the requirements set forth in Chapter 75 of the City Code and Zoning Code.

B. If the project area includes any areaway or vault under a public sidewalk or street and reuse of the areaway or vault is not part of the approved development plan, such areaway or vault shall be backfilled and abandoned in accordance with standards prescribed by the City Engineer.

C. All areas of excavation shall be filled and all affected surface areas shall be graded, in accordance with standards prescribed by the Director.

D. All grading plans and specifications, including extensions of previously approved plans, shall include provisions for erosion and sediment control designed and implemented in accordance with standard prescribed by the Director.

E. Unless the time schedule for the proposed project includes construction activity on the site of any proposed demolition to begin within six months of such demolition and such construction is in fact undertaken and diligently pursued within this time period, the site shall be landscaped as follows:

- (1) Providing ground cover to preclude erosion, with a requirement that sodding or hydro seeding be done when the area of ground disturbance exceeds 500 square feet.
- (2) Posting or fencing vacant lots or other areas when protection from unauthorized access is required.

F. Any walls or other structural feature exposed to the elements as a result of the demolition shall be stable and shall withstand such exposure to the elements.

G. All walls or other parts of any structure exposed to the elements as a result of the demolition, and which are owned by the owner of the property on which the demolition took place, shall be resurfaced and/or painted.

#### **84-13. Enforcement; inspections**

A. The requirements of this chapter shall be enforced by the Director. The Director or his or her designee may cause the subject structure or property to be inspected as often as necessary to determine whether the demolition and subsequent development work is proceeding or has been completed in compliance with the approved application.

B. The Director or a duly authorized agent may enter at all reasonable times in or upon any private or public property for the purpose of inspecting and investigating conditions and practices which may be a violation of this chapter and shall seek warrants where such are constitutionally required.

#### **84-14. Certification of completion**

Upon satisfactory execution of all approved work pursuant to this chapter, the Director shall issue a certification of completion. If the Director finds any existing conditions not as stated in any application or approved plan, the Director may refuse to approve further work until such conditions are made to conform with approved plans.

#### **84-15. Penalties for offenses**

A. Violations of this chapter shall be subject to the provisions of the Building Code Administration, Chapter 75, and the Unsafe Buildings Law, Chapter 83.

B. If there is any damages as a result of a violation of this chapter or if any soil, liquid, debris or any other substance is caused to be deposited upon or to roll, flow, wash or in any manner to be released upon any public or private property or right-of-way in violation of this chapter, the owner shall be notified in writing at the address provided in the application and shall cause the same to be removed from such property or way within 36 hours of the issuance of the notice. In the event of an immediate danger to the public health or safety, notice shall be given where practicable by the most expeditious means and the violation shall be remedied immediately. In the event the violation is not so remedied, the City shall cause such violation to be remedied. The cost of such work shall be a personal liability of the owner, and the Director shall bill the owner therefor. Such costs shall be a lien upon the property from the first day the costs are billed to the owner. Such costs shall be assessed and billed to the owner as set forth in Chapter 201 of the City Code for the levy and collection of a special ad valorem levy.

#### **84-16. Orders to demolish**

##### **A. Demolition hearing proceedings**

(1) Inspection. Upon the receipt of information that a structure may be unsafe or dangerous to the health, safety or welfare of the public, or that the building or structure

is a public nuisance, the director shall cause an inspection to be made and require that such building or structure be demolished and removed in accordance with the Unsafe Buildings Law of the City of Lackawanna, Chapter 83.

**84-17. Severability**

If any section, subsection, paragraph, sentence, clause or other art of this chapter is for any reason invalid, the validity of the remaining portion of this chapter shall not be affected.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY**

Moved by Pirowski seconded by Jerge to adopt ordinance as amended

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Executive Session**

Moved by Pirowski seconded by Jerge to move to executive session at 7:29 p.m.

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Meeting reconvened at 8:47 p.m.

Roll Call: Council: Present: Noman, Iafallo, Jerge, Lewis, Pirowski

Moved by Pirowski to appropriate funds for outside Counsel.

No second on the motion.

Motion Failed.

**Adjournment:**

Moved by Pirowski seconded by Noman, Iafallo, Jerge, and Lewis to adjourn in memory of Neil and Adeline Marrano.

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

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Henry R. Pirowski, Council President

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Jacqueline A. Caferro, City Clerk