

THE CITY OF LAKEWOOD'S PROPOSED THIRD AMENDED CHARTER *ELIMINATES IMPORTANT SAFEGUARDS THAT PROTECT PROPERTY OWNERS WHO APPEAR BEFORE THE BOARD OF ZONING APPEALS*

The City of Lakewood recently provided residents with a copy of its "Proposed Third Amended Charter of the City of Lakewood" (Proposed Charter). The Proposed Charter was mailed to residents together with a letter from the City dated September 2017. The City's letter asks residents to vote yes on Issue 24, to approve the proposed charter. The City's letter also states "a section by section comparison" between the Proposed Charter and the current Charter can be found on its website. The section-by-section comparison appears in a document titled "Final Report With Section by Section Comparison of Proposed Third Amended Charter of Lakewood with Second Amended Charter of Lakewood" (Section-by-Section Comparison) (available at onelakewood.com).

Lakewood voters should be aware the Section-by-Section comparison offered by the City to its residents *misstates* the nature of the changes made to Article XIII of the current Charter, which describes the powers and duties of the Board of Zoning Appeals (BZA). The provision that parallels the current Charter's Article XIII is found at "Article Seven" of the Proposed Charter, under the section heading "Boards and Commissions," numbered "Section 7.3(c)."

Like the current Charter's Article XIII, the Proposed Charter's Section 7.3(c) sets forth the Powers and Duties of the BZA. The City has represented to voters that the "***Substantive content***" in the Proposed Charter is "***the same***" as that found in the current Charter's Article XIII. However, when comparing the *actual language* contained in the Proposed Charter's Section 7.3(c) with the current Charter's Article XIII, *the substantive content of subsection 7.3 (c)* in the Proposed Charter is *significantly different* from the language that appears in the current Charter. The City also distorts the nature of the change proposed in this section by suggesting it relates only to the manner in which the proposed amendment has been "organized into subsections" and "edited for clarity."

Article XIII of the *current Charter* specifically requires the BZA to make "**findings**" that are "**fully described**" by the Board when it makes determinations regarding zoning code variances. The current Charter also requires that when granting a variance, the BZA's "**reasons**" are "**fully set forth in the findings of the Board.**" These straightforward requirements give all parties involved a clear rationale for the BZA's decision-making process. **The current Charter also requires the BZA to strictly apply the City's zoning code to protect all property owners.** Because the Proposed Charter eliminates these important safeguards, Lakewood voters should reject the Proposed Third Amended Charter, and **vote NO on Issue 24.**

Vote NO on Issue 24

The chart below provides a side-by-side comparison of the Proposed Charter's Section 7.3(c) with the current Charter's Article XIII. When the below parallel provisions in the Proposed Charter and the current Charter are examined, *the Proposed Charter's substantive content is clearly not the same* as that in the current Charter. Important safeguards that protect property owners who appear before the Board of Zoning Appeals have been removed from the Proposed Charter. Therefore, voters should not approve the Proposed Charter.

PROPOSED LANGUAGE IN 3RD AMENDED CHARTER	CURRENT LANGUAGE IN SECOND AMENDED CHARTER
ARTICLE SEVEN. BOARDS AND COMMISSIONS 7.3 BOARD OF ZONING APPEALS (c) Powers and Duties.	ARTICLE XIII. BOARD OF ZONING APPEALS SECTION 2. POWERS AND DUTIES.
The board of zoning appeals shall hear and decide appeals from any regulation, order, decision, requirement, or determination made by administrative officials or agents in the application of ordinances governing zoning in the city. The board shall hear and decide all appeals made for variances in the application of ordinances governing zoning in the city, except that no variance shall be granted unless the board finds: (1) there exists practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved; (2) there are special circumstances or conditions applying to the land or buildings and not applying generally to land or buildings in the neighborhood, and that the circumstances or conditions exist so that strict application of the provisions of the ordinances of the city would deprive the applicant of the reasonable use of	The Board of Zoning Appeals shall: 1. Hear and decide appeals from any regulation, order, decision, requirement, or determination made by administrative officials or agents in the application of ordinances governing zoning in the City. 2. Hear and decide all appeals made for variances in the application of ordinances governing zoning in the City. No variance in the strict application of the zoning ordinances of the City shall be granted by the Board of Zoning Appeals unless it finds: (a) That there exists practical difficulty or unnecessary hardship, fully described in the findings of the Board, that would deprive the owner of the reasonable use of the land or building involved;

the land or buildings; (3) the granting of the variance is necessary for the reasonable use of the land or building and that the variance granted by the board is the minimum variance that will accomplish this purpose; and (4) the granting of the variance will be in harmony with the general purpose and intent of the ordinances of the city and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The board shall perform other duties and functions as may be imposed upon the board by this charter or by council, and it may establish rules and regulations for its own procedure not inconsistent with this section or any ordinances of the city.	(b) That there are special circumstances or conditions, fully described in the findings of the Board, applying to such land or buildings and not applying generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that strict application of the provisions of the ordinances of the City would deprive the applicant of the reasonable use of such land or buildings; (c) That, for reasons fully set forth in the findings of the Board, the granting of the variance is necessary for the reasonable use of the land or building and that the variance granted by the Board is the minimum variance that will accomplish this purpose; (d) That the granting of the variance will be in harmony with the general purpose and intent of the ordinances of the City and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; 2. Perform such other duties and functions as may be imposed upon it by this Charter or by Council. The Board of Zoning Appeals may establish rules and regulations for its own procedure not inconsistent with this Section or any ordinances of the City.
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