



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

MEMORANDUM

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

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: LOCAL LAW AMENDING CHAPTER 185 ENTITLED  
"ZONING" OF THE CODE OF THE TOWN OF  
NEWBURGH: CANNABIS RELATED USES  
OUR FILE NO. 800.\_\_\_\_; 800.1(B)( )(2022)

DATE: NOVEMBER 11, 2022

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**OF COUNSEL**

Craig F. Simon  
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Enclosed for the Town Board's consideration is the above referenced proposed Introductory Local Law which was previously submitted. Also enclosed for the Board's consideration as action items are the following draft resolutions:

1. Resolution of Town Board Introducing and Providing for Referral of a Local Law Amending Chapter 185 entitled "Zoning" of the Code of the Town of Newburgh; Cannabis Related Uses; and
2. Resolution of Town Board Determining that Proposed Adoption of a Local Law Amending Chapter 185 Entitled "Zoning" of the Code of the Town of Newburgh: Cannabis Related Uses Constitutes a Type I Action under SEQR and Providing for Lead Agency Coordination; and
3. Resolution of Town Board Scheduling a Public Hearing on a Local Law Amending Chapter 185 Entitled "Zoning" of the Code of the Town of Newburgh: Cannabis Related Uses.

Dave Smith has prepared the Environmental Assessment Form for the SEQR review and it will be submitted separately.

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

MCT:sel  
Enc.

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

<b>Use</b>	<b>Number of Spaces</b>
“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 6.000 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

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 \_\_\_nd day of November, 2022 at 7:00 P.M., Prevailing Time.

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 INTRODUCING AND PROVIDING FOR REFERRAL OF A LOCAL LAW AMENDING CHAPTER 185 ENTITLED "ZONING" OF THE CODE OF THE TOWN OF NEWBURGH: CANNABIS RELATED USES

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

**WHEREAS**, the Town Board of the Town of Newburgh, has determined to consider an amendment of the Town's Zoning Code to include uses licensed by the State of New York related to cannabis products as permitted uses subject to site plan and in certain cases special permit approval from the Planning Board in the B, IB and/or AR Zoning District, depending on the type of licensed use; and

**WHEREAS**, an Introductory Local Law of the Town of Newburgh which would implement the amendment of the Town's Zoning Code has been prepared and submitted to the Town Board.

**NOW, THEREFORE, BE IT RESOLVED**, that a Local Law entitled "A Local Law Amending Chapter 185 Entitled 'Zoning' of the Code of the Town of Newburgh: Cannabis Related Uses" is hereby introduced before the Town Board of the Town of Newburgh in the County of Orange and State of New York; and

**BE IT FURTHER RESOLVED** that copies of the aforesaid introductory local law together with other relevant documentation be forwarded to the Orange County Department of Planning and the Town of Newburgh Planning Board for their respective reports; and

**BE IT FURTHER RESOLVED**, that a copy of the aforesaid introductory local law also be forwarded to the Town of Newburgh Zoning Board of Appeals for its comments.

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.

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 \_\_\_nd day of November, 2022 at 7:00 P.M., Prevailing Time.

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  
DETERMINING THAT PROPOSED  
ADOPTION OF A LOCAL LAW  
AMENDING CHAPTER 185  
ENTITLED "ZONING" OF THE  
CODE OF THE TOWN OF NEWBURGH:  
CANNABIS RELATED USES  
CONSTITUTES A TYPE I ACTION UNDER  
SEQR AND PROVIDING FOR LEAD AGENCY  
COORDINATION

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

**WHEREAS**, the Town Board of the Town of Newburgh, has determined to consider an amendment of the Town's Zoning Code to include uses licensed by the State of New York related to cannabis products as permitted uses subject to site plan and in certain cases special permit approval from the Planning Board in the B, IB and/or AR Zoning District, depending on the type of licensed use together with a draft Local Law amending the Zoning Code of the Town of Newburgh which will implement the proposed amendment; and

**WHEREAS**, the Town Board of the Town of Newburgh recognizes the importance of sound planning as a means of promoting responsible development and protecting the health, safety and general welfare of the citizens of the Town of Newburgh and otherwise fulfilling the legislative findings and intent set forth in Town Law Section 272-a; and

**WHEREAS**, a Full Environmental Assessment Form Part 1 (the "EAF") has been prepared to address the proposed adoption of the "Introductory Local Law Amending Chapter 185 Entitled 'Zoning' of the Code of the Town of Newburgh: Cannabis Related Uses; and

**WHEREAS**, the Town Board has determined that the proposed adoption of the aforesaid local law and the project approvals and agreement should be reviewed as an action (the "Action") under Part 617 of the General Regulations ("Part 617") adopted pursuant to Article 8 of the Environmental Conservation Law ("SEQR") and Chapter 100 entitled "Environmental Quality Review" of the Town of Newburgh Municipal Code; and

**WHEREAS**, the Town Board proposes to undertake and consider the approvals of the proposed amendment to the Town's Zoning Code and the Host Community Benefit Agreement and wishes to assume Lead Agency status in connection with the review of the Action pursuant to

the State Environmental Quality Review Act; and

**WHEREAS**, the Town Board, using all due diligence, has identified the following involved agencies for the Action:

New York State Department of Environmental Conservation,  
; and

**WHEREAS**, the Town Board, using all due diligence, has identified the following agencies as potentially interested agencies for the Action:

Town of Newburgh Planning Board  
Orange County Planning Department,  
Town of Newburgh Zoning Board of Appeals  
; and

**WHEREAS**, the Town Board proposes to undertake and consider approval of the Action within its jurisdiction and wishes to assume Lead Agency status in connection with the review of the Action pursuant to SEQRA and Part 617.

**NOW, THEREFORE, BE IT RESOLVED**, the Town Board pursuant to Article 8 of the Environmental Conservation Law ("SEQRA"), Part 617 of the General Regulations adopted pursuant thereto ("Part 617") and Chapter 100 entitled "Environmental Quality Review" of the Town of Newburgh Municipal Code, hereby determines that the Action is subject to SEQRA and is a Type I action as it includes the adoption of a change in the allowable uses in a zoning district affecting 25 or more acres; and

**BE IT FURTHER RESOLVED**, that the following are identified as involved agencies for the Action

New York State Department of Environmental Conservation  
; and

**BE IT FURTHER RESOLVED**, that the following are identified as interested agencies for the Action:

Town of Newburgh Planning Board  
Orange County Department of Planning  
Town of Newburgh Zoning Board of Appeals  
and;

**BE IT FURTHER RESOLVED**, that the Town Board hereby directs that a Lead Agency coordination notice be circulated among involved agencies together with copies of the EAF, and such other information as is appropriate, indicating the Town Board's intent to assume the role of Lead Agency for the Action under SEQRA and Part 617, and that copies of the EAF also be

forwarded to interested agencies for review and comment.

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.

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 \_\_\_nd day of November, 2022 at 7:00 P.M., Prevailing Time

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  
SCHEDULING A  
PUBLIC HEARING ON  
A LOCAL LAW AMENDING  
CHAPTER 185 ENTITLED "ZONING"  
OF THE CODE OF THE TOWN OF  
NEWBURGH: CANNABIS RELATED  
USES

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

WHEREAS, the Town Board of the Town of Newburgh, County of Orange, State of New York, has determined to consider an amendment of the Town's Zoning Code to include uses licensed by the State of New York related to cannabis products as permitted uses subject to site plan and in certain cases special permit approval from the Planning Board in the B, IB and/or AR Zoning District, depending on the type of licensed use ; and

WHEREAS, an Introductory Local Law, entitled "A Local Law Amending Chapter 185 Entitled 'Zoning' of the Code of the Town of Newburgh: Cannabis Related Uses" has been introduced before the Town Board of the Town of Newburgh in the County of Orange and State of New York.

NOW, THEREFORE, BE IT RESOLVED that a copy of the aforesaid proposed local law in final form be laid upon the desk of each member of the Town Board; and

BE IT FURTHER RESOLVED that the Town Board shall hold a public hearing in the matter of the adoption of the aforesaid local law to be held at the Town Hall at 1496 Route 300 the Town of Newburgh, New York on the \_\_\_th day of December, 2022 at 7:\_\_\_ o'clock, p.m.; and

BE IT FURTHER RESOLVED that the Town Clerk give notice of such public hearing by the publication of a notice in the official newspapers of the Town, specifying the time when and the place where such public hearing will be held at least three (3) days prior to the public hearing in accordance with the requirements of the Municipal Home Rule Law and Section 25-1 of the Town of Newburgh Municipal Code and by posting one copy of the local law together



with the notice of hearing on the signboard of his office not later than the day such notice is published and on the Town's website; and

**BE IT FURTHER RESOLVED** that copies of the aforesaid local law and notice of the public hearing be forwarded to all municipalities, agencies and boards required to receive such copies and notices in accordance with the provisions of the New York State General Municipal Law, and the New York State Town Law and the Town of Newburgh Zoning Code.

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

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.

**Full Environmental Assessment Form  
Part 1 - Project and Setting**

**Instructions for Completing Part 1**

**Part 1 is to be completed by the applicant or project sponsor.** Responses become part of the application for approval or funding, are subject to public review; and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

**A. Project and Applicant/Sponsor Information.**

Name of Action or Project: Zoning Text amendment for regulating cannabis related uses		
Project Location (describe, and attach a general location map): Town of Newburgh		
Brief Description of Proposed Action (include purpose or need): local law 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.		
Name of Applicant/Sponsor: Town of Newburgh	Telephone: 845-564-4552	
	E-Mail: supervisor@townofnewburgh.org	
Address: 1496 Route 300		
City/PO: Town of Newburgh	State: NY	Zip Code: 12550
Project Contact (if not same as sponsor; give name and title/role): Gil Piaquadio, SUpervisor	Telephone:	
	E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): NA	Telephone:	
	E-Mail:	
Address:		
City/PO:	State:	Zip Code:

**B. Government Approvals**

<b>B. Government Approvals, Funding, or Sponsorship.</b> ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)		
<b>Government Entity</b>	<b>If Yes: Identify Agency and Approval(s) Required</b>	<b>Application Date (Actual or projected)</b>
a. City Counsel, Town Board, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	Town Board	
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Referral	
c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Planning GML Referral	
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**C. Planning and Zoning**

<b>C.1. Planning and zoning actions.</b>	
Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>• <b>If Yes</b>, complete sections C, F and G.</li> <li>• <b>If No</b>, proceed to question C.2 and complete all remaining sections and questions in Part 1</li> </ul>	
<b>C.2. Adopted land use plans.</b>	
a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, identify the plan(s): Remediaton Sites:336088, Remediaton Sites:336089, Remediaton Sites:336002, Remediaton Sites:336031, Remediaton Sites:V00312, Remediaton Sites:C336031, Remediaton Sites:336057, Remediaton Sites:V00118, Remediaton Sites:336059, Remediaton Sites:336024, Remediaton Sites:336086, Remediaton Sites:546031	
c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes, identify the plan(s): _____ _____ _____	

**C.3. Zoning**

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance.  Yes  No  
If Yes, what is the zoning classification(s) including any applicable overlay district?

IB- Interchange Business, B-Business and AR Agricultural Residence

b. Is the use permitted or allowed by a special or conditional use permit?  Yes  No

c. Is a zoning change requested as part of the proposed action?  Yes  No

If Yes,

i. What is the proposed new zoning for the site? zoning text amendments to allow for uses in IB, B and AR districts

**C.4. Existing community services.**

a. In what school district is the project site located? Marlborough Central, Newburgh City, Wallkill Central, Valley Central

b. What police or other public protection forces serve the project site?

Town of Newburgh, NYS Police

c. Which fire protection and emergency medical services serve the project site?

Middlehope, Cronomer Valley, Plattekill, Orange Lake, Colenham, Winona Lake, Cronomer Valley

d. What parks serve the project site?

Cronomer Hill, Chadwick Lake

**D. Project Details**

**D.1. Proposed and Potential Development**

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Zoning text amendments

b. a. Total acreage of the site of the proposed action? \_\_\_\_\_ town-wide acres

b. Total acreage to be physically disturbed? \_\_\_\_\_ NA acres

c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? \_\_\_\_\_ NA acres

c. Is the proposed action an expansion of an existing project or use?  Yes  No

i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % \_\_\_\_\_ Units: \_\_\_\_\_

d. Is the proposed action a subdivision, or does it include a subdivision?  Yes  No

If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed?  Yes  No

iii. Number of lots proposed? \_\_\_\_\_

iv. Minimum and maximum proposed lot sizes? Minimum \_\_\_\_\_ Maximum \_\_\_\_\_

e. Will the proposed action be constructed in multiple phases?  Yes  No

i. If No, anticipated period of construction: \_\_\_\_\_ months

ii. If Yes:

• Total number of phases anticipated \_\_\_\_\_

• Anticipated commencement date of phase 1 (including demolition) \_\_\_\_\_ month \_\_\_\_\_ year

• Anticipated completion date of final phase \_\_\_\_\_ month \_\_\_\_\_ year

• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: \_\_\_\_\_

f. Does the project include new residential uses?  Yes  No

If Yes, show numbers of units proposed.

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	_____
At completion of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)?  Yes  No

If Yes,

- i. Total number of structures \_\_\_\_\_
- ii. Dimensions (in feet) of largest proposed structure: \_\_\_\_\_ height; \_\_\_\_\_ width; and \_\_\_\_\_ length
- iii. Approximate extent of building space to be heated or cooled: \_\_\_\_\_ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage?  Yes  No

If Yes,

- i. Purpose of the impoundment: \_\_\_\_\_
- ii. If a water impoundment, the principal source of the water:  Ground water  Surface water streams  Other specify: \_\_\_\_\_
- iii. If other than water, identify the type of impounded/contained liquids and their source. \_\_\_\_\_
- iv. Approximate size of the proposed impoundment. Volume: \_\_\_\_\_ million gallons; surface area: \_\_\_\_\_ acres
- v. Dimensions of the proposed dam or impounding structure: \_\_\_\_\_ height; \_\_\_\_\_ length
- vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): \_\_\_\_\_

**D.2. Project Operations**

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both?  Yes  No  
(Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)

If Yes:

- i. What is the purpose of the excavation or dredging? \_\_\_\_\_
- ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
  - Volume (specify tons or cubic yards): \_\_\_\_\_
  - Over what duration of time? \_\_\_\_\_
- iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. \_\_\_\_\_
- iv. Will there be onsite dewatering or processing of excavated materials?  Yes  No  
If yes, describe. \_\_\_\_\_
- v. What is the total area to be dredged or excavated? \_\_\_\_\_ acres
- vi. What is the maximum area to be worked at any one time? \_\_\_\_\_ acres
- vii. What would be the maximum depth of excavation or dredging? \_\_\_\_\_ feet
- viii. Will the excavation require blasting?  Yes  No
- ix. Summarize site reclamation goals and plan: \_\_\_\_\_

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area?  Yes  No

If Yes:

- i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): \_\_\_\_\_

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

iii. Will the proposed action cause or result in disturbance to bottom sediments?  Yes  No

If Yes, describe: \_\_\_\_\_

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation?  Yes  No

If Yes:

- acres of aquatic vegetation proposed to be removed: \_\_\_\_\_
- expected acreage of aquatic vegetation remaining after project completion: \_\_\_\_\_
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): \_\_\_\_\_
- \_\_\_\_\_
- proposed method of plant removal: \_\_\_\_\_
- if chemical/herbicide treatment will be used, specify product(s): \_\_\_\_\_

v. Describe any proposed reclamation/mitigation following disturbance: \_\_\_\_\_

c. Will the proposed action use, or create a new demand for water?  Yes  No

If Yes:

i. Total anticipated water usage/demand per day: \_\_\_\_\_ gallons/day

ii. Will the proposed action obtain water from an existing public water supply?  Yes  No

If Yes:

- Name of district or service area: \_\_\_\_\_
- Does the existing public water supply have capacity to serve the proposal?  Yes  No
- Is the project site in the existing district?  Yes  No
- Is expansion of the district needed?  Yes  No
- Do existing lines serve the project site?  Yes  No

iii. Will line extension within an existing district be necessary to supply the project?  Yes  No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_
- \_\_\_\_\_
- Source(s) of supply for the district: \_\_\_\_\_

iv. Is a new water supply district or service area proposed to be formed to serve the project site?  Yes  No

If, Yes:

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- Proposed source(s) of supply for new district: \_\_\_\_\_

v. If a public water supply will not be used, describe plans to provide water supply for the project: \_\_\_\_\_

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: \_\_\_\_\_ gallons/minute.

d. Will the proposed action generate liquid wastes?  Yes  No

If Yes:

i. Total anticipated liquid waste generation per day: \_\_\_\_\_ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

iii. Will the proposed action use any existing public wastewater treatment facilities?  Yes  No

If Yes:

- Name of wastewater treatment plant to be used: \_\_\_\_\_
- Name of district: \_\_\_\_\_
- Does the existing wastewater treatment plant have capacity to serve the project?  Yes  No
- Is the project site in the existing district?  Yes  No
- Is expansion of the district needed?  Yes  No

- Do existing sewer lines serve the project site?  Yes  No
- Will a line extension within an existing district be necessary to serve the project?  Yes  No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_  
\_\_\_\_\_

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site?  Yes  No

If Yes:

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- What is the receiving water for the wastewater discharge? \_\_\_\_\_

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):  
\_\_\_\_\_  
\_\_\_\_\_

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: \_\_\_\_\_  
\_\_\_\_\_

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction?  Yes  No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

\_\_\_\_\_ Square feet or \_\_\_\_\_ acres (impervious surface)

\_\_\_\_\_ Square feet or \_\_\_\_\_ acres (parcel size)

ii. Describe types of new point sources. \_\_\_\_\_  
\_\_\_\_\_

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?  
\_\_\_\_\_  
\_\_\_\_\_

- If to surface waters, identify receiving water bodies or wetlands: \_\_\_\_\_  
\_\_\_\_\_

- Will stormwater runoff flow to adjacent properties?  Yes  No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater?  Yes  No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations?  Yes  No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)  
\_\_\_\_\_

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)  
\_\_\_\_\_

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)  
\_\_\_\_\_

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit?  Yes  No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year)  Yes  No

ii. In addition to emissions as calculated in the application, the project will generate:

- \_\_\_\_\_ Tons/year (short tons) of Carbon Dioxide (CO<sub>2</sub>)
- \_\_\_\_\_ Tons/year (short tons) of Nitrous Oxide (N<sub>2</sub>O)
- \_\_\_\_\_ Tons/year (short tons) of Perfluorocarbons (PFCs)
- \_\_\_\_\_ Tons/year (short tons) of Sulfur Hexafluoride (SF<sub>6</sub>)
- \_\_\_\_\_ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)
- \_\_\_\_\_ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)?  Yes  No

If Yes:

- i. Estimate methane generation in tons/year (metric): \_\_\_\_\_
- ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): \_\_\_\_\_

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations?  Yes  No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): \_\_\_\_\_

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services?  Yes  No

If Yes:

- i. When is the peak traffic expected (Check all that apply):  Morning  Evening  Weekend  
 Randomly between hours of \_\_\_\_\_ to \_\_\_\_\_
- ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): \_\_\_\_\_
- iii. Parking spaces: Existing \_\_\_\_\_ Proposed \_\_\_\_\_ Net increase/decrease \_\_\_\_\_
- iv. Does the proposed action include any shared use parking?  Yes  No
- v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: \_\_\_\_\_
- vi. Are public/private transportation service(s) or facilities available within 1/2 mile of the proposed site?  Yes  No
- vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles?  Yes  No
- viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes?  Yes  No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy?  Yes  No

If Yes:

- i. Estimate annual electricity demand during operation of the proposed action: \_\_\_\_\_
- ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): \_\_\_\_\_
- iii. Will the proposed action require a new, or an upgrade, to an existing substation?  Yes  No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: \_\_\_\_\_ NA
- Saturday: \_\_\_\_\_ NA
- Sunday: \_\_\_\_\_ NA
- Holidays: \_\_\_\_\_ NA

ii. During Operations:

- Monday - Friday: \_\_\_\_\_ NA
- Saturday: \_\_\_\_\_ NA
- Sunday: \_\_\_\_\_ NA
- Holidays: \_\_\_\_\_ NA



m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both?  Yes  No

If yes:

i. Provide details including sources, time of day and duration: \_\_\_\_\_

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ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen?  Yes  No

Describe: \_\_\_\_\_

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n. Will the proposed action have outdoor lighting?  Yes  No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures: \_\_\_\_\_

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ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen?  Yes  No

Describe: \_\_\_\_\_

---

o. Does the proposed action have the potential to produce odors for more than one hour per day?  Yes  No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: \_\_\_\_\_

---

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage?  Yes  No

If Yes:

i. Product(s) to be stored \_\_\_\_\_

ii. Volume(s) \_\_\_\_\_ per unit time \_\_\_\_\_ (e.g., month, year)

iii. Generally, describe the proposed storage facilities: \_\_\_\_\_

---

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation?  Yes  No

If Yes:

i. Describe proposed treatment(s): \_\_\_\_\_

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ii. Will the proposed action use Integrated Pest Management Practices?  Yes  No

---

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)?  Yes  No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: \_\_\_\_\_ tons per \_\_\_\_\_ (unit of time)
- Operation : \_\_\_\_\_ tons per \_\_\_\_\_ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction: \_\_\_\_\_
- Operation: \_\_\_\_\_

---

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction: \_\_\_\_\_
- Operation: \_\_\_\_\_

s. Does the proposed action include construction or modification of a solid waste management facility?  Yes  No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): \_\_\_\_\_

ii. Anticipated rate of disposal/processing:

- \_\_\_\_\_ Tons/month, if transfer or other non-combustion/thermal treatment, or
- \_\_\_\_\_ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: \_\_\_\_\_ years

---

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste?  Yes  No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: \_\_\_\_\_

ii. Generally describe processes or activities involving hazardous wastes or constituents: \_\_\_\_\_

iii. Specify amount to be handled or generated \_\_\_\_\_ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: \_\_\_\_\_

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility?  Yes  No

If Yes: provide name and location of facility: \_\_\_\_\_

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: \_\_\_\_\_

**E. Site and Setting of Proposed Action**

**E.1. Land uses on and surrounding the project site**

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

Urban  Industrial  Commercial  Residential (suburban)  Rural (non-farm)

Forest  Agriculture  Aquatic  Other (specify): Park \_\_\_\_\_

ii. If mix of uses, generally describe: \_\_\_\_\_

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b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	-	-	-
• Forested	-	-	-
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	-	-	-
• Agricultural (includes active orchards, field, greenhouse etc.)	-	-	-
• Surface water features (lakes, ponds, streams, rivers, etc.)	-	-	-
• Wetlands (freshwater or tidal)	-	-	-
• Non-vegetated (bare rock, earth or fill)	-	-	-
• Other Describe: _____			

c. Is the project site presently used by members of the community for public recreation?  Yes  No  
 i. If Yes: explain: Chadwick Lake, Cronomer Hill, Orange Lake, Hudson River

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site?  Yes  No  
 If Yes,  
 i. Identify Facilities:  
Fostertown Elementary, Gardnertown, East Coldenham, Meadow Hill, Balmville Elementary, Union Nursery School, Miss Cindy's Neighborhood Nursery, Healthy Kids before School, Tots-N-U's, Senior Horizons, Kinderhouse

e. Does the project site contain an existing dam?  Yes  No  
 If Yes:  
 i. Dimensions of the dam and impoundment:  
 • Dam height: \_\_\_\_\_ feet  
 • Dam length: \_\_\_\_\_ feet  
 • Surface area: \_\_\_\_\_ acres  
 • Volume impounded: \_\_\_\_\_ gallons OR acre-feet  
 ii. Dam's existing hazard classification: \_\_\_\_\_  
 iii. Provide date and summarize results of last inspection:  
 \_\_\_\_\_

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility?  Yes  No  
 If Yes:  
 i. Has the facility been formally closed?  Yes  No  
 • If yes, cite sources/documentation: \_\_\_\_\_  
 ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:  
 \_\_\_\_\_  
 iii. Describe any development constraints due to the prior solid waste activities: \_\_\_\_\_

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste?  Yes  No  
 If Yes:  
 i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:  
 \_\_\_\_\_

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site?  Yes  No  
 If Yes:  
 i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply:  Yes  No  
 Yes – Spills Incidents database Provide DEC ID number(s): \_\_\_\_\_  
 Yes – Environmental Site Remediation database Provide DEC ID number(s): 336088, 336089, 336002, 336...  
 Neither database  
 ii. If site has been subject of RCRA corrective activities, describe control measures: \_\_\_\_\_  
 iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database?  Yes  No  
 If yes, provide DEC ID number(s): 336022, 336019, 336088, 336089, 336002, 336031,...  
 iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):  
 \_\_\_\_\_

v. Is the project site subject to an institutional control limiting property uses?  Yes  No

- If yes, DEC site ID number: \_\_\_\_\_
- Describe the type of institutional control (e.g., deed restriction or easement): \_\_\_\_\_
- Describe any use limitations: \_\_\_\_\_
- Describe any engineering controls: \_\_\_\_\_
- Will the project affect the institutional or engineering controls in place?  Yes  No
- Explain: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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**E.2. Natural Resources On or Near Project Site**

a. What is the average depth to bedrock on the project site? \_\_\_\_\_ 0->5 feet

b. Are there bedrock outcroppings on the project site?  Yes  No  
 If Yes, what proportion of the site is comprised of bedrock outcroppings? \_\_\_\_\_ >5 %

c. Predominant soil type(s) present on project site: 

NA	_____	_____ %
NA	_____	_____ %
NA	_____	_____ %

d. What is the average depth to the water table on the project site? Average: \_\_\_\_\_ 0->5 feet

e. Drainage status of project site soils:  Well Drained: \_\_\_\_\_ % of site  
 Moderately Well Drained: \_\_\_\_\_ % of site **NA**  
 Poorly Drained: \_\_\_\_\_ % of site

f. Approximate proportion of proposed action site with slopes:  0-10%: \_\_\_\_\_ % of site  
 10-15%: \_\_\_\_\_ % of site **NA**  
 15% or greater: \_\_\_\_\_ % of site

g. Are there any unique geologic features on the project site?  Yes  No  
 If Yes, describe: \_\_\_\_\_  
 \_\_\_\_\_

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)?  Yes  No

ii. Do any wetlands or other waterbodies adjoin the project site?  Yes  No  
 If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency?  Yes  No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name 862-136, 862-222, 862-211, 862-223, 862-205, 86... Classification C, A, B, AA
- Lakes or Ponds: Name 862-223, 862-218, 862-224, 862-227, 862-232, 86... Classification A, C, B
- Wetlands: Name Federal Waters, NYS Wetland, Federal Waters, Fe... Approximate Size NYS Wetland (in a...)
- Wetland No. (if regulated by DEC) NB-27, NB-25, NB-26, NB-29,...

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies?  Yes  No  
 If yes, name of impaired water body/bodies and basis for listing as impaired: \_\_\_\_\_  
 Name - Pollutants - Uses: Orange Lake – Nutrients – Recreation, Name - Pollutants - Uses: Hudson River (Class B) – Priority Organ...

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i. Is the project site in a designated Floodway?  Yes  No

j. Is the project site in the 100-year Floodplain?  Yes  No

k. Is the project site in the 500-year Floodplain?  Yes  No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer?  Yes  No  
 If Yes:

i. Name of aquifer: Principal Aquifer \_\_\_\_\_

m. Identify the predominant wildlife species that occupy or use the project site: \_\_\_\_\_  
 typical for suburban setting \_\_\_\_\_  
 \_\_\_\_\_

n. Does the project site contain a designated significant natural community?  Yes  No  
 If Yes:  
 i. Describe the habitat/community (composition, function, and basis for designation): Red Maple-Hardwood Swamp  
 ii. Source(s) of description or evaluation: NYS DEC  
 iii. Extent of community/habitat:  
 • Currently: 1460.0 acres  
 • Following completion of project as proposed: no change acres  
 • Gain or loss (indicate + or -): NA acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species?  Yes  No  
 If Yes:  
 i. Species and listing (endangered or threatened): Atlantic Sturgeon, Indiana Bat, Upland Sandpiper, Bald Eagle, Shortnose Sturgeon

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern?  Yes  No  
 If Yes:  
 i. Species and listing: \_\_\_\_\_

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing?  Yes  No  
 If yes, give a brief description of how the proposed action may affect that use: No change

**E.3. Designated Public Resources On or Near Project Site**

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?  Yes  No  
 If Yes, provide county plus district name/number: ORAN001, ULST002, ULST001

b. Are agricultural lands consisting of highly productive soils present?  Yes  No  
 i. If Yes: acreage(s) on project site? varies  
 ii. Source(s) of soil rating(s): Orange County

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark?  Yes  No  
 If Yes:  
 i. Nature of the natural landmark:  Biological Community  Geological Feature  
 ii. Provide brief description of landmark, including values behind designation and approximate size/extent: \_\_\_\_\_

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area?  Yes  No  
 If Yes:  
 i. CEA name: Chadwick Lake Reservoir, Wallkill Public Water Supply  
 ii. Basis for designation: Development threat to public health, Protect water supply  
 iii. Designating agency and date: Agency:Newburgh, Town of, Agency:Shawangunk, Town of, Date:5-21-87, Date:10-1-89

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?  Yes  No

If Yes:

i. Nature of historic/archaeological resource:  Archaeological Site  Historic Building or District

ii. Name: Eligible property: Johnes-Holden Home, Eligible property: Old Balmville Elementary School, Eligible property: Residence,...

iii. Brief description of attributes on which listing is based: \_\_\_\_\_

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f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?  Yes  No

g. Have additional archaeological or historic site(s) or resources been identified on the project site?  Yes  No

If Yes:

i. Describe possible resource(s): \_\_\_\_\_

ii. Basis for identification: \_\_\_\_\_

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h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource?  Yes  No

If Yes:

i. Identify resource: Hudson River

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): Scenic

iii. Distance between project and resource: \_\_\_\_\_ 5 miles.

---

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666?  Yes  No

If Yes:

i. Identify the name of the river and its designation: \_\_\_\_\_

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666?  Yes  No

**F. Additional Information**

Attach any additional information which may be needed to clarify your project.

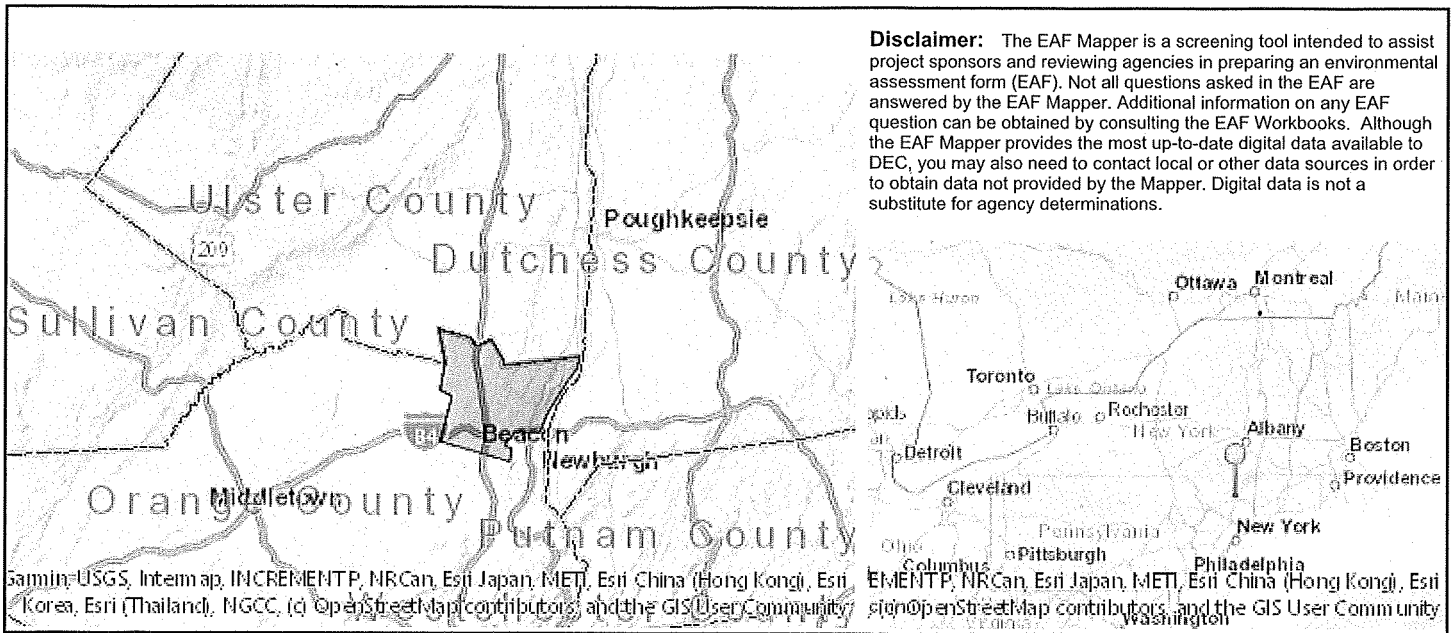
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

**G. Verification**

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Town of Newburgh Town Board Date 11/11/22

Signature  Title Planning Consultant to the Town Board



B.i.i [Coastal or Waterfront Area]	Yes
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	Remediation Sites:336088, Remediation Sites:336089, Remediation Sites:336002, Remediation Sites:336031, Remediation Sites:V00312, Remediation Sites:C336031, Remediation Sites:336057, Remediation Sites:V00118, Remediation Sites:336059, Remediation Sites:336024, Remediation Sites:336086, Remediation Sites:546031
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Yes - Digital mapping data for Spills Incidents are not available for this location. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Yes
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Yes
E.1.h.i [DEC Spills or Remediation Site - DEC ID Number]	336088, 336089, 336002, 336031, V00312, C336031, 336057, V00118, 336059, 336024, 336086, 546031
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	336022, 336019, 336088, 336089, 336002, 336031, 336037, V00312, C336031, B00136, 336009, 336063, C336085, 336057, V00118, 336059, 336024, 336086, 546031
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.

E.2.h.iv [Surface Water Features - Stream Name]	002-100, 002-222, 002-211, 002-220, 002-200, 002-220, 002-210, 002-220, 855.5-145, 862-226, 862-225, 862-224, 862-360, 862-231, 862-215, 862-227, 862-228, 862-221, 862-359, 862-232, 862-206, 855.5-134, 862-207, 862-364, 862-371, 862-370, 862-374, 858-1, 862-358
E.2.h.iv [Surface Water Features - Stream Classification]	C, A, B, AA
E.2.h.iv [Surface Water Features - Lake/Pond Name]	862-223, 862-218, 862-224, 862-227, 862-232, 862-215, 862-230, 862-359, 862-358, 862-360, 862-374
E.2.h.iv [Surface Water Features - Lake/Pond Classification]	A, C, B
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters, NYS Wetland
E.2.h.iv [Surface Water Features - Wetlands Size]	NYS Wetland (in acres):55.4, NYS Wetland (in acres):25.1, NYS Wetland (in acres):20.4, NYS Wetland (in acres):54.4, NYS Wetland (in acres):18.3, NYS Wetland (in acres):28.1, NYS Wetland (in acres):294.0, NYS Wetland (in acres):35.5, NYS Wetland (in acres):15.2, NYS Wetland (in acres):15.0, NYS Wetland (in acres):66.1, NYS Wetland (in acres):26.6, NYS Wetland (in acres):70.9, NYS Wetland (in acres):15.5, NYS Wetland (in acres):21.0, NYS Wetland (in acres):29.6, NYS Wetland (in acres):13.7, NYS Wetland (in acres):19.2, NYS Wetland (in acres):1368.4, NYS Wetland (in acres):22.7, NYS Wetland (in acres):23.9, NYS Wetland (in acres):38.3, NYS Wetland (in acres):85.5, NYS Wetland (in acres):12.2, NYS Wetland (in acres):99.7, NYS Wetland (in acres):71.7, NYS Wetland (in acres):84.1, NYS Wetland (in acres):38.1, NYS Wetland (in acres):111.7, NYS Wetland (in acres):242.3, NYS Wetland (in acres):17.2
E.2.h.iv [Surface Water Features - DEC Wetlands Number]	NB-27, NB-25, NB-26, NB-29, NB-28, NB-24, NB-21, NB-20, NB-22, NB-13, NB-12, NB-15, NB-23, NB-19, NB-16, NB-35, NB-17, NB-18, NB-11, NB-32, NB-14, NB-5, NB-30, NB-31, NB-4, NB-7, NB-34, NB-9, NB-33, WD-50, NB-10
E.2.h.v [Impaired Water Bodies]	Yes
E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses:Orange Lake – Nutrients – Recreation, Name - Pollutants - Uses:Hudson River (Class B) – Priority Organics – Fish Consumption, Name - Pollutants - Uses:Hudson River (Class A) – Priority Organics – Fish Consumption
E.2.i. [Floodway]	Yes
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	Yes
E.2.l. [Aquifer Names]	Principal Aquifer
E.2.n. [Natural Communities]	Yes
E.2.n.i [Natural Communities - Name]	Red Maple-Hardwood Swamp
E.2.n.i [Natural Communities - Acres]	1460.0
E.2.o. [Endangered or Threatened Species]	Yes
E.2.o. [Endangered or Threatened Species - Name]	Atlantic Sturgeon, Indiana Bat, Upland Sandpiper, Bald Eagle, Shortnose Sturgeon
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	Yes
E.3.a. [Agricultural District]	ORAN001, ULST002, ULST001
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	Yes
E.3.d [Critical Environmental Area - Name]	Chadwick Lake Reservoir, Wallkill Public Water Supply



E.3.d.ii [Critical Environmental Area - Reason]	Development threat to public health, protect water supply
E.3.d.iii [Critical Environmental Area – Date and Agency]	Agency:Newburgh, Town of, Agency:Shawangunk, Date:5-21-87, Date:10-1-89
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National or State Register of Historic Places or State Eligible Sites - Name]	Eligible property:Johnes-Holden Home, Eligible property:Old Balmville Elementary School, Eligible property:Residence, barn, privy, Eligible property:514 Grand Avenue, Newburgh, Eligible property:26 Downing Ave, Eligible property:533 Grand Avenue, Eligible property:532 & 536 Grand Avenue, Eligible property:519 Grand Avenue, Eligible property:559 Grand Avenue, Eligible property:3 West Stone Street, Eligible property:512 Grand Avenue, Eligible property:505 Grand Avenue, Eligible property:527 Grand Avenue, Eligible property:153 Holmes Road, Eligible property:THAYER HOUSE, Eligible property:farmhouse and barn, Eligible property:Our Lady of Mercy RC Church, Belknap Stone House, Orange Mill Historic District, Gardner, Silas, House, Bloomer-Dailey House and Balmville Tree, Maple Lawn, Powelton Club, Echo Lawn Estate, Balmville Cemetery, Cosman Family Cemetery, Mill House, Chapel Hill Bible Church
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

#5B



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

**MEMORANDUM**

P: 845.562.9100

F: 845.562.9126

655 Little Britain Road  
New Windsor, NY 12553

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: NOVEMBER 10, 2022

**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 for the Town Board's consideration in connection with the Introductory Local Law Amending Chapter 71 Entitled "Building Construction" of the Code of the Town of Newburgh please find the following resolutions:

1. Resolution Confirming SEQR Lead Agency Designation: Adoption of a Proposed Local Law Amending Chapter 71 Entitled "Building Construction" of the Code of the Town of Newburgh; and
2. Resolution of Town Board Introducing A Local Law Amending Chapter 71 Entitled "Building Construction" of the Code of the Town of Newburgh and Providing for Public Notice and Public Hearing

Additionally enclosed is copy of the proposed Local Law in final form. Per Mr. Canfield's request we have modified the final version to include certain provisions of the current Code Chapter regarding fees and the application processing time period as well correcting typographicals in the earlier version. Pat Hines is preparing the Environmental Assessment Form for the SEQR review.

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)

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 November, 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 CONFIRMING SEQR LEAD DESIGNATION: ADOPTION OF A PROPOSED LOCAL LAW AMENDING CHAPTER 71 ENTITLED "BUILDING CONSTRUCTION" OF THE CODE OF THE TOWN OF NEWBURGH

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

**WHEREAS**, the Town Board of the Town of Newburgh has caused to be prepared a local law which will amend and replace Chapter 71 "Building Construction" of the Code of the Town of Newburgh so that the administration and enforcement of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code conforms to updated State standards; and

**WHEREAS**, the Town Board of the Town of Newburgh has caused an Environmental Assessment Form (the "EAF") to be prepared for the proposed adoption of said local law regarding the administration and enforcement of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code in the Town (the "Action"); and

**WHEREAS**, the proposed local law is being introduced before the Town Board on the \_\_\_th day of November, 2022, and the Town Board is conducting a public hearing held on the \_\_\_th day of December, 2022 to hear all interested parties on said proposed local law; and

**WHEREAS**, the Town Board has determined that the Action is an Unlisted Action under Part 617 of the General Regulations (the "SEQR Regulations") adopted pursuant to Article 8 of the Environmental Conservation Law and Chapter 100 entitled "Environmental Quality Review" of the Town of Newburgh Municipal Code; and

**WHEREAS**, the Town Board proposes to undertake, fund and approve the Action and wishes to assume Lead Agency status in connection with the review of the Action pursuant to the State Environmental Quality Review Act; and

**WHEREAS**, the Town Board has determined that the Action does not involve a federal agency; and

**WHEREAS**, the Town Board, using all due diligence, has identified no other involved

agencies for the Action; and

**WHEREAS**, pursuant to Section 617.6(b)(1) of Part 617, “[w]hen a single agency is involved, that agency will be the lead agency when it proposes to undertake, fund or approve a Type I or Unlisted action that does not involve another agency”; and

**NOW THEREFORE, BE IT RESOLVED:** the Town Board determines that it is the single involved agency for the Action it is proposing to directly undertake, and does further confirm that it will serve as the Lead Agency for the purpose of conducting a review of this Action, and will carry out the duties of the Lead Agency as set forth in the SEQR Regulations.

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.

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 13th day of December, 2021 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  
INTRODUCING A LOCAL LAW  
AMENDING CHAPTER 71 ENTITLED  
"BUILDING CONSTRUCTION" OF THE  
CODE OF THE TOWN OF NEWBURGH  
AND PROVIDING FOR PUBLIC NOTICE  
AND PUBLIC HEARING

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

**BE IT RESOLVED** that Introductory Local Law No. \_\_\_ of the Year 2022 entitled "A Local Law Amending Chapter 71 entitled 'Building Construction' of the Code of Town of Newburgh" be and it hereby is introduced before the Town Board of the Town of Newburgh in the County of Orange and State of New York, and

**BE IT FURTHER RESOLVED** that a copy of the aforesaid proposed local law in final form be laid upon the desk of each member of the Town Board at least seven (7) days prior to a public hearing on said proposed local law, and

**BE IT FURTHER RESOLVED** that the Town Board shall hold a public hearing in the matter of the adoption of the aforesaid local law to be held at the Town Hall at 1496 Route 300 in the Town of Newburgh, New York on the \_\_\_th day of December, 2022 at 7:\_\_\_ o'clock, p.m., and

**BE IT FURTHER RESOLVED** that the Town Clerk give notice of such public hearing by the publication of a notice in the official newspapers of the Town, specifying the time when and the place where such public hearing will be held at least three (3) days prior to the public hearing, and posting of such notice together with a copy of such local law in accordance with the requirements of the Municipal Home Rule Law and Chapter 25 of the Code of the Town of Newburgh.

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.

**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 of 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 such terms and conditions as the Code Compliance Supervisor may determine to be appropriate;
- (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 Chapter and other Chapters of the Municipal Code;
- (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 such 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 approve or disapprove of the same or refer to the appropriate body within 20 working days after the filing of a complete and properly prepared application. 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. If a building permit is denied, the Code Compliance Supervisor shall state in writing the reasons for such denial. For purposes of this section, "working days" shall mean weekdays other than holidays and days when the issuing department is closed due to an emergency or for other reasons.

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.

(1) 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.

(2) No fee shall be required for such application where the owner of the improvement is a charitable or nonprofit organization and the property in question is exempt from taxation under the Real Property Tax Law.

(3) In the event that a building permit application is withdrawn by the applicant prior to approval by the Building Inspector, the applicant shall be entitled to a refund of fifty percent (50%) of the fee paid.

### **§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 has been completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, where applicable, if 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 sparking 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 have undergone 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 duration 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, Order to Remedy 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 Chapter, 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, 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 deputized 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**

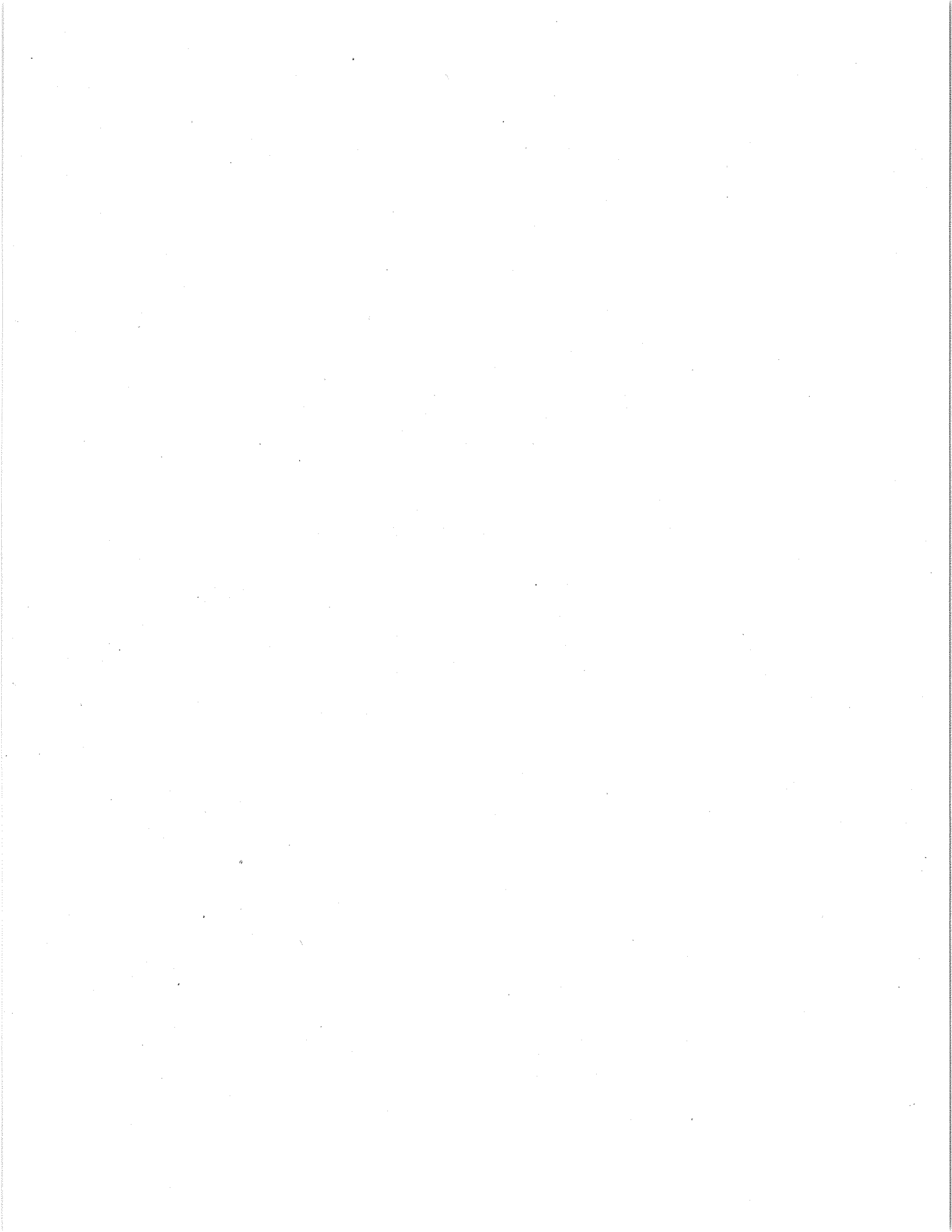
Any activity, use of premises, land or building or structure or part thereof for purposes of unlawful conduct existing at the time this local law, or amendments thereto, becomes effective, may not be continued, and such use shall not serve to create a lawful, nonconforming use, or serve as a valid defense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





#15C



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

**MEMORANDUM**

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

**FROM:** MARK C. TAYLOR, ATTORNEY FOR THE TOWN

**RE:** PROPOSED LOCAL LAW AMENDING CHAPTER 104  
ENTITLED SCHEDULE OF FEES OF THE CODE OF THE  
TOWN OF NEWBURGH: WATER AND SEWER RATES  
EFFECTIVE JANUARY 1, 2023 AND OPERATING PERMIT  
APPLICATION FEE  
OUR FILE NO. 800.1(B)( ) (2022)

**DATE:** NOVEMBER 11, 2022

Enclosed please find for the Town Board's consideration the above referenced Local Law. We have combined the Operating Permit Application Fee amendment that was first presented with the Building Construction Code Update Amendment with the annual update to bring the Code's provisions into line with the rates approved during the budget proceedings. As the rates are codified in the Town's Municipal Code, a Local Law is additionally required.

Also enclosed is a draft resolution introducing and scheduling a public hearing on the Local Law.

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

MCT/sel  
Enc.

cc: Town Clerk Lisa M. Ayers (via e-mail)  
Receiver of Taxes Joseph P. Pedi (via e-mail)  
Town Engineer James Osborne (via e-mail)  
Pat Hines, Principal, McGoe, Hauser & Edsal (via e-mail)  
Town Accountant Ronald Clum (via e-mail)  
Jeff Guido, Water Department Manager (via e-mail)

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 November, 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  
INTRODUCING LOCAL LAW  
AMENDING CHAPTER 104 ENTITLED  
'SCHEDULE OF FEES' OF THE  
TOWN OF NEWBURGH MUNICIPAL  
CODE: WATER AND SEWER RATES  
EFFECTIVE JANUARY 1, 2023 AND  
OPERATING PERMIT APPLICATION  
FEE AND PROVIDING FOR PUBLIC  
NOTICE AND PUBLIC HEARING

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

**BE IT RESOLVED** that Introductory Local Law No. \_\_\_ of the Year 2022 entitled "A Local Law Amending Chapter 104 entitled 'Schedule of Fees' of the Town of Newburgh Municipal Code: Water and Sewer Rates Effective January 1, 2023 and Operating Permit Application Fee" be and it hereby is introduced before the Town Board of the Town of Newburgh in the County of Orange and State of New York, and

**BE IT FURTHER RESOLVED** that a copy of the aforesaid proposed local law in final form be laid upon the desk of each member of the Town Board at least seven (7) days prior to a public hearing on said proposed local law, and

**BE IT FURTHER RESOLVED** that the Town Board shall hold a public hearing in the matter of the adoption of the aforesaid local law to be held at the Town Hall at 1496 Route 300 in the Town of Newburgh, New York on the \_\_\_th day of December, 2022 at 7:\_\_\_ o'clock, p.m., and

**BE IT FURTHER RESOLVED** that the Town Clerk give notice of such public hearing by the publication of a notice in the official newspapers of the Town, specifying the time when and the place where such public hearing will be held at least three (3) days prior to the public hearing, and posting of such notice together with a copy of such local law in accordance with the requirements of the Municipal Home Rule Law and Chapter 25 of the Code of the Town of Newburgh.

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.



**TOWN OF NEWBURGH**  
**INTRODUCTORY LOCAL LAW NO. \_\_ OF THE YEAR 2022**  
**AMENDING CHAPTER 104 ENTITLED**  
**"SCHEDULE OF FEES"**  
**OF THE CODE OF THE TOWN OF NEWBURGH:**  
**WATER AND SEWER RATES**  
**EFFECTIVE JANUARY 1, 2023**  
**AND 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: Water and Sewer Rates Effective January 1, 2023 and Operating Permit Application Fee".

SECTION 2 - AMENDMENTS TO CHAPTER 104

That Chapter 104 entitled "Schedule of Fees" of the Town of Newburgh Municipal Code is amended as follows:

1. 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”.

2. Subsection 104-3(B)(2) of Section 104-3 entitled "Sanitation and water fees" of Chapter 104 entitled "Schedule of Fees" of the Town of Newburgh Municipal Code be and hereby is amended to read as follows:

“(2) Meter rates. Meter rates for the sale of water to all consumers within the Consolidated Water District and Colden Park Water District of the Town of Newburgh and the duly constituted extensions thereto, excluding water sold to the Town of New Windsor, the New York State Thruway Authority or outside-the-district users, shall be as follows:

Usage Per Quarter	Rate
First 7,500 gallons	\$ <u>24.00</u> (minimum charge per quarter)
Next 10,000 gallons	\$ <u>4.72</u> per 1,000 gallons
Next 82,500 gallons	\$ <u>5.40</u> per 1,000 gallons
Over 100,000 gallons	\$ <u>6.40</u> per 1,000 gallons

- (a) A penalty equal to 5% of the original bill shall be added to the metered water charges if not paid in full within 30 days from the due and payable date.
- (b) The Town of New Windsor, the Town of Marlborough, the City of New York and the New York State Thruway Authority and the outside-the-district users will pay rates and charges as per agreements entered into with the town. In the event that water assessments under the benefit formula cannot be made applicable for any reason to any consumer and any agreement between the town and such users does not reflect payment of the same in one form or another, the town reserves the right to surcharge such users as to meter rates so as to provide for equitable payment of all charges between all users, said surcharge to be applicable in the last calendar quarter charge.
- (c) The water rates for the Stewart ANG Base Water District consumer(s) will be established by the Town Board from time to time in accordance with New York State Town Law Section 198. Unpaid water charges in arrears for 30 days or longer shall be subject to such penalty as the Town Board may provide for by resolution subject to the limit established by Town Law Section 198."

3. Subsection 104-3(C)(1) of Section 104-3 entitled "Sanitation and water fees" of Chapter 104 entitled "Schedule of Fees" of the Town of Newburgh Municipal Code be and hereby is amended to read as follows:

"(1) Sewer operation and maintenance charge.

Sewer District	Rate/Fee (per gallons consumed per premises)
Crossroads Consolidated	\$ <u>6.24</u> per 1,000 gallons

Nob Hill

\$.00872/gallon

The following minimum operating and maintenance charge

shall apply to all connected properties, including but not

limited to those without water meters:

\$36.00 per quarter”

2. Subsection 104-3(C)(3) of Section 104-3 entitled “Sanitation and water fees” of Chapter 104 entitled "Schedule of Fees" of the Town of Newburgh Municipal Code be and hereby is amended to read as follows:

“(3) Combined Operation and Maintenance and Facility Charge  
Roseton Hills Sewer District

\$149.00 per each residential dwelling unit, whether or not an apartment or condominium unit on each parcel as listed on the latest completed Assessment Roll of the Town per quarter”

### SECTION 3 - UNCONSTITUTIONALITY OR ILLEGALITY

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 4 - 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 or January 1, 2023.