

*Andrew J. Zarutskie
Town Clerk
Town of Newburgh
1496 Route 300
Newburgh NY 12550
Tel.(845) 564-4554*

AGENDA

**AUDIT/WORKSHOP TOWN COUNCIL MEETING
Wednesday, May 30, 2012
7:00 p.m.**

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE TO THE FLAG**
- 3. MOMENT OF SILENCE**
- 4. CHANGES TO AGENDA**
- 5. APPROVAL OF AUDIT**
- 6. HIRING OF DPW COMMISSIONER**
- 7. ZONING:**
 - A. Discussion on Anchorage/Mid-Hudson**
 - B. Discussion on Home Occupation**
 - C. Discussion of Local Law Amending Notice of Provisions**
- 8. SEWER: Outside User Agreement for 6 Little Lane Road**
- 9. FLEET MAINTENANCE: Schedule Bid Date for Highway Truck Bodies**
- 10. RECREATION: Chadwick Lake Park Guard Variance Request**
- 11. ADJOURNMENT**

5. APPROVAL OF AUDIT

AUDIT # 10

May 30, 2012

VOUCHERS: 122054 to 122271

FUND	REGULAR	PREPAID
GENERAL	\$ 94,072.41	\$ 206,412.09
TRUST & AGENCY	7,836.50	2,401.27
STREET LIGHTING	-	-
HIGHWAY	125,878.83	54,885.20
WATER	148,540.70	35,181.09
SEWER	1,758.69	6,777.58
WATER CAPITAL	353,911.49	-
SEWER CAPITAL	-	-
HIGHWAY CAPITAL	-	-
GENERAL CAPITAL	25,325.24	-
SPECIAL DISTRICT	-	-
TOTAL	\$ 757,323.86	\$ 305,657.23
GRAND TOTAL	<u>\$ 1,062,981.09</u>	

AUDIT # 10
5/30/2012
VOUCHERS: 122054 to 122271

Audit Date: May 30, 2012

To the Supervisor:

I certify that the vouchers listed above were audited by the Town Board on the above date and allowed in the amounts shown. You are hereby authorized and directed to pay each of the claimants the amount opposite his name.

I acknowledge the following vouchers are in violation of New York State's General Municipal Law section 103 (Competitive Bidding Laws) and approve payment thereof.

<u>Voucher</u>	<u>Vendor Name</u>	<u>Amount</u>
122058	Arkel motors	342.05
122076	Mid hudson mack	165.66
122086	Mid hudson mack	1,750.69
122086	Schmidts wholesale	40.62
122087	Schmidts wholesale	521.74
122088	Schmidts wholesale	4,351.09
122136	Freedom ford	9,892.07
122176	Schmidts wholesale	356.59
122261	Mid hudson mack	110.76
122262	Mid hudson mack	1,382.00

Dated: _____

Andrew J. Zarutskie, Town Clerk

Town Board:

Exceptions:

6. HIRING OF DPW COMMISSIONERS

Information not available at this time.

7. ZONING

- A. DISCUSSION ON ANCHORAGE / MID-HUDSON**
- B. DISCUSSION ON HOME OCCUPATION**
- C. DISCUSSION OF LOCAL LAW AMENDING
NOTICE OF PROVISIONS**

MAY 30 2012

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TOWN OF NEWBURGH

-----*Crossroads of the Northeast*-----

OLD TOWN HALL
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

FILE COPY

PLANNING BOARD
JOHN P. EWASUTYN, CHAIRMAN
TELEPHONE 845-564-7804 FAX 845-
564-7802



May 22, 2012

Mr. Wayne Booth, Supervisor
Town of Newburgh Town Board
1496 Route 300
Newburgh, New York 12550

Mid-Hudson Marina (2010-19) Request for Open Area Development Designation

Dear Mr. Booth:

The Planning Board would like to recommend an approval of the proposed Zoning Text Amendment for the Mid-Hudson Marina. The applicant has submitted a proposal to revise the Zoning Text to allow for a permissive number of boat slips with a Marina project instead of a minimum of 100 boat slips, which is currently in the Zoning Text. The Planning Board has determined that a project of this scale with only 20 townhomes should not be required to construct 100 boat slips in association with construction of the project.

The applicant has withdrawn its previous Zoning Text Amendment requests and the permissive boat slip requirement with site plan review by the Planning Board is the only Zoning Text Amendment currently being proposed.

Thank you for your consideration in this matter.

Bryant Cocks, Planning Consultant to the Planning Board

MAY 30 2012



TOWN OF NEWBURGH

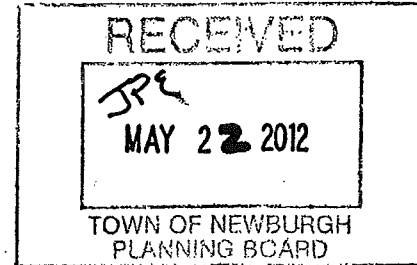
-----*Crossroads of the Northeast*-----

OLD TOWN HALL
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

Jim Ta

FILE COPY

PLANNING BOARD
JOHN P. EWASUTYN, CHAIRMAN
TELEPHONE 845-564-7804 FAX 845-564-7802



May 22, 2012

Mr. Wayne Booth, Supervisor
Town of Newburgh Town Board
1496 Route 300
Newburgh, New York 12550

Mid-Hudson Marina (2010-19) Request for Open Area Development Designation

Dear Mr. Booth:

The Town of Newburgh Planning Board would like to recommend the Mid-Hudson Marina site plan before the Planning Board for an Open Area Development Designation from the Town of Newburgh Town Board. The Planning Board has reviewed the site plan and associated SEQRA documents provided by the applicant and have determined that the best access into the site cannot be accomplished from a town or private roadway, and that the site will need to be accessed from the adjacent commercial parcel.

One condition the Planning Board would like to see included in the Open Area Development approval would be to limit the vehicle peak trip generation for the site as follows:

- Weekday AM Peak Hour: 19 trips (11 trips [townhomes] + 8 trips [marina])
- Weekday PM Peak Hour: 31 trips (11 trips [townhomes] + 20 trips [marina])
- Saturday Midday Peak Hour: 37 trips (9 trips [townhomes] + 28 trips [marina])

This restriction on traffic peak hour flows should be included as a condition of the approval because the Open Area Development Designation is tied to the parcel itself, not the site plan. The Planning Board was concerned if this restriction was not placed on the parcel that a more intense use could be proposed on the site and the associated traffic in the surrounding neighborhood would have a significant impact on community character.

Thank you for your consideration in this matter.

Bryant Cocks, Planning Consultant to the Planning Board

DRAFT : REVISED FOR 5/10 (2)
INTRODUCTORY LOCAL LAW # OF 200911
A LOCAL LAW AMENDING CHAPTER 185 ENTITLED
"ZONING"

OF THE CODE OF THE TOWN OF NEWBURGH TO ESTABLISH
SUPPLEMENTARY REGULATIONS APPLICABLE TO
HOME OCCUPATIONS

BE IT ENACTED by the Town Board of the Town of Newburgh as follows:

SECTION 1 – TITLE

This Local Law shall be referred to as "A Local Law Amending Chapter 185 entitled 'Zoning' of the Code of the Town of Newburgh to Establish Supplementary Regulations Applicable to Home Occupations".

SECTION 2 -- PURPOSE AND INTENT

The Town Board of the Town of Newburgh declares its intent to amend the Town of Newburgh Zoning Code in order to clearly prohibit accessory home occupation activities outside of dwellings so that such accessory uses are restricted to uses within dwellings. In that regard, the Town Board finds that certain uses cannot be conducted solely within dwellings as currently required by the Zoning Code and are accordingly to be explicitly prohibited.

SECTION 3 -- AMENDMENTS TO CHAPTER 185

1. Section 185-3 entitled "Definitions; word usage" is hereby amended by revising the definition of "HOME OCCUPATION" as follows:

HOME OCCUPATION

Any gainful occupation or profession customarily conducted within a dwelling by the residents thereof, clearly secondary to the use of the dwelling for living purposes, and which does not change the character of the structure as a residence. Said activity shall not have more than one nonresident employee working on the premises at any one time and shall not occupy more than 1/2 of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling, if so used. Permissible home occupations include, but are not limited to, the following: art studio; dressmaking; offices for a clergyman, lawyer, physician, dentist, architect, engineer, real estate agent or accountant; and teaching, with musical, dancing and other instruction limited to one pupil at a time. However, home occupations shall not be construed to include uses such as the following: clinic or hospital, barbershop or beauty parlor, restaurant, animal hospital, or commercial animal breeding, ~~lawn maintenance or installation service, landscaping and gardening service~~ ~~tree maintenance or removal service~~ ~~or taxi service~~ or yard and in residential zones. uses which entail the outdoor use, maintenance, servicing, testing, cleaning, repair, loading, unloading or storage of outdoor machinery, motor equipment or commercial vehicles or outdoor work activities conducted on the property containing the dwelling.

2. A new Section 185-48.5 entitled "Home Occupations" is hereby added to Chapter 185 to

read as follows:

“§ 185-48.5 Home Occupations

A. Findings. The Town of Newburgh permits customary Home Occupations to be conducted as accessory uses in dwellings subject to special permit in each of its residential districts and in the B (Business) district. The Town Board of the Town of Newburgh finds that certain occupations, which potentially could be conducted in dwellings, are detrimental to residential neighborhoods and accordingly are specifically prohibited. The Town Board of the Town of Newburgh additionally finds that occupations which require the use of outdoor motor equipment, machinery or vehicles or which involve outdoor on-premise work activities or outdoor storage upon the property occupied by the subject dwelling are also detrimental to residential neighborhoods as a result of noise, traffic on residential streets, emissions and related impacts, and accordingly the presence of such equipment, machinery and vehicles and such outdoor work activities should not be permitted on the property located in a residential zone in conjunction with Home Occupations.

B. Purposes. Home Occupations are permitted subject to special permit in recognition that certain occupations and professions have been customarily conducted within dwellings by residents without changing the character of the structure as a residence or the property occupied by the structure. A Home Occupation will change the residential character of the structure and the property it occupies, however, if it is not confined to the interior of the dwelling or if the presence of non-residential employees is not limited. If an occupation which commences as a Home Occupation prospers and grows to a point where it is a business with more than one nonresident employee, then it should no longer be conducted as a Home Occupation. It is accordingly appropriate that the Zoning Board of Appeals require as a condition of the granting of all Home Occupation special permits that the permit be for a finite time period and subject to application by the applicant at the stated interval for renewal following review and hearing by the Zoning Board of Appeals.

Certain occupations due to the traffic they generate, noise or odor impacts are detrimental to neighboring residential properties or neighborhoods. Certain occupations which have indoor office components but also entail the use, maintenance, or storage, testing, cleaning, repair, loading or unloading, of outdoor machinery, motor equipment or vehicles or outdoor work activities, to the extent such activities are conducted upon the property occupied by the dwelling, also have detrimental impacts to neighboring residential properties and neighborhoods.

The purpose of this section is to establish regulations for Home Occupations so that they do not have detrimental impacts on neighboring residences and residential neighborhoods and to specifically prohibit certain uses and activities as home occupations in residential zones in order to preserve the character of residential neighborhoods.

C. No more than one nonresident employee, associate, assistant or intern shall work on the premises at any one time. The nonresident employee's, associate's, assistant's or intern's work activities shall be confined to space within the dwelling. The nonresident employee, associate, assistant or intern shall not engage in outdoor work activities. No additional nonresident employees, associates, assistants or interns shall report to the property for any purpose, including but not limited to transportation to off site work premises, conferences, training or testing.

J. The Home Occupation shall not use, store, produce or dispose of any toxic or hazardous material.

Form Rome

K. The Home Occupation in a residential zone shall not produce any odor, noise, vibration, smoke, dust, heat, or glare discernible at the property line.

Form Numl Align at: 0

L. No outdoor display of goods other than agricultural food products or outdoor storage of goods, equipment, containers or material used in the Home Occupation shall be permitted in a residential zone.

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M. Home Occupations shall be limited to one per lot.

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N. When applicable, the building construction classification and fire separations for the building shall comply with the applicable fire and building safety requirements of the Town for mixed use of residential and the applicable nonresidential use classification of such Home Occupation and shall be certified by the Building Inspector.

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I.O. No unlawful use of a building or structure or lot for a Home Occupation existing at the effective date of the local law enacting this Section shall be deemed to be a nonconforming use.

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SECTION 4 - AMORTIZATION OF NONCONFORMING ACCESSORY HOME OCCUPATION USES

A. Notwithstanding Section 185-19 of the Town Code the following applies to Home Occupations rendered nonconforming by this Local Law

(1) The Town Board finds that certain Home Occupations adjacent to and abutting other residential properties in residential districts adversely impact neighborhoods' quality of life, through outdoor work activities which produce noise, traffic on residential streets, emissions and related impacts on neighboring properties that cannot be eliminated without a cessation of such outdoor work activities. Such activities include outdoor equipment or vehicular and motor equipment maintenance, service, testing, cleaning and repair, the loading and unloading of equipment from vehicles or trailers and the storage, parking, starting, stopping and idling of more than one vehicle or motor equipment.

(2) The Town Board further finds that the continued operation of Home Occupations which include outdoor work activities and are rendered nonconforming by this Local Law will adversely affect the health, safety and welfare of the residents of the Town in general and the neighboring and nearby residences in particular and that their continued operation will likely adversely affect neighboring property values. Such occupations generally include but are not limited to lawn maintenance or installation services; landscaping and gardening services and tree maintenance or removal services.

- (3) Based upon the foregoing findings, the Town Board has determined that in order to preserve and protect the health safety and welfare of the residents of the Town, and to preserve and protect the property values in the Town the continued use of residential properties for nonconforming Home Occupations; in residential zones which entail the outdoor use, maintenance, servicing testing, cleaning, repair, loading, unloading, or storage of outdoor machinery, motor equipment or commercial vehicles or other outdoor work activities including but not limited to lawn maintenance or installation services; landscaping and gardening services and tree maintenance or removal services should be discontinued and that said operation should be terminated upon the following provisions.

B. Termination.

- (1) The right to operate and maintain a nonconforming Home Occupation in a residential zone which entails the outdoor use, maintenance, servicing testing, cleaning, repair, loading, unloading, or storage of outdoor machinery, motor equipment or commercial vehicles or other outdoor work activities shall terminate one (1) year from the date this Local Law is adopted unless, within the time specified, the owner or mortgagee or both appeal to the Zoning Board of Appeals and the Zoning Board of Appeals by decision and resolution extends the termination date for an additional period of time not to exceed two (2) years from the date this Local Law is adopted.
- (2) In the event that an appeal is taken to a court of competent jurisdiction from any of the provisions of this amortization section or from any decision of the Zoning Board of Appeals, the period of termination set forth above shall continue to run during said appeal.

C. Notice of termination.

- (1) Upon the adoption of this Local Law, the Building Inspector shall serve a notice of termination upon the owners of the real property and the mortgagee, if any, of any mortgage on real property, notifying them that the operation of the nonconforming Home Occupation shall terminate on the date specified in the notice. The notice shall further state that the owner or mortgagee, or both, may, within 60 days of the date the notice is served, file an application with the Zoning Board of Appeals for an extension of the termination date.
- (2) If no such application is filed within the time set forth herein, it shall be presumptive proof that the termination date set forth in said notice is reasonable and that the nonconforming Home Occupation has been fully amortized, and the use shall terminate on the date specified in the notice.

- (3) The notice of termination shall be sent by certified mail, return receipt requested, to the owner of the real property at the address set forth on the most recent tax rolls of the Town and to any mortgagee at the address set forth on any recorded mortgage.
- (4) In the event that the certified letter is not accepted by the owner, the posting of a copy of the notice on the property and the mailing of a copy by regular mail to the owner's address shall be deemed sufficient notice.

D. Hearing.

- (1) Upon the filing of an application, the Zoning Board of Appeals shall schedule and notice a public hearing to determine the termination date.
- (2) The Zoning Board of Appeals shall be entitled to retain such experts and others it deems necessary to assist it in its review in accordance with the provisions of Chapter 104.
- (3) The applicant shall have the burden of establishing the right to continue the operation of the home occupation beyond the date set forth in the termination notice.
- (4) The Zoning Board of Appeals shall consider the following factors, among others, in making its determination:

[a] The value of the land without the buildings, fixed equipment, fixed structures and other fixed capital improvements existing on the property and used in the operation of the nonconforming Home Occupation, excluding the dwelling, as of the date it was acquired by the present owner.

[b] The value of all the buildings, fixed equipment, fixed structures and other fixed capital improvements existing on the property and used in the operation of the nonconforming Home Occupation excluding the dwelling as of the date the Home Occupation became a nonconforming use.

[c] The value of all the buildings, fixed equipment, fixed structures and other fixed capital improvements used for the nonconforming Home Occupation, excluding the dwelling, as of the date the present owner acquired the property.

[d] The value of all buildings, fixed equipment, fixed structures and other fixed capital improvements used for the nonconforming Home Occupation that were added pursuant to a valid building permit subsequent to the date the present owner acquired the property.

[e] The value of all additions, modifications and alterations made to buildings, fixed equipment, fixed structures and other fixed capital improvements used for the nonconforming Home Occupation that were added pursuant to a valid building permit subsequent to the date the present owner acquired the property.

[f] The depreciation of buildings, fixed equipment, fixed structures and other fixed capital improvements used in the nonconforming Home Occupation taken for income tax purposes by the present owner.

[g] The effect the operation of the nonconforming Home Occupation has upon property values in the area.

[h] The character of the neighborhood.

[i] The environmental effects the nonconforming Home Occupation has upon the neighborhood.

E. Standing. Any resident of the Town and the Town Board shall have the standing and the right to intervene in any hearing before the Zoning Board of Appeals.

SECTION 5 - VALIDITY

If any word, clause, sentence, paragraph, section or part of this local law or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof or the application thereof to any other persons or circumstances but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. The Town Board hereby declares that it would have enacted this Local Law or the remainder thereof if the invalidity of such provision or application thereof had been apparent.

SECTION 6 - EFFECTIVE DATE

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

MAY 30 2012

TC

RIDER, WEINER & FRANKEL, P.C.

ATTORNEYS & COUNSELLORS AT LAW

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(845) 632-6094

MEMORANDUM

TO: HON. WAYNE C. BOOTH, SUPERVISOR
TOWN BOARD MEMBERS

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: INTRODUCTORY LOCAL LAW AMENDING THE APPLICATION AND
PUBLIC HEARING NOTIFICATION PROVISIONS OF CHAPTER 83
ENTITLED "CLEARING AND GRADING", CHAPTER 163 ENTITLED
"SUBDIVISION OF LAND", CHAPTER 168 ENTITLED
"TELECOMMUNICATIONS FACILITIES, WIRELESS" AND CHAPTER
185 ENTITLED "ZONING" OF THE CODE OF THE TOWN OF NEWBURGH

OUR FILE NO. 800.1(B)(7)(2012)

DATE: MAY 30, 2012

In accordance with the discussion and request at the last Town Board work session, enclosed please find for distribution for your review a revised draft of the proposed Introductory Local Law which would amend various notification provisions contained in the Municipal Code pertaining to public hearings conducted by the Planning Board and Zoning Board of Appeals. Per the work session discussion, additional provisions are now added requiring the Planning Board to forward a letter to property owners within 500 feet of a subject property within 10 days of receipt of a complete, subdivision, site plan or new communications tower application notifying the property owners of the Planning Board's receipt of the application.

Should you have any questions or concerns in this regard, please feel free to contact me.

cc: Town Clerk Andrew J. Zarutskie
Town Engineer James Osborne (via e-mail)
Code Compliance Supervisor Gerald Canfield (via e-mail)

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DRAFT: Revision 1

**INTRODUCTORY LOCAL LAW #__ OF 2012
A LOCAL LAW AMENDING THE APPLICATION
AND PUBLIC HEARING NOTIFICATION PROVISIONS
OF CHAPTER 83 ENTITLED "CLEARING AND GRADING",
CHAPTER 163 ENTITLED "SUBDIVISION OF LAND",
CHAPTER 168 ENTITLED "TELECOMMUNICATIONS FACILITIES,
WIRELESS" AND
CHAPTER 185 ENTITLED "ZONING"
OF THE CODE OF THE TOWN OF NEWBURGH**

BE IT ENACTED by the Town Board of the Town of Newburgh as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending the Application and Public Hearing Notification Provisions of Chapter 83 Entitled "Clearing and Grading", Chapter 163 Entitled "Subdivision of Land", Chapter 168 Entitled "Telecommunications Facilities, Wireless" and Chapter 185 entitled 'Zoning' of the Code of the Town of Newburgh."

SECTION 2 - PURPOSE

The legislative intent and purpose of this local law is to require that uniform and adequate public notice be given for public hearings conducted by the Planning Board and Zoning Board of Appeals pursuant to various chapters of the Town of Newburgh Municipal Code in order to promote the public health, safety and general welfare of the Town and its inhabitants..

SECTION 3 - AMENDMENT OF CHAPTER 83 ENTITLED "CLEARING AND GRADING"

A. Sub-section 83-8E of Section 83-8 entitled "Permit application review; issuance and compliance procedures" is hereby amended to read as follows:

"§ 83-8. Permit application review; issuance and compliance procedures.

E. The Town Planning Board may, upon its discretion, conduct public hearings which may be held in conjunction with hearings held during the environmental review or the preliminary review process on any permit applications and shall conduct public hearings which may also be held in conjunction with hearings held during the environmental review or the preliminary review process on permits for the following activities, which hearings shall be fixed at a reasonable time and shall be given notice by the official newspaper of the town at least ten (10) days prior to the date thereof: The notice shall

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otherwise be subject to the same mailing and posting requirements established for hearings by the Zoning Board of Appeals in § 185-55 of Chapter 185.”

SECTION 4 – AMENDMENTS OF CHAPTER 163 ENTITLED “SUBDIVISION OF LAND”

A. Subsection 163-5F entitled “When officially submitted” of Section 163-5 entitled “Minor subdivision” is hereby amended to read as follows:

§ 163-5. Minor subdivision.

“F. When officially submitted. The time of submission of the subdivision plat shall be considered to be the date of the regular meeting of the Planning Board at which the complete application is to be considered, except where a later date is provided for by law, rule or regulation, in which case the later date shall apply. At least 10 days prior to such meeting, the subdivision plat must be filed with the Secretary to the Planning Board. The application for plat approval may be placed on the agenda for consultation and discussion at the sole discretion of the Planning Board Chairperson even if the application is incomplete. Within ten business days of receipt of the complete application the Planning Board Chairman or other designated member or agent of the Planning Board shall cause a letter to be forwarded to all property owners within 500 feet of the land involved in the application, as the names of such owners appear on the last completed assessment roll of the Town, notifying the property owners of the receipt of the plat and application, by first class mail in envelopes to be supplied, addressed and with required first class postage to have been paid for and affixed by the applicant.

B. Subsection 163-5H(4)(b) of Section 163-5 entitled “Minor subdivision” is hereby amended to read as follows:

§ 163-5. Minor subdivision.

H. Preliminary plat public hearing; approval of preliminary plat; revocation of approval.

(4) Planning Board as lead agency under the State Environmental Quality Review Act; public hearing; notice; decision

“(b) Public hearing; notice; length. The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing if no hearing is held on the draft environmental impact statement or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The notice shall

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otherwise be subject to the same mailing and posting requirements established for hearings by the Zoning Board of Appeals in § 185-55 of Chapter 185. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within 120 days after it has been opened. The requirements herein for mailing and posting of the notice of public hearing are intended to and shall pursuant to Section 10 of the New York Municipal Home Rule Law amend Section 276 of the New York State Town Law as it relates to notices of public hearings.”

C. Subsection 163-5H(5)(b) of Section 163-5 entitled “Minor subdivision” is hereby amended to read as follows:

§ 163-5. Minor subdivision.

(5) Planning Board not as lead agency under the State Environmental Quality Review Act; public hearing; decision.

“(b) Public hearing; notice; length. The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing if held independently of the hearing on the draft environmental impact statement or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The notice shall otherwise be subject to the same mailing and posting requirements established for hearings by the Zoning Board of Appeals in § 185-55 of Chapter 185. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred 120 days after it has been opened. The requirements herein for mailing and posting of the notice of public hearing are intended to and shall pursuant to Section 10 of the New York Municipal Home Rule Law amend Section 276 of the New York State Town Law as it relates to notices of public hearings.”

D. A new Subsection 163-7L is hereby added to 163-7 entitled “Preliminary plat for major subdivision” to read as follows:

“L. Public hearings on the preliminary plat shall be conducted in the same manner as specified in § 163-5 above.”

E. Subsection 163-7D entitled “Number of copies and when officially submitted” of Section 163-7 entitled “Preliminary plat for major subdivision” is hereby amended to read as follows:

“D. Number of copies and when officially submitted. The application for approval of the preliminary plat, complete with 15 copies of the preliminary plat and accompanied by the required fee and all data required by this chapter, shall be filed with the Secretary of the Planning Board at least 21 days prior to a regular monthly meeting of the Planning Board. A

proposed submission which does not include all the required drawings and documents will be deemed incomplete and not be accepted for filing either when submitted or at the following Planning Board meeting. Within ten business days of receipt of a complete application, the Planning Board Chairman or other authorized member or agent of the Planning Board shall cause a letter to be forwarded to all property owners within 500 feet of the land involved in the application, as the names of such owners appear on the last completed assessment roll of the Town, notifying them of the receipt of the plat and application, by first class mail in envelopes to be supplied, addressed and with required first class postage to have been paid for and affixed by the applicant.”

F. Subsection 163-8J(4)(a)[2] of Section 163-8 entitled “Final plat for major subdivision” is hereby amended to read as follows:

§ 163-8. Final plat for major subdivision.

J. Public hearing; action on proposed final subdivision plat.

(4) Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

(a) Planning Board not as lead agency; public hearing; notice; decision.

“[2] Public hearing; notice; length. The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing if held independently of the hearing on the draft environmental impact statement or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The notice shall otherwise be subject to the same mailing and posting requirements established for hearings by the Zoning Board of Appeals in § 185-55 of Chapter 185. The hearing on the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened. The requirements herein for mailing and posting of the notice of public hearing are intended to and shall pursuant to Section 10 of the New York Municipal Home Rule Law amend Section 276 of the New York State Town Law as it relates to notices of public hearings.”

G. Subsection 163-12.1 entitled “When officially submitted” of Section 163-12.1 entitled “Lot line changes” is hereby amended to read as follows:

“H. When officially submitted. The time of submission of the lot line change plat shall be considered to be the date of the regular meeting of the Planning Board at which the complete application is to be considered, except where a later date is provided for by law, rule or regulation, in which case the later date shall apply. The application for lot line change plat approval may be placed on the agenda for consultation and discussion at the sole discretion of the Planning Board Chairperson even if the application is incomplete.

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Within ten business days of receipt of a complete application, the Planning Board Chairman or other authorized member or agent of the Planning Board shall cause a letter to be forwarded to all property owners within 500 feet of the land involved in the application, as the names of such owners appear on the last completed assessment roll of the Town, notifying them of the receipt of the plat and application, by first class mail in envelopes to be supplied, addressed and with required first class postage to have been paid for and affixed by the applicant. ”

SECTION 5 - AMENDMENT OF CHAPTER 168 ENTITLED “TELECOMMUNICATIONS FACILITIES, WIRELESS”

A. Subsection 168-6U of Section 168-6 entitled “Special use permit application and other requirements” is hereby amended to read as follows:

“U. An applicant shall submit to the Clerk of the Board the number of completed applications determined to be needed at the preapplication meeting. A notification of the application shall be provided to the legislative body of all adjacent municipalities and to the County Planning Department if determined to be necessary, based upon the proposed location of the structure. Within ten business days of receipt of a complete application for a new telecommunications tower, the Planning Board Chairman or other authorized member or agent of the Planning Board shall cause a letter to be forwarded to all property owners within 500 feet of the land involved in the application, as the names of such owners appear on the last completed assessment roll of the Town, notifying them of the receipt of the plat and application, by first class mail in envelopes to be supplied, addressed and with required first class postage to have been paid for and affixed by the applicant. ”

B. Section 168-16 entitled “Public hearing and notification requirements” is hereby amended to read as follows:

“§ 168-16. Public hearing and notification requirements.

A. Prior to the approval of any application for a special use permit for wireless telecommunications facilities, a public hearing shall be held by the Board, notice of which shall be published in the official newspaper of the town no less than 10 calendar days prior to the scheduled date of the public hearing. In order that nearby landowners are provided notice of the hearing, the applicant, at least three weeks prior to the date of said public hearing, shall be required to provide names and address of all landowners whose property is located within ~~300~~ 500 feet of any property line of the lot on which the new wireless telecommunications facilities are proposed to be located. Further, the applicant

shall send notice of the public hearing to the adjoiningers identified in this section, via certified or registered mail, at least 10 days prior to the scheduled date of the public hearing and shall submit to the Board at the public hearing proof of mailing of the notice of public hearing. The applicant shall additionally be required to post a copy of the notice in accordance with the requirements for hearings by the Zoning Board of Appeals in § 185-55 of Chapter 185.

B. The Board shall schedule the public hearing referred to in Subsection A of this section after it determines the application is complete. The Board, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary.”

SECTION 6 – AMENDMENTS OF CHAPTER 185 ENTITLED “ZONING”

A. Subsection 185-55A of Section 185-55 entitled “Procedural, construal of provisions; conflict with state law” is hereby amended to read as follows:

“§ 185-55. Procedure; construal of provisions; conflict with state law.

The powers and duties of the Zoning Board of Appeals shall be exercised with the following procedure:

A. Public hearings.

(1) The Zoning Board of Appeals shall not grant any appeal ~~for a~~ or variance or issue any special or temporary permit or interpretation without first holding a public hearing, notice of which hearing and of the substance of the appeal or application shall be given by publication in the official newspaper of the Town at least five days before the date of such hearing. In addition to such published notice, the applicant shall cause notice to be given of the substance of every appeal ~~for a~~ and variance and of every application for a special permit, together with notice of the hearing thereon, by causing notices thereof to be mailed at least 10 days before the date of said hearing to the owners of all property abutting that held by the applicant in the immediate area (whether or not involved in such appeal or application) and to all other owners within ~~300~~ 500 feet, or such additional distance as the Zoning Board of Appeals may deem advisable, from the exterior boundaries of the land involved in such appeal or application, as the names of such owners appear on the last completed assessment roll of the Town. Such notice shall be by certified mail, return receipt requested, and the applicant shall furnish proof of compliance with the notification procedure. However, in lieu of notice by certified mail, return receipt requested, if the application is for an area variance and the lot which is the subject of the public hearing contains or is proposed to contain one single family dwelling and permitted accessory uses to single family dwellings in the applicable district other than a home occupation or accessory apartment, and is used or proposed to be used for no other primary use, the Zoning Board of Appeals may authorize notice by first class

mail in envelopes to which required first class postage has been paid for and affixed by the applicant, to be mailed by the secretary of the Zoning Board of Appeals, who shall complete and file an affidavit of mailing with the Board listing each address to which the notice was sent. Any or all of the notices required by this section shall be issued by the Secretary of the Zoning Board of Appeals on order of the Zoning Board of Appeals. The notice shall identify both the street address of the lot(s) and the section, block and lot number(s) assigned on the Orange County tax map for the Town to the land involved in the application or appeal. An 11 inch by 17 inch copy of the notice shall also be posted at the property for which the application is made. The notice must be posted on or near a front property line within view of the nearest adjacent street right of way. The notice must not obstruct traffic visibility. The applicant shall submit a notarized affidavit of posting and photograph of the posting to the Secretary of the Zoning Board of Appeals prior to or on the tenth day prior to the public hearing date. The posted notice must be maintained and updated with amended information until after the public hearing is closed. The notice must be removed and properly disposed of within 10 days of the close of the public hearing.

(2) Provided that due notice shall have been published as above set forth and that there shall have been substantial compliance with the remaining provisions of the preceding subsection, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Zoning Board of Appeals in connection with the granting of any appeal or variance or issuance of any special or temporary permit pursuant thereto.”

B. The following sentence shall be inserted after the first sentence of Subsection 185-57B(1) of Subsection 185-57B entitled “Sketch plan review” of Section 185-57 entitled “Application procedure”:

Within ten business days of receipt of a complete application and sketch plan, the Planning Board Chairman or other authorized member or agent of the Planning Board shall cause a letter to be forwarded to all property owners within 500 feet of the land involved in the application, as the names of such owners appear on the last completed assessment roll of the Town, notifying them of the receipt of the plat and application, by first class mail in envelopes to be supplied, addressed and with required first class postage to have been paid for and affixed by the applicant. ”

C. Subsection 185-57K(1) of Section 185-57 entitled “Application procedure” is hereby amended to read as follows:

“§ 185-57. Application procedure.

K. Public hearings.

(1) Before authorizing any use or approving any plan, the Planning Board may hold a public hearing, the notice for which shall be subject to the same requirements established

by this chapter for hearings on variances by the Zoning Board of Appeals in § 185-55. Such notice shall additionally include the following: the size of the lot(s), the size of each building's footprint, number of stories and height of each building or structure, and a detailed description of the proposed use provided by the applicant, or where the use classification is generic and the applicant cannot commit to a particular use at the time of the application, a description of the possible uses to which the site might be put as permitted by the applicable Table of Use and Bulk Requirements for the classification of use subject to site plan approval for which approval is requested."

SECTION 7 - VALIDITY

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 8 - EFFECTIVE DATE

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

8. SEWER: OURSIDE USER: 6 Little Lane

RESIDENTIAL OUTSIDE SEWER USER AGREEMENT

AGREEMENT made as of the ____ day of _____, 2012, between the Town of Newburgh, a Municipal corporation, of the State of New York, with principal offices located at 1496 Route 300, Newburgh, New York for and on behalf of the Crossroads Sewer District, (hereinafter the "TOWN").

AND

Ralph Estrada, Jr. with an address of **6 Little Lane**, Newburgh, New York, 12550, (hereinafter the "OUTSIDE USER").

WHEREAS, the OUTSIDE USER owns real property in the TOWN and shown on the Tax Maps as Section 53 , Block 4 , Lot 6 , (hereinafter the "PREMISES"), and

WHEREAS, the Town by resolution of the Town Board has agreed to provide sewer service to the OUTSIDE USER provided OUTSIDE USER installs all required sewer facilities to bring sewer service to the premises from a location designated by the Town, as well as all necessary facilities within the subdivision, all installations are to be at no cost to the TOWN, and in accordance with all applicable regulations, and

NOW THEREFORE, in consideration of the provisions set forth herein, the TOWN and the OUTSIDE USER agree as follows:

1. The TOWN, agrees to provide sewer service to the PREMISES provided OUTSIDE USER brings the required sewer facilities to the PREMISES from a location designated by the TOWN, the OUTSIDE USER installs all other required facilities necessary so that the TOWN can accept the sewerage flow from the PREMISES, all at the sole cost and expense of the OUTSIDE USER. OUTSIDE USER agrees that at its expense a water meter shall be installed on the PREMISES, even if the TOWN does not supply water to the PREMISES, and

grants to TOWN officers and employees the right to enter the PREMISES to read said meters.

2. The OUTSIDE USER agrees to pay to the TOWN in consideration of this Contract the amount of -0- payable upon execution.
3. Upon the execution of this Agreement by all parties, an original shall be recorded in the Office of the Clerk of the County of Orange to provide notice of the terms and provisions of this Agreement to all subsequent owners of all or any portion of the PREMISES.
4. The OUTSIDE USER agrees that in the event that the OUTSIDE USER, its contractor, agent or employee causes damage to the sewer lines, facilities or property of the TOWN arising during OUTSIDE USER'S connection to the TOWN'S sewer system that OUTSIDE USER will indemnify, save, and hold the TOWN harmless and pay any damages that arise to the TOWN'S facilities during the hookup including any expenses that may be incurred in enforcing this Agreement including reasonable fees of the TOWN'S attorney. OUTSIDE USER further agrees to indemnify, save and hold the Town harmless from any and all claims that may arise for damage to the private line to be used by OUTSIDE USER for connection to the TOWN'S system.
5. The OUTSIDE USER agrees to pay such fees and charges for sewer service including but not limited to operation and maintenance charges, usage charges, capital and bonding charges as the TOWN may charge within the time set forth on the TOWN'S bills provided the fees and charges are determined on the same basis and are at the same rate as the TOWN charges users within the Crossroads Sewer District of the Town (hereinafter "CROSSROADS"). The TOWN reserves the right to modify any determination of benefit units should the nature or extent of the PREMISES usage change and adjust all the TOWN'S fees and charges accordingly.
6. The OUTSIDE USER agrees that commencing with the assessment roll and special assessment roll prepared by the TOWN for the next quarterly sewer district billing, and thereafter, all lands and improvements making up the PREMISES shall be assessed, taxed and charged amounts equivalent to those

which would be assessed by the TOWN if the said lands and improvements were situated within CROSSROADS or any extension thereto and OUTSIDE USER agrees to pay said charges. OUTSIDE USER agrees, that commencing with the bills issued based upon the assessment roll, all said charges to the lands and improvements contained in the PREMISES shall be levied and collected as if the lands and improvements were within CROSSROADS or any extension thereto. OUTSIDE USER agrees that TOWN at its sole discretion may determine whether said charges shall be entered on the annual tax bills or quarterly utility bills.

- 7. If OUTSIDE USER, or any subsequent owner of all or any portion of the PREMISES, shall default in the obligation to pay any of the charges set forth in this Agreement and does not cure such default within ten (10) days after receipt of written notice of such default, a lien therefore shall attach to the OUTSIDE USER'S or subsequent owner's property within the PREMISES effective on recording of notice thereof in the Office of the Clerk of the County of Orange. Such lien shall be superior and prior in time to all liens recorded subsequent to recordation of this Agreement as if any such lien had been recorded concurrently with this Agreement. In the event those charges are not paid within ten (10) days after the receipt of written notice of default, all rights of the OUTSIDE USER, its heirs, successors or assigns or a subsequent owner to receive sewer service under this Agreement shall cease and the TOWN reserves the right to immediately discontinue the sewer service. The TOWN may, at its option, enter unpaid operation and maintenance charges and special assessments upon the property tax bill for the PREMISES.
- 8. The TOWN shall have and OUTSIDE USER hereby expressly grants to it, all legal and equitable remedies now or hereafter available to such a municipality against the property and the owners thereof who shall default in the payment of any tax, service charge or assessment payable to it, to the same extent and with the same effect as such legal and equitable remedies could be asserted and pursued by the municipality against OUTSIDE USER were the PREMISES located within CROSSROADS or any extension thereto.

9. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

THE TOWN OF NEWBURGH

By: _____

Wayne C. Booth,
Supervisor

Ralph Estrada, Jr.

STATE OF NEW YORK)

: SS.:

COUNTY OF ORANGE)

On the _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for said State, personally appeared Wayne C. Booth, Supervisor, personally known to me or provided to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC – STATE OF NEW YORK

STATE OF NEW YORK)

: SS.:

COUNTY OF ORANGE)

On the _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or provided to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC – STATE OF NEW YORK

STATE OF NEW YORK:

§

COUNTY OF ORANGE:

I, ANDREW J. ZARUTSKIE, certify that I am the Town Clerk of the Town of Newburgh, a municipal corporation, organized and existing under the law of the State of New York, and a party to the foregoing instrument; that WAYNE C. BOOTH, who signed said instrument on behalf of the Town of Newburgh, was at the time of the execution the duly elected and serving Supervisor of the Town of Newburgh, and that said instrument was duly signed for and on behalf of the said TOWN by authority granted to him the Town Board of the Town of Newburgh.

ANDREW J. ZARUTSKIE, TOWN CLERK

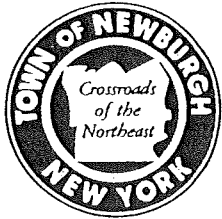
**9. FLEET MAINTENANCE: Set Bid Date for Highway
Truck Bodies**

Information not available at this time.

10. RECREATION: Chadwick Lake Park Guard Variance Request

MAY 30 2012

10



TOWN OF NEWBURGH RECREATION DEPARTMENT

311 ROUTE 32, NEWBURGH, NY 12550

Robert J. Petrillo
Commissioner of Parks, Recreation & Conservation

845-564-7815
FAX: 845-564-7827

May 29, 2012

TO: Wayne Booth, Supervisor
Town Board Members

FROM: Robert J. Petrillo, Commissioner

RE: Chadwick Lake Park Guard Variance Request

The Town policy requires a duty-free half hour lunch for those working six or more consecutive hours. At this time, I'm asking for a variance to this policy for the Chadwick Lake Park guards.

We have begun the season for peak attendance at the Park as well as extended hours. To ensure the guard house is not unattended or the Park unsupervised we are requesting approval to waive the required duty-free lunch for the guards during the months of June, July and August.

Thank you for your consideration.

Regards,

Robert J. Petrillo
Commissioner