

#7A

TOWN OF NEWBURGH

AUDIT # 20

DATE: October 24, 2022

TOTAL OF ALL PAYMENTS: \$ 1,830,805.97

To Mr. Gilbert Piaquadio and Town Board:

I certify that the invoices contained within this package of \$ 1,689,618.14 plus the paid prior audit of \$ 141,187.83 were audited by the Town Board on the above date and allowed in the amount shown above. You are authorized and directed to pay each of the claimants the amounts opposite their names.

Dated : **OCT 24 2022**

Town Clerk Office

Town Board:

#7B



TOWN OF NEWBURGH

1496 Route 300, Newburgh, New York 12550

RONALD E. CLUM, CPA
ACCOUNTANT

845-564-5220

Fax: 845-566-9461

E-Mail: rclumaccountant@townofnewburgh.org

To: Gil Piaquadio, Town Supervisor
Cc: Town Board
From: Ronald E. Clum, Town Accountant
Date: October 17, 2022
RE: Budget Adjustments

At the next Board meeting can you please approve the following budget transfers for me.

FROM ACCOUNT		TO ACCOUNT		
Account Description/ Account Name	Account Number/ Account Name		Dollar Amount	
G5009.8130.5473 NOB HILL - REPAIRS TO TREAT PLANT	G5009.8130.5100 NOB HILL - PAYROLL	\$	1,000.00	
G5010.8130.5473 CROSSROADS - REPAIRS TO TREAT PLANT	G5010.8130.5100 CROSSROADS - PAYROLL	\$	57,500.00	
A.1990.5499 CONTINGENCY ACCOUNT	A1420.5403 LEGAL - LITIGATION	\$	25,000.00	
A.1990.5499 CONTINGENCY ACCOUNT	A.1629.5200 DESMOND ESTATE - EQUIPMENT	\$	123,000.00	

#7C



TOWN OF NEWBURGH

1496 Route 300, Newburgh, New York 12550

RONALD E. CLUM, CPA
ACCOUNTANT

845-564-5220

Fax: 845-566-9461

E-Mail: rclumaccountant@townofnewburgh.org

To: Gil Piaquadio, Town Supervisor
Cc: Town Board
From: Ronald E Clum
Date: October 21, 2022
RE: Recreation Building Transfer

In the 2022 budget I had budgeted for a transfer of \$1,545,000 in the interfund transfer line (A9902.5900). I am proposing using \$245,000 of this to do a budgetary transfer to the Desmond Property-Equipment (A.1629.5200) to cover the cost overruns on the painting. The remaining \$1,300,000 in cash I would like to transfer to the New Recreation Building capital project (H9121)

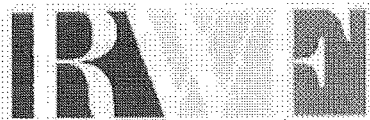
A recap of the of ARPA/ Recreation building cash as of October 21, 2022 is as follows:

	Amount
Total COVID funds received	\$3,230,144.13
Less: Premium pay bonuses	103,600.00
Sub-Total	\$3,126,544.13
Plus: Interest Earned	6,636.45
Less: Expenses on Building through 10/21/22	32,750.75
Sub-Total	\$3,100,429.83
Plus: current transfer requested in this memo	1,300,000.00
Equals cash available for Building @ 10/21/22	\$4,400,429.83

At the next board meeting could you please transfer the above \$245,000 budget transfer as well as the \$1,300,000 transfer of cash.

Ronald E Clum, CPA

#10A



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ATTORNEYS & COUNSELORS AT LAW

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F: 845.562.9126

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New Windsor, NY 12553

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Elliott M. Weiner
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COUNSEL

Stephen P. Duggan, III
John K. McGuirk
(1942-2018)

OF COUNSEL

Craig F. Simon
Irene V. Villacci

MEMORANDUM

TO: HON. GILBERT J. PIAQUADIO, SUPERVISOR
TOWN BOARD MEMBERS

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: POTENTIAL CANNABIS ZONING AMENDMENTS
OUR FILE NO. 800. __; 800.1(B)() (2022)

DATE: OCTOBER 21, 2022

In accordance with prior discussions with the Town Board, attached is an initial draft Local Law Amending the Zoning Code which would implement "time, place and manner" restrictions on cannabis related business. While we understand the State Office of Cannabis Management has conducted a survey of municipalities in this regard, we have yet to see State wide regulations providing further guidance notwithstanding the Office's proceeding in implementing the licensing process for adult use retail dispensaries. We are hopeful further guidance will be provided by the State Office before the local law is finalized.

In conjunction with David Smith, we are still analyzing whether the District limits and the additional distance requirements that would be established under the Local Law would impose "unreasonably impracticable" restrictions on the operation of licensed retail dispensaries or on-site consumption sites as determined by the State Office's Board. The State Office Board is granted authority by Section 131(2) of the legislation. An environmental assessment will also need to be prepared prior to formal Board action on the Local Law.

The Local Law does not repeat the State law prohibition on sites within 500 feet of school grounds and within 200 feet of places of worship. "School grounds" means any building, structure and surrounding outdoor



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grounds, including entrances or exits, contained within a public or private pre-school, nursery school, elementary or secondary school's legally defined property boundaries as registered in a county clerk's office. Additional State regulations prohibit product advertising within 500 feet or readily observable from the perimeter of school grounds, playgrounds, child day care providers, public parks and libraries.

Page 2

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OF COUNSEL

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Irene V. Villacci

Should you have any questions or concerns, please do not hesitate to contact me.

MCT/sel
Enc.

cc: Town Clerk Lisa M. Vance Ayers (via e-mail)
David B. Smith, Principal, Planning and Development Advisors (via e-mail)
Town Engineer James Osborne (via e-mail)
Pat Hines, Principal, McGoey, Hauser & Edsall (via e-mail)
Code Compliance Supervisor Gerald Canfield (via e-mail)

**TOWN OF NEWBURGH
INTRODUCTORY LOCAL LAW NO. ___ OF 2022
AMENDING CHAPTER 185 ENTITLED "ZONING" OF THE
CODE OF THE TOWN OF NEWBURGH:
CANNABIS RELATED USES**

BE IT ENACTED by the Town Board of the Town of Newburgh, County of Orange, 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: Cannabis Related Uses".

SECTION 2 – PURPOSE AND INTENT

The purpose of this local law is to define and permit certain uses when licensed by the State of New York related to cannabis products as principal use in the Interchange Business (IB) District, the Business (B) District and the AR (Agriculture Residential) District subject to site plan review by the Planning Board. The Town Board declares its intent to permit such licensed uses, as defined herein, as principal uses in the Districts as set forth below subject to site plan review by the Planning Board. The Town Board finds that the uses are similar to and consistent with other principal commercial uses already separately permitted in the IB and B District and agriculture uses in the AR District. The regulations established, hereunder, however, are necessary and desirable to protect the public health, safety, welfare, and environmental resources, provide a regulatory pathway for the cannabis industry consistent with state regulations, foster a healthy, diverse and economically viable cannabis industry that contributes to the local economy, and ensure that environmental, public health, safety and nuisance factors related to the cannabis industry are adequately addressed.

SECTION 3 – AMENDMENTS TO CHAPTER 185

1. Section 185-3 entitled "Definitions of Chapter 185, entitled "Zoning" of the Code of the Town of Newburgh is hereby amended by the addition of the following definitions of "Cannabis Distribution Facility," "Cannabis Medical Dispensary," "Cannabis Microbusiness Premises," "Cannabis On Site Consumption Premises," "Cannabis Processing Facility," and "Cannabis Retail Dispensary" to read as follows

"CANNABIS DISTRIBUTION FACILITY - A use that is licensed by the State of New York to distribute cannabis products to licensed cannabis retail dispensaries."

“CANNABIS MEDICAL DISPENSARY”- A use that is licensed by the New York State Department of Health to dispense or distribute medical marijuana in accordance with Article 33 of the Public Health Law and Part 1004 of Title 10 of the New York Codes, Rules and Regulations.”

“CANNABIS MICROBUSINESS PREMISES - A use that is licensed by the State of New York to be engaged in the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, manufacturer and retailer of cannabis products cultivated on site.”

“CANNABIS ON SITE CONSUMPTION PREMISES - A use that is licensed by the State of New York to sell cannabis products and cannabis derived products for on-site consumption by smoking or otherwise.”

“CANNABIS PROCESSING FACILITY - A use that is licensed by the State of New York to process cannabis products. Processing may include extraction, compounding, blending, infusing or other forms of manufacturing cannabis products. Processing may additionally include cultivation, harvesting, packaging, labeling and distribution of cannabis products produced at the facility.”

“CANNABIS RETAIL DISPENSARY - A use that is licensed in the State of New York to sell cannabis products at retail for off premise consumption.”

2. The “Schedule of Off-Street Parking Space Requirements for NonResidential Uses” contained in Subsection 185-13C(1)b of Subsection 185-13C entitled “Minimum required off-street parking spaces” of Section 185-13 entitled “Off-street parking and loading facilities” is hereby amended by the addition of the following “Uses” and “Numbers of Spaces”:

Use	Number of Spaces
“Cannabis distribution facility	2 per 3 employees on the premises at any 1 period of time, with a minimum of 2 spaces”
“Cannabis medical dispensary	1 per 150 square feet of gross leasable floor area

“Cannabis microbusiness facility 1 per 4 seats, or per 40 square feet of seating area or as required by the Planning Board for premises demonstrating greater parking space needs in the judgment of the Planning Board”

“Cannabis on-site consumption premises 1 per 4 seats, or per 40 square feet of seating area or as required by the Planning Board for premises demonstrating greater parking space needs in the judgment of the Planning Board”

“Cannabis processing facility 2 per 3 employees on the premises at any 1 period of time, with a minimum of 2 spaces”

“Cannabis retail dispensary 1 per 150 square feet of gross leasable floor area”

3. A new Subsection 185-48.9 entitled “Cannabis Related Uses” is hereby added to Chapter 185 to read as follows:

“§ 185-48.9 Cannabis Related Uses

- A. Permitted locations and separation requirements. In order to protect young people from inducements to use cannabis and reduce youth exposure and potential access to cannabis as well as exposure of vulnerable populations receiving treatment for drug or alcohol addiction or abuse, and to mitigate potential risks to the population from drivers who have engaged in on-premise cannabis use and whose psycho-motor skills and driving abilities may be impaired, given the challenges presented in assessing service limits to impaired patrons, the absence of standard serving sizes and the duration and onset of impairment, all unlike with alcohol, and the Town having limited public transit options, the following distance and separation requirements are established.
1. No approval or permit shall be granted to Cannabis On-Site Consumption Premises and Cannabis Retail Dispensaries proposed to be located within 500 feet

of the legally defined boundaries recorded in the County Clerk's office of any park, playground, athletic field, preserved or conserved land open to the public, day care center or drug or alcohol treatment facility. Distances required under this subsection shall be measured from property line to property line, along the shortest distance between property lines, without regard to the route of normal travel.

2. No approval or permit shall be granted to Cannabis On-Site Consumption Premises and Cannabis Retail Dispensaries proposed to be located within 500 feet of any playground or recreational facility owned and operated by a homeowners association or similar organization serving a community of residences.
 3. No approval or permit shall be granted to Cannabis On-Site Consumption Premises and Cannabis Retail Dispensaries proposed to be located within 200 feet of the exterior of any existing dwelling unit.
 4. No approval or permit shall be granted to Cannabis Microbusiness Facilities proposed to be located within 500 feet of the exterior of any existing dwelling unit.
 5. Cannabis On-Site Consumption Premises and Cannabis Retail Dispensaries shall be separated from another lot used for either category of use by at least 750 linear feet as measured from the nearest property line, without regard to the route of normal travel.
- B. Special use permit requirement for cannabis on-site consumption premises, cannabis retail dispensaries and cannabis microbusiness facilities.

In addition to site plan review, special use permit review shall be required for cannabis on-site consumption premises, cannabis retail dispensaries and cannabis microbusiness facilities. Pursuant to Town Law § 274-b, the Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove special use permits for these uses within the Town pursuant to and in accordance with the standards set forth in this chapter and procedures set forth in Town Law § 274-b. The application for the special use permit shall contain the same information as required for a site plan application and such additional information as the Planning Board may require the applicant to supply relating to, among possibly others, the relationship of the proposed special use to factors such as public safety, noise, odors, traffic impact, operational schedule of the special use and the public welfare. A special use permit authorizes only the activity expressly described in the application and approved permit materials. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Upon the granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the Town. A special use permit shall expire upon change in property ownership or property transfer, unless the Planning Board is notified by the owner, in writing, prior to property transfer and the Planning Board reviews the use or activity and special permit documents and is satisfied that the use has and is being conducted in a manner that is consistent with the special permit and

any conditions which may have been stipulated at the time of its issuance and approves, in writing, the transfer of the special use permit. A new special use permit shall be required for any expansion, alteration or variation of a use already authorized by a special use permit.

C. Additional requirements for cannabis on-site consumption premises and cannabis retail dispensaries.

Sites containing cannabis on-site consumption premises and cannabis retail dispensaries shall be subject to the following additional requirements:

- (1) Provision of sufficient lighting and security to prevent the use of the premises as a loitering place during and after hours of operation. A written security plan shall be submitted with each site plan application and shall be referred to the Town of Newburgh Chief of Police for review and approval.
- (2) Provision of adequate facilities and personnel for disposal of trash and other debris.
- (3) Provision for continuing maintenance of the exterior of the building and the grounds, including landscaping, signs and policing of litter.
- (4) Sales product and paraphernalia items related to the preparation or consumption of product shall not be visible offsite or from a public right of way.
- (5) Outside use of sound reproduction devices, including but not limited to loudspeakers and amplifiers on the premises shall be prohibited.

D. Maximum floor area for Cannabis Retail Dispensaries.

The maximum gross floor area for Cannabis Retail Dispensaries shall be 3,000 square feet.

E. State license requirement.

A cannabis distribution facility, cannabis medical dispensary, cannabis microbusiness facility, cannabis on-site consumption premises, cannabis processing facility and cannabis retail dispensary must have a valid license issued by the State of New York in order to be considered a permitted use. An expiration or revocation of a license by the State shall be deemed to automatically terminate the special use permit or other Planning Board approvals permitting the use. Any applicant who receives a special use permit and who decides to proceed with the special use does so realizing that the special use permit and all rights to

continue that use shall terminate as provided herein. The applicant, in accepting a special use permit, acknowledges and agrees that such special use permit confers no rights or privileges other than those specifically contained therein. This provision is intended to and does supersede and amend Town Law § 274-b.

4. Chapter 185, "Zoning" of the Code of the Town of Newburgh, Table of Use and Bulk Requirements for the IB Zoning District, Schedule 8 of the Code adopted and incorporated into the Code pursuant to §185-10 entitled "Utilization of Use Table" and §185-11 entitled "Utilization of Bulk Table" shall be amended as follows:

A. Number 2 of Column D entitled "Uses Subject to Site Plan Review by the Planning Board" shall be amended to read as follows:

"2. Individual retail stores, convenience stores with or without gasoline filling stations, personal service stores and uses, ~~and health clubs and fitness facilities,~~ cannabis retail dispensaries in accordance with Section 185-48.9 and cannabis medical dispensaries in accordance with Section 185-48.9."

B. Number 6 of Column D entitled "Uses Subject to Site Plan Review by the Planning Board" shall be amended to read as follows:

"6. Restaurants and fast-food establishments in conjunction with uses in Nos. 3, 4 and 5 in accordance with § 185- 42 and cannabis on site consumption premises in accordance with Section 185 -48.9"

C. Number 8 of Column D entitled "Uses Subject to Site Plan Review by the Planning Board" shall be amended to read as follows:

"8. Manufacturing, altering, fabricating or processing products or materials involving the use of only oil, gas or electricity for fuel and cannabis processing facilities in accordance with Section 185-48.9"

D. Number 9 of Column D entitled "Uses Subject to Site Plan Review by the Planning Board" shall be amended to read as follows:

“9. Warehouse, storage and transportation facilities, including truck and bus terminals, not within 500 feet of Route 17K and cannabis distribution facilities in accordance with Section 185-48.9”

5. Chapter 185, “Zoning” of the Code of the Town of Newburgh, Table of Use and Bulk Requirements for the B Zoning District, Schedule 7 of the Code adopted and incorporated into the Code pursuant to §185-10 entitled “Utilization of Use Table” and §185-11 entitled “Utilization of Bulk Table” shall be amended as follows:

A. Number 1 of Column D entitled “Uses Subject to Site Plan Review by the Planning Board” shall be amended to read as follows:

“1. Retail stores and personal service stores and uses, health clubs and fitness facilities, cannabis retail dispensaries in accordance with Section 185-48.9 and cannabis medical dispensaries in accordance with Section 185-48.9.”

6. Chapter 185, “Zoning” of the Code of the Town of Newburgh, Table of Use and Bulk Requirements for the AR Zoning District, Schedule 2 of the Code adopted and incorporated into the Code pursuant to §185-10 entitled “Utilization of Use Table” and §185-11 entitled “Utilization of Bulk Table” shall be amended as follows:

A. A new item number “15” is added for the use “Cannabis Microbusiness Premises in accordance with Section 185.48.9 ” to read as follows:

“15. Cannabis Microbusiness Premises in accordance with Section 185.48.9”

B. Table of Use & Bulk Requirements, AR District, Schedule 2, is hereby amended to add under column “D”, for the new items number “15”, “Cannabis Microbusiness Premises in accordance with Section 185.48.9”, the following bulk requirements:

Lot Area	-	100,000 sq. ft.
Lot Width (feet)	-	150
Lot Depth (feet)	-	150
Front Yard (feet)	-	50
Rear Yard (feet)	-	50
1 Side Yard (feet)	-	50
Both Side Yards (feet)	-	100
Habitable Floor Area Per Dwelling Unit	-	NA
Dwelling Units Per Acre	-	NA
Lot Building Coverage (Percent)	-	20%
Building Height (feet) Lot Surface	-	35
Coverage (Percent)	-	40%

C. Table of Use & Bulk Requirements, AR District, Schedule 2, is hereby amended to add under column "B", "Permitted with" item "D15" in conjunction with item 4 "Signs in accordance with § 185-14," item 13 "Barns, silos, produce-storage structures and packing warehouses not within 50 feet of any lot line" and item 15 "Outdoor storage of farm equipment in other than a front yard" as follows:

A

"4. Signs in accordance with § 185-14"

"13. Barns, silos, produce-storage
structures and packing warehouses
not within 50 feet of any lot line"

B.

~~"C1-3, D1, 2 and 8-C4, D4-7,
11, 12-C3-5, D1-12, D15"~~

"C5, D15"

"15. Outdoor storage of farm equipment
in other than a front yard"

"C5, D15"

SECTION 4 - 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 5 - 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

#10B



Rider Weiner & Frankel P.C.
ATTORNEYS & COUNSELORS AT LAW

MEMORANDUM

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655 Little Britain Road
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P.O. Box 2280
Newburgh, NY 12550

TO: HON. GILBERT J. PIAQUADIO, SUPERVISOR
TOWN BOARD MEMBERS
FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN
RE: CHAPTER 71 BUILDING CONSTRUCTION CODE UPDATE
CHAPTER 104 FEES AMENDMENT
OUR FILE NO. 800.1(B)() (2022)
DATE: OCTOBER 21, 2022

ATTORNEYS
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(1942-2018)

OF COUNSEL
Craig F. Simon
Irene V. Villacci

New York State Department of State is requiring municipalities to update their Municipal Codes in order to continue administering and enforcing the State Building and related Codes. In conjunction with the Code Compliance Department, we have accordingly prepared for the Town Board's consideration the enclosed Introductory Local Law amending Chapter 71 of the Town's Code, which is based on the model provided by the Department of State.

Additionally enclosed is a Local Law which would add a fee for operating permits, a new category of permit that will apply in certain instances when certificates of occupancy are not required.

Should you have any questions or concerns, please do not hesitate to contact me.

cc: Town Clerk Lisa M. Vance Ayers (via e-mail)
Gerald Canfield, Code Compliance Supervisor (via e-mail)
James Osborne, Town Engineer (via e-mail)
Patrick Hines, Principal, McGoey, Hauser & Edsal (via e-mail)
Joseph Mattina, Building Inspector (via e-mail)
Ronald Clum, Town Accountant (via e-mail)

**TOWN OF NEWBURGH
INTRODUCTORY LOCAL LAW # __ OF 2022
A LOCAL LAW
AMENDING CHAPTER 71 ENTITLED
"BUILDING CONSTRUCTION"
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 Chapter 71 Entitled 'Building Construction of the Code of the Town of Newburgh'".

SECTION 2 - AMENDMENT TO CHAPTER 71.

1. Chapter 71 entitled "Building Construction" of the Code of the Town of Newburgh is hereby amended, to read as follow:

**"CHAPTER 71
BUILDING CONSTRUCTION**

Article I PURPOSE AND DEFINITIONS

§71-1 Purpose and intent.

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Town of Newburgh. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, the Energy Code other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

§71-2 Definitions

In this local law, the following terms shall have the meanings shown in this section:

ASSEMBLY AREA

An area in any building, or in any portion of a building, that is primarily used or intended to be used for gathering fifty or more persons for uses including, but not limited to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

BUILDING PERMIT

A building permit, construction permit, demolition permit, or other permit that authorizes the performance of work. The term "Building Permit" shall also include a Building Permit which is renewed, amended, or extended pursuant to any provision of this local law.

CERTIFICATE OF COMPLIANCE

A document issued by the Town stating that work was done in compliance with approved construction documents and the Codes.

CERTIFICATE OF OCCUPANCY

A document issued by the Town certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the Town, and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

CODE COMPLIANCE SUPERVISOR

The Code Compliance Supervisor appointed pursuant to subdivision B of §71-3 of this Chapter.

CODE ENFORCEMENT OFFICER

A code enforcement officer or assistant code enforcement officer appointed pursuant to subdivision D of §71-3 of this Chapter.

CODE ENFORCEMENT PERSONNEL

The Code Compliance Supervisor, Code Enforcement Officers and all Inspectors.

CODES

The Uniform Code and Energy Code.

ELECTRICAL INSPECTOR

A third party inspector who has the proper credentials to perform electrical inspections that confirm compliance with the National Electric Code, the Codes, local municipal codes and any electrical utility specifications that may supersede portions of the aforementioned codes.

ENERGY CODE

The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law.

FCNYS

The 2020 Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225.

FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTION

An inspection performed to determine compliance with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference.

HAZARDOUS PRODUCTION MATERIALS shall mean a solid, liquid, or gas associated with semiconductor manufacturing that has a degree-of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard Systems for Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.

INSPECTOR

An inspector or assistant inspector appointed pursuant to subdivision D of §71-3 of this Chapter.

MOBILE FOOD PREPARATION VEHICLES

Vehicles that contain cooking equipment that produces smoke or grease-laden vapors for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles.

OPERATING PERMIT

A permit issued pursuant to §71-10 of this Chapter. The term "Operating Permit" shall also include an Operating Permit which is renewed, amended, or extended pursuant to any provision of this local law.

ORDER TO REMEDY

An order issued by the Code Compliance Supervisor pursuant to subdivision A of §71-17 of this Chapter.

PERMIT HOLDER

The Person to whom a Building Permit has been issued.

PERSON

An individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

PMCNYS

The 2020 Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.

RCNYS

The 2020 Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

REPAIR

The reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

STOP WORK ORDER

An order issued pursuant to §71-7 of this Chapter.

SUGARHOUSE

A building used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup and/or maple sugar.

TEMPORARY CERTIFICATE OF OCCUPANCY

A certificate issued pursuant to subdivision D of §71-8 of this Chapter.

TOWN

The Town of Newburgh

UNIFORM CODE

The New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of Title 19 of the NYCRR, adopted pursuant to Article 18 of the Executive Law. Such Code includes:

RCNYS;
Building Code of NY State
Plumbing Code of NY State
Mechanical Code of NY State
Existing Building Code of NY State
Fuel Gas Code of NY State
PMPYS; and
FCNYS

ARTICLE III ADMINISTRATION AND ENFORCEMENT

§71-3 Code Compliance Supervisor, Code Enforcement Officers and Inspectors

A. The Office of Code Compliance Supervisor is hereby created. The Code Compliance Supervisor shall administer and enforce all the provisions of the Uniform Code, the Energy Code, and this local law. The Code Compliance Supervisor shall have the following powers and duties:

(1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and the plans, specifications, and construction documents submitted with such applications;

(2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and to include in terms and conditions as the Code Compliance Supervisor may determine to be appropriate Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits;

(3) to conduct construction inspections; inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits; fire safety and property maintenance inspections; inspections incidental to the investigation of complaints; and all other inspections required or permitted under any provision of this local law;

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivision A of §71-18 (Violations) of this Chapter;

(7) to maintain records;

(8) to collect fees as set by the Town Board of this Town;

(9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code, and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code, or this local law;

(11) to supervise and direct the Fire Inspector and Deputy Fire Inspector in the performance of their duties pursuant to Chapter 107; and

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Compliance Supervisor by this local law.

B. The Code Compliance Supervisor shall be appointed by the Town Board. The Code Compliance Supervisor shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and the Code Compliance Supervisor shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

C. In the event that the Code Compliance Supervisor is unable to serve as such for any reason, another individual shall be appointed by the Town Board to serve as Acting Code Compliance Supervisor. The Acting Code Compliance Supervisor shall, during the term of their appointment, exercise all powers and fulfill all duties conferred upon the Code Compliance Supervisor by this local law.

D. One or more Code Enforcement Officers and Inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Compliance Supervisor and to assist the Code Compliance Supervisor in the exercise of the powers and fulfillment of the duties conferred upon the Code Compliance Supervisor by this local law. Each Code Enforcement Officer and Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

E. The compensation for the Code Compliance Supervisor, Code Enforcement Officers and Inspectors shall be fixed from time to time by the Town Board of this Town.

F. The Code Compliance Supervisor, Code Enforcement Officers and Inspectors shall not engage in any activity inconsistent with his or her duties for the town, nor, during the time of his or her employment, nor shall he or she be engaged directly or indirectly in any building business, furnishing of labor, materials or equipment for the construction, alteration or maintenance of a building or the preparation of plans or specifications thereof within the town, excepting only that this provision shall not prohibit such Code Compliance Personnel from such activities in connection with the construction of a building or structure owned by him or her.

§71-4. Building permits

A. Building Permits Required. A Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation, or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney, or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Town.

B. This subdivision is intentionally omitted.

C. This subdivision is intentionally omitted.

D. Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Compliance Supervisor. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Compliance Supervisor deems sufficient to permit a determination by the Code Compliance Supervisor that the intended work complies with all applicable requirements of the Uniform Code

and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the location, nature, extent, and scope of the proposed work;
- (2) the tax map number and the street address of any affected building or structure;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least 2 sets of construction documents (drawings and/or specifications) which (i) describe the location, nature, extent, and scope of the proposed work; (ii) show that the proposed work will conform to the applicable provisions of the Codes; (iii) show the location, construction, size, and character of all portions of the means of egress; (iv) show a representation of the building thermal envelope; (v) show structural information including but not limited to braced wall designs, the size, section, and relative locations of structural members, design loads, and other pertinent structural information; (vi) show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building; (vii) include a written statement indicating compliance with the Energy Code; (viii) include a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site, distances from lot lines, the established street grades and the proposed finished grades; and, as applicable, flood hazard areas, floodways, and design flood elevations; and (ix) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's Certificate of Authorization number.

E. Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision D of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Compliance Supervisor in writing or by stamp, or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the Code Compliance Supervisor, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to

commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

F. Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Compliance Supervisor shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

G. Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

H. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Compliance Supervisor of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Compliance Supervisor determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

I. Time limits. Building Permits shall become invalid unless the authorized work is commenced within 6 months following the date of issuance. Building Permits shall expire 18 months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Compliance Supervisor.

J. Revocation or suspension of Building Permits. If the Code Compliance Personnel determine that a Building Permit was issued in error because of incorrect, inaccurate, or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Compliance Supervisor, Code Enforcement Officer or Inspector shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

K. Fee. The fee specified in or determined in accordance with the provisions set forth in Chapter 104 "Fees" of the Municipal Code must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

§71-5 Construction inspections

A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Compliance Supervisor or by an Inspector authorized by the Code Compliance Supervisor. The Permit Holder shall notify the Code Compliance office when any element of work described in subdivision B of this section is ready for inspection. Scheduling of inspections shall be at the reasonable discretion of the Code Compliance office

B. Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:

- (1) work site prior to the issuance of a Building Permit;
- (2) footing and foundation;
- (3) preparation for concrete slab;
- (4) framing;
- (5) structural, electrical, plumbing, mechanical, fire-protection, and other similar service systems of the building;
- (6) fire resistant construction;
- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues, or gas vents;
- (9) inspections required to demonstrate Energy Code compliance, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, and high-performance lighting and controls;
- (10) installation, connection, and assembly of factory manufactured buildings and manufactured homes; and
- (11) a final inspection after all work authorized by the Building Permit has been completed.

C. Remote inspections. At the discretion of the Code Compliance Supervisor or Inspector authorized to perform construction inspections, a remote inspection may be performed in lieu of an in-person inspection when, in the opinion of the Code Compliance Supervisor or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Compliance Supervisor or by such authorized Inspector that the elements of the construction process conform with the applicable requirements of the Uniform Code and Energy Code. Should a remote inspection not afford the Code Compliance Supervisor or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

D. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to the manner in which the work fails to

comply with the Uniform Code or Energy Code, including a citation to the specific code provision or provisions that have not been met. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

E. Fee. The fee specified in or determined in accordance with the provisions set forth in Chapter 104 of this Municipal Code must be paid prior to or at the time of each inspection performed pursuant to this section.

§71.6. Revocation or suspension of Building Permits

In addition to the circumstances set forth in Subsection J of §71-4, Code Enforcement Personnel may revoke a building permit theretofore issued and approved in the following instances:

A. Where Code Compliance Personnel find that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based;

B. Where Code Compliance Personnel find that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications; or

C. Where the person to whom a building permit has been issued fails or refuses to comply with a duly issued stop work order.

Such suspension or revocation shall remain in effect until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

§71.7. Stop work orders

A. Authority to issue. The Code Enforcement Personnel are authorized to issue Stop Work Orders pursuant to this section. Code Enforcement Personnel shall issue a Stop Work Order to halt:

(1) any work that is determined by the Code Compliance Supervisor, Code Enforcement Officer or Inspector to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Compliance Supervisor, Code Enforcement Officer or Inspector, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

B. Content of Stop Work Orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Compliance Supervisor, Code Enforcement Officer or Inspector, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

C. Service of Stop Work Orders. The Code Compliance Supervisor, Code Enforcement Officer or Inspector shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified mail. The issuing Code Compliance Supervisor, Code Enforcement Officer or Inspector shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

D. Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder, and any other Person performing, taking part in, or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order, other than work expressly authorized by the Code Compliance Personnel to correct the reason for issuing the Stop Work Order.

E. Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision A of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under §71-18 (Violations) of this Chapter or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

§71-8. Certificates of occupancy and certificates of compliance

A. Certificates of Occupancy and Certificates of Compliance required. A Certificate of Occupancy or Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy or Certificate of Compliance.

B. Issuance of Certificates of Occupancy and Certificates of Compliance. Code Compliance Personnel shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion

thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Compliance Supervisor, or a Code Enforcement Officer or Inspector authorized by the Code Compliance Supervisor shall inspect the building, structure, or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Compliance Supervisor, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to Code Compliance Personnel prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:

- (1) a written statement of structural observations and/or a final report of special inspections,
- (2) flood hazard certifications,
- (3) a written statement of the results of tests performed to show compliance with the Energy Code, and
- (4) where applicable, the affixation of the appropriate seals, insignias, and manufacturer's data plates as required for factory manufactured buildings and/or manufactured homes.

C. Contents of Certificates of Occupancy and Certificates of Compliance. A Certificate of Occupancy or Certificate of Compliance shall contain the following information:

- (1) the Building Permit number, if any;
- (2) the date of issuance of the Building Permit, if any;
- (3) the name (if any), address and tax map number of the property;
- (4) if the Certificate of Occupancy or Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy or Certificate of Compliance is issued;
- (5) the use and occupancy classification of the structure;
- (6) the type of construction of the structure;
- (7) the occupant load of the assembly areas in the structure, if any;
- (8) any special conditions imposed in connection with the issuance of the Building Permit; and
- (9) the signature of the Code Compliance Supervisor, Code Enforcement Officer or Inspector issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.

D. Temporary Certificate of Occupancy. Code Compliance Personnel shall be permitted to issue a Temporary Certificate of Occupancy allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit.

However, in no event shall the Code Compliance Supervisor issue a Temporary Certificate of Occupancy unless the Code Compliance Supervisor, Code Enforcement Officer or Inspector determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate of Occupancy, may be occupied safely, (2) that any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational, and (3) that all required means of egress from the structure have been provided. The issuing Code Compliance Supervisor, Code Enforcement Officer or Inspector may include in a Temporary Certificate of Occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure. A Temporary Certificate of Occupancy shall be effective for a period of time, not to exceed 6 months, which shall be determined by the Code Compliance Supervisor, Code Enforcement Officer or Inspector and specified in the Temporary Certificate of Occupancy. During the specified period of effectiveness of the Temporary Certificate of Occupancy, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

E. Revocation or suspension of certificates. If the Code Compliance Supervisor, Code Enforcement Officer or Inspector determines that a Certificate of Occupancy, Certification of Compliance, or a Temporary Certificate of Occupancy was issued in error or on the basis of incorrect information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Compliance Supervisor within such period of time as shall be specified by the Code Compliance Supervisor, Code Enforcement Officer or Inspector, the Code Compliance Supervisor, Code Enforcement Officer or Inspector shall revoke or suspend such certificate.

F. Fee. The fee specified in or determined in accordance with the provisions set forth in Chapter 104 (Fees) of this Code must be paid at the time of submission of an application for a Certificate of Occupancy, Certificate of Compliance, or for Temporary Certificate of Occupancy.

§71-9. Notification regarding fire or explosion

The chief of any fire department providing firefighting services for a property within this Town shall promptly notify the Code Compliance Supervisor of any fire or explosion involving any structural damage, fuel burning appliance, chimney, or gas vent.

§71-10. Unsafe buildings, structures and equipment and conditions of imminent danger

Unsafe buildings, structures, and equipment and conditions of imminent danger in this Town shall be identified and addressed in accordance with the procedures established by Chapter 75 of this Municipal Code, as now in effect or as hereafter amended from time to time.

§71-11. Operating permits

A. Operation Permits required. Operating Permits shall be required for conducting any process or activity or for operating any type of building, structure, or facility listed below:

(1) manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;

(2) buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS as follows:

(i) Chapter 22, "Combustible Dust-Producing Operations." Facilities where the operation produces combustible dust;

(ii) Chapter 24, "Flammable Finishes." Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;

(iii) Chapter 25, "Fruit and Crop Ripening." Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;

(iv) Chapter 26, "Fumigation and Insecticidal Fogging." Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;

(v) Chapter 31, "Tents, Temporary Special Event Structures, and Other Membrane Structures." Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;

(vi) Chapter 32, "High-Piled Combustible Storage." High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;

(vii) Chapter 34, "Tire Rebuilding and Tire Storage." Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;

(viii) Chapter 35, "Welding and Other Hot Work." Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;

(ix) Chapter 40, "Sugarhouse Alternative Activity Provisions." Conducting an alternative activity at a sugarhouse;

(x) Chapter 56, "Explosives and Fireworks." Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;

(xi) Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces." Conducting open burning, not including recreational fires and portable outdoor fireplaces;

(xii) Section 308, "Open Flames." Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and

(xiii) Section 319, "Mobile Food Preparation Vehicles." Operating a mobile food preparation vehicle in accordance with the permitting requirements established pursuant to Section 319 of the FCNY, as now in effect or as hereafter amended from time to time.

(3) energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS.

(4) buildings containing one or more assembly areas;

(5) outdoor events where the planned attendance exceeds 1,000 persons;

(6) facilities that store, handle or use hazardous production materials;

(7) parking garages as defined in subdivision A of §71-14 of this Chapter;

(8) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town; and

(9) other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the Town Board of this Town. Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision A shall be required to obtain an Operating Permit prior to commencing such activity or operation.

B. Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Compliance Supervisor. Such application shall include such information as the Code Compliance Supervisor deems sufficient to permit a determination by the Code Compliance Supervisor that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Compliance Supervisor determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Compliance Supervisor, at the expense of the applicant.

C. Exemptions. Operating permits shall not be required for processes or activities, or the buildings, structures, or facilities listed in paragraphs (1) through (7) of subdivision A of this section, provided that the use is expressly authorized by a certificate of occupancy or certificate of compliance, fire safety and property maintenance inspections are performed in accordance with §71-11 (Fire Safety and Property Maintenance Inspections) of this Chapter, and condition

assessments are performed in compliance with §71-14 (Condition Assessments of Parking Garages) of this Chapter, as applicable.

C. This subdivision is intentionally omitted.

D. Inspections. The Code Compliance Supervisor or an Inspector authorized by the Code Compliance Supervisor shall inspect the subject premises prior to the issuance of an Operating Permit. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the Code Compliance Supervisor or an Inspector authorized by the Code Compliance Supervisor, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Compliance Supervisor or Inspector authorized by the Code Compliance Supervisor that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the Town sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fail to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provision or provisions that have not been met.

E. Multiple Activities. In any circumstance in which more than one activity listed in subdivision A of this section is to be conducted at a location, the Code Compliance Supervisor may require a separate Operating Permit for each such activity, or the Code Compliance Supervisor may, in their discretion, issue a single Operating Permit to apply to all such activities.

F. Duration of Operating Permits. Operating permits shall be issued for a specified period of time consistent with local conditions, but in no event to exceed as follows:

- (1) 180 days for tents, special event structures, and other membrane structures;
- (2) 60 days for alternative activities at a sugarhouse;
- (3) 3 years for the activities, structures, and operations determined per paragraph (9) of subdivision A of this section, and
- (4) 1 year for all other activities, structures, and operations identified in subdivision A of this section.

The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Compliance Supervisor, payment of the applicable fee, and approval of such application by the Code Compliance Supervisor.

G. Revocation or suspension of Operating Permits. If the Code Compliance Supervisor determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

H. Fee. The fee specified in or determined in accordance with the provisions set forth in Chapter 104 of this Municipal Code must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

§71-12. Fire safety and property maintenance inspections

A. Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Compliance Supervisor or an Inspector designated by the Code Compliance Supervisor at the following intervals:

- (1) at least once every 12 months for buildings which contain an assembly area;
- (2) at least once every 12 months for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities; and
- (3) at least once every thirty-six months for multiple dwellings and all nonresidential occupancies.

B. Remote inspections. At the discretion of the Code Compliance Supervisor or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Compliance Supervisor or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Compliance Supervisor or such authorized Inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Compliance Supervisor or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

C. Inspections permitted. In addition to the inspections required by subdivision A of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Compliance Supervisor or an Inspector authorized to perform fire safety and property maintenance inspections at any time upon:

- (1) the request of the owner of the property to be inspected or an authorized agent of such owner;
- (2) receipt by the Code Compliance Supervisor of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- (3) receipt by the Code Compliance Supervisor of any other information, reasonably believed by the Code Compliance Supervisor to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

D. OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit, or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator or other authorized entity under Executive Law section 156-e and Education Law section 807-b.

E. Fee. The fee specified in or determined in accordance with the provisions set forth in Chapter 104 (Fees) of this Municipal Code must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

§71-13. Complaints

Code Compliance Personnel shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law, ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Compliance Supervisor may deem to be appropriate:

A. performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

B. if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in §71- 18 (Violations) of this chapter;

C. if appropriate, issuing a Stop Work Order;

D. if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

§71-14. Condition assessments of parking garages

A. Definitions. For the purposes of this section:

(1) the term "condition assessment" means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;

(2) the term "deterioration" means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;

(3) the term "parking garage" means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:

(i) buildings in which the only level used for parking or storage of motor vehicles is on grade;

(ii) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and

(iii) a townhouse unit with attached parking exclusively for such unit;

(4) the term "professional engineer" means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;

(5) the term "responsible professional engineer" means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term "responsible professional engineer" shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.

(6) the term "unsafe condition" includes the conditions identified as "unsafe" in section 304.1.1, section 305.1.1, and section 306.1.1 of the PMCNYS; and

(7) the term "unsafe structure" means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

B. Condition Assessments – general requirements. The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in subdivision C of this section, periodic condition assessments as described in subdivision D of this section, and such additional condition assessments as may be required under subdivision E of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the Town, in accordance with the requirements of subdivision F of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

C. Initial Condition Assessment. Each parking garage shall undergo an initial condition assessment as follows:

(1) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.

(2) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:

(i) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;

(ii) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and

(iii) if originally constructed between January 1, 2003 and August 28, 2018, then prior to October 1, 2021.

(3) Any parking garage constructed prior to the effective date of the local law enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment prior to a date not more than six (6) months after the effective date of this local law.

D. Periodic Condition Assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed 3 years.

E. Additional Condition Assessments.

(1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under subdivision C of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.

(2) If the Town becomes aware of any new or increased deterioration which, in the judgment of the Town, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under subdivision C of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the Town to be appropriate.

F. Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Town within 30 days. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

- (1) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;
- (2) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;
- (3) an evaluation and description of the unsafe conditions;
- (4) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;
- (5) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;
- (6) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;
- (7) the responsible professional engineer's recommendation regarding preventative maintenance;
- (8) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and
- (9) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in their professional judgment.

G. Review Condition Assessment Reports. The Town shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Town shall, by Order to Remedy or such other means of enforcement as the Town may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause

deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision F. All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Town to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

H. The Town shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the Town with a written statement attesting to the fact that he or she has been so engaged, the Town shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Town shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

I. This section shall not limit or impair the right or the obligation of the Town:

(1) to perform such construction inspections as are required by §71-5 (Construction Inspections) of this Chapter;

(2) to perform such periodic fire safety and property maintenance inspections as are required by §71-12 (Fire Safety and Property Maintenance Inspections) of this Chapter; and/or

(3) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Town by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

§71-15. Climatic and geographic design criteria

A. The Code Compliance Supervisor shall determine the climatic and geographic design criteria for buildings and structures constructed within this Town as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where applicable, the maps, charts, and other information provided in the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:

(1) design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;

(2) heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and

(3) flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:

- (i) the accompanying Flood Insurance Rate Map (FIRM);
- (ii) Flood Boundary and Floodway Map (FBFM); and
- (iii) related supporting data along with any revisions thereto.

B. The Code Compliance Supervisor shall prepare a written record of the climatic and geographic design criteria determined pursuant to subdivision A of this section, shall maintain such record within the office of the Code Compliance Supervisor, and shall make such record readily available to the public.

§71-16. Record keeping

A. The Code Compliance Supervisor shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

- (1) all applications received, reviewed and approved or denied;
- (2) all plans, specifications and construction documents approved;
- (3) all Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
- (4) all inspections and tests performed;
- (5) all statements and reports issued;
- (6) all complaints received;
- (7) all investigations conducted;
- (8) all condition assessment reports received;
- (9) all fees charged and collected; and
- (10) all other features and activities specified in or contemplated by §71-3 through 71-15, inclusive, of this Chapter

B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

§71-17. Program review and reporting

A. The Code Compliance Supervisor shall annually submit to the Town Board of this Town a written report and summary of all business conducted by the Code Compliance Supervisor and the Inspectors, including a report and summary of all transactions and activities described in §71-16

(Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

B. The Code Compliance Supervisor shall annually submit to the Secretary of State, on behalf of this Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.

C. The Code Compliance Supervisor shall, upon request of the New York State Department of State, provide to the New York State Department of State, true and complete copies of the records and related materials this Town is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics, and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code and/or Energy Code as may be requested by the Department of State.

§71-18 Violations

A. Orders to Remedy. The Code Compliance Supervisor is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. An Order to Remedy shall be in writing; shall be dated and signed by the Code Compliance Supervisor; shall specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; and shall include a statement substantially similar to the following:

“The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by _____ [specify date], which is thirty (30) days after the date of this Order to Remedy.”

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Compliance Supervisor may deem appropriate, during the period while such violations are being remedied. The Code Compliance Supervisor shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy. The Code Compliance Supervisor shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any

other Person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

B. Appearance Tickets. The Code Compliance Supervisor and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

C. Penalties. In addition to such other penalties as may be prescribed by State law,

(1) any Person who violates any provision of this local law or any term, condition, or provision of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Compliance Supervisor pursuant to any provision of this local law, shall be punishable by a fine of not more than \$250 per day of violation, or imprisonment not exceeding 15 days, or both; and

(2) any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Compliance Supervisor pursuant to any provision of this local law, shall be liable to pay a civil penalty of not more than \$250 for each day or part thereof during which such violation continues. The civil penalties provided by this paragraph shall be recoverable in an action instituted in the name of this Town.

D. Injunctive Relief. An action or proceeding may be instituted in the name of this Town in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Order to Remedy, or other notice or order issued by the Code Compliance Supervisor pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of this Town.

E. Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in §71-7 (Stop Work Orders) of this Chapter, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with,

or after the pursuit of any other remedy or penalty specified in this section, in §71-7 (Stop Work Orders) of this Chapter, in any other section of this Chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law. In addition, the Code Compliance Supervisor may compromise and settle any violation by way of a civil settlement or compromise or consent order.

ARTICLE III ELECTRICAL INSPECTIONS

§71-19 Authorized inspection agencies

Each of the duly appointed Electrical Inspectors of such authorized inspection agencies as the Town Board may appoint by formal resolution, upon such reasonable conditions as the Town Board deems appropriate, including but not limited to establishment of a uniform, reasonable fee, are hereby authorized and deputed as agents of the town to make inspections and reinspections of all electrical installations hereinafter described and to approve or disapprove the same. In no event, however, will the cost or expense of such inspections and reinspections be a charge against the town.

§71-20 Duties of Electrical Inspector

A. It shall be the duty of each Electrical Inspector to report to the Code Compliance Supervisor all violations of or deviations from or omissions of the electrical provisions of the National Electrical Code and this Municipal Code. The Electrical Inspector shall make inspections and reinspections of electrical installations in and on properties in the town upon the written request of Code Compliance Personnel or the Fire Inspector or as herein provided.

B. Electrical Inspectors are authorized to make inspections and reinspections of electrical wiring installations, devices, appliances and equipment in and on properties within the town where the Electrical Inspector deems it necessary for the protection of life and property, with the exception of single-family dwellings. The Electrical Inspector shall inspect single-family dwellings only upon request of the Code Compliance Personnel or the Fire Inspector.

C. In the event of an emergency, it is the duty of the Electrical Inspector to make electrical inspections upon the oral request of an official or officer of the town.

D. It shall be the duty of the Electrical Inspector to furnish written reports to the proper officials of the town and owners and/or lessees of property where defective electrical installations and equipment are found upon inspection.

E. Electrical Inspectors shall authorize the issuing of a certificate of compliance when electrical installations and equipment are in conformity with the National Electrical Code or with the Municipal Code and the Electrical Inspector shall direct that a copy of the certificate of compliance be sent to the Code Compliance Supervisor.

§71-21 Schedule of Rates

The schedule of rates charged for electrical inspection shall be filed with the Town Clerk and the Code Compliance Supervisor.

§71-22 Exemption permits

A. The Code Compliance Supervisor is empowered and directed to issue a permit granting exemption from the provisions of this Article to each person, firm or corporation engaged in the conduct of manufacturing in or on properties in the town upon written application of such person, firm or corporation, hereinafter called the "applicant," setting forth that:

(1) The applicant is engaged in the conduct of manufacturing in the town.

(2) The applicant regularly employs one (1) or more journeyman electricians, whose principal duties are the installation, maintenance and repair of electrical machinery, appliances, equipment and wiring for electric light, heat or power, hereinafter called "electrical work," in or upon the premises used by the applicant in the conduct of manufacturing.

(3) By reason of the amount and frequency of electrical work so performed upon the applicant's premises, compliance with the provisions of this Article would impose an undue burden on the applicant's conduct of manufacturing operations.

B. The term "journeyman electrician" shall mean a person who has completed an apprentice course or received equivalent training or has equivalent experience of at least three (3) years in electrical work.

C. Each permit so issued shall be for a period of one (1) year, and such permit shall be renewed for successive one-year periods upon supplemental application by the applicant certifying that the statements contained in the original application remain true and correct.

§71-23 Exceptions

- A. The provisions of this Article shall not apply to the electrical installations in mines, ships, railway cars or automotive equipment or the installations or equipment employed by a railway, electrical or communication utility in the exercise of its function as a utility and located outdoors or in buildings used exclusively for that purpose.
- B. This Article shall not apply to any work involved in the manufacture, assembly, test or repair of electrical machinery, apparatus, materials and equipment by a person, firm or corporation engaged in electrical manufacturing as his or its principal business.
- C. This Article shall not apply to any building which is owned or leased in its entirety by the government of the United States or the State of New York.

§71-24 No waiver or assumption of liability

This Article shall not be construed to relieve from or lessen the responsibility of any person owning, operating, controlling or installing any electrical wiring, devices, appliances or equipment for loss of life or damage to person or property caused by any defect therein, nor shall the town or any other duly appointed inspection agency be deemed to have assumed any such liability by reason of any inspection made pursuant to this Article.

§71-25 Violations of Article

- A. It shall be a violation of this Article for any person, firm or corporation to install or cause to be installed or to alter or repair electrical wiring for light, heat or power in or on properties in the town until an application for inspection has been filed with the duly appointed inspection agency.
- B. It shall be a violation of this Article for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power to any source of electrical energy supply prior to the issuance of a temporary certificate or a certificate of compliance by the duly appointed inspection agency.

ARTICLE IV FEES

§71-26 Fees

The fees set forth in or determined in accordance with Chapter 104, Fees, as it may be amended from time to time shall be charged and collected for the submission of applications, the issuance

of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Compliance Supervisor described in or contemplated by this Chapter.

ARTICLE V. INTERMUNICIPAL AGREEMENTS

§71-27. Intermunicipal agreements

The Town Board of this Town may, by resolution, authorize the Supervisor of this Town to enter into an agreement or agreements, in the name of this Town with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.”

SECTION 3 - NO DEFENSE

Any activity, use of premises, land or building or structure or part thereof for purposes of unlawful conduct existing at the time this local law, or amendments thereto, becomes effective, may not be continued, and such use shall not serve to create a lawful, nonconforming use, or serve as a valid defense to enforcement of this local law.

SECTION 4 - 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 5 - 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.



INTRODUCTORY LOCAL LAW NO. ___ OF THE YEAR 2022

TOWN OF NEWBURGH

A LOCAL LAW AMENDING CHAPTER 104 ENTITLED "SCHEDULE OF FEES" OF THE TOWN OF NEWBURGH MUNICIPAL CODE: OPERATING PERMIT APPLICATION FEE

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

SECTION 1 - TITLE This Local Law shall be referred to as "A Local Law Amending Chapter 104 entitled 'Schedule of Fees' of the Code of the Town of Newburgh: Operating Permit Application Fee".

SECTION 2 - AMENDMENTS TO CHAPTER 104

- A. Subsection C of Section 104-2 entitled "Planning, zoning and building fees" of Chapter 104 entitled "Schedule of Fees" of the Town of Newburgh Municipal Code be and hereby is amended as follows:

A new sub-subsection 104-2C(8) is hereby added to read as follows:

"(8) Upon filing of an application for an operating permit,
the following fee shall be charged: \$100".

SECTION 4 - VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION 5 - EFFECTIVE DATE

This Local Law shall take effect on the later of the date 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.

#11




HIGHWAY DEPARTMENT

90 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

TELEPHONE 845-561-2177
FAX 845-561-8987

MARK HALL
HIGHWAY SUPERINTENDENT

TO: Gil Piaquadio, Supervisor & Town Board Members
FROM: Mark Hall, Highway Superintendent 
DATE: October 17, 2022
RE: Fall Leaf and Brush Pick-up

I would like to get the approval to have the attached letter published in the local newspapers to inform the Town Residents of the Fall pick-up schedule. Pick-up will be for the week of November 14, 2022 to November 17, 2022 and November 18, 2022 for calls.

If you have any questions you may feel free to contact me in my office.

MH/ch

cc: Lisa Vance Ayers, Town Clerk



TOWN OF NEWBURGH RESIDENTS LEAF AND BRUSH PICKUP – FALL OF 2022

Town trucks will pick up bagged leaves and brush (which must be less than 4 inches in diameter & no longer than four (4) feet in length & tied in bundles). Leaves will be in CLEAR BAGS ONLY BY ORDER OF TOWN BOARD. CLEAR BAGS are available at many retail outlets & stores in the Greater Newburgh area. Leaves bagged with DIRT AND STONE mixed in will NOT be picked up. Bags of Grass Clippings, Pine Cones or Pine Needles will NOT be picked up. Town trucks will not return to any area once they have picked up in the area.

**Leaves & Brush must be curbside
throughout the entire Town on Monday,
November 14, 2022 no later than 7:00A.M.**

We wish to THANK YOU for your cooperation

A leaf and brush recycling bin is available to the public at the Town of Newburgh Highway Department at 90 Gardnertown Road, Newburgh. Hours are Monday thru Friday 7:00am to 3:00pm.

Elizabeth J. Greene, Councilwoman
Anthony LoBiondo, Councilman

Gil Piagnadio, Supervisor

Scott M. Manley, Councilman
Paul I. Ruggiero, Councilman

BY ORDER OF THE TOWN BOARD, Lisa Vance Ayers, Town Clerk

TOWN OF NEWBURGH
TOWN ENGINEER

#12A

MEMORANDUM

TO: G. Piaquadio, Supervisor & Town Board
FROM: J. Osborne, Town Engineer *JWO*
DATE: October 11, 2022
RE: W/Wintergreen Water System Improvements
Budget Transfer

Per discussions with Ron Clum, Town Accountant, I am requesting approval of the following budget transfers:

From: F9710.5700 (Serial Bonds Interest)
To: F9902.5900 (Interfund Transfers)
Amount: \$140,000

From: F9902.5900 (Interfund Transfers)
To: F8340.5458 (Repairs Trans./Collection System)
Amount: \$70,000

The transfer to Repairs Trans./Collection System will be used to pay for the water service line replacements the Town is funding in the Wintergreen subdivision. The remaining monies will be transferred to other capital projects as necessary before the end of the year.

As the above requires Town Board Action, I am requesting it be placed on the next agenda. If you have any questions, I am available to discuss them with you.

Cc: Ron Clum, Town Accountant
J. Guido, Water District Manager
P. Hines, MHE

#12B



TOWN OF NEWBURGH
1496 Route 300
NEWBURGH, NEW YORK 12550
(845) 564-4552

Date: 10/14/2022

Is the budget adjustment under \$7500?

Yes: _____ No: x

If yes, Please give Gil a copy to sign and deliver to the Accounting Office.

If no, Please have the board approve at the next available board meeting.

Reason why the budget transfer is needed:

The Chadwick Lake Filter Plant is temporarily shut down for upgrade improvements. As a result of the shutdown 1) more water is being treated at the DAT resulting in a higher chemical costs and 2) consulting costs are higher at DAT and less at CL due to the CL Resiliency Project shutdown.

From:	Account Number:	<u>4001.5459</u>	Amount:	<u>\$ (30,000.00)</u>
	Account Description:	<u>Chemicals</u>		
From:	Account Number:	<u>4001.5472</u>	Amount:	<u>\$ (120,000.00)</u>
	Account Description:	<u>Consultants</u>		
				<u>\$ (150,000.00)</u>

To:	Account Number:	<u>4002.5459</u>	Amount:	<u>\$ 30,000.00</u>
	Account Description:	<u>chemicals</u>		
To:	Account Number:	<u>4002.5472</u>	Amount:	<u>\$ 120,000.00</u>
	Account Description:	<u>Consultants</u>		
				<u>\$ 150,000.00</u>

Please note: The total of from/to should be equal.

Total 0.0

Department head signature

Gil Piaquadio, Town Supervisor

Budget Performance Report

Fiscal Year to Date 10/14/22
 Include Rollup Account and Rollup to Account

Account	Account Description	Adopted Budget	Budget Amendments	Amended Budget	Current Month Transactions	YTD Encumbrances	YTD Transactions	Budget - YTD Transactions	% Used/ Rec'd	Prior Year Total
Fund F - WATER DISTRICTS FUND										
EXPENSE										
Department 8330 - PURIFICATION										
Project 4001 - CHADWICK LAKE										
5100	PERSONAL SERVICES	62,048.00	.00	62,048.00	2,373.30	.00	54,174.29	7,873.71	87	69,328.55
5200	EQUIPMENT/OTHER CAPITAL	.00	51,000.00	51,000.00	.00	.00	26,500.00	24,500.00	52	.00
5401	TOWN ATTORNEY	1,000.00	.00	1,000.00	.00	.00	.00	1,000.00	0	.00
5452	VEHICLE CONTRACT REPAIRS	5,500.00	.00	5,500.00	.00	.00	2,845.50	2,654.50	52	6,261.77
5455	RADIO. COMM LEASE/RENTAL	600.00	.00	600.00	.00	.00	405.00	195.00	68	540.00
5457	SLUDGE HAULING/DISPOSAL	550,000.00	(20,000.00)	530,000.00	54,580.00	.00	236,253.20	293,746.80	45	414,388.00
5459	CHEMICALS	180,000.00	(40,000.00)	140,000.00	.00	.00	54,660.48	85,339.52	39	150,428.30
5461	OFFICE SUPPLIES	2,000.00	.00	2,000.00	.00	.00	477.34	1,522.66	24	1,574.68
5466	OPERATING SUPPLIES	40,000.00	(15,000.00)	25,000.00	.00	.00	6,056.74	18,943.26	24	20,040.55
5468	MEMBERSHIP DUES/SUBSCRIPTION	75.00	.00	75.00	.00	.00	.00	75.00	0	.00
5469	TRAVEL/CONF./MILEAGE/EDUC.	300.00	.00	300.00	.00	.00	.00	300.00	0	.00
5470	TESTING FEES	35,000.00	.00	35,000.00	30.99	.00	9,347.01	25,652.99	27	17,920.90
5471	PERMIT FEES	2,000.00	.00	2,000.00	.00	.00	.00	2,000.00	0	780.00
5472	CONSULTANT FEES	500,000.00	(50,000.00)	450,000.00	.00	.00	122,248.11	327,751.89	27	415,222.80
5474	REPAIRS TO NON-VEHICLE EQUIP	35,000.00	.00	35,000.00	.00	.00	12,695.44	22,304.56	36	18,768.98
5479	TELEMETERING-WATER FILTRATION	4,000.00	.00	4,000.00	.00	.00	1,811.11	2,188.89	45	1,729.98
5480	TELEPHONE	16,000.00	.00	16,000.00	70.00	.00	9,122.09	6,877.91	57	11,086.63
5481	UTILITIES-ELEC. FUEL OIL ETC.	135,000.00	.00	135,000.00	.00	.00	44,050.23	90,949.77	33	75,304.20
5496	PRINTING	2,000.00	.00	2,000.00	.00	.00	1,625.50	374.50	81	1,401.50
5497	MAINT.CONT./LEASES/RENTALS	6,000.00	6,500.00	12,500.00	.00	.00	9,166.44	3,333.56	73	12,982.04
5498	LEGAL NOTICES	750.00	.00	750.00	.00	.00	.00	750.00	0	.00
5499	OTHER EXPENSES	15,000.00	15,000.00	30,000.00	.00	.00	15,218.25	14,781.75	51	13,934.06
Project 4001 - CHADWICK LAKE Totals		\$1,592,273.00	(\$52,500.00)	\$1,539,773.00	\$57,054.29	\$0.00	\$606,656.73	\$933,116.27	39%	\$1,231,692.94
Project 4002 - DELAWARE AQUADUCT										
5100	PERSONAL SERVICES	17,089.00	.00	17,089.00	532.31	.00	11,008.79	6,080.21	64	14,386.37
5200	EQUIPMENT/OTHER CAPITAL	42,500.00	51,000.00	93,500.00	.00	.00	26,500.00	67,000.00	28	.00
5401	TOWN ATTORNEY	2,000.00	.00	2,000.00	.00	.00	.00	2,000.00	0	.00
5430	O/S WATER PURCHASES	1,400,000.00	.00	1,400,000.00	.00	.00	804,422.93	595,577.07	57	1,294,557.66
5452	VEHICLE CONTRACT REPAIRS	11,000.00	.00	11,000.00	.00	.00	2,845.50	8,154.50	26	6,261.77
5455	RADIO. COMM LEASE/RENTAL	3,400.00	.00	3,400.00	.00	.00	2,016.00	1,384.00	59	2,688.00
5457	SLUDGE HAULING/DISPOSAL	70,000.00	20,000.00	90,000.00	2,037.40	.00	65,381.80	24,618.20	73	45,292.00
5459	CHEMICALS	70,000.00	40,000.00	110,000.00	3,362.61	.00	107,413.67	2,586.33	98	51,694.06
5461	OFFICE SUPPLIES	5,000.00	.00	5,000.00	.00	.00	3,361.81	1,638.19	67	611.92
5466	OPERATING SUPPLIES	100,000.00	(6,500.00)	93,500.00	7,604.15	.00	24,155.81	69,344.19	26	12,840.46
5468	MEMBERSHIP DUES/SUBSCRIPTION	600.00	.00	600.00	.00	.00	.00	600.00	0	.00
5469	TRAVEL/CONF./MILEAGE/EDUC.	800.00	.00	800.00	.00	.00	.00	800.00	0	.00
5470	TESTING FEES	22,500.00	.00	22,500.00	22.00	.00	8,893.00	13,607.00	40	16,965.50

Budget Performance Report

Fiscal Year to Date 10/14/22
 Include Rollup Account and Rollup to Account

Account	Account Description	Adopted Budget	Budget Amendments	Amended Budget	Current Month Transactions	YTD Encumbrances	YTD Transactions	Budget - YTD Transactions	% Used/ Rec'd	Prior Year Total
Fund F - WATER DISTRICTS FUND										
EXPENSE										
Department: 8330 - PURIFICATION										
Project: 4002 - DELAWARE AQUADUCT										
5471	PERMIT FEES	9,500.00	.00	9,500.00	.00	.00	5,090.64	4,409.36	54	5,315.12
5472	CONSULTANT FEES	460,000.00	50,000.00	510,000.00	.00	.00	483,907.51	26,092.49	95	467,867.65
5474	REPAIRS TO NON-VEHICLE EQUIP	82,500.00	.00	82,500.00	1,352.66	.00	52,451.85	30,048.15	64	31,684.46
5479	TELEMETERING-WATER FILTRATION	18,000.00	.00	18,000.00	.00	.00	950.00	17,050.00	5	950.00
5480	TELEPHONE	15,000.00	.00	15,000.00	.00	.00	9,883.37	5,116.63	66	10,450.54
5481	UTILITIES-ELEC. FUEL OIL ETC.	180,000.00	.00	180,000.00	.00	.00	112,141.17	67,858.83	62	160,544.14
5496	PRINTING	4,000.00	.00	4,000.00	.00	.00	1,580.50	2,419.50	40	1,361.50
5497	MAINT.CONT./LEASES/RENTALS	16,000.00	.00	16,000.00	.00	.00	4,861.44	11,138.56	30	7,042.04
5498	LEGAL NOTICES	1,500.00	.00	1,500.00	.00	.00	1,500.00	1,500.00	0	.00
5499	OTHER EXPENSES	30,000.00	.00	30,000.00	.00	.00	12,896.62	17,103.38	43	3,430.84
Project 4002 - DELAWARE AQUADUCT Totals		\$2,561,389.00	\$154,500.00	\$2,715,889.00	\$14,911.13	\$0.00	\$1,739,762.41	\$976,126.59	64%	\$2,133,944.03
Department 8330 - PURIFICATION Totals		\$4,153,662.00	\$102,000.00	\$4,255,662.00	\$71,965.42	\$0.00	\$2,346,419.14	\$1,909,242.86	55%	\$3,365,636.97
EXPENSE TOTALS		\$4,153,662.00	\$102,000.00	\$4,255,662.00	\$71,965.42	\$0.00	\$2,346,419.14	\$1,909,242.86	55%	\$3,365,636.97
Fund F - WATER DISTRICTS FUND Totals										
REVENUE TOTALS		.00	.00	.00	.00	.00	.00	.00	+++	.00
EXPENSE TOTALS		4,153,662.00	102,000.00	4,255,662.00	71,965.42	.00	2,346,419.14	1,909,242.86	55%	3,365,636.97
Fund F - WATER DISTRICTS FUND Totals		(\$4,153,662.00)	(\$102,000.00)	(\$4,255,662.00)	(\$71,965.42)	\$0.00	(\$2,346,419.14)	(\$1,909,242.86)		(\$3,365,636.97)
Grand Totals										
REVENUE TOTALS		.00	.00	.00	.00	.00	.00	.00	+++	.00
EXPENSE TOTALS		4,153,662.00	102,000.00	4,255,662.00	71,965.42	.00	2,346,419.14	1,909,242.86	55%	3,365,636.97
Grand Totals		(\$4,153,662.00)	(\$102,000.00)	(\$4,255,662.00)	(\$71,965.42)	\$0.00	(\$2,346,419.14)	(\$1,909,242.86)		(\$3,365,636.97)

#12C



Town of Newburgh
1496 Route 300
Newburgh, NY 12550
845-564-4552

Date: 10/19/2022

Is the budget adjustment under \$7,500 ? Yes _____ No X

If yes, please give Gil a copy to sign and deliver to the Accounting Office.

If no, please have the board approve at the next available board meeting.

Reason why the budget transfer is needed To cover over-expenditures.

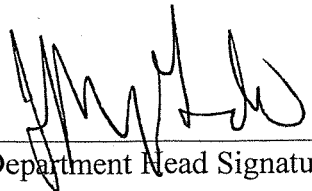
From: Account Number: 8130.5474.5010
Account Description: Repairs to Amount: \$ 40,000.00
Non-Vehicle Equipment

From: Account Number: _____
Account Description: _____ Amount: _____

To: Account Number: 8130.5100.5010
Account Description: Personal Services Amount: \$ 20,000.00

To: Account Number: 8130.5472.5010
Account Description: Consultant Fees Amount: \$ 20,000.00

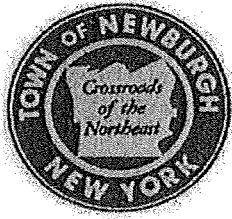
Please note: The total of the from and to should equal



Department Head Signature

Gil Piaquadio, Town Supervisor

#12D



Town of Newburgh
1496 Route 300
Newburgh, NY 12550
845-564-4552

Date: 10/19/2022

Is the budget adjustment under \$7,500 ? Yes _____ No X

If yes, please give Gil a copy to sign and deliver to the Accounting Office.

If no, please have the board approve at the next available board meeting.

Reason why the budget transfer is needed To cover over-expenditures.

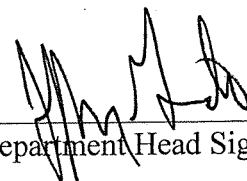
From: Account Number: 8340.5473
Account Description: Repairs to Treatment Plant Amount: \$ 10,000.00

From: Account Number: 8340.5481
Account Description: Utilities-Electric, Fuel Amount: \$ 5,000.00

From: Account Number: 8340.5499
Account Description: Other Expenses Amount: \$ 5,000.00

To: Account Number: 8340.5452
Account Description: Vehicle Contract Repair Amount: \$ 20,000.00

Please note: The total of the from and to should equal



Department Head Signature

Gil Piaquadio, Town Supervisor

#13



Rider Weiner & Frankel P.C.
ATTORNEYS & COUNSELORS AT LAW

Attorney-Client privileged
MEMORANDUM

TO: HON. GILBERT J. PIAQUADIO, SUPERVISOR
TOWN BOARD MEMBERS

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: SETTLEMENT OF TAX CERTIORARI (2020 and 2021);
ENTN, LLC (299 N, PLANK ROAD)
OUR FILE NO. 800.24

DATE: OCTOBER 20, 2022

P: 845.562.9100
F: 845.562.9126

655 Little Britain Road
New Windsor, NY 12553

P.O. Box 2280
Newburgh, NY 12550

ATTORNEYS

David L. Rider
Charles E. Frankel
Michael J. Matsler
Mark C. Taylor
Deborah Weisman-Estis
M. Justin Rider

M. J. Rider
(1906-1968)
Elliott M. Weiner
(1915-1990)

COUNSEL

Stephen P. Duggan, III
John K. McGuirk
(1942-2018)

OF COUNSEL

Craig F. Simon
Irene V. Villacci

Enclosed are copies of a letter from Cathy Drobny, Esq. of E. Stewart Jones, Hacker Murphy regarding the above referenced proposed settlement, a proposed Stipulation of Discontinuance and a proposed Consent Order and Judgment and a chart showing the approximate refunds that will be due from the taxing jurisdictions under the proposed settlement of the above referenced real property tax assessment appeal. Also enclosed is a map showing the location of the tax parcel which is the subject of the proceedings which contains a shopping center on N. Plank Road.

The settlement provides for a discontinuance of the 2020 action and a reduction of \$91,150 from \$514,900 to \$423,750 for 2021. The Consent Order and Judgment specifies that the provisions of RPTL Section 727 apply, meaning the Assessed Value will be held at the \$423,750 for the 2022, 2023 and 2024 assessment rolls, subject to the statutory exceptions.

The chart indicates that the refund liability for the Town (including Highway but not including special districts and the Fire District) will be approximately \$1,420.02 versus claimed refund liability of approximately \$12,047.35. The Newburgh Enlarged City School District's attorneys will be signatories on the Stipulation and Consent Order and Judgment as well.

Also attached is a proposed resolution which would authorize the Settlement.

MCT/sel
Enc.

cc: Lisa M. Vance Ayers, Town Clerk
Molly Carhart, Assessor (via e-mail)
Joseph P. Pedi, Receiver of Taxes (via e-mail)
Ronald Clum, Town Accountant (via e-mail)
Cathy L. Drobny, Esq. (via e-mail)



E. STEWART
Jones Hacker Murphy LLP
 ATTORNEYS & COUNSELORS AT LAW

July 19, 2022

Please send all mail to:
 SCHENECTADY

MAIN OFFICE:
 28 SECOND STREET
 TROY, NY 12180

200 HARBORSIDE DRIVE, SUITE 300
 SCHENECTADY, NY 12305

511 BROADWAY
 SARATOGA SPRINGS, NY 12866

41 STATE STREET, SUITE 604-05
 ALBANY, NY 12207

PHONE: (518) 274-5820
 FAX: (518) 274-5875

www.joneshacker.com

VIA E-MAIL - mtaylor@riderweiner.com

Mark C. Taylor, Esq.
 Rider, Weiner & Frankel P.C.
 P.O. Box 2280
 Newburgh, New York 12550

RE: ENTN LLC v. Town of Newburgh
 Index Nos. EF004161-2020 & EF004671-2021
 Our File No. 5018.170

Dear Mark:

Attached please find the proposed Consent Order & Judgment for the 2021 proceeding and the Stipulation of Discontinuance for the 2020 proceeding relative to the above-referenced matter. There are currently two years pending.

The subject parcel is a multi-tenant 1 story +/- 14,040 sq. ft. commercial property located at 299 N Plank Road (Tax Map #35-4-1.111). The 2021 FMV is \$1,822,700 (AV \$514,900). After review of the rent roll with lease terms and square footage, 2021 Profit & Loss and rental collections for 2018-2021, this settlement was negotiated.

The proposed settlement discontinues 2020¹ and reduces the 2021 assessment of the property to an equalized FMV of \$1,500,000 (AV \$423,750). The 2021 assessed value as reduced will be held for 2022, 2023 and 2024 pursuant to RPTL §727, subject to the usual statutory exceptions. After considering the costs of trial-ready appraisals and litigation, we feel that this is a good settlement.

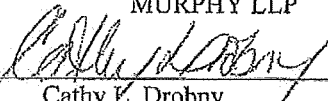
I have attached for your review a copy of the refund liability charts, which show the potential liability versus the proposed settlement refund liability.

We recommend that the Town Board authorize us to enter into this settlement as proposed. Please place this matter on the agenda for the next Newburgh Town Board meeting for approval. Once the Resolution passes, please let me know and I will sign the Order.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

E. STEWART JONES HACKER
 MURPHY LLP

By: 
 Cathy E. Drobny
cdrobny@joneshacker.com
 Direct Dial: (518) 213-0116

CLD:kah
 Attachments
 cc: Molly Carhart, Assessor
 Gilbert Piaquadio, Supervisor

¹ Stipulation of Discontinuance

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

File No. 18904/pc

----- X

ENTN, LLC

STIPULATION OF
DISCONTINUANCE

Petitioner,

Tax Year Index No.

- against -

2020/21 EF-004161-2020

THE BOARD OF ASSESSORS AND THE BOARD
OF ASSESSMENT REVIEW OF THE TOWN OF
NEWBURGH,

Respondents,

Section: 35
Block: 4
Lot: 1.111

- against -

NEWBURGH ENLARGED CITY
SCHOOL DISTRICT,

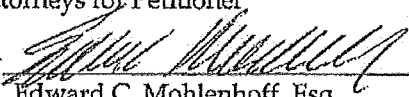
Intervenor-Respondent.

----- X

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, that the above proceedings be and the same hereby are discontinued with prejudice, without costs to either party as against the other and that this stipulation may be filed without further notice with the Clerk of the Court.

Dated: Mineola, New York
April 29, 2022

SCHRODER & STROM, LLP
Attorneys for Petitioner

By 
Edward C. Mohlenhoff, Esq.

E. Stewart Jones Hacker Murphy, LLP
Attorney for Respondents

By _____
CATHY L. DROBNY, ESQ.

FILE NO. 18904/pc

At a Special Condemnation and Tax
Certiorari Term of the Supreme Court of the
State of New York, held in and for the
County of Orange, at Goshen, New York,
on the _____ day of _____, 2022.

PRESENT:

HON. _____

Justice.

----- X
In the Matter of the Application of :

**CONSENT ORDER
& JUDGMENT**

ENTN LLC, :

Index No.

Petitioner,

EF004671-2021

- against - :

**THE BOARD OF ASSESSORS AND THE BOARD
OF ASSESSMENT REVIEW OF THE TOWN OF
NEWBURGH,** :

Section: 35
Block: 4
Lot: 1.111

Respondents, :

- against - :

**NEWBURGH ENLARGED CITY
SCHOOL DISTRICT,** :

Intervenor-Respondent. :

----- X

The above Petitioner having heretofore served and filed the Petitions and Notices to review the tax assessments fixed by the Town of Newburgh for the assessment rolls finalized in 2021, and upon certain real property located at 299 N. Plank Road, Newburgh, NY, and designated as Section 35, Block 4, Lot 1.111 on the official tax map of the Town of Newburgh, and

The issues of these proceedings having duly come on for trial at an IAS Term of this Court, and the petitioner having appeared by EDWARD C. MOHLENHOFF, ESQ., of Schroder & Strom, LLP, and the Respondent Town having appeared by CATHY L. DROBNY, ESQ. of E. Stewart Jones Hacker

Murphy, LLP., and the Intervenor-Respondent having appeared by **MARC E. SHARFF, ESQ.** of Shaw, Perelson, May & Lambert, LLP, and the parties having made their settlement, it is

ORDERED, ADJUDGED AND DECREED, that the assessments on the above-referenced property be and the same are hereby reduced, corrected and fixed for the assessment years as follows:

<u>Assessment Roll</u>	<u>Original Assessed Value</u>	<u>Revised Assessed Value</u>	<u>Assessment Reduction</u>
2021	\$514,900	\$423,750	\$91,150

and so reduced and confirmed, it is further

ORDERED, ADJUDGED AND DECREED, that the Assessor of the Town of Newburgh and/or officer or officers having custody of the assessment rolls upon which the above-mentioned assessments and any taxes levied thereon are entered shall correct the said entries in conformity with this Order and shall note upon the margin of said rolls, opposite of said entries, that the same have been corrected by the authority of this Order, and it is further

ORDERED, ADJUDGED AND DECREED, that there shall be audited, allowed and paid to the Petitioner by the **TOWN OF NEWBURGH AND/OR THE COUNTY OF ORANGE**, the amount of all Town and Special District taxes, together with the proportionate share of any interest or penalty paid by reason of delinquent payment of any excess taxes, paid by the Petitioner as taxes against the said erroneous assessments in excess of what the taxes would have been if the said assessments made in the aforesaid years had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, provided, however, that if said refund is paid within sixty (60) days of service upon the Town of a copy of this Consent Order and Judgment with Notice of Entry, said refund shall be paid without interest. If payment is not made within sixty (60) days after the service of a certified copy of this Consent Order and Judgment upon the Receiver of Taxes of the Town of Newburgh, then statutory interest will be paid on the amount of any refund, from the date of payment of taxes as provided by Section 726 of the Real Property Tax Law, and it is further

ORDERED, ADJUDGED AND DECREED, that the **COUNTY OF ORANGE**, State of New York, be and is hereby directed and authorized to audit, allow and pay to the Petitioner the amount, if

any, of State, County, Judiciary, Special and Sewer District taxes paid by the Petitioner as taxes against the erroneous assessment in excess of what the taxes would have been if the said assessment had been determined by this Order, together with interest thereon from the date of payment as provided by statute, provided, however, that if said refund is paid within sixty (60) days of service upon the Commissioner of Finance of the County of Orange of a copy of this Consent Order and Judgment with Notice of Entry, said refund shall be paid without interest. If payment is not made within sixty (60) days after the service of a certified copy of this Consent Order and Judgment upon the Commissioner of Finance of the County of Orange, then statutory interest will be paid on the amount of any refund, from the date of payment of taxes as provided by Section 726 of the Real Property Tax Law, and it is further

ORDERED, ADJUDGED AND DECREED, that there shall be audited, allowed and paid to the Petitioner by **THE NEWBURGH ENLARGED CITY SCHOOL DISTRICT** the amount of all School and/or Library taxes paid by the Petitioner as taxes against the said erroneous assessments in excess of what the taxes would have been if the said assessments made in the aforesaid years had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, provided, however, that if said refund is paid within sixty (60) days of service upon **THE NEWBURGH ENLARGED CITY SCHOOL DISTRICT** of a copy of this Consent Order and Judgment with Notice of Entry, said refund shall be paid without interest. If payment is not made within sixty (60) days after the service of a certified copy of this Consent Order and Judgment upon the Superintendent of **THE NEWBURGH ENLARGED CITY SCHOOL DISTRICT**, then statutory interest will be paid on the amount of any refund, from the date of payment of taxes as provided by Section 726 of the Real Property Tax Law, and it is further


ORDERED AND DIRECTED, that all tax refunds herein above directed to be paid shall be paid by check or draft payable to the order of **SCHRODER & STROM, LLP**, as attorneys for the Petitioner, who are to hold the proceeds as trust funds for appropriate distribution, and who are to remain subject to the further jurisdiction of this Court in regard to their attorney's lien, pursuant to Judiciary Law Section 475, and it is further

ORDERED ADJUDGED AND DECREED, that the provisions of Real Property Tax Law Section 727 shall be applicable to the reduction made to the 2021 assessment roll set forth in the First Decretal Paragraph herein for the 2022, 2023 and 2024 assessment rolls as set forth herein, subject to the exceptions as set forth in Real Property Tax Law Section 727, and it is further

ORDERED, that this Order hereby constitutes and represents full settlement of each of the tax review proceedings herein, and there are no costs or allowances awarded to, by or against any of the parties, and that upon compliance with the terms of this Order, the above-entitled proceedings be and the same are settled and discontinued.

ENTER,

SIGNING AND ENTRY OF THE WITHIN ORDER IS HEREBY CONSENTED TO:


Dated: June 7, 2022
EDWARD C. MOHLENHOFF, ESQ.
Schroder & Strom, LLP
Attorneys for Petitioner
114 Old Country Road, Ste 218
Mineola, NY 11501
(516) 742-7430
emohlenhoff@joneshacker.com

Dated: _____
CATHY L. DROBNY, ESQ.
E. Stewart Jones Hacker Murphy, LLP
Attorneys for Respondent TOWN
28 Second Street
Troy, NY 12180
(518) 213-0116
cdrobnv@joneshacker.com

Dated: _____
MARC E. SHARFF, ESQ.
Shaw, Perelson, May & Lambert, LLP
Attorneys for Intervenor-Respondent Newburgh Enlarged City School District
115 Stevens Avenue
Valhalla, NY 10595
(914) 741-9870
msharff@shawperelson.com
GWUser\Patly\Settlement\Update\Orange County\Newburgh\18904 ERYN LLC CI.wpd

ENFIELD TOWN of Newburgh - Settlement

Year	Parcel Number	Assessed Value	Reduced Assessed Value	Eq. Rate	FMV	Reduced FMV	Difference AV and Revised AV	Tax Rate	Refund Liability	
2020	35-4-1.111	\$514,900	\$514,900	29.95%	\$1,719,199	\$1,719,199	\$0	County Town Highway	11.8689 \$ 10.8692 \$ 4.7485 \$	- - -
								Cronover vly fire	4.6751 \$	-
								School wtr 1	1.4641 \$	-
								School	71.885193 \$	-
								Library	3.542079 \$	-
								County	12.1292 \$	1,105.58
2021	35-4-1.111	\$514,900	\$423,750	28.25%	\$1,822,655	\$1,500,000	\$91,150	Town Highway Cronover vly fire Consol wtr 1	10.8445 \$ 4.7344 \$ 4.6648 \$ 1.4627 \$	988.48 431.54 425.20 133.33
								School	71.47331 \$	6,514.79
								Library	3.521783 \$	321.01

2020 proceeding discontinued

ENHANCED TOWN OF NEWBURGH

Year	Parcel Number	Assessed Value	Claimed Assessed Value	Eq. Rate	FMV	Claimed FMV	Difference AV and Claimed AV	Tax Rate	Refund Liability
2020	35-4-1.111	\$514,900	\$128,725	29.95%	\$1,718,199	\$429,800	\$386,175	11.8689	\$ 4,583.47
								Town	\$ 4,197.41
								Highway	\$ 1,833.75
								Cronomer vly fire	\$ 1,805.41
								School wtr 1	\$ 565.40
								School	\$ 27,760.26
								Library	\$ 1,367.86
								County	\$ 3,542,079
2021	35-4-1.111	\$514,900	\$128,725	28.25%	\$1,822,655	\$455,864	\$386,175	12.1292	\$ 4,683.99
								Town	\$ 4,187.87
								Highway	\$ 1,828.31
								Cronomer vly fire	\$ 1,801.43
								School wtr 1	\$ 564.86
								School	\$ 27,601.21
								Library	\$ 1,360.02
								County	\$ 9,267.47
								Town	\$ 8,385.29
								Highway	\$ 3,662.06
								Cronomer vly fire	\$ 3,606.84
								School wtr 1	\$ 1,130.26
								School	\$ 55,361.47
								Library	\$ 2,727.89



SECTION 14

SECTION 17

SECTION 34

PLATEKILL TURNPIKE

STATE HWY. 300

BERRY LANE

NORTH PLUNK ROAD

Subject parcel

1

2

3

4

5

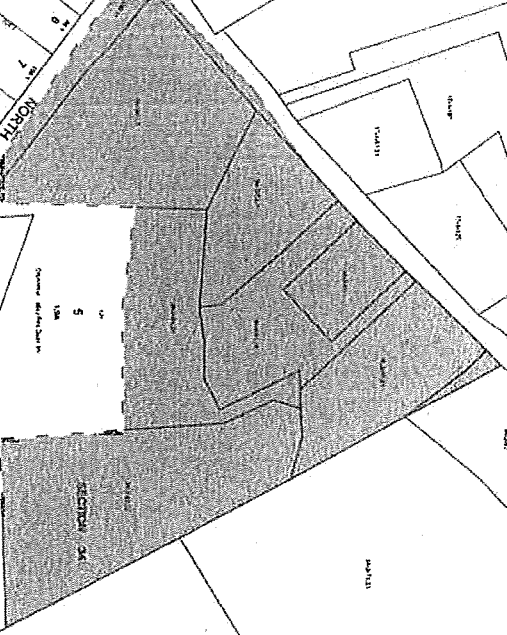
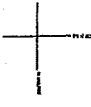




Image Mate Online

Navigation GIS Map Tax Maps | DTF Links

Help Contact Us Log In

Commercial

- Property Info
- Owner/Sales
- Inventory
- Improvements

Tax Info

Report

Comparables

Municipality of Newburgh

SWIS:	334600	Tax ID:	35-4-1.111
-------	--------	---------	------------

Tax Map ID / Property Data

Status:	Active	Roll Section:	Taxable
Address:	299 N Plank Rd		
Property Class:	464 - Office bldg.	Site Property Class:	450 - Retail srvc
Ownership Code:			
Site:	Com 1	In Ag. District:	No
Zoning Code:	-	Bldg. Style:	Not Applicable
Neighborhood:	00000 -	School District:	Newburg
Property Description:	Lt 1 & 2 Lease & Tanosch Map 185-95		
Total Acreage/Size:	2.40	Equalization Rate:	----
Land Assessment:	2022 - \$100,800	Total Assessment:	2022 - \$514,900
Full Market Value:	2022 - \$2,084,600		
Deed Book:	13077	Deed Page:	1619
Grid East:	612728	Grid North:	989341
Bank Code:	N/A		

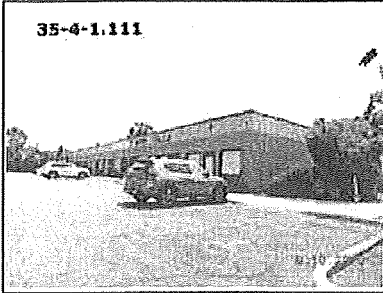
Special Districts for 2022

Description	Units	Percent	Type	Value
AM010-Newburgh Ambulance	0	0%		0
FD008-Cronomer vly fire	0	0%		0
WD001-Consol wtr 1	0	0%		0

Photographs

(Click on photo to enlarge it.)

35-4-1.111



Photo

Photo 1 of 19 →

Pictometry Connect

Documents

No documents found for this parcel

Maps

[View Tax Map](#)

[Pin Property on GIS Map](#)

[View in Google Maps](#)

[View in Bing Maps](#)

Map Disclaimer

Land Types	
Type	Size
Primary	262 × 320



Image Mate Online

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Help Contact Us Log In

Commercial

- Property Info
- Owner/Sales
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- Improvements
- Tax Info
- Report
- Comparables

Municipality of Newburgh

SWIS:	334600	Tax ID:	35-4-1.111	
-------	--------	---------	------------	--

Ownership Information

Name	Secondary Name	Address
ENTN, LLC		155 N Plank Rd Newburgh NY 12550

Sale Information

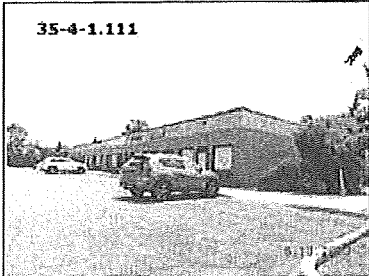
Sale Date	Price	Property Class	Sale Type	Prior Owner
10/27/2010	\$1,500,000	465 - Prof. bldg.	Land & Building	No Plank Development Co
	Value Usable	Arms Length	Deed Book	Deed Page
	Yes	Yes	13077	1619

Historic Deed Information

Photographs

(Click on photo to enlarge it.)

35-4-1.111



Photo

Photo 1 of 19 →

Pictometry Connect

Documents

No documents found for this parcel

Maps

- View Tax Map
- Pin Property on GIS Map
- View in Google Maps
- View in Bing Maps

Map Disclaimer

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the ___th day of October, 2022 at 7:00 o'clock p.m.

PRESENT:

Gilbert J. Piaquadio, Supervisor

Elizabeth J. Greene, Councilwoman

Paul I. Ruggiero, Councilman

Scott M. Manley, Councilman

Anthony R. LoBiondo, Councilman

RESOLUTION OF TOWN BOARD
AUTHORIZING SETTLEMENT OF
PROCEEDINGS UNDER ARTICLE
7 OF THE REAL PROPERTY
TAX LAW:
SBL #35-4- 1.111
ENTN, LLC
(299 N. PLANK ROAD)
INDEX NUMBERS 2020-EF004161 and
2021-EF004671

Councilman/woman _____ presented the following resolution which was seconded by Councilman/woman _____.

WHEREAS, ENTN, LLC (the "Petitioner") has instituted proceedings under Article 7 of the Real Property Tax Law by which Petitioner seeks to obtain judicial review and reduction of the assessment of real property in the Town of Newburgh, Orange County, New York, consisting of a multi-tenant one story commercial building and related improvements located on a parcel of land at 299 N. Plank Road (Section 35-Block 4-Lot 1.111) on the tax assessment roll for the tax years 2020 and 2021; and

WHEREAS, special counsel to the Town, E. Stewart Jones Hacker Murphy, LLP, has negotiated a settlement of the proceeding with the Petitioner, the terms of which are embodied in a proposed Stipulation of Discontinuance and a proposed Consent Order and Judgment annexed hereto and recommended that the Town Board authorize the settlement; and

WHEREAS, after review and discussion, the Town Board has determined it to be in the best interests of the Town to authorize the settlement.

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby authorizes and directs E. Stewart Jones Hacker Murphy, LLP to execute and deliver the Stipulation of Discontinuance and Consent Order and Judgment on behalf of the Town; and

BE IT FURTHER RESOLVED, that E. Stewart Jones Hacker Murphy, LLP, the Supervisor, the Attorney for the Town, the Town's Assessor and other officers of the Town are hereby authorized to take such actions and to make, execute and deliver, or cause to be made, executed and delivered, in the name of and on behalf of the Town, all such certificates, documents and papers as may be necessary to effectuate and carry out the settlement; and

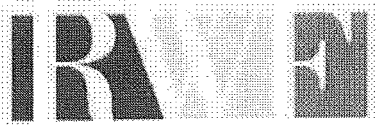
BE IT FURTHER RESOLVED that the aforesaid resolutions shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

<u>Elizabeth J. Greene, Councilwoman</u>	<u>voting</u>
<u>Paul I. Ruggiero, Councilman</u>	<u>voting</u>
<u>Scott M. Manley, Councilman</u>	<u>voting</u>
<u>Anthony R. LoBiondo, Councilman</u>	<u>voting</u>
<u>Gilbert J. Piaquadio, Supervisor</u>	<u>voting</u>

The resolution was thereupon declared duly adopted.

#13



Rider Weiner & Frankel P.C.
ATTORNEYS & COUNSELORS AT LAW

Attorney-Client privileged
MEMORANDUM

TO: HON. GILBERT J. PIAQUADIO, SUPERVISOR
TOWN BOARD MEMBERS

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: SETTLEMENT OF TAX CERTIORARI (2020 and 2021);
ENTN, LLC (299 N, PLANK ROAD)
OUR FILE NO. 800.24

DATE: OCTOBER 20, 2022

P: 845.562.9100
F: 845.562.9126
655 Little Britain Road
New Windsor, NY 12553
P.O. Box 2280
Newburgh, NY 12550

ATTORNEYS
David L. Rider
Charles E. Frankel
Michael J. Matsler
Mark C. Taylor
Deborah Weisman-Estis
M. Justin Rider

M. J. Rider
(1906-1968)
Elliott M. Weiner
(1915-1990)

COUNSEL
Stephen P. Duggan, III
John K. McGuirk
(1942-2018)

OF COUNSEL
Craig F. Simon
Irene V. Villacci

Enclosed are copies of a letter from Cathy Drobny, Esq. of E. Stewart Jones, Hacker Murphy regarding the above referenced proposed settlement, a proposed Stipulation of Discontinuance and a proposed Consent Order and Judgment and a chart showing the approximate refunds that will be due from the taxing jurisdictions under the proposed settlement of the above referenced real property tax assessment appeal. Also enclosed is a map showing the location of the tax parcel which is the subject of the proceedings which contains a shopping center on N. Plank Road.

The settlement provides for a discontinuance of the 2020 action and a reduction of \$91,150 from \$514,900 to \$423,750 for 2021. The Consent Order and Judgment specifies that the provisions of RPTL Section 727 apply, meaning the Assessed Value will be held at the \$423,750 for the 2022, 2023 and 2024 assessment rolls, subject to the statutory exceptions.

The chart indicates that the refund liability for the Town (including Highway but not including special districts and the Fire District) will be approximately \$1,420.02 versus claimed refund liability of approximately \$12,047.35. The Newburgh Enlarged City School District's attorneys will be signatories on the Stipulation and Consent Order and Judgment as well.

Also attached is a proposed resolution which would authorize the Settlement.

MCT/sel
Enc.

cc: Lisa M. Vance Ayers, Town Clerk
Molly Carhart, Assessor (via e-mail)
Joseph P. Pedi, Receiver of Taxes (via e-mail)
Ronald Clum, Town Accountant (via e-mail)
Cathy L. Drobny, Esq. (via e-mail)

 E. STEWART
Jones Hacker Murphy LLP
ATTORNEYS & COUNSELORS AT LAW

July 19, 2022

VIA E-MAIL - mtaylor@riderweiner.com

Mark C. Taylor, Esq.
Rider, Weiner & Frankel P.C.
P.O. Box 2280
Newburgh, New York 12550

RE: ENTN LLC v. Town of Newburgh
Index Nos. EF004161-2020 & EF004671-2021
Our File No. 5018.170

Dear Mark:

Attached please find the proposed Consent Order & Judgment for the 2021 proceeding and the Stipulation of Discontinuance for the 2020 proceeding relative to the above-referenced matter. There are currently two years pending.

The subject parcel is a multi-tenant 1 story +/- 14,040 sq. ft. commercial property located at 299 N. Plank Road (Tax Map #35-4-1.111). The 2021 FMV is \$1,822,700 (AV \$514,900). After review of the rent roll with lease terms and square footage, 2021 Profit & Loss and rental collections for 2018-2021, this settlement was negotiated.

The proposed settlement discontinues 2020¹ and reduces the 2021 assessment of the property to an equalized FMV of \$1,500,000 (AV \$423,750). The 2021 assessed value as reduced will be held for 2022, 2023 and 2024 pursuant to RPTL §727, subject to the usual statutory exceptions. After considering the costs of trial-ready appraisals and litigation, we feel that this is a good settlement.

I have attached for your review a copy of the refund liability charts, which show the potential liability versus the proposed settlement refund liability.

We recommend that the Town Board authorize us to enter into this settlement as proposed. Please place this matter on the agenda for the next Newburgh Town Board meeting for approval. Once the Resolution passes, please let me know and I will sign the Order.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

E. STEWART JONES HACKER
MURPHY LLP

By: 

Cathy L. Drobny
cdrobny@joneshacker.com
Direct Dial: (518) 213-0116

CLD:kah
Attachments
cc: Molly Carhart, Assessor
Gilbert Piaquadio, Supervisor

¹ Stipulation of Discontinuance

Please send all mail to:
SCHENECTADY

MAIN OFFICE:
28 SECOND STREET
TROY, NY 12180

200 HARBORSIDE DRIVE, SUITE 300
SCHENECTADY, NY 12305

511 BROADWAY
SARATOGA SPRINGS, NY 12866

41 STATE STREET, SUITE 604-05
ALBANY, NY 12207

PHONE: (518) 274-5820
FAX: (518) 274-5875

www.joneshacker.com

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

File No. 18904/pg

----- X
ENTN, LLC

STIPULATION OF
DISCONTINUANCE

Petitioner,

Tax Year Index No.

2020/21 EF-004161-2020

- against -

THE BOARD OF ASSESSORS AND THE BOARD
OF ASSESSMENT REVIEW OF THE TOWN OF
NEWBURGH,

Respondents,

Section: 35

Block: 4

Lot: 1.111

- against -

NEWBURGH ENLARGED CITY
SCHOOL DISTRICT,

Intervenor-Respondent.

----- X

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, that the above proceedings be and the same hereby are discontinued with prejudice, without costs to either party as against the other and that this stipulation may be filed without further notice with the Clerk of the Court.

Dated: Mineola, New York
April 29, 2022

SCHRODER & STROM, LLP
Attorneys for Petitioner

By 
Edward C. Mohlenhoff, Esq.

E. Stewart Jones Hacker Murphy, LLP
Attorney for Respondents

By _____
CATHY L. DROBNY, ESQ.

FILE NO. 18904/pc

At a Special Condemnation and Tax
Certiorari Term of the Supreme Court of the
State of New York, held in and for the
County of Orange, at Goshen, New York,
on the _____ day of _____, 2022.

PRESENT:

HON. _____

Justice.

----- X
In the Matter of the Application of :

**CONSENT ORDER
& JUDGMENT**

ENTN LLC, :

Index No.

Petitioner,

EF004671-2021

- against - :

THE BOARD OF ASSESSORS AND THE BOARD
OF ASSESSMENT REVIEW OF THE TOWN OF
NEWBURGH, :

Section: 35
Block: 4
Lot: 1.111

Respondents, :

- against - :

NEWBURGH ENLARGED CITY
SCHOOL DISTRICT, :

Intervenor-Respondent. :

----- X

The above Petitioner having heretofore served and filed the Petitions and Notices to review the tax assessments fixed by the Town of Newburgh for the assessment rolls finalized in 2021, and upon certain real property located at 299 N. Plank Road, Newburgh, NY, and designated as Section 35, Block 4, Lot 1.111 on the official tax map of the Town of Newburgh, and

The issues of these proceedings having duly come on for trial at an IAS Term of this Court, and the petitioner having appeared by EDWARD C. MOHLENHOFF, ESQ., of Schroder & Strom, LLP, and the Respondent Town having appeared by CATHY L. DROBNY, ESQ. of E. Stewart Jones Haaker

Murphy, LLP., and the Intervenor-Respondent having appeared by **MARC E. SHARFF, ESQ.** of Shaw, Perelson, May & Lambert, LLP, and the parties having made their settlement, it is

ORDERED, ADJUDGED AND DECREED, that the assessments on the above-referenced property be and the same are hereby reduced, corrected and fixed for the assessment years as follows:

<u>Assessment Roll</u>	<u>Original Assessed Value</u>	<u>Revised Assessed Value</u>	<u>Assessment Reduction</u>
2021	\$514,900	\$423,750	\$91,150

and so reduced and confirmed, it is further

ORDERED, ADJUDGED AND DECREED, that the Assessor of the Town of Newburgh and/or officer or officers having custody of the assessment rolls upon which the above-mentioned assessments and any taxes levied thereon are entered shall correct the said entries in conformity with this Order and shall note upon the margin of said rolls, opposite of said entries, that the same have been corrected by the authority of this Order, and it is further

ORDERED, ADJUDGED AND DECREED, that there shall be audited, allowed and paid to the Petitioner by the **TOWN OF NEWBURGH AND/OR THE COUNTY OF ORANGE**, the amount of all Town and Special District taxes, together with the proportionate share of any interest or penalty paid by reason of delinquent payment of any excess taxes, paid by the Petitioner as taxes against the said erroneous assessments in excess of what the taxes would have been if the said assessments made in the aforesaid years had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, provided, however, that if said refund is paid within sixty (60) days of service upon the Town of a copy of this Consent Order and Judgment with Notice of Entry, said refund shall be paid without interest. If payment is not made within sixty (60) days after the service of a certified copy of this Consent Order and Judgment upon the Receiver of Taxes of the Town of Newburgh, then statutory interest will be paid on the amount of any refund, from the date of payment of taxes as provided by Section 726 of the Real Property Tax Law, and it is further

ORDERED, ADJUDGED AND DECREED, that the **COUNTY OF ORANGE**, State of New York, be and is hereby directed and authorized to audit, allow and pay to the Petitioner the amount, if

any, of State, County, Judiciary, Special and Sewer District taxes paid by the Petitioner as taxes against the erroneous assessment in excess of what the taxes would have been if the said assessment had been determined by this Order, together with interest thereon from the date of payment as provided by statute, provided, however, that if said refund is paid within sixty (60) days of service upon the Commissioner of Finance of the County of Orange of a copy of this Consent Order and Judgment with Notice of Entry, said refund shall be paid without interest. If payment is not made within sixty (60) days after the service of a certified copy of this Consent Order and Judgment upon the Commissioner of Finance of the County of Orange, then statutory interest will be paid on the amount of any refund, from the date of payment of taxes as provided by Section 726 of the Real Property Tax Law, and it is further

ORDERED, ADJUDGED AND DECREED, that there shall be audited, allowed and paid to the Petitioner by **THE NEWBURGH ENLARGED CITY SCHOOL DISTRICT** the amount of all School and/or Library taxes paid by the Petitioner as taxes against the said erroneous assessments in excess of what the taxes would have been if the said assessments made in the aforesaid years had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, provided, however, that if said refund is paid within sixty (60) days of service upon **THE NEWBURGH ENLARGED CITY SCHOOL DISTRICT** of a copy of this Consent Order and Judgment with Notice of Entry, said refund shall be paid without interest. If payment is not made within sixty (60) days after the service of a certified copy of this Consent Order and Judgment upon the Superintendent of **THE NEWBURGH ENLARGED CITY SCHOOL DISTRICT**, then statutory interest will be paid on the amount of any refund, from the date of payment of taxes as provided by Section 726 of the Real Property Tax Law, and it is further

ORDERED AND DIRECTED, that all tax refunds herein above directed to be paid shall be paid by check or draft payable to the order of **SCHRODER & STROM, LLP**, as attorneys for the Petitioner, who are to hold the proceeds as trust funds for appropriate distribution, and who are to remain subject to the further jurisdiction of this Court in regard to their attorney's lien, pursuant to Judiciary Law Section 475, and it is further

ORDERED ADJUDGED AND DECREED, that the provisions of Real Property Tax Law Section 727 shall be applicable to the reduction made to the 2021 assessment roll set forth in the First Decretal Paragraph herein for the 2022, 2023 and 2024 assessment rolls as set forth herein, subject to the exceptions as set forth in Real Property Tax Law Section 727, and it is further

ORDERED, that this Order hereby constitutes and represents full settlement of each of the tax review proceedings herein, and there are no costs or allowances awarded to, by or against any of the parties, and that upon compliance with the terms of this Order, the above-entitled proceedings be and the same are settled and discontinued.

ENTER,

SIGNING AND ENTRY OF THE WITHIN ORDER IS HEREBY CONSENTED TO:


EDWARD C. MOHLENHOFF, ESQ.

Dated: June 7, 2022

Sohroder & Strom, LLP
Attorneys for Petitioner
114 Old Country Road, Ste 218
Mineola, NY 11501
(516) 742-7430
emohlenhoff@joneshacker.com

Dated: _____

CATHY L. DROBNY, ESQ.
E. Stewart Jones Hacker Murphy, LLP
Attorneys for Respondent TOWN
28 Second Street
Troy, NY 12180
(518) 213-0116
cdrobny@joneshacker.com

Dated: _____

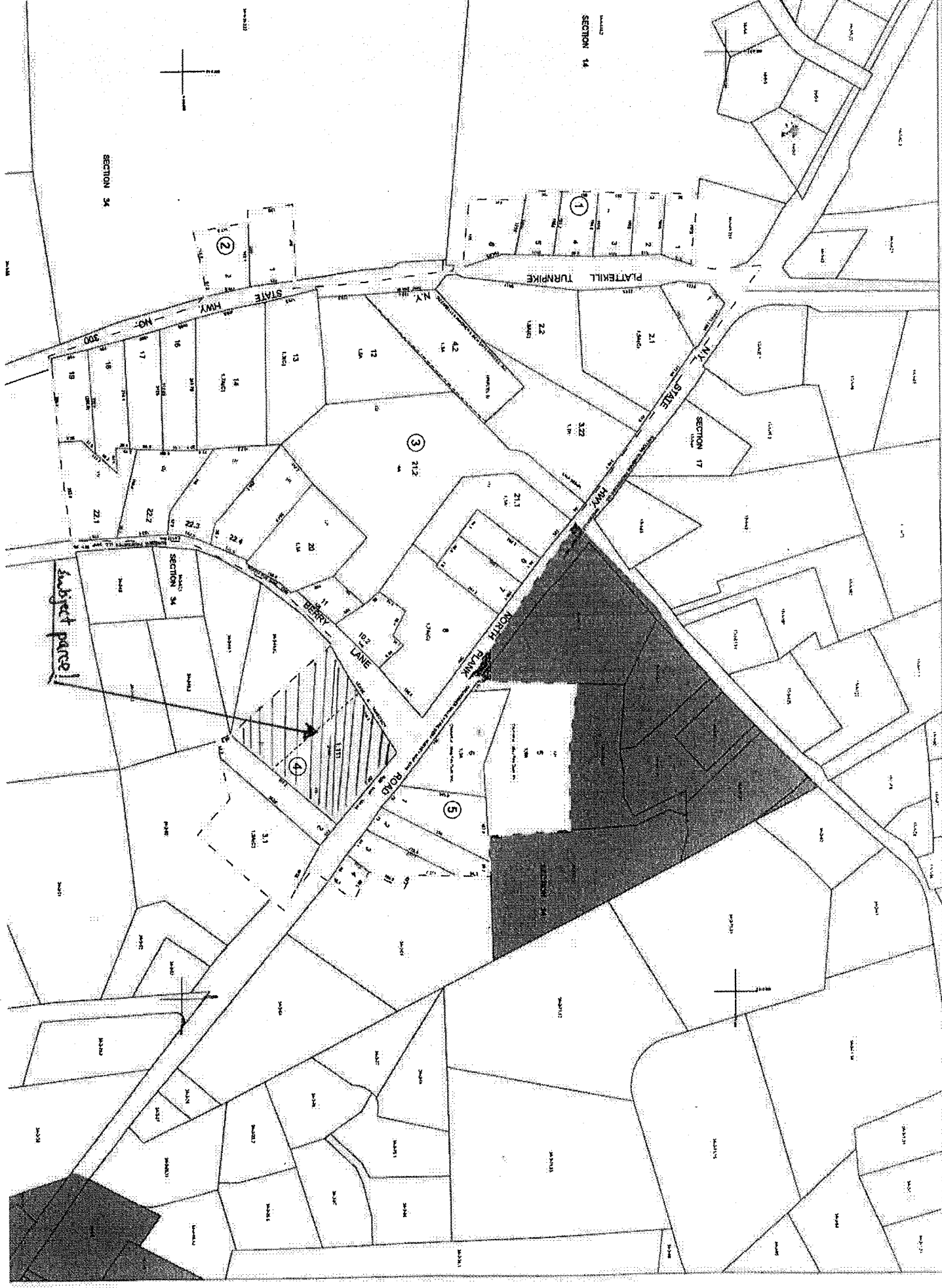
MARC E. SHARFF, ESQ.
Shaw, Perelson, May & Lambert, LLP
Attorneys for Intervenor-Respondent Newburgh Enlarged City School District
115 Stevens Avenue
Valhalla, NY 10595
(914) 741-9870
msharff@shawperelson.com
CAUTION: This document is a legal document. It contains information that is confidential and may be subject to the attorney-client privilege. It is intended only for the individual or entity named in the document. If you have received this document by mistake, please notify the sender immediately. Do not disseminate, distribute, or use this document in any way. If you are not the intended recipient, you should not act on the information contained herein. If you are the intended recipient, you should not disseminate, distribute, or use this document in any way. If you are not the intended recipient, you should not act on the information contained herein.

ENTIRETY Town of Newburgh Settlement

Year	Parcel Number	Assessed Value	Reduced Assessed Value	Eq. Rate	FMV	Reduced FMV	Difference AV and Revised AV	Tax Rate	Refund Liability
2020	35-4-1-111	\$514,900	\$514,900	28.95%	\$1,719,199	\$1,719,199	\$0		
2020 proceeding discontinued									
2021	35-4-1-111	\$514,900	\$423,750	28.25%	\$1,822,656	\$1,500,000	\$91,150		
								County	11.8689 \$
								Town	10.8692 \$
								Highway	4.7486 \$
								Chronmer WY fire	4.6751 \$
								Consol wtr 1	1.4641 \$
								School	71.885193 \$
								Library	3.542079 \$
								County	12.1292 \$
								Town	10.8445 \$
								Highway	4.7344 \$
								Chronmer WY fire	4.6848 \$
								Consol wtr 1	1.4627 \$
								School	71.47331 \$
								Library	3.521783 \$
								County	1.10558 \$
								Town	988.48 \$
								Highway	431.54 \$
								Chronmer WY fire	425.20 \$
								Consol wtr 1	133.33 \$
								School	6,514.79 \$
								Library	321.01 \$

ENTN LLC v. Town of Newburgh

Year	Parcel Number	Assessed Value	Claimed Assessed Value	Eq. Rate	FMV	Claimed FMV	Difference AV and Claimed AV	Tax Rate	Refund Liability	
2020	35-4-1-111	\$514,900	\$128,725	29.95%	\$1,719,199	\$429,800	\$386,175	County Town Highway Cronomer vly fire Consel wtr 1 School Library	\$ 11,8689 \$ 10,8692 \$ 4,7485 \$ 4,6751 \$ 1,4641 \$ 71,885193 \$ 3,542079	\$ 4,583.47 \$ 4,197.41 \$ 1,833.75 \$ 1,805.41 \$ 565.40 \$ 27,760.26 \$ 1,367.86
2021	35-4-1-111	\$514,900	\$128,725	28.25%	\$1,822,655	\$455,664	\$386,175	County Town Highway Cronomer vly fire Consel wtr 1 School Library County Town Highway Cronomer vly fire Consel wtr 1 School Library	\$ 12,1292 \$ 10,8445 \$ 4,7344 \$ 4,6648 \$ 1,4627 \$ 71,47331 \$ 3,521783	\$ 4,683.99 \$ 4,187.87 \$ 1,828.31 \$ 1,901.43 \$ 564.86 \$ 27,601.21 \$ 1,360.02 \$ 9,287.47 \$ 8,385.29 \$ 3,662.06 \$ 3,606.84 \$ 1,130.26 \$ 55,361.47 \$ 2,727.89



SECTION 14

SECTION 34

SECTION 17

SECTION 34

subject parcel

(2)

(1)

(3)

(4)

(5)

PLATTERKILL TURNPIKE

STATE HWY 300

BERRY LANE

NORTH PLANK ROAD

STATE HWY 300

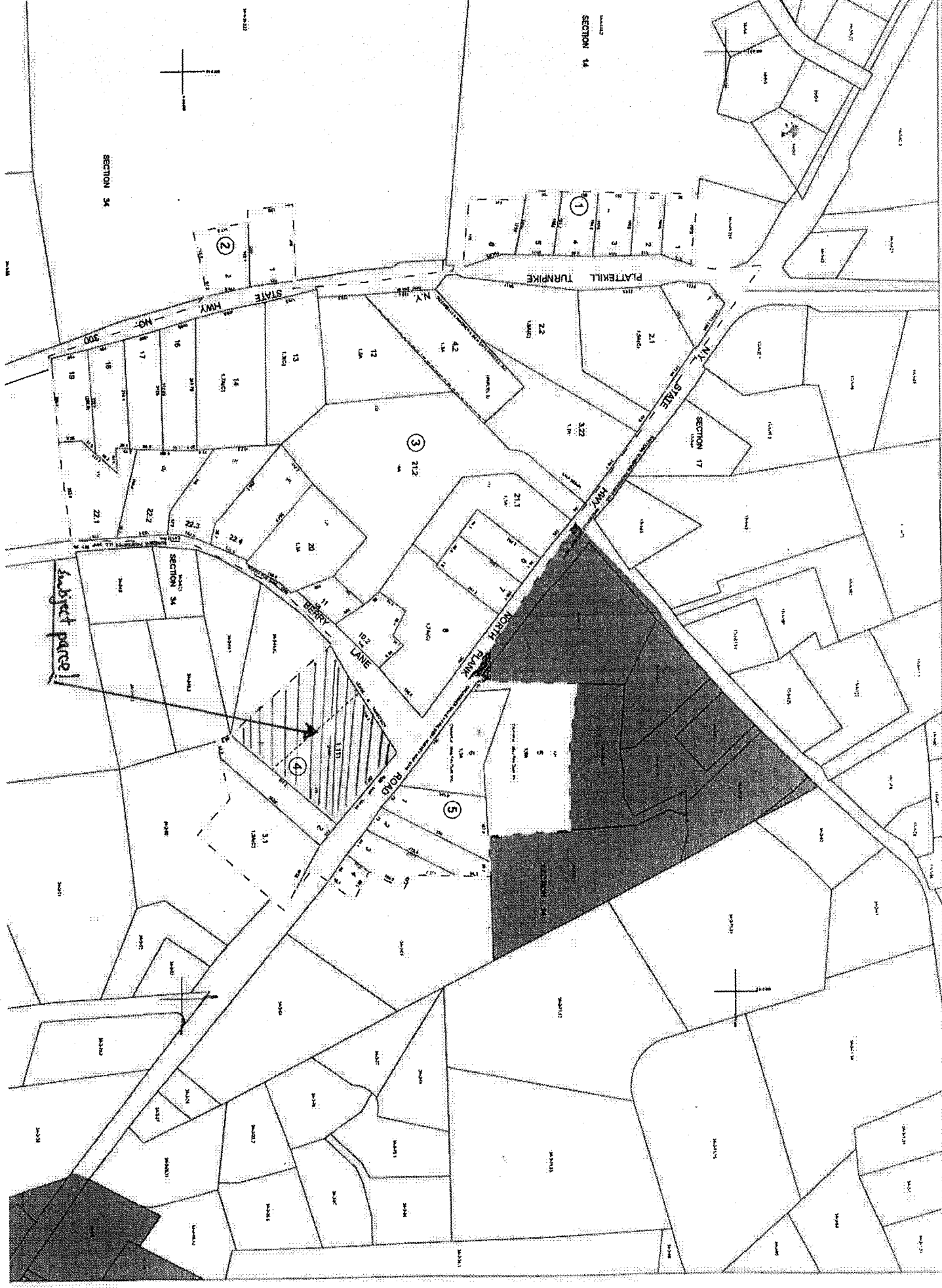


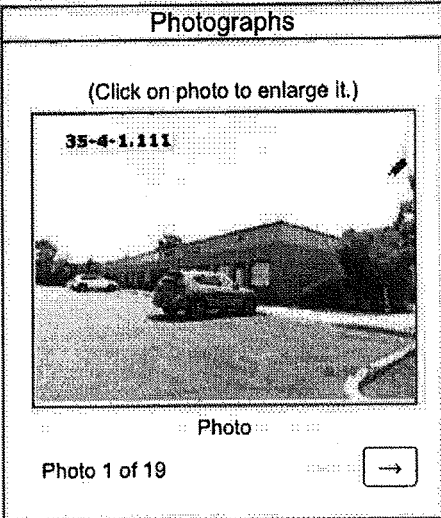


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Navigation GIS Map Tax Maps | DTF Links Help Contact Us Log In

- Commercial
- Property Info
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- Inventory
- Improvements
- Tax Info
- Report
- Comparables

Municipality of Newburgh			
SWIS:	334600	Tax ID:	35-4-1.111
Tax Map ID / Property Data			
Status:	Active	Roll Section:	Taxable
Address:	299 N Plank Rd		
Property Class:	464 - Office bldg.	Site Property Class:	450 - Retail srvc
Ownership Code:			
Site:	Com 1	In Ag. District:	No
Zoning Code:	-	Bldg. Style:	Not Applicable
Neighborhood:	00000 -	School District:	Newburg
Property Description:	Lt 1 & 2 Lease & Tanosch Map 185-95		
Total Acreage/Size:	2.40	Equalization Rate:	----
Land Assessment:	2022 - \$100,800	Total Assessment:	2022 - \$514,900
Full Market Value:	2022 - \$2,084,600		
Deed Book:	13077	Deed Page:	1619
Grid East:	612728	Grid North:	989341
Bank Code:	N/A		



Pictometry Connect

Documents

No documents found for this parcel

- Maps**
- View Tax Map
 - Pin Property on GIS Map
 - View in Google Maps
 - View in Bing Maps
 - Map Disclaimer

Special Districts for 2022

Description	Units	Percent	Type	Value
AM010-Newburgh Ambulance	0	0%		0
FD008-Cronomer vly fire	0	0%		0
WD001-Consol wtr 1	0	0%		0

Land Types

Type	Size
Primary	262 x 320



Image Mate Online

Navigation GIS Map Tax Maps | DTF Links

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Commercial

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Municipality of Newburgh

SWIS:	334600	Tax ID:	35-4-1.111	
-------	--------	---------	------------	--

Ownership Information

Name	Secondary Name	Address
ENTN, LLC		155 N Plank Rd Newburgh NY 12550

Sale Information

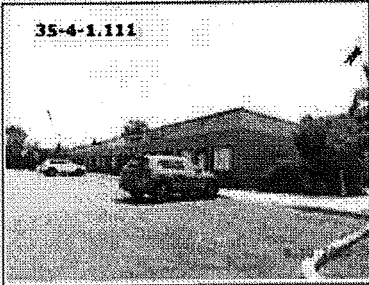
Sale Date	Price	Property Class	Sale Type	Prior Owner
10/27/2010	\$1,500,000	465 - Prof. bldg.	Land & Building	No Plank Development Co
	Value Usable	Arms Length	Deed Book	Deed Page
	Yes	Yes	13077	1619

Historic Deed Information

Photographs

(Click on photo to enlarge it.)

35-4-1.111



Photo

Photo 1 of 19 →

Pictometry Connect

Documents

No documents found for this parcel

Maps

- View Tax Map
- Pin Property on GIS Map
- View in Google Maps
- View in Bing Maps

Map Disclaimer

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the ___th day of October, 2022 at 7:00 o'clock p.m.

PRESENT:

Gilbert J. Piaquadio, Supervisor

Elizabeth J. Greene, Councilwoman

Paul I. Ruggiero, Councilman

Scott M. Manley, Councilman

Anthony R. LoBiondo, Councilman

RESOLUTION OF TOWN BOARD
AUTHORIZING SETTLEMENT OF
PROCEEDINGS UNDER ARTICLE
7 OF THE REAL PROPERTY
TAX LAW:
SBL #35-4- 1.111
ENTN, LLC
(299 N. PLANK ROAD)
INDEX NUMBERS 2020-EF004161 and
2021-EF004671

Councilman/woman _____ presented the following resolution which was seconded
by Councilman/woman _____

WHEREAS, ENTN, LLC (the "Petitioner") has instituted proceedings under Article 7 of the Real Property Tax Law by which Petitioner seeks to obtain judicial review and reduction of the assessment of real property in the Town of Newburgh, Orange County, New York, consisting of a multi-tenant one story commercial building and related improvements located on a parcel of land at 299 N. Plank Road (Section 35-Block 4-Lot 1.111) on the tax assessment roll for the tax years 2020 and 2021; and

WHEREAS, special counsel to the Town, E. Stewart Jones Hacker Murphy, LLP, has negotiated a settlement of the proceeding with the Petitioner, the terms of which are embodied in a proposed Stipulation of Discontinuance and a proposed Consent Order and Judgment annexed hereto and recommended that the Town Board authorize the settlement; and

WHEREAS, after review and discussion, the Town Board has determined it to be in the best interests of the Town to authorize the settlement.

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby authorizes and directs E. Stewart Jones Hacker Murphy, LLP to execute and deliver the Stipulation of Discontinuance and Consent Order and Judgment on behalf of the Town; and

BE IT FURTHER RESOLVED, that E. Stewart Jones Hacker Murphy, LLP, the Supervisor, the Attorney for the Town, the Town's Assessor and other officers of the Town are hereby authorized to take such actions and to make, execute and deliver, or cause to be made, executed and delivered, in the name of and on behalf of the Town, all such certificates, documents and papers as may be necessary to effectuate and carry out the settlement; and

BE IT FURTHER RESOLVED that the aforesaid resolutions shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

Elizabeth J. Greene, Councilwoman voting

Paul I. Ruggiero, Councilman voting

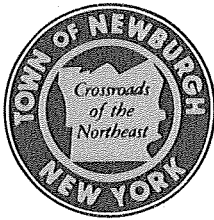
Scott M. Manley, Councilman voting

Anthony R. LoBiondo, Councilman voting

Gilbert J. Piaquadio, Supervisor voting

The resolution was thereupon declared duly adopted.

#14




TOWN OF NEWBURGH

1496 Route 300, Newburgh, New York 12550

PERSONNEL DEPT.

PH: 845-566-7785
Fax: 845-564-2170

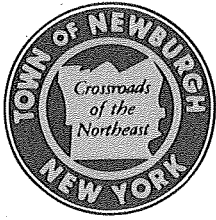
To: Gilbert Piaquadio, Supervisor ✓
Town Board Members

From: Charlene M. Black, Personnel Director 

Date: October 20, 2022

Re: Part-time Chauffeur

Mr. Presutti has requested approval to hire Darrayle Williams as a part-time
Chauffeur. The applicant's hiring is contingent on your approval and the completion of
his fingerprints, paperwork, drug/alcohol screening, and physical. A start date of on or
after November 7, 2022 is anticipated. Thank you in advance.



#14
TOWN OF NEWBURGH RECREATION DEPARTMENT

311 ROUTE 32, NEWBURGH, NY 12550

Jim Presutti

Commissioner of Parks, Recreation & Conservation

845-564-7815

FAX: 845-564-7827

TO: Gil Piaquadio, Supervisor
Town Board Members

CC: Charlene Black, Personnel

FROM: Jim Presutti, Commissioner

DATE: October 19, 2022

RE: Request to Hire P/T Chauffeur

At this time we are requesting your approval to hire Darrayle Williams as a Part Time Chauffeur to fill the current opening in the Recreation Department. Mr. Williams will be hired at the rate of \$20.00/hour.

This position is currently funded in the 2022 Recreation Department Budget. The start date for this position will be on or after November 7th.

Thank you for your consideration.

Regards,

Jim Presutti
Commissioner

TOWN OF NEWBURGH

EMPLOYMENT REQUEST FORM

To: Personnel Department

NAME OF CANDIDATE: DARRAYLE WILLIAMS

DEPARTMENT: RECREATION

TITLE OF POSITION: CHAUFFEUR

FULL TIME OR PART TIME: PART TIME

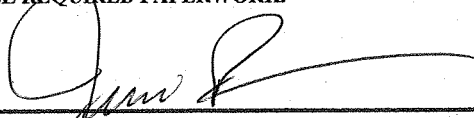
HOURLY RATE: \$20.00

IS POSITION FUNDED IN CURRENT BUDGET: YES OR NO

FUND APPROPRIATION NUMBER: 5630-5100

PROPOSED HIRE DATE: ON OR AFTER 11/07/22

NOTE: CANDIDATE CANNOT BEGIN WORK WITHOUT PRE-EMPLOYMENT PHYSICAL AND COMPLETION OF ALL REQUIRED PAPERWORK.


DEPARTMENT HEAD SIGNATURE

10/19/22
DATE

ORIGINAL APPLICATION SHOULD BE ON FILE IN THE PERSONNEL DEPARTMENT

COPY TO ACCOUNTING DEPARTMENT
5-22-2017

Town of Newburgh
Crossroads of the Northeast
 1496 Route 300
 Newburgh, NY 12550

Date: 10/21/2022
 To: Gilbert Piaquadio, Supervisor
 From: Joseph P. Pedi, Receiver of Taxes
 Subject: Relevy Unpaid Water & Sewer

Attached are the delinquent Water & Sewer Accounts in the Town of Newburgh from July 1, 2021 through June 30, 2022. Accounts are to be transferred to the County and Town Roll. A Resolution requesting the Orange County Legislature to authorize the procedure is attached. The total to be releved is \$545487.26 The following breakdown applies:

	Amount
Crossroads Consolidated (Includes districts listed below)	\$236,276.28
8	<i>Algonquin</i>
1,2,4,16,17,18,24,25,26,28,29,31,32,33,34	<i>Crossroads</i>
11	<i>Fleetwood</i>
3,6,7,12,13,14,20	<i>Gidney</i>
9	<i>Meadow Hill South</i>
10,19	<i>Meadow Hill North</i>
22	<i>Route 17K U/A</i>
5	<i>Wintergreen</i>
15,23	Nob Hill
36	Roseton
Water General All Districts	\$8,549.07
	\$26,480.44
	\$274,181.47
TOTAL	\$545,487.26

TOWN of Newburgh
Crossroads of the Northeast
Joseph P. Pedi
RECEIVER OF TAXES AND ASSESSMENT
1496 Route 300
Newburgh, New York 12550

MEMORADUM

DATE: October 24, 2022
TO: Town Board
FROM: Joseph Pedi
SUBJECT: 2023 Charge Backs

Town of Newburgh 2023 Charge Backs for property:

	<i>Bal. as of 1/1/2022</i>	<i>Rounding</i>	Court Orders/SCARS	Totals
Town:	\$999.20	(\$110.38)	\$17,650.13	\$18,538.95
Highway:	\$532.98	(\$105.12)	\$8,205.18	\$8,633.04
Consolidated Light:	\$125.59	(\$39.92)	\$490.63	\$576.30
Consolidated Water 1:	\$668.61	(\$18.27)	\$2,109.51	\$2,759.85
Consolidated Water 2:	\$1,154.29	(\$5.51)	\$3,449.38	\$4,598.16
TOTAL	\$3,480.67	(\$279.20)	\$31,904.83	\$35,106.30

It is the Town Board's decision whether to pay the charge backs through a voucher or to have it deducted from the 2023 Property Tax Warrant.

Cc: Ronald Clum, Town Account
Mark Taylor, Attorney



#116

TOWN OF NEWBURGH POLICE DEPARTMENT

300 Gardnertown Road, Newburgh, New York 12550

Donald B. Campbell
Chief of Police

Phone: (845) 564-1100
Fax: (845) 564-1870

October 20, 2022

To: Newburgh Town Board

Cc: Charlene Black

From: Chief Donald B. Campbell

Subject: Part-Time Animal Control Officer

I am requesting permission to begin the process of searching for a Part-time Animal Control Officer. This is a budgeted position that has recently become vacant.

Respectfully submitted,

Donald B. Campbell
Chief of Police