

ORDINANCE NO. 6, 2018

AN ORDINANCE AMENDING THE CODE OF THE CITY OF LINWOOD AND GRANTING TO THE PLANNING BOARD OF THE CITY OF LINWOOD THE POWERS FORMERLY HELD BY THE LINWOOD ZONING BOARD OF ADJUSTMENT

WHEREAS, the Municipal Land Use Law, N.J.S.A. 40:55D-25c specifically allows municipalities having a population of 15,000 or less by Ordinance to grant to the Planning Board, to the same extent and subject to the same restrictions, all the powers of a Board of Adjustment operating within such a municipality; and

WHEREAS, the City of Linwood has a population of 15,000 or less; and

WHEREAS, it is the desire of the Common Council of the City of Linwood to reduce tax burdens on the taxpayers within the City of Linwood by eliminating the dual expenses of having two Boards; and

WHEREAS, it is further the desire of the Common Council of the City of Linwood to consolidate zoning matters in one body so that uniform and consistent zoning in accordance with the Municipal Land Use Law would be advanced within the City of Linwood; and

WHEREAS, when the Planning Board exercises all of the powers of the former Zoning Board of Adjustment of the City of Linwood, any Class I and Class III member of said Planning Board shall not participate in the consideration of any applications for development which involve relief pursuant to subsection (d) of N.J.S.A. 40:55D-70; and

WHEREAS, any matters pending before the Zoning Board of Adjustment of the City of Linwood prior to January 1, 2019 and the adoption of this Ordinance shall be heard in accordance with N.J.S.A. 40:55D-272.1; and

WHEREAS, the Code of the City of Linwood will have to be amended to incorporate the changes as contemplated by this Ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Common Council of the City of Linwood, County of Atlantic, State of New Jersey as follows:

SECTION 1: As of January 1, 2019, the Zoning Board of Adjustment of the City of Linwood is hereby abolished except that any applications then pending before said Zoning Board of Adjustment will continue to be heard in accordance with N.J.S.A. 40:55D-72.1.

SECTION 2: Any Class I and Class III member of the Planning Board shall not participate in the consideration of any applications of development which involve relief pursuant to subsection (d) of N.J.S.A. 40:55D-70.

SECTION 3: The purpose of this Ordinance is to grant the powers of the former Zoning Board of Adjustment to the Municipal Planning Board. To that extent, this Ordinance may not be all inclusive so that if there is any Ordinance, whether the same be a Municipal Land Use Ordinance or otherwise, which grants powers to the Municipal Zoning Board of Adjustment, said powers shall now lie with the Planning Board.

SECTION 4: Chapter 41 Land Use Procedures, Article II Zoning Board of Adjustment shall be deleted to the extent that any provisions thereof may now be redundant and any powers, criteria and jurisdiction contained therein shall now lie with the Municipal Planning Board.

SECTION 5: Chapter 41 Land Use Procedures, Article III shall be retitled "Provisions Applicable to the Municipal Planning Board and any references to Zoning Board of Adjustment shall be deleted.

SECTION 6: When necessary for the purposes of implementing this Chapter and the election to have the Municipal Planning Board exercise, to the same extent and subject to the same restrictions, all the powers of a Zoning Board of Adjustment, the term "Planning Board" shall be substituted for the term "Zoning Board of Adjustment" or equivalent in each and every instance where "Zoning Board of Adjustment" or equivalent appears in any City of Linwood Ordinance, Resolution, rule, regulation or amendments thereto.

SECTION 7: Where the substitution of "Planning Board" for "Zoning Board of Adjustment" or equivalent results in an apparent duplication, redundancy, or conflict in any Ordinance, Resolution, rule or regulation, the same shall be liberally construed and interpreted in accordance with the intent and purpose of N.J.S.A. 55D-25c as adopted herein, whereby the Municipal Planning Board replaces and to the same extent and subject to the same restrictions exercises all the powers of the Zoning Board of Adjustment.

SECTION 8: All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 9: Should any sentence, clause, sentence, phrase or provision of this ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 10: This ordinance shall take effect on January 1, 2019.

<i>FIRST READING:</i>	<i>March 28, 2018</i>
<i>PUBLICATION:</i>	<i>April 1, 2018</i>
<i>PASSAGE:</i>	<i>April 11, 2018</i>

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on March 28, 2018 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on April 11, 2018.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR