

**§215-12.2**

**PENALTIES FOR OFFENSES**

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- A. Any violation by a person, firm, or corporation of any provision of this chapter shall be deemed a violation punishable by a fine not to exceed \$250 or by imprisonment for a period not to exceed 15 days, or both.
- B. Any person who takes part in or assists in any violation of this chapter shall also be subject to the penalties provided herein.
- C. Each day that a violation of this chapter is committed or permitted to exist shall constitute a separate offense.

**§215-12.3**

**ADDITIONAL REMEDIES**

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In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained or any building, structure or land is used or any land is divided into lots, blocks or sites in violation of this chapter, the Code Enforcement Officer, in addition to any other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or division of land; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

**§215-12.4**

**PROHIBITED DEVELOPMENT ACTIONS**

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To ensure the orderly use of lands in accordance with this zoning law, the following development actions shall be prohibited:

- A. No portion of a lot may be subdivided or disposed of in any manner whatsoever which would create a violation of the restrictions of the district(s) in which the lot exists.
- B. No portion of a lot may be subdivided or disposed of in any manner whatsoever which would leave a remaining portion without ingress or egress from a paper street, an improved or unimproved street or highway or any easement approved by the Town Board of the Town of Tonawanda.

# Article 13. Nonconformities

## §215-13.1

### CONTINUATION OF NONCONFORMING BUILDING OR USE

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- A. Any lawful building, structure or use of premises existing at the time of enactment of this Chapter, or any subsequent amendment thereof applying to such building, structure, or use of premises, may be continued although such building, structure or use of premises does not conform to the provisions thereof.
- B. Any undeveloped lot in a subdivision which was not properly approved by the Planning Board and/or not filed in the office of the County Clerk and whose area and/or depth is less than the specified minimum lot requirements and average density requirements of this Chapter shall be considered a violation of this Chapter.

## §215-13.2

### CHANGES FROM NONCONFORMING TO CONFORMING USE

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A nonconforming use if changed to or replaced by a conforming use shall not thereafter be changed back to any nonconforming use.

## §215-13.3

### DISCONTINUANCE OF NONCONFORMING USE

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Whenever a nonconforming use of any premises or a building has been discontinued for a period of one year, such nonconforming use shall not be reestablished, and all future use shall be in conformity with the provisions of this chapter.

## §215-13.4

### EXPANSION, ALTERATION, OR RECONSTRUCTION

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- A. **Expansion.** A nonconforming use of a building, structure or land or any portion thereof shall not be extended or expanded in any manner that further increases its level of nonconformity.
- B. **Alteration.** Any alteration to a nonconforming use or structure shall bring such use or structure into compliance with the provisions of this zoning law to the greatest extent practicable.
- C. **Reconstruction.** A nonconforming use or structure shall not be reconstructed except in compliance with the provisions of this chapter.

## §215-13.5

### NECESSARY MAINTENANCE & REPAIRS

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A building or structure of nonconforming use may be repaired or restored to a safe condition. Any such repair or restoration shall be subject to the following provisions:

- A. Such repair or restoration shall be permitted only upon the same lot as was in existence on the date the use became nonconforming.
- B. Any increase in the volume, area or extent of the nonconforming use shall not be permitted.

**PART 1 | INTRODUCTORY PROVISIONS**

- C.** If a structure has been damaged or destroyed to the extent of more than 75% of its assessed value, repair or reconstruction of the structure shall be prohibited except in compliance with all currently effective zoning regulations, as well as the provisions of the New York State Uniform Fire Prevention and Building Code.
- D.** Under no circumstances shall "repaired or restored" be construed to include the total demolition and rebuilding of a structure. In such an instance, the provisions of Subsection C above shall apply.

# Article 14. Review Bodies

## §215-14.1

### TOWN BOARD

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- A. Authorization.** For the purpose of promoting the health, safety, morals, or the general welfare of the community, the Town Board of the Town of Tonawanda is hereby empowered by NYS Town Law to regulate and administer the provisions of this Zoning Law as provided herein.
- B. Staff Appointments and Confirmations.** A clerk, or other Town employee appointed by the Supervisor, will serve at the pleasure of the reviewing body (e.g. Planning Board or Zoning Board of Appeals). Such appointed persons shall also be confirmed by the Town Board.
- C. Final Decision Authority.** Pursuant to this Zoning Law and NYS Town Law, the Town Board is hereby authorized and empowered with final decision authority for the following:
  - 1. Special Use Permits;
  - 2. Amendments to the text and/or map of this Chapter (re-zonings); and
  - 3. Planned Unit Development (PUD) Districts.
- D. Additional Powers.** The Town Board shall hold all additional powers and duties provided by the laws, rules, and regulations of New York State and the rules, regulations, and local laws of the Town of Tonawanda.

## §215-14.2

### PLANNING BOARD

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- A. Establishment.**
  - 1. As provided by NYS Town Law §271, the Town of Tonawanda Planning Board previously established under local law and still in existence at the time of this Chapter's enactment shall hereby be continued.
  - 2. The Planning Board shall be governed by the provisions of all applicable state statutes, local laws, ordinances, including NYS Town Law, and these rules.
- B. Membership and Terms.**
  - 1. The Planning Board shall consist of seven members appointed by the Supervisor and approved by the Town Board.
  - 2. The terms of the members of the Planning Board shall be seven years.
- C. Advisory Authority.** Pursuant to this Article and NYS Town Law, the Planning Board is hereby authorized and empowered with review and advisory authority for the following actions:
  - 1. Special Use Permits;
  - 2. Amendments to the text and/or map of this Chapter (re-zonings); and
  - 3. Planned Unit Development (PUD) Districts.

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**NOTE:** This Section would replace the existing Town Code Chapter 27 (Planning Board).

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- D. **Final Decision Authority.** Pursuant to this Article and NYS Town Law, the Planning Board is hereby authorized and empowered with final decision authority to approve, approve with modifications or conditions, or deny applications for the following:
  - 1. Site plan review
  
- E. **Additional Powers and Duties.** The Planning Board may exercise additional powers and duties as directed by the Town Board, as may be described elsewhere in this Chapter, and as permitted by NYS Town Law.

### §215-14.3

### ZONING BOARD OF APPEALS

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- A. **Establishment.**
  - 1. Per NYS Town Law §267, the Zoning Board of Appeals (ZBA) previously established under local law and still in existence at the time of this Chapter's enactment shall hereby be continued.
  - 2. The ZBA shall be governed by the provisions of all applicable state statutes, local laws, ordinances, including NYS Town Law, and these rules.
- B. **Membership and Terms.**
  - 1. The ZBA shall consist of five members appointed by the Supervisor and approved by the Town Board.
  - 2. The terms of the members of the ZBA shall be four years.
- C. **Final Decision Authority.** Pursuant to this Article and NYS Town Law, the ZBA is hereby authorized and empowered with final decision authority to approve, approve with modifications or conditions, or deny applications for the following:
  - 1. Variances;
  - 2. Appeals; and
  - 3. Zoning Code Interpretations.
- D. **Additional Powers.** The ZBA may exercise additional powers as may be described elsewhere in this Chapter and as permitted by NYS Town Law.

### §215-14.4

### REVIEW BOARD REQUIREMENTS & PROCEDURES

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- A. **Applicability.** The following membership and procedural requirements shall apply to the Town Planning Board and Zoning Board of Appeals.
- B. **Membership Requirements.**
  - 1. Every member of the board, at the time of their appointment and throughout their term of office, shall be a resident of the Town and the record owner of real property in the Town.
  - 2. No board member shall hold any other public office in the Town or be members of the Town Board.
  - 3. The Town Board shall appoint one member of the board as Chairperson.
  - 4. Efforts will be made to ensure that review board members represent a variety of ethnic, professional, and civic groups in the Town and are appropriately qualified to execute the powers and duties herein.

5. Removal of members, alternates, and vacancies on each board shall be addressed as provided for in NYS Town Law.
  6. Board members shall be compensated as the Town Board determines by resolution.
- C. Officers.** The officers of each board shall consist of a Chairperson, Acting Chairperson, and Recording Secretary.
1. Chairperson.
    - a. The Chairperson shall perform all the duties required by law, ordinance, and these rules. The Chairperson shall preside at all meetings and shall decide on all points of order and procedure, subject to these rules.
    - b. The Chairperson shall appoint any committees found necessary to carry out the business of the board and may administer oaths and compel the attendance of witnesses as necessary to carry out board business.
    - c. The Chairperson's signature shall be the official signature of the board and shall appear on all decisions as directed by the board.
  2. Acting Chairperson. An Acting Chairperson shall be designated by the board members to serve in the absence of the Chairperson and shall have all the powers of the Chairperson during their absence.
  3. Recording Secretary.
    - a. A Recording Secretary shall be designated by the board.
    - b. The Recording Secretary shall keep minutes of all proceedings and shall also keep records of all votes and official actions. The Recording Secretary shall file a copy of the minutes with the Planning and Development Department.
    - c. The Recording Secretary shall be responsible for calling special meetings of the board upon receiving a request as provided by this section.
- D. Responsibilities.**
1. Members of the board shall adhere to the training and attendance requirements of §271-7-a and §262-7-a of NYS Town Law, Town Board resolution requirements, or requirements of the State of New York.
  2. The board members shall become familiar with all the duly enacted ordinances and laws of the Town under which it may be expected to act, as well as all applicable state statutes.
  3. The board members shall become familiar with the community goals, desires and policies as expressed in the Town's Comprehensive Plan and other applicable adopted plans and studies, and in rendering approvals, recommendations, and reports, shall be guided by such plans.
- E. Meetings.**
1. Regular Meetings. The regular meetings of each board shall be held in accordance with the meeting schedule and location set by Town Board