

A regular meeting of the City Council of the City of Newburgh was held on Monday, July 13, 2015 at 7:00 P.M. in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

The Prayer was led by Pastor Jessie Howard with Cross International Ministries, followed by the Pledge of Allegiance.

Present: Mayor Kennedy, presiding; Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia- 7

PUBLIC HEARING

Mayor Kennedy called for a Public Hearing that was advertised for this meeting to hear continued public comment on Zoning.

Deirdre Glenn, Planning & Development Director did a brief presentation on updates.

Jonathan Jacobson, 25 Pierces Road, said that he attended a number of the public forums on this new zoning proposal and it looks like certain areas such as R1 are being wiped out but he was assured that was a mistake and it would be changed. He went to the Website today and the old map is still showing so he doesn't know how this Council can ask for a public hearing without having the new map on the Website and he thinks that this vote is premature. They are asking for a negative declaration so they are saying that there is no change on the environmental impact of this new zoning but he doesn't know how they can vote on this if the old map is still on the Website. He wants to know what the zoning is supposed to be in areas like Blake Street, Flemming Drive and Sherman Drive because he was told it was going to change.

Alexandra Church, City Planner, said that on the Website under the zoning update page you will find the entire zoning ordinance along with the updated map. Copies are also available in the City Clerk's Office, City Manager's Office and at the Library.

Michelle Kelson, Corporation Counsel, went on to the Website and said the map there is the same map that is on display in the Council Chambers. If you go to the Website under rezoning and you scroll down the new map is there.

Mayor Kennedy said that she spoke with Deirdre Glenn and was informed that there are R1 Zones in those areas. Perhaps the colors aren't showing up correctly on the Website but she knows that what she has read and looked at it is appropriately zoned in the ordinance.

Jonathan Jackson continued that he feels the public needs a map that they can trust.

Sheila Murphy, City of Newburgh, said that she looked at the Website too and she didn't notice any changes either unless it was just changed today. She asked if this zoning will effect Wards 3 and 4 when it comes to parking because in Ward 4 on Third Street a lot of people from the Hospital are parking there.

There being no further comments this public hearing was closed.

PRESENTATIONS

Arnold Restivo from Key Bank gave a presentation on First Time Homebuyers in the City of Newburgh.

COMMUNICATIONS

Councilwoman Abrams moved and Councilwoman Angelo seconded that the Minutes of the June 15, 2015 Council Meeting be approved.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

CARRIED

CITY MANAGER UPDATE

City Manager, Michael Ciaravino gave an update on some key highlights and progress in City departments.

COMPTROLLER'S FINANCIAL REPORT

City Comptroller John Aber presented the Monthly Financial Summary Report.



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John J. Aber
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TO: Michael Ciaravino, City Manager
Mayor - Judy Kennedy
Councilman – Cedric Brown
Councilwoman – Regina Angelo
Councilwoman – Gay Lee
Councilwoman – Genie Abrams
Councilwoman – Cindy Holmes
Councilwoman – Karen Mejia

FROM: John J. Aber, City Comptroller *[Signature]*

DATE: July 13, 2015

SUBJECT: City of Newburgh Financials – June

Below are the highlights of the City of Newburgh Revenue and Expenses through June 30, 2015 (FY2015).

General Fund Revenue

Year to date the City of Newburgh collected \$20.9 million which is 48.6% of the revenue budget. Revenue collected includes:

- \$14.8m - Real Property Taxes – 4th quarter are due 8/7.
- \$3.0m - Sales and Use of Tax – 2nd quarter sales tax not recorded yet.
- \$1.17m - Enterprise Fund
- \$736k - Fund Balance
- \$773k - Miscellaneous Income (Mortgage Tax, Employee Contributions)
- \$430k - Departmental Income
- \$87k - License and Permits

General Fund Expense

Through June the City of Newburgh expended \$20 million including \$105k in FY2014 encumbrances that rolled into FY2015. Overall the City has expended 46.3% of the 2015 Budget. There was a spike in May expenses due to the retro-active pay increases for all CSEA employees. The pay increases consisted of a 1.75% general wage increase.

Departmental expenses continue to remain in-line with the approved budgets with the exception of the Police and Fire Overtime.

Based upon increased overtime spending since May, my office is now projecting the Police Department will exceed their FY2015 overtime budget by \$400k.

In regards to the Fire Department, since May, there has also been a steady increase in their overtime. My office is now projecting overtime deficit of \$200k.

For FY2015, the City has utilized \$25k in General Fund Contingency, there is \$275k remaining.

Enterprise Fund Revenue

Through June 2015, the Enterprise Funds (Water, Sewer and Sanitation) generated \$4.9m in revenue.

The Water Department has billed/collected \$1.9 million through June which represents 32.7% of the FY2015 Revenue Budget. The second quarter billing for the water fund was issued in July.

The Sewer Fund has billed/collected \$1.3 million through June which represents 24.62% of the FY2015 Revenue Budget. The second quarter billing for the sewer fund was issued in July.

The Sanitation Fund billed/collected \$1.7 million through June this represents 53.1% percent of the total budgeted for FY2015. The third quarter billing for the sanitation fund was issued in July.

Enterprise Fund Expense

Through June 2015, Enterprise Funds expended \$5.5 million plus \$24k in FY2014 rollovers. There was an increase in Enterprise Fund expenses for May due to the retro-active pay increases for CSEA employees. As with General Fund employees, there was a 1.75% general wage increase. All three Enterprise Funds are projected to spend within their FY2015 Adopted Budget.

In regards to Contingency for the Enterprise Funds:

The Water fund has utilized \$95k and has \$80k remaining.

The Sewer fund has utilized \$220k and has \$80k remaining.

The Sanitation fund has utilized \$0 and has \$222k remaining.

Capital

There have been no major changes in capital expenses since my last report.

Trust and Agency Accounts

- **Misc Donations**
 - CAC (former Shade Tree) - \$845
 - National Night Out - \$0
 - Gun Buyback - \$1,535
 - Misc Fire Dept - \$1,847
- **Police**
 - Police Evidence - \$97,038
 - Federal Seizure - \$5,998
 - State Seizure - \$7,964
 - Police Bicycle - \$552
 - Police Donations - \$187
- **Codes**
 - Rental Registry - \$77,050
- **Celebrations**
 - Puerto Rican Day - \$80
 - International Festival - \$8,102
 - Quadricentennial - \$0
 - Fireworks - \$2,634
 - Memorial Day - \$91
 - Trunk or Treat - \$0

Other Highlights

In April, my office in conjunction with IT implemented a budget dashboard pilot for the Police and Fire Department. The Pilot was a success and the budget dashboard was expanded to the DPW, Water, Engineering and Recreation Departments. The

dashboard provides easy to read real time budget and expense data. The dashboard also notifies Department heads when spending rates are exceeding allocations.

On June 24th the City began the FY2016 budget process. For your review I have attached the budget calendar to your monthly financial packages.

On July 1, 2015, my office in conjunction with IT began a pilot automating the City's pink form. The pink form is the official form utilized by all Departments for employee hires, terminations, promotions, transfers and step increases. The pilot began with the Police and DPW Departments. We will begin rolling out the automated form to Fire and Water Departments next and then the rest of the City. By the end of July, all departments will be using the automated form. The form is routed and archived through the City's Laser fiche system.

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Everett Smith, Publisher of The Sentinel, Orange County Post, The Blotter and The Senior Gazette read and submitted the attached comments regarding resolution #183-15 supporting the appointment of Daniel Cameron to Police Chief . (attached)

Yaakov Sullivan, 21 Overlook Place also spoke on resolution #183-15. Although the criteria of residency may be of importance he thinks that it pales in comparison to the facts that have been addressed here this evening in terms of the job that he has done and his commitment for more than a decade to the City of Newburgh and its residents. The fact that the other police officers have shown their confidence for Mr. Cameron and given all of the positive developments and leadership that he has shown in making our City a safer one he thinks that the issue of residency should be waived in this case. He is a credit to our City and we should express our confidence in him by his appointment to our City of Newburgh Police Chief.

Omari Shakur, City of Newburgh, said in regard to resolution #175-15 concerning the Youth Bureau that he was on Broadway recently and a young man came down Liberty Street on a skateboard and almost was hit by a car. He thought that there was supposed to be money appropriated for a Skate Park at the Rec so he wonders what's going on with that. In regard to resolution #177-15 accepting an amount not to exceed \$1,068,048.24, the Police Department already has new police cars and a new big van but they don't have cameras. Why don't we have cameras? He has been told that there are reasons that they can't wear cameras and some say that they aren't going to wear them. If a cop is doing the right thing, why wouldn't they want to wear one? Newburgh sounds good on paper but it doesn't sound like that out on the streets. In regard to resolution #183-15, they need to appoint someone who is going to be in charge because it seems like the officers are in charge. We need people that want to stand up and do the right thing and be in charge. There are ten or fifteen police officers on this force that are out here robbing people so we need someone to take charge. He was told that they were going to have cameras by May but we are now in July and we still don't have cameras.

Leslie Haskin, Founder of Life Stations Center of Excellence, speaking on behalf of the people of the City of Newburgh said that she understands the resolution to appoint Chief Cameron is about his residency. As the Nation is watching police officers kill our young men and watching our young men go through incarceration for victimless crimes and we watch our education decrease, we want a Police Chief to represent the quality of life for black men and give them an opportunity to have a life. Dan Cameron is doing that with his eighteen and a half years of service to this community with no major incidents. He is working with their organization to bring jobs to felons by writing character letters and there are Civilian Patrol Teams on the

streets working to deescalate minor crimes so that the police do not have to get involved. The people of the City of Newburgh, specifically the men, deserve a right to life so they are asking the Council to waive the resolution that requires him to be a City resident in favor of the men having a quality of life. They are asking the Council to put aside their personal agendas as well as their likes and dislikes of one another and change their vote. It is alright that they voted for it but they should be concerned about not voting to take it out this time because the people need their voice to give these young men a chance at life. Martin Luther King, Jr. did his most significant work in a community that he was not a resident in so they are asking the Council to allow Acting Chief Dan Cameron to be Chief and do his most significant work in the City of Newburgh while the entire Nation is watching.

Chaplain Lt. Col. Bob Tilly said that there is an old English proverb that has been a guide in his life that says, *"Row with the oars that you have been given"*. It is what we do with those oars that makes the biggest difference. Having them is one thing but rowing with them faithfully makes us stronger and takes us farther than we can ever imagine. He wanted to highlight to the City Council that with Chief Dan Cameron they have not only been given an opportunity to have the personal gifts of his leadership and compassion but the public impact those gifts can have and will continue to have in this community. His gifts continue to bring healing, hope and wellness and they have a Chief who after eighteen and a half years on the force doesn't only know the triumphs of this community but understands its trials as well and both of those are important. Over the years he has done an amazing job of building trust in the community and he has the healing blend of being an effective compassionate leader who has the vision to transform young men into future servants and leaders of this community as well. He is working with agencies like Life Stations to improve the quality of life for Black men and their families impacting the very fabric of the City of Newburgh and with programs like Felony Jobs Program, Street Teams and the Stop Violence Movement and more Newburgh has the promise of a very healthy future. Under Chief Dan Cameron's leadership we are rowing in the right direction so why would you change that? For him Dan Cameron is giving the people of Newburgh what the Military gives to all of us which is integrity first, service before self, excellent protection and a good night's sleep.

A Global Leader with Life Stations Center of Excellence said that as several others before her have stated, Acting Chief Dan Cameron has done an incredible job in the past six months and has rebuilt the trust in the community. We no longer have to be one of the number one crime ridden cities in the United States. To get hung up on a small amendment that he must live in the City of Newburgh to bring order to the City of Newburgh should be reconsidered.

Latoya Flower with Life Stations Center of Excellence said that we are living in a world where she is the proud mother of three daughters and she is glad that she doesn't have to worry about a son at night. We live in a World where community

programs are camouflages for selfish gain and designed to bring the least amount of service possible. We also live in a World where there are more Prisons than Schools and one can cripple a person's life with one minor infraction. Our Acting Chief is working with Life Stations to help deescalate problems by helping our young black men not have to go through these situations. She believes that his eighteen and a half years of service has represented his heart for the people of the community and his working with Life Stations to help young men get jobs is one of the biggest reasons the Council should reconsider this residency requirement. She added that if it takes a Village to raise a child then what can you imagine it takes to raise a community? We need like-minded people who will join forces together to really get into the grit and dirt of our community and not just paperwork, numbers and politics. She asked the Council to please reconsider the residency for our Acting Police Chief Dan Cameron.

Darryl Riley, City of Newburgh, worked for thirteen years with a Division for Youth and fifteen years in Corrections but there are young people out there who don't have a strong support system and they need help. They deserve a chance at life but they need direction so when you see young people who have hit a bump in the road don't assume that they are no good. They are just kids and they need guidance. He feels that Chief Cameron is doing an outstanding job and we need a lot more people like that. There are a lot more people not paying taxes but they spend way more tax money than we do by being locked up. They could be tax payers instead of tax abusers which in the long run would benefit all of us. He told the Council to think about it and do the right thing.

Joe Alvarez, representing We Are Newburgh and Director of Life Stations said that he has about six hundred signatures from people who want Dan Cameron to stay here. He has done more in the past six months than the other Chief's did in the past thirty years. The mobile station that they have is being used as a picnic table on the hot blocks in the City of Newburgh. He knows the drug areas so he is targeting them on the weekends by putting out hamburgers, hot dogs, sodas and chips and he is on the block from 6:00 to Midnight making sure that the kids have an opportunity to enjoy the neighborhood. For the past eighteen and a half years Chief Cameron has been sacrificing his life with service here in the City of Newburgh. The Council doesn't want to make him Chief because he doesn't live in the City of Newburgh but even We Are Newburgh doesn't live in the City of Newburgh. He is the Founder and he lives in the Town of New Windsor. Life Stations Headquarters is not in the City of Newburgh either but we love this City and we go out every day and when there is an issue you can call Dan Cameron and he is there making sure that our City is safe. He has even given ex-cons an opportunity and who else does that? Who lets the police department be patrolled by citizens? He has never seen any other Chief do what he does. His attitude is positive and he listens to you.

Jonathan Jacobsen, 25 Pierces Rd., said that he would support this appointment but hopes that he would make a long term commitment to the City. On resolution

#179-15 regarding the closing of Key Bank this would be a major setback for the redevelopment of Newburgh. Closing Key Bank is simply a vote of no confidence in the leadership and the economy in Newburgh. He has called for a federal investigation of this because Key Bank is now a federally chartered Bank and there are commitments in the Charter to the community that the Bank serves. Thousands of people on the east end who don't have transportation will not have a Bank that they can walk to. This Bank has been an anchor for over a Century and most of us remember it being the Columbus Trust Company which was founded in 1893 and then bought out by Key Bank in 1984. This is quite sad and it really hurts so he hopes that something can be done.

Dr. Benilda Armstead-Jones, City of Newburgh, said that to lose Key Bank in this community will truly be a devastation in terms of people being able to get to a Bank so she also hopes that something can be done. In regard to our Interim Chief, she has heard a lot tonight and she feels kind of disappointed that more people are not here to speak on his behalf. She has not spoken with any of the Council so she doesn't know what their decisions are but she would like to know where we are at with the City Charter. She heard someone say that it is not a big deal but it is a big deal if it's in the City Charter. What can be done to keep this man? He truly has a heart and compassion for the people. It is a big deal because we don't make laws just to break them so what can be done? How can we turn what seems to her to be a lemon into lemonade?

Rev. Mason said that people need to feel safe. He has met Dan Cameron, he is impressed with his credentials and he feels safe with him as the Chief of Police here in Newburgh. Obviously by all of the people who have spoken here tonight they think so too. He hopes and prays that we will be able to resolve this issue about residency so that we can move forward because it is the first time that a lot of us have felt safe in a long, long time.

Jessie Howard, Auxiliary Police Lieutenant said that they are in favor of Dan Cameron becoming their Chief. When you think about Dan Cameron three things come to his mind: Integrity, Sacrifice and Leadership.

Pete Sukeena, Board President of the Newburgh Professional and Business Association said that he has had the privilege to work with Acting Chief Cameron and his top priority for this year has been public safety. Speaking for a lot of the business community here their support for Acting Chief Cameron to become Chief has been overwhelming. Everyone has spoken about his character and his qualifications and he is just throwing in his support of Acting Chief Cameron becoming Chief.

Vern Belle, Town of Newburgh, also supports Acting Chief Cameron becoming Chief. She met him while planning for the Police Community Forum which was held in June and spoke to him about the best practices for dealing with mental illness but

he informed her that they were doing that already. She was impressed then and she is still impressed so she hopes that this works out.

There being no further comments this portion of the meeting was closed.

To the Mayor, City Manager and Council Members of the City of Newburgh:

For thirty six years I have been reporting about the news of the City of Newburgh. I have met with every Mayor and City Manager during that time and expressed my belief that the city can never be turned around and begin to thrive unless crime was brought under control and that a sufficient and strong police force was established and maintained. I am very familiar with the history of the City of Newburgh and what a wonder place the "gem of the Hudson Valley" once was. Unfortunately, for so many years I have watched the city continue in a deteriorated state and shot itself in the foot every time it had a chance to move forward. Only the efforts of William Kaplan and few others have brought about any positive change to the city.

Once again the city seems to be determined to shoot itself in the foot. A few weeks ago I, along with the editor of one of my newspapers interviewed Acting Chief Dan Cameron for a feature in our law enforcement newspaper. We spent an hour and a half talking to Chief Cameron. I was extremely impressed with his knowledge of the city, his dedication to his job and the extent of his caring about the city. He has served the city for eighteen and a half years and has a great deal of respect from his officers. In all of my fifty-six years in the newspaper business (36 in Newburgh and New Windsor) I can honestly say that I place Chief Cameron on the top of the dozens of police chiefs I have known. He is a gem that the city cannot afford to lose, but once again you seem to be determined to have the city shoot itself in the foot.

I would like to point out that you passed the residency requirement only weeks after appointing Cameron as Acting Chief. He accepted the job expecting that he would be considered, and that he was fully qualified to become the permanent chief. Passing the residency requirement shortly after appointing him was grossly unfair and is definitely detrimental to making a positive change in the City of Newburgh. Cameron should be grandfathered in as a qualified candidate.

I am also opposed to any further testing for new police officers for the city before the previous test list is exhausted. The people who took that test last November did so with the belief that they had a fair chance to become City of Newburgh Police officers. They were not aware that all you wanted were city residents and that another test would be held as soon as possible when the resident list ran out. In good faith they took the test and paid for it. You deceived them by not telling them your intentions and collected \$27,250 in test fees from them in the process.

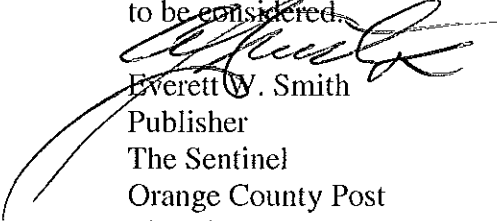
A few points:

1. If you are concerned the police department does not have enough minorities you should be aware that the department has a 30% minority representation, not counting females. The national average is 27%.
2. According to the United States Department of Justice cities with a population of 25,000 to 49,999 average 13.7 % minority representation. These figures come from a study in 2013.
3. Only 66 out of 611 people who took the test in November were from the City of Newburgh. If there are many more interested in the job from the city, where were they?
4. Being a police officer in the city (which comprises of just over three square miles), and living there, place not only the officer, but his family in danger. Would you feel safe for yourself and your family if you arrested a gang member for some type of felony? There are only four police officers in the City of Newburgh at the present time who live in the city, and this is a major reason. It is also not uncommon in other departments.
5. Most of the people you hire as police officers move out of the city as soon as possible. So what have you gained by the residency requirement?
6. By limiting your hiring to city residents you eliminate many excellent candidates. Here are a couple of examples:

One highly qualified young man who did very well on the test but lived in New Windsor wanted badly to be a City of Newburgh police officer. He has many friends in the city, graduated from NFA and knows the city very well. He grew up with both his mother and his father serving as career New Windsor police officers. He preferred to be a City of Newburgh police officer where he could become successful on his own without the influence of his parents. Unfortunately, the city passed him over because of the residency requirement and he is now making a name for himself as an excellent police officer in New Windsor. The city loses again.

Another highly qualified candidate lives only a half mile from the border of the city. He knows more about the history of the City of Newburgh than most residents and does whatever he can to help the city become, once again, a prosperous and thriving community. He is a member of Newburgh's Habitat for Humanity and devotes many volunteer hours to the efforts of Habitat. He has assisted Safe Harbors with it's clean up efforts in the city. And, he has always been available whenever there is a call for volunteers to help in a city improvement project. He continues to run two miles nearly every morning and to do the required physical exercises so that he will pass the physical test when he is called. Of course, if the city holds another test, the efforts and hopes of this young man, along with many others who took the test in good faith, will be in vain and the city will lose again.

I strongly urge the city council to honor the 25 mile residency limit that is already on the books and allow Acting Chief Cameron to become Chief Cameron and allow all those young men and women who took the last test to be considered for appointment as police officers if they meet the requirements. Let the City of Newburgh exhibit the same fairness and good faith that Acting Chief Cameron and all those who took the test had when they took the test expecting a fair chance to be considered.



Everett W. Smith
Publisher
The Sentinel
Orange County Post
The Blotter
The Senior Gazette

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Councilwoman Abrams said that she was one of the people who voted in favor of the residency requirement. She is nothing but a bundle of errors stitched together by good intentions so she made a mistake and she sees that now. She did not see Dan Cameron in action before that vote and she thinks that they can do this. If we can put a man on the Moon why can't the City Council figure out a way to amend a resolution? She said that they will figure this out. They might not be able to do it tonight but certainly by the next meeting. Recently a woman in her Ward in the Heights was on the roof threatening to jump and Dan's Crisis Intervention Team sprang into action and Officer Jeffrey Perez talked her down and accompanied her to Orange Regional Medical Center. She said that she will do whatever she can to reverse her previous vote and get Dan to be our Chief.

Councilwoman Holmes asked if we are still interviewing.

City Manager, Michael Ciaravino said that we have collected the questionnaires and sent out releases to access HR and Personnel files in their former positions. Some of the retiree's records may take a little bit longer than others but once we get them we can begin the next step of the interview process.

Councilwoman Holmes asked Corporation Counsel if there is any liability.

Michelle Kelson, Corporation Counsel, said that they have advertised and are continuing a process and at the same time they are evaluating a decision that they previously made. She thinks that all things being equal they can proceed on parallel tracks.

Councilwoman Mejia said that this seems to be the hot topic and in her personal opinion she feels that we often as a community tend to personalize things. This residency requirement came about from best practices from other cities and it's about the importance of having your department heads be a part of the community. She thinks that in the discussion tonight they are mixing a lot of things together. The last communication that she received as a Council Member was from our City Manager who is overseeing this process and who by the Charter is the one responsible for appointing our Police Chief. The residency requirement that this Council passed is like a baby and they are trying to figure out how this legislation works. Just because you don't like what the baby is wearing you don't kill the baby. That is the impact that she is having right now around this conversation. We need to separate the two because one is the residency requirement that they passed and the other is the process that they are undergoing to hire a Chief of Police and then there is the great gift that the City of Newburgh has with our Acting Chief Cameron. These are three different parallel conversations that she thinks are getting mixed up in the conversation tonight.

To Chief Cameron she said she is trying to imagine what it's like to be in his shoes tonight because it is totally exhilarating to know that this is the support that your community has for you. Regardless of how this goes she wants him to remember that this is the support that he has which she believes is a reflection of his eighteen years of service. As residents and community members, we are all trying to figure this out but let's be clear about what we are talking about when we are talking about it.

Councilwoman Lee said that she has a little trouble with this legislation because at the time it was passed Chief Cameron was in the position. If we look at this piece of legislation on its face, it really says that we can't promote anyone unless they live in the City of Newburgh. This should really be grandfathered in since he has been on the job for eighteen years. When she raised this issue at the Work Session she said that it's time to make some decisions. If we make a decision as rigid as it is, draw the line and don't look back, then we have done ourselves a disservice. The Chief has been in the position prior to the legislation and if there wasn't going to be an opportunity for him to have this job then he should have known that going in. She added that she has been in mental health for twenty-one years and she has worked with New York City Police Officers as well as Police Officers in every County that she has lived in. None of the past Chiefs have ever asked to speak with her about community policing but Chief Cameron did so he went to her Office and a two minute conversation turned into an hour and a half discussion. He was interested in her mental health experience, what she thought and what kind of issues she saw in the City of Newburgh as a twenty one year practitioner. In those twenty one years she has trained to be a Crisis Intervention Specialist and for over fifteen years has trained other people. In New York City she has what's called 958 Designation, which means that she can provide the first psychiatric consult to have someone hospitalized so she comes to this issue with a lot of experience. You don't have to have any experience to run for City Council, you don't have to have any experience to run for Mayor and you don't need more than two years' experience to be a City Manager but you do have to have some experience to be a Chief of Police. In order to be in public safety you must know how to protect the public. When people feel safe they respond differently and we are not going to find one person who can address all of the safety problems in the City of Newburgh but what we have here is one person who has given it a good try. She thinks that Chief Cameron should be appointed and it shouldn't take a major act of legislation. If he can't take care of his family by not uprooting them then he can't take care of our families here. He doesn't have to live here in order to be promoted. He doesn't have to live here to take care of his family and our families because she thinks that he is a man who can do both. He doesn't have to uproot his family which is what we are asking him to do. Our families haven't seen a person give this much time and attention to them as Chief Cameron has. She thinks that they should just move on and appoint the Chief and take another look at the legislation for the residency requirement. If we don't, we won't be able to promote any of our staff and that in and of itself borders on discrimination.

Mayor Kennedy said in regard to the Key Bank situation that she wrote the legislation for the resolution on the Agenda for tonight. Key Bank contacted her about a week ago and told her that they were planning to close so she took action and she has a meeting tomorrow to begin a process to collect Petitions with signatures throughout the City. The federal law that Key Bank operates under is known as the Community Reinvestment Act (CRA). This Bank sits in Census Tracts 4 and 5 and by pulling the services out of this area which has a high minority population and a low income area could be viewed as a discriminatory act so from that perspective we are definitely escalating this all the way up to the Board at Key Bank. She asked everyone hearing this message to sign this Petition and if they have an organization they can pass a resolution in support of this and it will all be collected together as a package to take to the Corporate Executives of Key Bank. She is very passionate about this because it will leave this whole east side without any banking services and people don't have transportation. She has already explained that to Directors up the chain but we need to keep pushing. She doesn't know if we can stop this but we can certainly let our voices be heard and do what we can to stop it and their date of closure is scheduled for October 1st. Concerning the Police Chief she calls this *walking on the edge of the knife* and she totally recognizes the value that Acting Chief Dan Cameron has contributed to this community in the last six months. She is a strong supporter of Chief Dan Cameron but at the same time we have a dilemma. We have resolutions on the table tonight that were not discussed at the Work Session and as a group they agreed not to put resolutions on the Agenda that they haven't discussed at a Work Meeting. They also have to figure out what they are going to do since they are half way through the stream of an interview process and they have had people drop out of the interview process because they were not residents. They need to look at what it means if they want to modify this now and what the legal ramifications are. There are a whole lot of questions and she would like a decision to be made as much as everyone else but in order to give them some time to review where they are perhaps they should table these resolutions tonight. They need time to discuss them in an executive session and she reminded everyone that the City Council does not do the hiring and firing; the City Manager does. When she voted for this resolution she strongly said that she wants the best person to do the job which is what she feels is really important. Right now she thinks that there are a lot of unanswered questions that they need time to work through.

There being no further comments this portion of the meeting was closed.

RESOLUTION NO.: 153 - 2015

OF

JULY 13, 2015

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
ISSUING A NEGATIVE DECLARATION UNDER
STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) WITH RESPECT TO
THE ADOPTION OF THE REVISED CHAPTER 300 ENTITLED "ZONING" OF
THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH**

WHEREAS, the City of Newburgh is proposing to adopt a revised Chapter 300 entitled "Zoning" of the City Code of Ordinances of the City of Newburgh; and

WHEREAS, the City of Newburgh proposes to undertake the adoption of the revised Chapter 300 entitled "Zoning" in compliance with the terms of State law and does hereby wish to review the project in accordance with the State Environmental Quality Review Act (SEQRA); and

WHEREAS, by Resolution No. 100-2014 of April 28, 2014, in compliance with SEQRA, the City Council of the City of Newburgh declared its intent to assume Lead Agency status, classified the project as a Type I action, proposed to accept as complete an Environmental Assessment Form and referred the proposed Chapter 300 entitled "Zoning" to and the Orange County Planning Department pursuant to General Municipal Law Section 239-m; and

WHEREAS, by Resolution No. 164-2014 of July 14, 2014, in compliance with SEQRA, the City Council of the City of Newburgh declared itself to be Lead Agency status for the environmental review of the action pursuant to 6 NYCRR 617.6 and accepted Part 3 of the Environmental Assessment Form ("EAF"); and

WHEREAS, the City of Newburgh has taken a hard look at the environmental impacts of adopting the revised Chapter 300 entitled "Zoning" and has determined that there will be no negative environmental impacts regarding same;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York hereby issues a Negative Declaration pursuant to the SEQRA.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

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 project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Sponsor Information.

Name of Action or Project: City of Newburgh Zoning Code Update		
Project Location (describe, and attach a general location map): City of Newburgh, New York		
Brief Description of Proposed Action (include purpose or need): The Proposed Action is an update to the existing Zoning Ordinance (Chapter 300) and Zoning Map for the City of Newburgh, to replace Chapter 300 off the City's Code to conform with the City's Adopted Future Land Use Plan (2011). At present, the City's Code does not adequately conform to the physical layout and infrastructure of the City of Newburgh. As a result, Applicants are required to seek variances and waivers for a significantly disproportionate number of proposed applications. This process is onerous, and results in the inefficient use of time and financial resources to process applications. The purpose of the new Zoning Code is implement measures that will streamline the application process and to advance the goals of the other adopted City planning documents, including, but not limited to, the Pace Streamlining Report, Waterfront Charette, Liberty/Grand Heritage Corridor, Newburgh 2020, and the Newburgh Transportation and Land Use Study. Specifically, the new Zoning Code will recognize the existing urban pattern of development, promote mixed-use development, streamline the application and review process, encourage economic development, and incorporate form-based zoning for the downtown. The process to update the Zoning Code began in January 2013 with the appointment by the City Council of a Zoning Advisory Team. This team, comprised of City officials, staff, and board members, as well as leaders of various community groups, met approximately 17 times to draft the new Zoning Code and held two public engagement sessions to solicit public feedback. The team then presented its recommendations to the City, which now proposes to adopt them in the form of the new Code.		
Name of Applicant/Sponsor: City of Newburgh		Telephone: E-Mail:
Address: 83 Broadway		
City/PO: Newburgh	State: NY	Zip Code: 12550
Project Contact (if not same as sponsor; give name and title/role): City Manager		Telephone: 845-569-7301 E-Mail:
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):		Telephone: E-Mail:
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Council, Town Board, ☒ Yes ☐ No or Village Board of Trustees	City Council Adoption of Zoning Amendments	Proposed adoption June 2014
b. City, Town or Village ☐ Yes ☐ No Planning Board or Commission		
c. City Council, Town or ☐ Yes ☐ No Village Zoning Board of Appeals		
d. Other local agencies ☐ Yes ☐ No		
e. County agencies ☒ Yes ☐ No	General Municipal Law 239 referral	
f. Regional agencies ☐ Yes ☐ No		
g. State agencies ☐ Yes ☐ No		
h. Federal agencies ☐ Yes ☐ No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		☒ Yes ☐ No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		☒ Yes ☐ No
iii. Is the project site within a Coastal Erosion Hazard Area?		☐ Yes ☒ No

C. Planning and Zoning

C.1. Planning and zoning actions.	
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? ☒ Yes ☐ No	
- If Yes, complete sections C, F and G. - If No, proceed to question C.2 and complete all remaining sections and questions in Part 1	
C.2. Adopted land use plans.	
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? ☒ Yes ☐ No	
If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☒ Yes ☐ 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?) ☒ Yes ☐ No	
If Yes, identify the plan(s): Brownfield Remediation Sites including: 336042, 336009, 336031, B00127, B00136, 546031, 336063, V00117, B00188, B00189, E336074, E336075, C336085, 336085, 336055; Brownfield Opportunity Area Nomination (census tract 5); Hudson River Greenway; LWRP; HMP; East End Historic District;	
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? ☐ Yes ☒ 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. If Yes, what is the zoning classification(s) including any applicable overlay district? The Proposed Action would result in an update to Chapter 300 of the City's Code, including text amendments and zoning map changes (see Part 3).	☒ Yes ☐ No
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? If Yes, i. What is the proposed new zoning for the site? Proposed Action would result in amendments to the City of Newburgh Zoning Code (see Part 3).	☒ Yes ☐ No
C.4. Existing community services.	
a. In what school district is the project site located?	Newburgh Enlarged City School District
b. What police or other public protection forces serve the project site?	City of Newburgh Police Department, Orange County Sheriff's Office, New York State Police
c. Which fire protection and emergency medical services serve the project site?	Newburgh Fire Department
d. What parks serve the project site? Includes, but not limited to: 9/11 Memorial Park; Aquatic Center; Audrey Carey Park; Broadway Park; Clinton Square; Delano-Hitch Recreation Park; Delano-Hitch Stadium; Desmond Tennis Courts; Downing Park; Gidney Avenue Basketball Courts; Hasbrouck Street Park; Newburgh Boat Launch	

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)?							
<table style="width: 100%;"> <tr> <td style="width: 60%;">b. a. Total acreage of the site of the proposed action?</td> <td style="width: 40%; text-align: right;">_____ acres</td> </tr> <tr> <td>b. b. Total acreage to be physically disturbed?</td> <td style="text-align: right;">_____ acres</td> </tr> <tr> <td>c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?</td> <td style="text-align: right;">_____ acres</td> </tr> </table>		b. a. Total acreage of the site of the proposed action?	_____ acres	b. b. Total acreage to be physically disturbed?	_____ acres	c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?	_____ acres
b. a. Total acreage of the site of the proposed action?	_____ acres						
b. b. Total acreage to be physically disturbed?	_____ acres						
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?	_____ 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 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 proposed action cause or result in disturbance to bottom sediments? ☐ Yes ☐ No
If Yes, describe: _____

iv. Will 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), 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? _____ • Will line extension within an existing district be necessary to serve the project? _____	☐ Yes ☐ No ☐ 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? _____ If Yes: • Applicant/sponsor for new district: _____ • Date application submitted or anticipated: _____ • What is the receiving water for the wastewater discharge? _____	☐ Yes ☐ No	
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? _____ 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. _____	☐ Yes ☐ No	
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? _____		
iv. Does proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? _____	☐ Yes ☐ No ☐ 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? _____ 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) _____	☐ Yes ☐ No	
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? _____ 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) _____ ii. In addition to emissions as calculated in the application, the project will generate: • _____ Tons/year (short tons) of Carbon Dioxide (CO₂) • _____ Tons/year (short tons) of Nitrous Oxide (N₂O) • _____ Tons/year (short tons) of Perfluorocarbons (PFCs) • _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆) • _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs) • _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)		☐ Yes ☐ No ☐ Yes ☐ No

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 semi-trailer truck trips/day: _____ 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. <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> i. During Construction: • Monday - Friday: _____ • Saturday: _____ • Sunday: _____ • Holidays: _____ </td> <td style="width: 50%; vertical-align: top;"> ii. During Operations: • Monday - Friday: _____ • Saturday: _____ • Sunday: _____ • Holidays: _____ </td> </tr> </table>		i. During Construction: • Monday - Friday: _____ • Saturday: _____ • Sunday: _____ • Holidays: _____	ii. During Operations: • Monday - Friday: _____ • Saturday: _____ • Sunday: _____ • Holidays: _____
i. During Construction: • Monday - Friday: _____ • Saturday: _____ • Sunday: _____ • Holidays: _____	ii. During Operations: • Monday - Friday: _____ • Saturday: _____ • Sunday: _____ • Holidays: _____		

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? If yes: i. Provide details including sources, time of day and duration: _____	☐ Yes ☐ No
ii. Will proposed action remove existing natural barriers that could act as a noise barrier or screen? Describe: _____	☐ Yes ☐ No
n. Will the proposed action have outdoor lighting? If yes: i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures: _____	☐ Yes ☐ No
ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? Describe: _____	☐ Yes ☐ No
o. Does the proposed action have the potential to produce odors for more than one hour per day? If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____	☐ Yes ☐ No
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? If Yes: i. Product(s) to be stored _____ ii. Volume(s) _____ per unit time _____ (e.g., month, year) iii. Generally describe proposed storage facilities: _____	☐ Yes ☐ No
q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? If Yes: i. Describe proposed treatment(s): _____ _____	☐ Yes ☐ No
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)? 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: _____	☐ Yes ☐ No

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 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): _____

ii. If mix of uses, generally describe: _____

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: _____
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: _____
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 ☐ Yes – Environmental Site Remediation database ☐ Neither database Provide DEC ID number(s): _____ Provide DEC ID number(s): _____ 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): 336042, 336036, 336009, 336031, B00127, B00136,.... 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: _____	
E.2. Natural Resources On or Near Project Site	
a. What is the average depth to bedrock on the project site? _____ feet	
b. Are there bedrock outcroppings on the project site? ☐ Yes ☐ No If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %	
c. Predominant soil type(s) present on project site: _____ % _____ % _____ %	
d. What is the average depth to the water table on the project site? Average: _____ feet	
e. Drainage status of project site soils: ☐ Well Drained: _____ % of site ☐ Moderately Well Drained: _____ % of site ☐ Poorly Drained: _____ % of site	
f. Approximate proportion of proposed action site with slopes: ☐ 0-10%: _____ % of site ☐ 10-15%: _____ % of site ☐ 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 _____ Classification _____ • Lakes or Ponds: Name _____ Classification _____ • Wetlands: Name _____ Approximate Size _____ • Wetland No. (if regulated by DEC) _____	
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: _____	
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: _____	

m. Identify the predominant wildlife species that occupy or use the project site: _____ _____ _____	
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): _____ ii. Source(s) of description or evaluation: _____ iii. Extent of community/habitat: • Currently: _____ acres • Following completion of project as proposed: _____ acres • Gain or loss (indicate + or -): _____ 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	
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	
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: _____ _____	
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: _____	
b. Are agricultural lands consisting of highly productive soils present? ☐ Yes ☐ No i. If Yes: acreage(s) on project site? _____ ii. Source(s) of soil rating(s): _____	
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: _____ ii. Basis for designation: _____ iii. Designating agency and date: _____	

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on, the State or National Register of Historic Places?	☐ Yes ☐ No
If Yes: i. Nature of historic/archaeological resource: ☐ Archaeological Site ☐ Historic Building or District ii. Name: _____ iii. Brief description of attributes on which listing is based: _____	
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? If Yes: i. Describe possible resource(s): _____ ii. Basis for identification: _____	☐ Yes ☐ No
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? If Yes: i. Identify resource: _____ ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____ iii. Distance between project and resource: _____ miles.	☐ Yes ☐ No
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? 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

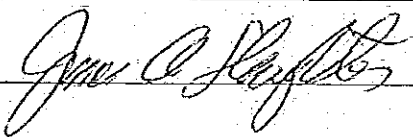
Attach any additional information which may be needed to clarify your project.

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.

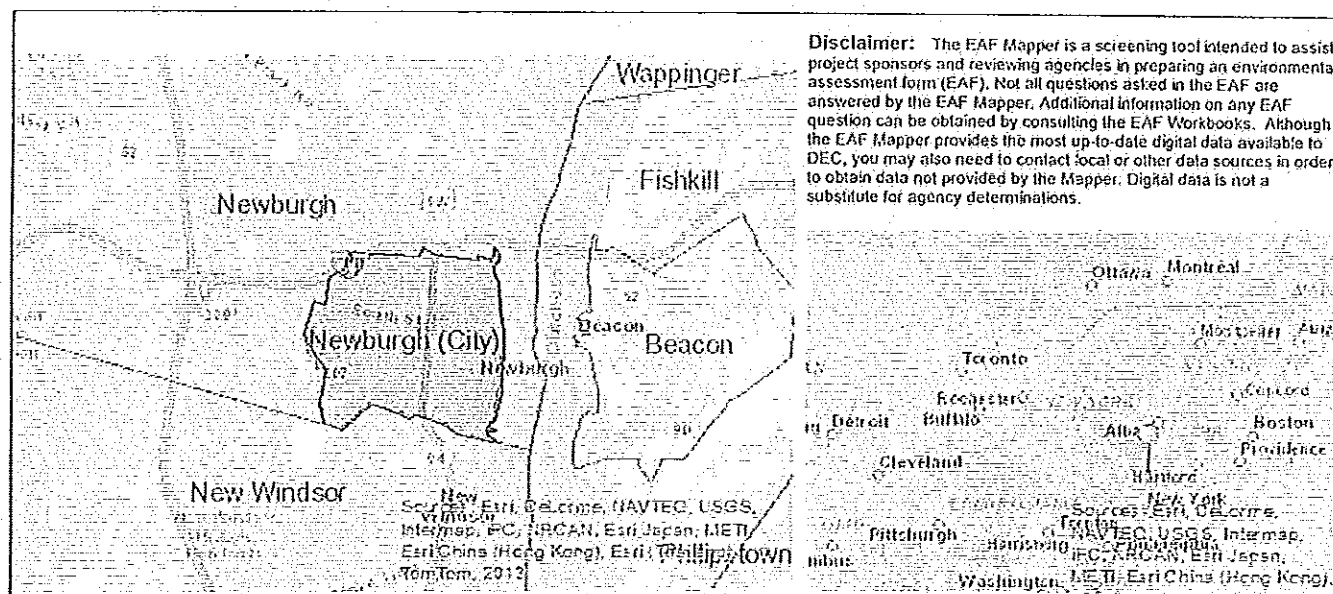
G. Verification

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

Applicant/Sponsor Name City of Newburgh Date May 5, 2014

Signature  Title City Manager

PRINT FORM



B.1.i [Coastal or Waterfront Area]	Yes
B.1.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:336042, Remediation Sites:336009, Remediation Sites:336031, Remediation Sites:B00127, Remediation Sites:B00136, Remediation Sites:546031, Remediation Sites:336063, Remediation Sites:V00117, Remediation Sites:B00188, Remediation Sites:B00189, Remediation Sites:E336074, Remediation Sites:E336075, Remediation Sites:C336085, Remediation Sites:336085, Remediation Sites:336055
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]	336042, 336009, 336031, B00127, B00136, 546031, 336063, V00117, B00188, B00189, E336074, E336075, C336085, 336055
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]	336042, 336036, 336009, 336031, B00127, B00136, V00135, 546031, 336063, V00117, B00188, B00189, E336074, E336075, 336077, C336085, 336055, C336086
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]	862-212, 862-219
E.2.h.iv [Surface Water Features - Stream Classification]	B
E.2.h.iv [Surface Water Features - Wetlands Name]	NYS Wetland, Federal Wetland
E.2.h.iv [Surface Water Features - Wetlands Size in Acres]	Federal Wetland:38105.8536113, Federal Wetland:411.79672191, Federal Wetland:2.02510306, Federal Wetland:0.49891849, Federal Wetland:0.94241162, Federal Wetland:0.07329913, Federal Wetland:0.06566601, Federal Wetland:2.37876228, Federal Wetland:1.418881, Federal Wetland:8.09591287, Federal Wetland:0.25336216, Federal Wetland:2.71282597, Federal Wetland:0.96769233, Federal Wetland:4.35799419, Federal Wetland:13.4096026, Federal Wetland:8.01877274, Federal Wetland:0.32698715, Federal Wetland:1.79392371, Federal Wetland:0.38059508, Federal Wetland:0.48110976, NYS Wetland:54.4
E.2.h.iv [Surface Water Features - Wetlands No]	NB-29
E.2.h.v [Impaired Water Bodies]	Yes
E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses:Hudson River (Class B) – 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]	No
E.2.o. [Endangered or Threatened Species]	Yes
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d. [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National Register of Historic Places - Name]	East End Historic District, Washington's Headquarters, Dutch Reformed Church, Crawford, David, House, New York State Armory, US Post Office–Newburgh, Old Town Cemetery and Palatine Church Site
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Full Environmental Assessment Form
Part 2 - Identification of Potential Project Impacts

Agency Use Only [If applicable]
Project : Newburgh Zoning Code Update
Date :

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency and the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer "Yes" to a numbered question, please complete all the questions that follow in that section.
- If you answer "No" to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box "Moderate to large impact may occur."
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the "whole action".
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

1. Impact on Land Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1) <i>If "Yes", answer questions a - j. If "No", move on to Section 2.</i>	☒ NO	☐ YES	
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	☐	☐
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	☐	☐
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	☐	☐
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	☐	☐
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	☐	☐
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	☐	☐
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	☐	☐
h. Other impacts: _____ _____		☐	☐

2. Impact on Geological Features The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part I. E.2.g) ☒ NO ☐ YES <i>If "Yes", answer questions a - c. If "No", move on to Section 3.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____	E2g	☐	☐
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	☐	☐
c. Other impacts: _____		☐	☐

3. Impacts on Surface Water The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part I. D.2, E.2.h) ☐ NO ☒ YES <i>If "Yes", answer questions a - l. If "No", move on to Section 4.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	☐	☐
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	☐	☐
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	☐	☐
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	☐	☐
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	☐	☐
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	☐	☐
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	☐	☐
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	☐	☐
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	☐	☐
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	☐	☐
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	☐	☐

1. Other impacts: The proposed action will improve water quality by regulating and limiting land use activities adjacent to the City's streams and lakes.		☒	☐
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4. Impact on groundwater The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t) If "Yes", answer questions a - h. If "No", move on to Section 5.			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	☐	☐
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	☐	☐
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	☐	☐
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	☐	☐
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	☐	☐
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	☐	☐
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	☐	☐
h. Other impacts: The City is served by a surface water reservoir. _____		☐	☐

5. Impact on Flooding The proposed action may result in development on lands subject to flooding. (See Part 1. E.2) If "Yes", answer questions a - g. If "No", move on to Section 6.			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	☐	☐
b. The proposed action may result in development within a 100 year floodplain.	E2j	☐	☐
c. The proposed action may result in development within a 500 year floodplain.	E2k	☐	☐
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	☐	☐
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	☐	☐
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	☐	☐

g. Other impacts: <u>The new Zoning Code augments the existing Flood Damage Prevention ordinance (Chapter 175) of the City by further restricting development in the floodplain within the Conservation Development District.</u>	☒	☐
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6. Impacts on Air The proposed action may include a state regulated air emission source. (See Part 1. D.2.f, D.2.h, D.2.g) <i>If "Yes", answer questions a - f. If "No", move on to Section 7.</i>			
		☒ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels:			
i. More than 1000 tons/year of carbon dioxide (CO ₂)	D2g	☐	☐
ii. More than 3.5 tons/year of nitrous oxide (N ₂ O)	D2g	☐	☐
iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs)	D2g	☐	☐
iv. More than .045 tons/year of sulfur hexafluoride (SF ₆)	D2g	☐	☐
v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflourocarbons (HFCs) emissions	D2g	☐	☐
vi. 43 tons/year or more of methane	D2h	☐	☐
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	☐	☐
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	☐	☐
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	☐	☐
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	☐	☐
f. Other impacts: _____		☐	☐

7. Impact on Plants and Animals The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.) <i>If "Yes", answer questions a - j. If "No", move on to Section 8.</i>			
		☒ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	☐	☐
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	☐	☐
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	☐	☐
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	☐	☐

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	☐	☐
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	☐	☐
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	☐	☐
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	☐	☐
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	☐	☐
j. Other impacts: _____		☐	☐

8. Impact on Agricultural Resources The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.) ☒ NO ☐ YES <i>If "Yes", answer questions a - h. If "No", move on to Section 9.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	☐	☐
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	☐	☐
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	☐	☐
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	☐	☐
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	☐	☐
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	☐	☐
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	☐	☐
h. Other impacts: _____		☐	☐

9. Impact on Aesthetic Resources The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part I. E.1.a, E.1.b, E.3.h.) <i>If "Yes", answer questions a - g. If "No", go to Section 10.</i>			
		☐ NO	☒ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	☐	☐
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	☐	☐
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	☐ ☐	☐ ☐
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	☐ ☐	☐ ☐
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	☐	☐
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile 1/2 -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	☐	☐
g. Other impacts: <u>The Zoning Code update encourages responsible development along Newburgh's waterfront and downtown areas, which are visible from National Register Sites, State Parks, and locally important viewsheds. The Code includes form-based regulations and scenic viewshed protections.</u>		☒	☐

10. Impact on Historic and Archeological Resources The proposed action may occur in or adjacent to a historic or archaeological resource. (Part I. E.3.e, f. and g.) <i>If "Yes", answer questions a - e. If "No", go to Section 11.</i>			
		☐ NO	☒ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on or has been nominated by the NYS Board of Historic Preservation for inclusion on the State or National Register of Historic Places.	E3e	☐	☐
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	☐	☐
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	☐	☐

d. Other impacts: <u>The Proposed Action streamlines the application and review process for structures located within the City's Historic Districts.</u>		☒	☐
e. If any of the above (a-d) are answered "Yes", continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	☐	☐
ii. The proposed action may result in the alteration of the property's setting or integrity.	E3e, E3f, E3g, E1a, E1b	☐	☐
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	☐	☐

11. Impact on Open Space and Recreation The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan. (See Part I. C.2.c, E.1.c., E.2.q.) If "Yes", answer questions a - e. If "No", go to Section 12.			
		☒ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or "ecosystem services", provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b, E2h, E2m, E2o, E2n, E2p	☐	☐
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	☐	☐
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c, E1c, E2q	☐	☐
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	☐	☐
e. Other impacts: _____		☐	☐

12. Impact on Critical Environmental Areas The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part I. E.3.d) If "Yes", answer questions a - c. If "No", go to Section 13.			
		☒ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	☐	☐
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	☐	☐
c. Other impacts: _____		☐	☐

13. Impact on Transportation
The proposed action may result in a change to existing transportation systems.
(See Part 1. D.2.j)
If "Yes", answer questions a - g. If "No", go to Section 14.

☐ NO ☒ YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	☐	☐
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	☐	☐
c. The proposed action will degrade existing transit access.	D2j	☐	☐
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	☐	☐
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	☐	☐
f. Other impacts: See Part 3 of the EAF.		☐	☐

14. Impact on Energy
The proposed action may cause an increase in the use of any form of energy.
(See Part 1. D.2.k)
If "Yes", answer questions a - e. If "No", go to Section 15.

☒ NO ☐ YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	☐	☐
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	☐	☐
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	☐	☐
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	☐	☐
e. Other Impacts:			

15. Impact on Noise, Odor, and Light
The proposed action may result in an increase in noise, odors, or outdoor lighting.
(See Part 1. D.2.m., n., and o.)
If "Yes", answer questions a - f. If "No", go to Section 16.

☐ NO ☒ YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	☐	☐
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	☐	☐
c. The proposed action may result in routine odors for more than one hour per day.	D2o	☐	☐

d. The proposed action may result in light shining onto adjoining properties.	D2n	☐	☐
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	☐	☐
f. Other impacts: New development is likely to occur as a result of the proposed action, however, it will not change the existing urban and built character and condition of the City.		☒	☐

16. Impact on Human Health The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part I.D.2.q., E.1. d. f. g. and h.) <i>If "Yes", answer questions a - m. If "No", go to Section 17.</i>			
		☒ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	☐	☐
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	☐	☐
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	☐	☐
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	☐	☐
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	☐	☐
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	☐	☐
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	☐	☐
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	☐	☐
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	☐	☐
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g, E1h	☐	☐
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	☐	☐
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	☐	☐
m. Other impacts: _____			

17. Consistency with Community Plans The proposed action is not consistent with adopted land use plans. (See Part 1. C.1, C.2. and C.3.) If "Yes", answer questions a - h. If "No", go to Section 18.			
		☒ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	☐	☐
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	☐	☐
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	☐	☐
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	☐	☐
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, E1b	☐	☐
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	☐	☐
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	☐	☐
h. Other: _____		☐	☐

18. Consistency with Community Character The proposed project is inconsistent with the existing community character. (See Part 1. C.2, C.3, D.2, E.3) If "Yes", answer questions a - g. If "No", proceed to Part 3.			
		☒ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	☐	☐
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	☐	☐
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	☐	☐
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	☐	☐
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	☐	☐
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	☐	☐
g. Other impacts: _____		☐	☐

PRINT FULL FORM

1. INTRODUCTION

This document constitutes the “Reasons Supporting This Determination” portion of Part 3 of the Environmental Assessment Form (EAF) for the City of Newburgh Zoning Code Update. This Part 3 of the FEAF provides additional information to assist the Newburgh City Council, as Lead Agency under the State Environmental Quality Review Act (SEQRA) (6 NYCRR Part 617), to make a determination on whether the Proposed Action will have significant adverse environmental impacts. This EAF was prepared pursuant to all SEQRA regulations and includes sufficient information for the City Council to make a reasoned determination on environmental significance. Adoption of the Zoning Code Amendments and Zoning Map are considered a Type I action under the State Environmental Quality Review Act (SEQRA).

The Proposed Action would result in numerous revisions to Chapter 300 of the Newburgh City Code to update the zoning code and map to support the implementation of the City’s adopted planning documents and studies, including in particular the Future Land Use Plan. The proposed amendments would take effect city-wide with certain actions having specific geographic applications, including the creation of four Form-Based Districts in downtown Newburgh.

It should be noted that additional SEQRA review will be required for development applications seeking approvals from the City, in accordance with the proposed zoning text amendments, should they be adopted. This environmental review analyzes the potential generic impacts associated with the Proposed Action and generic development projected to occur under the Proposed Action, not any potential impacts specific to site conditions associated with future development applications.

The Proposed Action comprises the following actions being considered by the Newburgh City Council, acting as Lead Agency under SEQRA:

- Repeal existing Zoning Code
- Adopt new Zoning Code
- Amend existing Zoning Map

1.1. DESCRIPTION OF PROCESS

The process to update the Zoning Code began in January 2013 with the formation of a Zoning Advisory Team, comprised of City officials, staff, and board members, as well as leaders of various community groups. The Advisory Team was charged with updating the City's zoning code and zoning map incorporating recommendations of the City's previously adopted planning documents, including in particular the Future Land Use Plan. The Advisory Team included the following members:

- | | |
|---|---|
| • Mayor | • Greater Newburgh Partnership, Chair |
| • Corporation Counsel | • Newburgh Christian Ministerial Fellowship, Chair |
| • Code Compliance Supervisor | • Newburgh Armory Unity Center, Chair |
| • Building Inspector | • Community Voices Heard, Lead Organizer |
| • City Planner | • Latinos Unidos, Chair |
| • Planning Board, Chair | • Independent Living, Executive Director |
| • Zoning Board, Chair | • Orange County Citizens Foundation, President |
| • City Council Representative | • Board of Education, Newburgh Enlarged City-School District, President |
| • Waterfront Advisory Committee, Chair | • Orange County Planning Department, Commissioner |
| • Quassaick Creek Advisory Committee, Chair | |
| • Industrial Development Agency, Chair | |
| • Architectural Review Commission, Chair | |
| • Newburgh Business Association CAT, Chair | |

The Executive Director of the Greater Newburgh Partnership (GNP) and the City Manager served as an Ex Officio members of the Advisory Team and were supported by the Assistant to the City Manager, and the Director of Administration and Grants for GNP. The process was funded by the Greater Newburgh Partnership, who engaged the services of AKRF, Inc., a professional planning and environmental consulting firm.

Over the course of 2013, the Advisory Team met approximately 17 times to draft the Zoning Code Update. Minutes from these meetings were posted on the City's website and on GNP's website. In addition, Advisory Team members served as information conduits to their constituency groups reporting on project progress and soliciting feedback. When the draft Zoning Code Update was complete, the Advisory Team convened two public engagement sessions to solicit community input on the draft updates before formally presenting its recommendations to the City Council. The public engagement sessions were held on February 8 and February 12, 2014 at the Newburgh Free Library. The presentation from these sessions, as well as a summary of the questions and answers from the sessions, were posted on both the City's website and on GNP's website.

The City Council was also directly informed of the Team's progress during the drafting of the updates. Formal presentations were made to the Council on July 11, 2013 and January 9, 2014. On February 24, 2014, the City Council formally received and accepted the Advisory Team's recommended Zoning Code Update and agreed to commence the environmental review. At that time, the full text of the proposed Zoning Code Update was posted on the City's website and on GNP's website.

1.2. PURPOSE & NEED

The stakeholders involved with interpreting the City's existing Zoning Code agree that the existing code simply does not work well for the City. Property owners have struggled with zoning regulations that do not match the existing land use pattern within the City. For example, much of the City's residential areas have minimum lot sizes that few, if any, existing lots meet. This requires applicants to seek a variance from the Zoning Board of Appeals on even the most routine matters. Those tasked with implementing the Zoning Code also find it difficult. The steps required to process applications and move them to the appropriate board (or boards) for review and approval is cumbersome.

In addition, after decades of declining population, the City of Newburgh began experiencing population growth in the early nineties. While the growth has been modest, the City has recognized the need to appropriately plan for this change. The City also recognized the opportunity presented by this growth trend to revitalize parts of the City that have long been neglected. Accordingly, in the mid-2000's, the City began updating its Planning Documents. In 2008, the City adopted *Plan-It Newburgh*, the City's sustainable Master Plan, followed in 2011 by the adoption of the *Future Land Use Plan*, which described and mapped the City's desired land use goals. In 2012, the City adopted a report by the Pace Land Use Law Center on streamlining the Land Use review and approval process.

Concurrently, the City began drafting an update of its Local Waterfront Revitalization Plan and commissioned several other studies, including *Newburgh 2020*, and the *Liberty-Grand Street Heritage Corridor* report. In 2007, the City undertook an extensive waterfront planning charette process facilitated by world-renowned planner Andres Duany. Duany, on behalf of the Leyland Alliance, a potential developer of the waterfront, engaged the City's residents and business owners on their vision for the waterfront and summarized the results of this process in a Charette Report.

The task of the Zoning Advisory Team was, therefore, to consider all previously adopted documents, and focus on their implementation, by updating the Zoning Code and Zoning Map. Specifically, the purpose and need of the Zoning Code Update is to:

- Align the Zoning Code and Zoning Map with the City's previously adopted plans, studies and reports, including the *Future Land Use Plan*;
- Recognize the existing urban pattern of development (in terms of mix of uses, lot sizes, and setbacks) as the template for continued and future development within the City;
- Streamline the land use application and review process; and
- Encourage economic development and focus this development in previously identified areas of the City.

2. EXISTING CONDITIONS

2.1. PLANNING BACKGROUND

The City of Newburgh has prepared numerous planning documents and studies to guide growth and development City-wide including:

- Plan-It Newburgh Sustainable Master Plan (2008)
- Future Land Use Plan (2011)
- Pace Streamlining Newburgh's Land Use Process Final Recommendations (2012)
- Local Waterfront Revitalization Program (LWRP) (2008 Draft, Current Draft)
- Newburgh Waterfront Charette (2007)
- Liberty-Grand Street Heritage Corridor (2007)
- Liberty Street Corridor Commercial Implementation Strategy, Newburgh 2020 (2009)

Many of these planning documents and studies have been adopted but the planning strategies and recommendations within these studies have yet to be implemented. Further, the existing Zoning Code has been an impediment to the implementation of the planning strategies recommended within these documents and studies. As described in more detail below, the proposed Zoning Code Update is consistent with and advances the goals of the City's existing planning documents.

In addition, several regional planning studies and reports helped shape the proposed Zoning Code Update, including:

- Newburgh Area Transportation and Land Use Study (2012)
- Orange County Design Manual (Adopted by Orange County, 2011)

2.2. EXISTING LAND USE PATTERNS AND ZONING

The City contains a broad mix of residential, commercial, industrial, institutional, and open space uses (**Figure 1**). Most of the lower density residential uses are focused north of Broadway, while the eastern portion of the City tends to have more dense residential uses. The Broadway corridor, which serves as the City's commercial spine, includes a variety of retail, service, restaurant and other commercial uses and many mixed-use parcels. The same is true along much of Liberty and Grand Street. Much of the waterfront is currently vacant or underutilized, as are several large lots between the waterfront and the end of Broadway. **Figure 2** shows the existing Zoning Map for the City of Newburgh.

2.3. POPULATION TRENDS

According to the U.S. Census, Newburgh's population peaked at 31,956 in 1950. (**Table 1**) Over the next 30 years, the City's population decreased by more than 28 percent to a low of 22,863 in 1980. Since then, Newburgh's population has increased by roughly 6,000 persons, (26 percent), to 28,866 according to the 2010 Census. The current level of Newburgh's population is approximately 10 percent lower than its 1950 peak.

Table 1
City of Newburgh Population

Year	Population	Change from Previous
2010	28,866	2.1%
2000	28,259	6.8%
1990	26,454	15.7%
1980	22,863	-12.8%
1970	26,219	-15.4%
1960	30,979	-3.1%
1950	31,956	0.2%
1940	31,883	1.9%
1930	31,275	3.1%
1920	30,336	9.1%
1910	27,805	11.4%
1900	24,949	
Sources: US Census		

3. DESCRIPTION OF THE PROPOSED ACTION

The Proposed Action would update and bring the City's Zoning Code in line with the City's adopted Future Land-Use Plan and various other planning and policy documents and studies. The Proposed Action for purposes of environmental review comprises the following actions being considered by the City Council of the City of Newburgh, acting as Lead Agency under SEQRA:

- 1) Adoption of the Proposed Zoning Amendments - Revisions to Chapter 300 (including the Schedule of Bulk, Area, and Parking Regulations and Schedule of Uses, and a Form-Based Code Component)
- 2) Adoption of City's Zoning Map

3.1. PROPOSED ZONING AMENDMENTS

The Proposed Action is a rewrite of the existing City of Newburgh Zoning Code (Chapter 300) into a hybrid land-use based (Euclidean) and Form-Based ordinance incorporating innovative zoning techniques designed to encourage mixed-use development, redevelopment, and adaptive reuse in appropriate locations. As part of the Proposed Action, numerous amendments and revisions to the Zoning Code are proposed, including changes to the Zoning Map. The proposed Zoning Code Amendments are intended to implement the recommendations in the City of Newburgh Future Land Use Plan, adopted by the City Council in 2011. The primary objectives of the proposed Zoning Amendments are to: clarify and streamline the approvals process so that it is predictable, efficient and fair; protect the City's open space, groundwater and surface water resources; provide an array of housing choices; and provide use, bulk and area requirements that reflect the City's current urban development pattern.

The proposed Zoning Code Amendments would: support the goals and objectives presented in the City's planning documents and studies; significantly reduce the volume of development applications that currently require variances by implementing use, bulk and area requirements that are consistent

with the City's existing development pattern; streamline the planning and zoning application process by creating an administrative approval for applications that meet as-of-right zoning criteria; and create a vibrant 24-hour community by allowing a mix of residential and commercial uses along the Broadway corridor and several other key neighborhoods, where this type of development would be appropriate.

These proposed changes would benefit the City of Newburgh, by protecting the City's key natural resources and community character, supporting the economic viability of the City and meeting the goals and objectives of the City's land use policies. Making the Code more consistent with existing development patterns and streamlining the application process would save property owners and the City significant time and expense by reducing the need for variances and cutting staff time spent reviewing applications. It is anticipated that this would create a business-friendly environment and encourage investment in Newburgh by facilitating the development process. The proposed zoning would be consistent with best planning practices by encouraging infill in the downtown area, promoting good urban design, and prioritizing and supporting pedestrian activity.

This summary highlights some of the key points and sections of the proposed Zoning Code Amendments.

3.2. ZONING DISTRICTS

The Proposed Zoning Code Amendment includes twelve (12) land use districts (four of which are form-based districts) and four (4) overlay districts. These districts are shown in the proposed Zoning Map (see **Figure 1**) and summarized below. The proposed land use and overlay districts, and map revisions reflect the City's desire to protect its community character by guiding residential and commercial development to appropriate locations throughout the City, while supporting the City's goal to promote economic development.

3.2.1. LAND USE DISTRICTS

Planned Office District (PO). The purpose of the PO is to provide for thoughtful well-designed office park type development projects, including medical office; research and development; and higher density office parks to promote and encourage high-quality employment opportunities for City of Newburgh residents and economic development for the region as a whole. Design standards and requirements for this district are intended to make it compatible with the surrounding residential areas, including buffers from the adjacent areas. Residential development is not permitted as-of-right in this district.

Commercial District (CD). The purpose of the CD is to provide for a range of commercial uses within focused areas that are already developed primarily with similar uses. As-of-right uses within the CD include: health and wellness, activity facilities and amusement centers; billiard parlors; commercial offices and service commercial uses. Residential development is not permitted as-of-right in this district. The location of and regulations for the Commercial District are consistent with those recommended in the adopted Future Land Use Plan.

Conservation Development District (CDD). The purpose of the Conservation Development district (CDD) is to encourage conservation of environmental resources in exchange for flexibility in bulk and area requirements and the potential for granting more intensive development if conservation goals are achieved. The primary

conservation goals of the CDD are to: preserve and enhance open space, scenic views and environmentally sensitive features; protect steep slopes by preserving vegetative cover to minimize the impacts of erosion and sedimentation; provide opportunities for on-site storm water management and groundwater recharge; encourage flexibility in the design of residential land uses that may not be permitted under traditional zoning regulations; promote a range of housing types; create on-site recreation opportunities, and promote integration with neighboring land uses through trails and waterfront access points. Generally, density and dimensional standards in the CDD shall be approved by the City Planning Board based on the physical characteristics of the site; however, the number of dwelling units allowed in a CDD would be equal to the gross area of the CDD site, less environmental resources, divided by 3,000 square feet. The City Planning Board may grant a 20 percent density bonus if the proposed development substantially advances the environmental protection goals of the district. Development in the CDD also requires that 50 percent of the net land area of the parcel be preserved as open space by a permanent conservation easement or deed restriction. The location of and regulations for the CDD are consistent with those recommended in the adopted Future Land Use Plan.

Industrial District (IND). The purpose of this district is to allow industrial and related uses where they are currently located, and to attract development in specific areas that are well buffered from adjacent uses. Uses permitted by right in the IND include gas and automobile service stations and car washes, dry cleaners and commercial laundry facilities, cottage industries, boat repair and other lower intensity industrial type uses. Residential development is not permitted as-of-right in the district. The location of and regulations for the IND are consistent with those recommended in the adopted Future Land Use Plan and follow the recommendations of the FLUP to rezone smaller existing industrial properties not in areas that are not presently zoned as industrial, to mixed use designation.

Residential – Low Density (R-1). The purpose of this district is to preserve the R-1 density in the area of single family homes.

Residential – Low Density (R-Low). The purpose of this district is to promote and preserve lower density residential development and associated institutional and recreational uses that are consistent with the existing development patterns in the City of Newburgh. Uses permitted by right in the R-1 District include: one and two family detached dwellings on 2,500 square foot lots for new construction and three and four family dwellings on 5,000 square foot lots within existing buildings. The location, proposed density and uses allowed in the R-1 District are consistent with those recommended in the adopted Future Land Use Plan.

Residential – Medium Density (R-Med). The purpose of this district is to promote medium density residential development including townhouses, row houses, live/work, small multi-family units and loft buildings. Commercial uses include professional and business offices, personal service; retail use, art and antique gallery, museum, theater, and restaurants on 2,500 square foot lots and associated institutional and recreational uses that would be consistent with residential uses and the existing development pattern in the City. The location, proposed density and uses allowed in the R-2 District are consistent with those recommended in the adopted Future Land Use Plan.

Residential – High Density (R-High). The purpose of this district is to provide areas

for more intensive residential development including all residential and commercial uses permitted in the area. New construction may be up to 6 stories or 60 ft. in height with no more than 40-50 residential units per acre and a maximum building coverage of 55% FAR. The proposed density and uses allowed in the R-High District are consistent with those recommended in the adopted Future Land Use Plan.

3.1.1. FORM-BASED DISTRICTS

In addition to the use-based districts defined above, the Proposed Zoning Code Amendment includes a provision for four form-based districts: 1) Broadway Corridor (BC); 2) Downtown Neighborhood (DN); 3) Planned Waterfront District (PWD) and 4) Waterfront Gateway (WG). Application of the form-based districts facilitates the implementation of a community plan by regulating the form and mass of buildings in relation to one another, and the scale of streets and blocks. The regulations and standards developed for the form-based districts are presented both in words and diagrams, which are keyed to a plan that designates the appropriate form and scale (and therefore, character) of development, rather than only through distinctions in land use types. The guidelines for the four proposed form-based districts regulate the use, bulk, area, and design of new construction to promote walkable and vibrant mixed-use neighborhoods. The regulations for the form-based districts supplement those regulations found in the rest of Chapter 300 and provide specific details on the form of development that is encouraged and allowed in these key areas. Specifically, the form-based districts would:

- Focus on the importance of building types and the relationship of one building to another;
- Allow flexibility and variety with respect to uses within buildings and within a zoning district;
- Help ensure new development is compatible with the existing urban fabric of downtown Newburgh;
- Provide guidelines for the redevelopment of the waterfront;
- Provide clarity to developers about what is desired and allowed; and
- Streamline the application and approval process for projects meeting the requirements of the Form-Based code by minimizing the need for Planning Board approval (except in the PWD, where Planning Board review and approval would still be required).

A description of the four proposed form-based districts is provided below.

Broadway Corridor (BC). The BC district generally encompasses lots along Broadway from West Street to Grand Street. The purpose of the form-based BC district is to encourage the existing shop-front/Main Street form that currently characterizes this key commercial corridor. To foster a more vibrant pedestrian oriented environment, the code allows ground-floor retail uses with residential or additional commercial space on the upper floors. Residential buildings (without any commercial component) are allowed as-of-right, but they must follow the design guidelines for the BC district.

Downtown Neighborhood (DN). The DN district generally encompasses the neighborhoods to the north and south of Broadway mostly along Liberty and Grand Streets. The DN district includes the Liberty/Grand Street Heritage Corridor.

This area is in the historic overlay and is subject to the Architectural Review Board guidelines and review. The Lower Broadway Area is a destination point for shopping, employment, government activity and health and human resources services. Commercial development, government offices, services and professional uses, cultural and entertainment establishments, restaurants, hotels and appropriate transportation facilities are included.

Planned Waterfront District (PWD). The PWD includes the area between Water Street and the Hudson River, which is the historic heart of Newburgh and has been, and is expected to be, the catalyst for the revitalization of the City. The goal of the PWD is to encourage a mix of residential, commercial, cultural, recreational, water-dependent and water-enhanced uses to revitalize the waterfront. Structures within the PWD must not prevent or obstruct protected Hudson River waterfront viewshed corridors, must be oriented to reflect the importance of the River and should encourage a vibrant pedestrian oriented environment. Storefront, rowhouse, and civic building types are encouraged in the PWD. Development in the PWD requires provision of public access to the waterfront, an open space set-aside Site Plan Approval from the Planning Board. While the adopted Future Land Use Plan did not specifically define a form-based code for this area, the uses and the requirements in the PWD are consistent with those recommended in the adopted Plan.

Waterfront Gateway (WG). The WG district includes areas to the north and south of Broadway between Grand and Water Streets and abuts the three other form-based districts (BC, PWD and DN). The district offers development parcels with dramatic Hudson views and is suitable for pre-eminent or key featured buildings. The goal for the form-based WG district is to encourage pedestrian activity and maximize new higher density residential and commercial development. To achieve this goal, various building types are encouraged including mid- and high-rise buildings with ground floor shop-fronts along Broadway, civic buildings, and higher density mixed-use and commercial north and south of Broadway.

3.1.2. OVERLAY DISTRICTS

An overlay district is designed to add additional restrictions or opportunities for land that lies within its boundaries. It is called an "overlay" because it is typically mapped on top of an "underlying" zoning district. The regulations in the "underlying" district remain in place except to the extent that the overlay district provisions provide supplemental regulations (use or dimensional parameters) to the underlying zoning district. The overlay districts do not prohibit development, but rather require a more careful review process.

Waterbody Protection Overlay (WPO). The WPO is established to promote the ecological health, biodiversity and natural habitats of and provide special protection to the City's creeks, stream corridors and waterbodies. The purpose of the WPO is to regulate land uses within or adjacent to a stream corridor or waterbody to protect water quality, biodiversity, scenic resources and reduce the risk of damage from flooding. The entire Quassaick Creek Watershed, which originates in Ulster County, and drains the northeastern portion of Orange County, flows through the City of Newburgh. It is therefore imperative to the protection of public health, safety, and welfare to appropriately manage development adjacent to this critical resource. The WPO includes and regulates all lands within 100 feet of the top of the bank on each side of the following waterbodies: Quassaick Creek; Gidneytown Creek; Harrison

Pond; Strook's Pond east of Harrison Pond and west of Gidneytown Creek; Crystal Lake; Muchattoes Lake; Unnamed Ponds (2 Ponds) southwest of Crystal Lake; the Unnamed Stream that flows into Miller's Pond and out of Crystal Lake and is tributary to the Quassaick Creek; and joins the Quassaick Creek at Little Britain Road east of Cerone Place; and that portion of the Hudson River that is not within the PWD zoning district. Where there is no clearly defined bank, the district boundary shall be measured from the mean high-water line of the waterbody. All parcels having any part within the WPO shall be subject to Site Plan review and approval and may not be exempted from that requirement.

Neighborhood Commercial Overlay (NC). The purpose of the NC district is to provide areas within residential neighborhoods for local scale commercial development. The NC overlay recognizes the existing development pattern along the westernmost portion of Broadway and allows multiple uses within buildings and within lots in order to promote market-driven uses and redevelopment within targeted areas of the City, as identified in the Future Land Use Plan. The type of commercial uses encouraged within the NC include retail and service establishments, which cater to frequently recurring needs of nearby residents. Uses permitted by right in the NC overlay district include: retail stores, restaurants, personal services, professional offices, animal care facilities, child care facilities, adult day care facilities and technical schools. Bulk and area requirements for the uses permitted by right in the NC overlay district are the same as for the underlying zoning district.

East End Historic District and Colonial Terraces Design District Overlay. The purpose of these overlay districts is to provide additional regulatory protection, protection and additional oversight of individual buildings and sites that have recognized historic and design significance within the City's two established historic and design districts. Activities within the East End Historic District and the Colonial Terraces Design District are reviewed by the Architectural Review Commission with guidance from the "*East End Historic District Guidelines*" duly adopted by the City Council by Ordinance No. 2-2008, dated February 25, 2008 and the "*Colonial Terraces Design Guidelines*" duly adopted by the City Council by Ordinance No. 3-2005, dated June 20, 2005.

3.2. OTHER PROVISIONS

As previously noted, the Proposed Action includes a complete revision of Chapter 300 of the City of Newburgh Code to incorporate recommendations presented in the adopted Future Land Use Plan, better accommodate the existing development pattern, and streamline the review and approvals process. In furtherance of those goals, Articles have been reordered and revised, including Administrative Procedures, Supplementary Regulations, Off-Street Parking and Loading, Non-Conforming Uses and Structures, Site Plan Application and Approval, Zoning Board of Appeals and Enforcement, Severability. Generally, revisions to the aforementioned Articles include provision of clear timelines and requirements for Application materials, review by various boards, and regulations for enforcement of the requirements. Off-Street Parking and Loading requirements have been amended to reflect to the requirements and needs of the urban development pattern.

3.3. REVISIONS TO ZONING MAP

The second component of the Proposed Action is the adoption by the Lead Agency of the City of Newburgh Zoning Map. The Zoning Map was revised to reflect the land use changes recommended in the adopted Future Land Use Plan, the proposed overlay districts and the form-based districts. The proposed Zoning Map changes:

- Codify the land use recommendations in the adopted Future Land Use Plan;
- Consolidate redundant or ‘surplus’ districts;
- Map the boundaries for the overlay, and the form-based districts; and
- Incorporate changes to encourage investment and the revitalization of Newburgh.

The proposed amended zoning map is included as **Figure 1**.

4. POTENTIAL ENVIRONMENTAL IMPACTS OF THE PROPOSED ACTION

This section addresses the environmental categories identified in Part 2 of this FEAF where the impacts of the Proposed Action necessitate additional explanation.

4.1. CONSISTENCY WITH PLANNING DOCUMENTS

4.1.1. *PLAN-IT NEWBURGH SUSTAINABLE MASTER PLAN (2008)*

The City Council of the City of Newburgh adopted a Sustainable Master Plan in December 2008, entitled “*Plan-It Newburgh*”. Goals, targets and strategies in the Plan outline how the City of Newburgh will accommodate growth and development until the target date 2040. The process for creating the Plan began in 2005 with a stakeholder group and a series of workshops, public forums and meetings that invited residents to contribute their ideas. The following seven key areas of interest formed the framework for sustainability: social well-being, governance, housing, natural environment, economic development, transportation, and municipal services. The primary Plan objective is to create a higher quality of life in the City of Newburgh for both present and future generations. A key strategy to achieve this objective involved targeting vacant and underutilized portions of the City to avoid displacement and encourage the rejuvenation of the City’s downtown. This strategy is seen as a critical step towards revitalizing the City and supporting Newburgh’s commitment to becoming a thriving, walkable, and attractive community.

The Proposed Zoning Code Update encourages economic development in Newburgh by promoting infill and targeting vacant lots. Development is encouraged through implementation of flexible zoning that allows for a wider variety of uses and a streamlined process for development review, as described above. The Form-Based Districts, developed for four downtown areas, promote mixed-use development in key economic centers of the City such as the Broadway Corridor, Liberty Street, and the Waterfront. The Form-Based regulations allow more uses as-of-right as well as through the regulation of building form within those districts. The ‘Shopfront’ and ‘Midrise’ building types are the predominant building types allowed downtown. Their very form promotes a vertical mix of uses such as ground-floor retail coupled with upper floor residential, service or office, providing for compact development,

pedestrian and bicycle friendly environments, and an overall stronger neighborhood character.

The Proposed Zoning Code Update also encourages appropriate home occupations within the downtown and residential districts, further reducing distances between housing and the workplace. Neighborhood-scale economic development is promoted through the creation of the Neighborhood Commercial Overlay District. This district allows limited commercial uses such as retail, restaurant, personal services and professional offices in otherwise residential portions of the City to promote redevelopment and walkable neighborhoods.

Design standards for downtown buildings focus on the building-type, architectural features, signage, building materials and landscaping and would create more visually-appealing and consistent streets within the Form-Based Districts. In addition, guidelines for the pedestrian realm, including the area between the lot line and the curb line, are included to standardize and enhance the pedestrian experience. In the Planned Waterfront District, lots that have Hudson River frontage are required to include a publicly-accessible Waterfront Walkway. The Waterfront Walkway will expand walking and recreation opportunities for the public, recognizing the central role the waterfront plays in the revitalization of Newburgh. Light pollution will be minimized through lighting standards in the Form-Based Districts.

As noted in *Plan-It Newburgh*, environmental protection is integral to responsible development. The Waterbody Protection Overlay District (WPO), included in the Proposed Zoning Code Update, would be established to regulate land uses within or adjacent to a stream corridor. As described above, the WPO would help protect water quality, biodiversity, scenic resources and reduce the risk of damage from flooding. To further protect natural resources and promote open-space creation, the Planned Waterfront District would require new development on large parcels to set aside, and maintain, 10 percent of their site as publicly-accessible open-space.

By promoting a walkable, mixed-use, high quality community, the Proposed Action would help the City reach the goals and strategies enumerated in the *Plan-It Newburgh* Sustainable Master Plan.

4.1.2. FUTURE LAND USE PLAN (2011)

The 2008 Sustainable Master Plan "*Plan-It Newburgh*" addressed land use planning policies but did not specifically recommend future zoning changes to implement those policies. Therefore, in September 2011, the City of Newburgh commissioned a Land Use Committee to create a *Future Land Use Master Plan*. The *Future Land Use Plan* (FLUP) was prepared as an addendum to and to provide support for the goals enumerated in "*Plan-It Newburgh*". The goal of the FLUP was to geographically illustrate general future land uses based on the policies stated in "*Plan-It Newburgh*" and to provide a framework for implementing the zoning changes required to carry out those policies. While the FLUP maintains many of the City's existing land uses, it recognizes that there are existing areas where land use designations are either obsolete or do not promote the highest and best use for an area. In these areas, the FLUP proposes a new land use designation. The highest and best use for each area is based on policy recommendations from "*Plan-It Newburgh*". The FLUP includes a Future Land Use Map, which illustrates the general location and intensity of future land uses

and provides a roadmap for undertaking future zoning actions in the City of Newburgh. The Proposed Zoning Code Update that is the subject of this Part 3 FEAF, closely follows the roadmap established by the FLUP.

The FLUP identified a need to shift away from the current focus on single-use zoning along commercial corridors. To address that need, the Proposed Action includes four mixed-use districts in the City's downtown, as well as the Neighborhood Commercial Overlay District. In the downtown mixed-use districts, various controls would help regulate density while continuing to allow for future growth. The introduction of additional mixed-use district zoning recognizes the reality of Newburgh's urban center and its existing land uses. Although the FLUP suggests regulating building size and density through Floor Area Ratio controls, the new zoning accomplishes the goals of such controls in other ways. The Zoning Advisory Team proposed to regulate density through other measures, including lot coverage, height, and setback requirements. In addition, the prescription of detailed Form-Based Districts provides standards that would regulate density, while focusing more attention on the observable form of new development.

In accordance with the recommendations in the FLUP, the Proposed Action highlights the waterfront as one of Newburgh's most unique assets and as a key for the City's overall revitalization. The proposed Planned Waterfront District would allow a wider range of uses, improve public waterfront access and public amenities, and require a waterfront walkway all of which will help revitalize the vacant and underutilized parcels in the area. The FLUP also designated areas of the City suitable for conservation development. The proposed Conservation Development District (CDD) addresses this recommendation by mapping three areas, including the area specified in the FLUP. The CDD encourages the conservation of environmental resources in exchange for flexibility in bulk and area requirements for new development. This district will allow innovative residential development while protecting environmentally sensitive areas. Finally, the proposed Zoning Code update simplifies the existing zoning text by combining the three commercial districts into one, the two planned office districts into one, and the two industrial districts into one.

The FLUP also recommended various administrative changes, which have been incorporated into the Zoning Code Update. For example, the FLUP recommended aggregating some of the uses in the zoning code into broader categories. Such organizational clarifications help simplify the zoning map and help ensure that the proposed zoning is consistent with the FLUP.

4.1.3. *PACE STREAMLINING NEWBURGH'S LAND USE PROCESS FINAL RECOMMENDATIONS (2012)*

The Pace Land Use Law Center was commissioned by the City of Newburgh to issue recommendations for streamlining the City of Newburgh's current land use application processes to remove obstacles to redevelopment and better open the City for business. One of their recommendations was to update the zoning code concluding that the City's current zoning code is outdated and often requires variances or rezoning to facilitate individual development projects. In addition, New York State cannot legally approve Newburgh's 2008 update to the Local Waterfront

Revitalization Program until the City adopts strategies to implement the program, such as new zoning.

The *Streamlining Report* also makes recommendations regarding the East End Historic District regulations, including more specifically defining what would constitute a “material change”, or “visibility from a public street”, and therefore not requiring a Certificate of Appropriateness (COA) review. The Proposed Action incorporated this recommendation. The *Streamlining Report* also recommended that a consent agenda be established to speed the workflow of the Architectural Review Commission (ARC) and reduce the burden on applicants. Under the Proposed Action, the ARC may now consider and approve multiple applications with a single motion based on a determination from the Building Inspector. Finally, the Proposed Action provides a streamlined COA process for demolition applications within the historic districts. The ARC may now evaluate new considerations when reviewing COA applications for demolition. Therefore, demolition applications do not have to always apply for hardship. These changes are expected to help decrease regulatory hurdles and thus promote the City’s redevelopment, as recommended by the *Streamlining Report*.

4.1.4. *LOCAL WATERFRONT REVITALIZATION PLAN (2008 DRAFT, CURRENT DRAFT)*

The Newburgh *Local Waterfront Revitalization Plan* (LWRP) was adopted in 1992. In 2001, an update to the plan was adopted to address redevelopment initiatives along the waterfront. Similarly, in 2007 the City determined it was appropriate to update its LWRP as well as prepare a Harbor Management Plan to address pending interest in redevelopment of the waterfront. Objectives of the 2008 Draft LWRP include: preserving open space and increasing public access to the waterfront; linking the waterfront to the historic district, Washington’s Headquarters and the Broadway commercial area; and addressing parking issues on the waterfront by planning for and integrating intermodal and multi-modal transportation links to the waterfront.

The LWRP represents major steps by the City of Newburgh to establish a specific plan and program for the waterfront area. It promotes the preservation of valuable coastal resources, the expansion of water-related and water-enhanced uses and the improvement of underutilized and deteriorated sites.

The Proposed Action regulates many aspects of the physical environment that would help preserve Newburgh’s coastal resources while expanding their use, including:

- The Waterfront Gateway District was created to better connect the Downtown area with the Waterfront.
- The streetscape design standards would create the physical connection needed between Lower Broadway and the Waterfront area.
- All new construction in the Planned Waterfront District would be required to obtain Site Plan Approval from the Planning Board, which would further regulate new development and ensure its success and compatibility with the LWRP.
- All lots having the Hudson River as their boundary would be required to provide public access to the river’s edge in the form of a Waterfront Walkway. This walkway would connect private development along the water and City residents

and visitors. Public access to the waterfront would create more opportunities for waterfront recreational activities and would increase pedestrian utilization of the area.

- Scenic Viewshed Protection regulations included in the Proposed Action would help protect the views that are central to the City's character.
- The Proposed Action also includes design standards that require new development to complement existing topography by avoiding the use of large retaining walls and other features that prevent a building from interacting with the pedestrian realm.

4.1.5. *NEWBURGH WATERFRONT CHARETTE (2007)*

In 2007, a weeklong public planning process (charrette) for 30 underdeveloped acres of downtown Newburgh was held. Andres Duany, an urban planning pioneer, led a team of experts assembled by developer Leyland Alliance through a series of public forums to discuss what should be built on the sites. The charrette resulted in public consensus of a detailed illustrative master plan for the area. The plan called for connecting the waterfront with the downtown to create a livelier, mixed-use environment that features a variety of housing types, commercial and civic structures, parks and recreational spaces, and opportunities to better accommodate pedestrian and bicycle traffic.

The Proposed Action promotes mixed-use districts within the city to encourage economic development. More specifically, the Planned Waterfront District (PWD), established with the goal of revitalizing the waterfront, addresses the goals and design ideals presented in the 2007 *Waterfront Charette Master Plan*. The Proposed Action allows for a broad mix of uses along the waterfront, including housing, commercial, cultural and open space. The Shopfront building type defined in the PWD Form-Based District was developed to provide a pedestrian oriented experience with retail or office uses on the ground-floor and upper floors typically designed for residential, hospitality and employment uses. Both the Shopfront and Midrise building types, which are common structural defining characteristics of an urban downtown, have maximum building heights of six stories within the PWD. Public access to the Hudson River is promoted through the provision of a Waterfront Area and Waterfront Walkway open to the public with all lots bordering the Hudson River. Streetscape standards along commercial and mixed-use streets help enhance street life by permitting outdoor dining areas, public art, benches and pocket parks. In addition, signage requirements were developed to improve the visual environment, thereby enlivening the resident and visitor experience. All of these regulatory provisions included in the Proposed Action help create the community character envisioned for the Waterfront by the charrette.

4.1.6. *LIBERTY-GRAND STREET HERITAGE CORRIDOR (2007)*

A public visioning process and workshop was conducted in 2006 to help provide an understanding of what participating members envisioned as appropriate for the future of Newburgh's Liberty-Grand Street Corridor. The goal of the process was to provide guidance for future planning actions and establish design standards with images that could be directly incorporated into any future planning recommendations. As part of the process, a guidance document was prepared entitled *A Shared Vision for the*

Future: Liberty-Grand Street Heritage Corridor Visioning Results and Recommendations. This vision was consolidated into guidance focused on street type options, the pedestrian realm, corridor signage, parks and open space, and off-street parking alternatives.

The Liberty-Grand Corridor is included within the proposed Downtown Neighborhood Form-Based District. The Downtown Neighborhood District allows various building types, including the Shopfront, Midrise, Rowhouse and Civic form, which can be found along Liberty and Grand Streets. The building forms promote mixed-use and higher density commercial and residential structures that would reflect the historic development patterns of the area and help highlight the cultural assets within the corridor. The proposed streetscape requirements along secondary commercial and mixed-use corridors would further enhance activity in the public realm to accommodate pedestrian activity and allow for more street trees and amenities such as benches and outdoor café seating. The *Liberty-Grand Street Heritage Corridor Vision* also highlights the importance of developing design standards for commercial signage. To accomplish this, the Form-Based Code provides the guidelines necessary for more appropriate signage that improves the experience of place. Band, blade, shingle and awning signs would better identify, direct, and guide local pedestrians and visitors. Although the new zoning does not specify regulations regarding mixed-use parking facilities, it does prohibit off-street parking in front of a principal building, which will help decrease the exposure of parking facilities and create more attractive, pedestrian oriented spaces. Finally, the various design standards outlined in the Form-Based Code would preserve the local character of the historic corridor, by regulating architectural building elements and features, and building materials. The Liberty-Grand Corridor is proposed to be included in the Historic Overlay District, which would protect, enhance and perpetuate the historic and community character qualities of this heritage corridor.

4.1.7. *LIBERTY STREET CORRIDOR COMMERCIAL IMPLEMENTATION STRATEGY, NEWBURGH 2020 (2009)*

Newburgh 2020, an advisory group comprised of key community stakeholders, was formed to work with the City of Newburgh, the planning firm of Urban Design Associates (UDA), and commercial consulting firm Live Work Learn Play to lead commercial revitalization efforts in downtown Newburgh. The group's mission was to create a vision for neighborhood development, life and commerce on Newburgh's historic main street. In 2009, Newburgh 2020 developed a *Commercial Implementation Strategy* (CIS) report to guide the commercial revitalization of Downtown Newburgh. The report focuses on a detailed strategic plan for the Liberty Street Corridor as Phase 1 of the Downtown commercial revitalization.

The Proposed Action facilitates the commercial neighborhood revitalization that is at the heart of the CIS Plan. The Form-Based Code developed for the Downtown Neighborhood district includes the majority of Liberty Street. This proposed zoning district promotes a variety of uses along Liberty Street, including: multi-family dwellings above ground-floor commercial and retail, apartment buildings, personal services, restaurants, cottage- (or light-) industry and hotels, providing a wider variety of commercial experiences and more flexibility for developers. Home occupations and professional offices are also encouraged, which would increase the number of urban

professionals working and living in the neighborhood. By allowing more uses as-of-right in the Downtown Neighborhood, the regulatory process is simplified and streamlined, which is important to attracting more businesses to the neighborhood. The Shopfront building type, which is the predominant form in this District, has a high degree of transparency on the first floor and architectural design standards that together will help add visual interest to the physical environment. The maximum height of both the Shopfront and Midrise buildings is proposed to be six stories, promoting a stronger customer base along the Liberty Corridor. A 10 foot front setback is only allowed in Shopfront buildings if used in a manner that enhances street life such as through pocket parks or plazas, outdoor dining areas, and public art. These proposed small-scale street improvements, coupled with the signage and design standards, contribute to a healthier environment for businesses and pedestrians. These changes to the physical environment would have positive impacts on the quality of life in downtown Newburgh and contribute to the revitalization of the Liberty Street Corridor envisioned in the *Commercial Implementation Strategy*.

4.1.8. *NEWBURGH AREA TRANSPORTATION AND LAND USE STUDY (2012)*

The *Newburgh Area Transportation and Land Use Study* was conducted between 2008 and 2011 by the Orange County Planning Department on behalf of the Orange County Transportation Council. The study area included the City of Newburgh and the four nearby Towns of Newburgh, New Windsor, Montgomery and Cornwall and the Villages of Walden, Montgomery, Maybrook and Cornwall-on-Hudson. The goal of the study was to identify priorities for creating integrated solutions for transportation and land use within the northeastern portion of Orange County by enhancing mobility and preserving quality of life and the environment.

The Proposed Action encourages transit-oriented, pedestrian-friendly development by recognizing existing patterns of development and allowing for a greater number of mixed-use districts and buildings. The districts and regulations in the Zoning Code Update are consistent with the many recommendations of the *Newburgh Area Transportation and Land Use Study* that emphasize transportation improvements coordinated with land use patterns. The proposed design, streetscape and signage standards in the Form Based Districts connect neighborhoods through a network of well-designed sidewalks. Some of the land use recommendations outlined by the *Study* are more specifically addressed in the Broadway Corridor District. The Proposed Action addresses these recommendations by promoting a concentration of activity in this commercial corridor and providing the opportunity for a more pedestrian friendly streetscape.

4.1.9. *ORANGE COUNTY DESIGN MANUAL (2011)*

The *Orange County Design Manual* was published by the Orange County Planning Department, the Regional Plan Association and the Lincoln Institute of Land Policy with support from the Orange County Water Authority. The *Manual* explores smart growth and the design aspects behind it, and provides tools and strategies to help local communities implement the designs. The *Manual* provides best-practices that help answer the where, what and how of community growth and presents designs based on the smart-growth objectives of protecting and enhancing the environment, maximizing

and managing connectivity, and creating pedestrian oriented, mixed-use neighborhoods.

One of the best-practices included in the *Manual* is protection of scenic resources. The Proposed Action provides for the protection of scenic resources in several ways. In the Planned Waterfront District (PWD), construction is prohibited within the street right-of-way so that existing view corridors of the River are maintained. In addition, development within the PWD and Waterfront Gateway District are subject to enhanced visual protection standards. These standards require that proposed development be evaluated for their potential to impact the scenic views that are most important to the City. Finally, other proposed setback, height, and streetscape regulations would ensure that scenic views from key public points in the City would be preserved even as development and density increase over time.

The proposed Waterfront Walkway would secure physical public access to the Hudson River and provide the necessary linkages and continuity of access to this resource. In addition, design standards that help minimize topographical alteration during site construction would preserve the natural character of the City and allow for better views of the River. Furthermore, the Conservation Development District (CDD) and the Waterbody Protection Overlay District (WPO) are proposed to encourage conservation of environmental resources in exchange for flexibility in bulk and area requirements, and to promote responsible development along the City's waterbodies. As such, development is organized to preserve Newburgh's natural systems.

A second key aspect to smart development identified in the *Design Manual* is the need to maximize connectivity, and provide links between various elements of the built environment. The Form-Based Code included in the Proposed Action directly addresses this recommendation. Specifically, the proposed design standards, which include regulations regarding architectural features, building materials and signage, and streetscape standards, create a high quality and consistent pedestrian environment, promote pedestrian activity and help maintain the role of streets as civic and social spaces that connect Newburgh's many neighborhoods.

The Proposed Action moves away from single use development by encouraging mixed-use districts throughout the City, thereby addressing community design consistent with the *Orange County Design Manual*. The Form-Based Districts, which regulate the downtown and waterfront areas, allow flexibility and variety with respect to uses within buildings and within the district. This flexibility simplifies the City's approval process and encourages pedestrian oriented commercial areas and mixed-use neighborhoods where residents are within walking distance of housing, work, and community services. Additionally, by creating an amenity zone that allows for benches, café seating, bike racks, landscaping and public art, the proposed streetscape standards would create a more lively space for pedestrian activity and community interaction, and create the type of "main street" environments that the *Design Manual* promotes.

4.2. CONSISTENCY WITH LAND USE AND COMMUNITY CHARACTER

This section identifies potential changes to land use and community character as a result of adopting the Proposed Action.

4.2.1. LAND USE

The current Zoning Code has primarily allowed for single-use development within a given parcel, limiting flexibility for landowners. The Proposed Action, following the recommendations of the *Future Land Use Plan*, expands the areas in which mixed-use buildings are allowed. Specifically, the proposed Zoning Code Update creates mixed-use districts in the downtown and waterfront areas, as well as the Neighborhood Commercial (NC) overlay district, which would allow limited commercial uses in select portions of otherwise residential zoning districts. In addition to being in conformance with Newburgh's adopted planning documents, the NC-overlay district is consistent with both the existing land use patterns within the City, and the desired intention of the City to allow more neighborhood commercial uses. This overlay district would allow small businesses in a mixed-use environment. By amending the allowed land use in these areas, the proposed would promote local neighborhood economic development and provide residents with access to local amenities within walking distance from their homes.

A new zone is proposed for the waterfront area, north of the wastewater treatment plant. Currently, this area is home to several commercial and retail uses. Under the Proposed Action, this area would be within the Planned Waterfront District, allowing wide variety of uses including residential, commercial, office, and retail. This change was recommended by the *Future Land Use Plan* and has been a goal for the City for the past several years.

Three areas (the area in and around Snake Hill, which is primarily City-owned, the former "Christmas Tree plant" and the vacant residential parcels to the north, and the area to the south and east of the Hospice Facility) have been zoned Conservation Development (CDD). As described above, this proposed district would allow residential uses, subject to the preservation of important environmental features. Of the three proposed CDD sites, only the "Christmas Tree plant" is currently developed. The site contains a large industrial building, which is currently only partially occupied. Per proposed CDD regulations, future use of these parcels would be restricted to residential use, must set aside 50 percent of the site as open space, and must protect each site's unique and valuable environmental features.

With the exception of the changes noted above, the Proposed Action would not change the current land use, or currently allowed land uses, for the majority of the City, which are zoned for predominantly residential uses. As described above, the major change with regard to the residential districts is a 'right-sizing' of the minimum lot size and other 'bulk' regulations. In reality, this change in minimum lot-size would not affect the overwhelming majority of the City, which is already developed and subdivided. Rather, the proposed zoning would make the vast majority of the City's parcels 'conforming' lots with regards to the zoning requirements, which would help streamline the review process for any future land use applications. Because the proposed revisions to lot and area requirements for residential parcels would only

bring current zoning code regulations in compliance with the existing developed environment, it is not anticipated that an increase in density would occur. In addition, development applications within the PWD, CDD, DND and WD that meet certain other regulatory thresholds would be required to provide a site specific SEQRA analysis, which would evaluate the impact of those proposals on a case by case basis.

4.2.2. *COMMUNITY CHARACTER*

The Proposed Action is expected to create a more visually appealing, unified, mixed-use downtown and waterfront, which would improve the overall community character of the City. The regulations and standards developed for the Form-Based Districts build on the existing form within the City. Included in the proposed Code are design standards that regulate architectural features, building materials, and street signage, all aimed to preserve and enhance the architectural character of the City. These guidelines also regulate the specific building types allowed in each district such as the Shopfront that has a high percentage of glazing on the first floor and a prominent entrance to promote pedestrian oriented retail. These standards would help ensure a cohesive development pattern for Newburgh.

The Historic and Architectural Design Overlay districts would continue to protect and enhance the historic and architectural elements key to Newburgh's identity. Similarly, maintaining natural and environmental resources is essential to the quality of life and attractiveness of the City. The Proposed Action includes provisions designed to preserve these features, such as the Waterbody Protection Overlay District, Conservation Development District and the Hudson River Waterfront Public Access standards. These provisions are expected to improve the community character of the City and help ensure that it develops into a walkable and vibrant downtown and waterfront.

4.3. **AESTHETIC RESOURCES AND VISUAL IMPACTS**

Newburgh's unique location overlooking the Hudson River creates memorable aesthetic and visual resources essential to the City's identity. The current zoning regulates scenic public views in the View Preservation Overlay District by subjecting all development that may impact a defined view plane to review and approval by the Planning Board. However, portions of these regulations are either redundant or omit some of the City's essential scenic views. They are also onerous in their application and review.

The Zoning Advisory Team reviewed the existing regulated views and helped determine which views were most vital to Newburgh and essential to protect. The Proposed Action includes regulations protecting those views that are more efficient and do not hinder but rather enhance development.

Under the proposed zoning, all applications in the Waterfront Gateway, Planned Waterfront District, and portions of the Downtown Neighborhood Districts would be required to provide additional viewshed analyses during Site Plan Approval. The purpose and intent of this regulation is to protect and enhance the City's scenic viewshed, comprised of natural, aesthetic and cultural resources formed by the landscape and geologic features of the City. The views identified as providing significant benefits to the City of Newburgh include those from the following locations: Montgomery and South Streets, Washington's Headquarters, Broadway and Colden Street, the Newburgh Free Library, First and Montgomery Streets, Bay

View Terrace. The proposed zoning code specifically defines the locations and unique features of these important views to better highlight their character and the elements most essential for preservation.

The Visual Impact Analysis prepared by the applicant would be required to include photographic simulations of the proposed structure within the context of the site to best determine how the structure would affect the scenic viewshed. The City Planning Board would evaluate the impacts and grant Site Plan approval only if they determine that the proposed activity would not significantly impair scenic character; would be compatible with its surroundings; would minimize the removal of native vegetation; and would locate or cluster buildings in a manner that minimizes their visibility from public spaces. These standards and procedures are comparable to the current zoning's regulations that require that the applicant submit a Visual Environmental Assessment form during Site Plan review. The current zoning also outlines the visual analysis procedures that the Architectural Review Commission, Planning Board and Conservation Advisory Council should follow in rendering a visual site plan approval. Similar procedures are outlined in the Visual Impact Analysis Methodology section in the proposed zoning, which would provide a clear regulatory mechanism for reviewing development impacts during site plan review.

In addition, aesthetic resources would be further protected under the Form-Based Code. Applicable in the downtown and waterfront districts, the Form-Based Code redefines visual access and protects scenic viewsheds. Construction within the right-of-way of various west-east running streets would be prohibited under the proposed Zoning Code Update specifically to protect these view corridors. Other mechanisms have been proposed to protect views that are not specifically listed in the Code but are nonetheless significant to the City. These protections include height limitations of six stories in the Planned Waterfront, compared to the eight stories allowed in the Broadway Corridor, and massing regulations. Each building type defined in the Form-Based Code and allowed in the districts has supplementary standards regarding massing. For example, for the Shopfront and Midrise building types, the maximum length of a building wall along a street would be 200 feet, and buildings must have a break in façade at least every 50 feet met through the use of architectural features or changes in building material or finish. In the PWD specifically, an individual building may occupy no more than 100 feet of the dimension of the lot measured parallel to Front Street. These regulations would protect view corridors to and from the Hudson River and would reduce the scale of buildings in the downtown and waterfront.

Furthermore, setback requirements are proposed in the PWD, which would allow a sixth story, only if it is set back from the front façade by at least 15 feet. This provision, coupled with design standards for building materials, would help decrease the dominance of multi-story structures and safeguard views of the City from the Hudson River.

4.4. HISTORIC AND CULTURAL RESOURCES

The Proposed Action maintains both the East End Historic District and the Colonial Terraces Architectural Design Overlay District with the same boundaries as the City's current zoning. The purpose of these districts are to designate, protect and enhance the landmarks, historic districts and architectural districts, which represent distinctive elements of the City of Newburgh's historic architectural and cultural heritage; foster civic pride in the accomplishment of the past; protect and enhance the City of Newburgh's attractiveness to visitors, thereby supporting and stimulating the local and regional economy; and ensure the

harmonious, orderly and efficient growth and development of the City of Newburgh. There is no change in the design guidelines or in the boundary of the District. Based on the Zoning Advisory Team's guidance, the review process under the proposed zoning is very similar to the current process. The Architectural Review Commission (ARC) is in place to act as a review board to prevent construction, reconstruction, alteration or demolition that would be out of harmony with the historic and architectural character of the District. Changes to the regulations are limited, and serve only to optimize the process.

First, the Pace University Streamlining report outlined above, proposed revisions to the procedures of the Architectural Review Commission, under an initiative independent of the Zoning Code Update. The Proposed Action incorporated these recommendations into the proposed Zoning Code Update. These revisions include: developing a specific list of activities that would not be considered a material change or visible from a public street. Such activities include, for example: repair, replacement and installation of electrical, plumbing, heating and ventilation systems, provided that such work does not affect the exterior of the structure; repair or replacement of awnings when work is done in-kind to match existing materials and form; or repair or replacement of water, gas, storm or sewer lines. These activities would not be subject to Certificate of Appropriateness (COA) review and would minimize confusion for the applicant, and improve the efficiency of the ARC in processing COAs.

Second, the Pace University Streamlining report proposed that the ARC revise their procedures to create a consent agenda to speed the workflow of the ARC and reduce the burden on applicants. The consent agenda would allow the ARC to consider and approve multiple applications with a single motion. This will be based on a determination from the Building Inspector, after consideration of the nature and extent of the alteration or demolition being proposed, the degree to which the application is in conformance with the appropriate Design Guidelines, and the written "Consent Agenda Guidance", approved by the ARC regarding paint colors, materials and items that are generally suitable for specific purposes within the district. Furthermore, applicants with items pending on the Consent Agenda will not need to attend the ARC meeting at which their application is being considered.

Finally, the Pace University Streamlining report proposed a simplified COA process for demolition applications within the Historic Overlay District. Under the current zoning, applicants looking to demolish a building in the Historic Overlay District must apply for a COA and if denied by the ARC, they must apply for relief on grounds of hardship. Under the Proposed Action, the ARC could evaluate the following considerations when reviewing COA applications for demolition: whether the building or structure is dangerous to health, safety or life; the extent, significance, and expense of repairs needed to maintain the structure in good repair; the historic value of the structure of the property; the contribution of the structure or property to community character, or an existing, locally-designated historic or architectural district; and the existence and extent of hardship criteria. As a result, applicants for demolition will not always have to apply for hardship but instead may receive a COA directly under the Special Demolition Considerations.

The proposed Zoning Code Update incorporates these policies and procedures and serves only to streamline the review process and minimize impediments to development.

4.5. NOISE, LIGHT, ODOR

The Proposed Action would not directly result in an increase in noise, odors or outdoor

lighting. Nonetheless, under the proposed zoning, new construction is likely to occur, resulting in indirect impacts to levels of noise, light and odor. However, such new development would not change the existing urban and built character and condition of the City, but would instead be similar to the construction allowed under the current zoning. Construction activities that may affect noise, light, and odor levels would be conducted in full compliance with the City Code, including the "Noise" ordinance in Chapter 212 of the City Code. As a result, no significant adverse noise, light or odor impacts are expected under the Proposed Action. In addition, development applications within the PWD, WG, CDD, and those which meet certain thresholds would be required to conduct a SEQRA review to analyze the site specific impacts of their developments. Any noise, light or odor impacts that would occur as a result of these development projects would be analyzed on a case by case basis.

4.6. SURFACE WATERS AND FLOODING

The Proposed Action establishes a Waterbody Protection Overlay (WPO) District to provide special protection to the City's waterbodies, creek, and stream corridor. The entire Quassaick Creek Watershed, which originates in Ulster County and drains the northeastern portion of Orange County, flows through the City of Newburgh and drains in the Hudson River. The boundaries of the WPO include all land lying within 100 feet of the top of the bank on each side of nine of the City's waterbodies: Quassaick Creek, Gidneytown Creek, Harrison Pond, the Unnamed Pond east of Harrison Pond and west of Gidneytown Creek, Crystal Lake, Muchattoes Lake, the two unnamed ponds southwest of Crystal Lake, the unnamed stream that flows into and out of Crystal Lake, and the portion of the Hudson River that is not within the PWD zoning District.

The purpose of this WPO is to regulate land uses within or adjacent to a stream corridor or waterbody to protect water quality, biodiversity, scenic resources and reduce the risk of damage from flooding. As such, no principal structure shall be located within 100 feet of a creek, stream or waterbody, and no accessory structure 200 square feet or greater shall be located within 50 feet of a watercourse. These setback requirements apply to parcels that have any part within the WPO.

In addition, the proposed Zoning Code Update requires Site Plan Approval for all activities within the WPO. The City Planning Board may only grant approval if they determine that the proposed activity would not result in erosion or pollution from surface or subsurface runoff and includes appropriate measures to minimize stormwater quantity and velocity, increase stormwater quality, promote inflow and infiltration, protect stream and lake/pond banks from erosion, improve the water quality of the City's waterways, and increase public awareness of these critical resources.

The WPO District would have a positive impact on the City by providing additional and more efficient protection of the City's waterbodies. This additional layer of protection would directly improve the ecological services provided by these aquatic resources. Limiting all development within 50 feet of a watercourse would help maintain and restore riparian buffer vegetation and minimize stream channel constraints thereby having direct repercussions on public welfare by reducing the risk of damage from flooding.

The Conservation Development District (CDD) is established in the proposed zoning to encourage conservation of environmental resources in exchange for flexibility in bulk and area requirements. Environmental resources are defined as areas of steep slopes, wetlands, waterbodies, floodplains, ridgelines, scenic viewsheds and other ecologically sensitive areas

and features. Under the requirements of the proposed CDD, applications for development within the CDD must set aside 50 percent of the site as permanent (via conservation easement or other mechanism) open space to protect the site's environmental resources. As a result, by increasing the amount of open space in the City and better protecting sensitive environmental features, the CDD would be expected to improve the quality and quantity of water resources and mitigate flooding.

4.7. POTENTIAL IMPACTS FROM AN INCREASE IN POPULATION OR COMMERCIAL/INDUSTRIAL DEVELOPMENT

The Proposed Action is an update to the Zoning Code and Zoning Map. As a policy document, the Proposed Zoning Code Update would not have any specific physical impacts on the environment. Rather, it sets the stage for potential land use changes within the City, as described above. Development projects requiring a discretionary action by the City's review boards, (i.e., Site Plan approval, a variance, a Certificate of Appropriateness) would still require a site-specific environmental review that would analyze site-specific environmental impacts, including those to traffic and transportation, air, noise, surface and groundwater resources, and waste water treatment. Nevertheless, it is appropriate to analyze the potential environmental impacts that development under the proposed zoning may have at a generic level.

In the sections below, a generic review of the potential environmental impacts associated with the proposed changes to the zoning code are presented. For this review, it is important to keep in mind the change in Newburgh's population over time. As noted above, the City of Newburgh's population in 2010 was approximately 10 percent lower than its peak of 31,956 around 1950. Between 2000 and 2010, the City's population grew approximately 2 percent. If the City's population continues to grow at that rate, by 2030, it would just reach 30,000 residents. Recognizing that population growth is a function of market forces, as well as allowable density of development, it is reasonable to conclude that even with the adoption of the Proposed Action, Newburgh's population is unlikely to reach its 1950 peak in the next decade or two. Therefore, it is also likely that the infrastructure that served the City's peak population, much of which is still in place today, would be adequate to serve the City's population over the next several years. Long range planning to repair, replace and expand the City's sewage and stormwater systems has begun; it is well-recognized that concurrent with future development funding for, and plans to implement improvements will be required and must be executed.

The Proposed Action would, however, increase the residential development potential of a few areas within the City in two ways. First, the Proposed Action would allow residential uses in locations within the City that currently do not have residential uses and are not currently zoned to allow residential uses. These areas include the Planned Waterfront District, the Conservation Development District, the southwest portion of the Broadway Corridor district, and the southeast portion of the Downtown Neighborhood District. Second, the Proposed Action would increase the residential density allowed in the Waterfront Gateway and Broadway Corridor. Lots in these two districts that are currently vacant or substantially underutilized would be likely to experience more residential development if the Proposed Action is adopted than under the current zoning, because residential uses are not currently allowed as-of-right. Existing buildings in these districts, however, are not likely to be replaced with new buildings as a result of the Proposed Action. Therefore, the Proposed Action is not likely to cause an increase in residential density within portions of these districts that are already developed. In addition, applications for development within these districts

would be required to undertake site-specific environmental review, which would analyze potential growth inducing aspects on a cumulative basis. Analyzing the potential growth impacts on a case by case basis provides a substantially more reliable conclusion because the data is collected and presented concurrent with the existing baseline conditions of the City at the time the proposal is presented, eliminating speculative decision-making.

Also notable is the fact that under the Proposed Action, the residential zoning districts are proposed to have smaller minimum lot sizes than under the current zoning. This reduced minimum lot size would not appreciably increase the theoretical number of lots that could be created within those districts, because the overwhelming majority of those districts are already built out and subdivided. Rather, the decreased minimum lot size was designed to match the existing building stock and lot sizes and make the majority of the City into 'conforming' lots. As a result, the change in minimum lot size would not be expected to result in any appreciable increase in population density.

4.7.1. *COMMUNITY SERVICES*

As stated above, the adoption of the Proposed Action would not allow more residential development in the majority of the City. The proposed Zoning Code Update would increase the amount of residential density allowed in the downtown area, which may result in an increase in demand for provision of police, fire, and/or EMS services. Potential increases in staffing required by new development are expected to be offset by increases in property and other taxes and fees payable to the City. In addition, development applications within the proposed downtown zoning districts would be required to prepare a site-specific analysis of the impacts of the development on the ability of the emergency service providers to accommodate increased demand. Site-specific impacts of proposed development projects on emergency vehicle access, ingress and egress would be addressed during site plan review of a specific development proposal.

The City of Newburgh is served by the Newburgh Enlarged City School District. In the 2012-2013 school year the district served 11,028 students¹, a decrease of 15 percent from a peak of 12,716 students in 2003-2004. Any increase in residential population resulting indirectly from the Proposed Action would not be expected to cause enrollment in the school district to reach its 2003-2004 peak (1,700 students). Therefore, the Proposed Action would not be expected to cause an adverse impact to the operation of the school district.

4.7.2. *TRANSPORTATION*

The primary transportation impact of the Proposed Action would be increased trips into and out of the Planned Waterfront District and Waterfront Gateway District. All development within these districts, including a comprehensive waterfront redevelopment similar to the previous Leyland proposal, would require a site-specific environmental review. This review would analyze the impacts to specific intersections and specific roadways from a specific development. Because the development program for any future action within these districts could vary widely (residential, commercial, hotel, office, institutional), it would not be instructive to analyze a single 'best guess' scenario, nor is it practical to analyze the impacts of dozens of scenarios.

¹ New York State Department of Education. <http://www.p12.nysed.gov/irs/statistics/enroll-n-staff/home.html>

Rather, reviewing the impacts of specific projects within the former heart of the City at the time that they are proposed is the best way to understand and mitigate potential transportation impacts.

It should also be noted that the City and County have been actively studying the feasibility of transforming Broadway and installing enhanced transit service within the corridor. The implementation of such a project would profoundly alter the potential impacts of future development in downtown Newburgh, through the possibility of reducing the number of automobile trips that would be generated by any new development.

Finally, as noted in the *Future Land Use Plan EAF*, the City “currently has a significant amount of off-street parking,” much of it downtown. Amendments to the off-street parking requirements were proposed for the above reason, and two other reasons. First, it is physically infeasible for many parcels to accommodate the amount of on-site off-street parking that is required in the current zoning code. Many of the City’s existing lots, especially in the downtown residential areas, are not large enough to accommodate the currently required off-street parking as well as a building. This simple fact is a major impediment to the redevelopment of these areas. Second, the proposed off-street parking requirements are more appropriate for dense, walkable, urban areas than are the current standards. The proposed standards are based on best practices from other similarly sized and situated cities in the Hudson Valley. The Zoning Advisory Team agreed that while off-street parking could be an issue in a revitalized and reinvigorated downtown Newburgh, requiring excessive off-street parking on the same lots as development was counter-productive to the goals of neighborhood revitalization.

4.7.3. *WATER SUPPLY*

According to the EAF prepared for the *Future Land Use Plan*, the City’s water filtration plant has the ability to treat approximately 9 million gallons of water per day (MGD). In 2012, the average daily demand was 4.6 MGD, and the highest single peak day was 6.7 MGD¹. In addition, the City has an emergency connection to the NYC Catskill Aqueduct if needed. As the Proposed Action would not cause the City’s demand for water to more than double, no impacts to the supply of domestic water are anticipated from the proposed zoning. Further, per the *Future Land Use Plan EAF*, the areas of the City that are proposed for increased residential density (waterfront, Broadway Corridor) have adequate water pressure to serve future growth.

4.7.4. *SANITARY SEWER SERVICE*

The City of Newburgh discharges its sanitary sewage to the Newburgh Wastewater Treatment Plant (WWTP), which also serves the Town of Newburgh. The plant has a capacity of 13.5 MGD and in 2012 had an average daily flow of 6.3 MGD.² According to the *Future Land Use Plan EAF*, approximately 1.6 MGD are generated by the Town of Newburgh. In addition, a portion of the available flow at the WWTP,

¹ 2012 City of Newburgh Water Quality Report

² 2012 City of Newburgh Wastewater Treatment Plant Update

approximately 3.8 MGD in total, is reserved for the Town of Newburgh. Therefore, the City could discharge approximately twice as much sanitary waste to the WWTP than it currently does on a dry-weather day. As the Proposed Action does not contemplate development resulting in a doubling of sewage discharge, it is unlikely to affect the ability of the WWTP to treat Newburgh's sanitary sewage.

However, according to the *Future Land Use Plan EAF*, there are currently capacity constraints on the City's north interceptor sewer line that limit the amount of additional flows it is capable of handling, especially in a wet weather, or storm, event. This interceptor line serves much of the Waterfront Gateway and Planned Waterfront District. This is a current issue for the City of Newburgh and not an impact that would result from the adoption of the Proposed Action. Substantial development in the Waterfront Gateway and Planned Waterfront District would be subject to the resolution of the north interceptor capacity issue. This issue would be addressed during site plan and environmental review for proposed projects in these districts.

5. CUMULATIVE IMPACTS

The State Environmental Quality Review Act (SEQRA) requires that the cumulative impacts of one or several actions be considered together. The Proposed Action contains a number of revisions to land development regulations that, when taken together, would provide a greater protection of community character and natural resources than currently exists. The potential effect on the environment from these amendments would not result in impacts when considered independently or cumulatively. The cumulative impact of the amendments is to bring land use regulation into accord with Newburgh's current planning documents and studies as well as development practice given the conditions within the City of Newburgh. Given the mandate to protect the community character and environmental quality of the City of Newburgh, the City's approach to zoning and environmental regulation is justified and in keeping with the objectives of the City's Land Use Plan and other local and regional planning principles.

6. CONCLUSION

The Proposed Action would implement the recommendations of the *Future Land Use Plan* and the other municipally-approved planning documents through the adoption of a new Zoning Ordinance and Map. As such, it is consistent with the City's desired planning goals and land use patterns. The Proposed Action would not result in significant adverse environmental impacts. It would increase the protection of the City's natural resources, including its steep slopes, floodplains, streams, and lakes. It would require public access to the waterfront in any proposed development, and would protect the scenic views that make the City so unique. The adoption of the Proposed Action would mark a turning point for the City of Newburgh by articulating a clear, feasible, and beneficial path for future development within the City.

Build-Out Analysis

In order to assess the full environmental impacts of an update to zoning, and build-out analysis was preformed to understand what Newburgh might look like from a capacity stand point in the future.

A build-out is an exercise that imagines that every piece of land is rebuilt to its fullest density allowed by zoning. Therefore if all current structures were rebuilt to their highest density, and all open or vacant land that is not protected by some sort of restriction (parks or preserved open space) were built to their highest density, Newburgh would have a certain number of dwelling units and square feet of commercial and industrial space. These figures will have an effect on the capacity of services such as schools and libraries, and on water and sewer infrastructure. Newburgh is a built-out City with limited vacant and undeveloped land. It is assumed that much if not most of the structures that are currently constructed will remain, even with changes in zoning, so an additional build-out was done to analyze only the effects on those parcels that are vacant, undeveloped, or underdeveloped.

Assumptions

The build-out was preformed assuming that every parcel would be built to the highest density allowed by its zone. The following table summarizes those assumptions. Each parcel was then determined whether it met the minimum lot size allowed for its zone, and calculated whether it would either have residential dwelling units, or commercial/ industrial square footage. For the four form-based, mixed use zones, a ratio of residential to commercial space was assumed, and both dwelling units and commercial sq ft was calculated.

Build-Out Assumptions							
Zone	Minimum Lot Size	Maximum Lot Coverage	Maximum Building Height	Maximum Dwelling Units	Dwelling Units per Sq Ft Land	Dwelling Units per Sq Ft Buildings	Percent Residential
Broadway Corridor	1500	0.75	65			750	0.6
Commercial District		0.6	45				
Conservation Development District							
Downtown Neighborhood	1500	0.8	35			1000	0.8
High Density Residential	2000	0.55	45	500 sq ft bldg/ DU		500	
High Density Residential, Apartment Building	2500	0.55	60	500 sf lot/DU	500		
Industrial District		0.7	35				
Institutional							
Low Density Residential	2500	0.3	40	3			
Medium Density Residential	2500	0.3	40	3			
Medium Density Residential, Apartment Building	9000	0.5	45	1800 sf lot /DU	1800		
Open Space	0			0			
Park	0			0			
Planned Waterfront District	1500	0.75	50			1000	0.8
Residential Single Family	2500	0.3	40	1			
Utility							
Waterfront Gateway	1500	0.8	95			1000	0.5

The proposed zoning also has updates to environmental constraints. These areas have limits on building and were reduced from the overall buildable area. For most of these areas, the zoning calls for a 50% reduction in their allowable buildable area. However, within the Water Protection Overlay area, there is no building, so the entirety of that area was reduced from the buildable area of each parcel. These constraints are Wetlands, Standing Water, FEMA 500 and 100 year flood zones, WPO buffer, and Slopes greater than 20%.

Full Build-Out

The Full Build-Out assumes that every parcel in the City that is not currently a Park, Institution, Utility ROW, or Protected Open Space, will be rebuilt to its maximum allowable density, accounting for the reduction for environmental constraints. This scenario is considered highly unlikely and does not reflected in current or historic building patterns or in current or historic population growth. Under those conditions the following:

146,962	Total Dwelling Units
454,113	Total Population
37,621,423	Total Square Feet Commercial and Industrial space

Amended Build-Out

The Amended Build-Out assumes that all parcels currently built on would remain, and that only those parcels that are Vacant, Parking Lots, Urban Renewal properties, or Storage Yards would be redeveloped to their maximum allowable density, accounting for the reduction for environmental constraints. This scenario is considered more likely and more reflective of historic density and population growth. However, it is still unlikely that this scenario would be fully realized in the next 20 years. Under the amended conditions the following:

8,526	Additional Dwelling Units
25,749	Additional Residents
11,527,793	Additional Square Feet Commercial and Industrial space

Outcomes

The ability of the City of Newburgh to support the residents and businesses that could be built under a full or amended build-out has capacity issues relating to all City services, but especially to its Sewage Treatment Plant and Water Filtration Plant/ Reservoirs. New development under these new zoning conditions must ultimately be done in conjunction with careful monitoring of all city services to ensure that adequate services can be provide. Understanding the discreet capacity constraints for Water and Sewer Service, calculations were done to see if the City has the capacity to meet development under each build-out scenario. The City has the following capacity of its wastewater and drinking water services:

Wastewater Treatment: 9 million gallons per day; with 3.8 Million reserved for Town of Newburgh

Drinking Water Filtration: 4.5 million gallons per day; potential for 8.5 million with scheduled upgrades

The residential build-out would result in the following water and wastewater daily uses, given the assumptions that:

- There will continue to be 3.09 people per household, as per the 2010 US Census.
- Each residential bed will result in 120 gallons of water use per day.
- Each person will result in 110 gallons of wastewater per day.

Residential Water and Wastewater Usage						
	Existing Dwelling Units*	New Dwelling Units	Total Dwelling Units	Total Potential Residents/Beds	Water Gallons Per Day, Res	Wastewater Gallons Per Day, Res
Full Build-Out	0	146,962	146,962	454,113	54,493,510	49,952,384
Amended Build-Out	10,505	8,526	19,031	58,806	7,056,695	6,468,637
*Full Build-Out Scenario assumes there is no existing dwelling units or commercial square footage, and that all is new.						

The commercial/ industrial build-out would result in the following water and wastewater daily uses, given the assumptions that:

- Water will be used at a rate of 25 gallons per day per 200 feet of commercial space.
- General use/ warehouse use will generate 15 gallons of wastewater per worker or 200 square feet of space.
- Restaurants will generate 35 gallons of wastewater per seat, or 25 square feet of space.
- Restaurants will continue to account for 4% of City Commercial square footage.

Commercial/ Industrial Water and Wastewater Usage						
	Existing Commercial/ Industrial Sq Ft*	New Commercial/ Industrial Sq Ft	Total Commercial/ Industrial Sq Ft	Water Gallons Per Day	Wastewater Gallons Per Day, Warehouse	Wastewater Gallons Per Day, Restaurant
Full Build-Out	0	37,621,423	37,621,423	4,702,678	2,708,742	2,106,800
Amended Build-Out	5,362,477	11,527,793	16,890,270	2,111,284	1,216,099	945,855
*Full Build-Out Scenario assumes there is no existing dwelling units or commercial square footage, and that all is new.						

Under these scenarios, the system would be hugely over capacity under the full build-out and would need to plan for upgrades to both sewer and water systems. The systems have near the potential capacity to accommodate all future users of the amended build-out, however, this capacity would rely on planned upgrades, and a reduction in the amount of allotted capacity granted to neighboring communities. A change to this allotted capacity is not expected to be probable, and therefore increased sewer and water capacity would be necessary under the amended build-out to meet full future needs.

Water and Wastewater, Capacity v. Need (gallons per day)				
	Existing Capacity*	Potential Capacity*	Full Build-Out Need	Amended Build-Out Need
Wastewater	5,200,000	9,000,000	54,767,926	8,630,591
Drinking Water	4,500,000	8,500,000	59,196,187	9,167,979
*Without planned upgrades and with reductions for capacity allotted for neighboring communities.				

ORDINANCE NO.: 10- 2015

OF

JULY 13, 2015

**AN ORDINANCE RESCINDING THE LANGUAGE CONTAINED IN
CHAPTER 300 OF THE CODE OF THE CITY OF NEWBURGH ENTITLED
“ZONING” AND ENACTING AN NEW CHAPTER 300 ENTITLED “ZONING” TO
ADOPT A NEW ZONING ORDINANCE AND ZONING MAP FOR THE CITY OF
NEWBURGH**

WHEREAS, by Resolution No. 172-2011 of September 12, 2011, the City Council of the City of Newburgh (“City Council” or “City”) adopted a Future Land Use Plan as an amendment to the City’s Sustainable Master Plan pursuant to Section 28-a of the New York State General City Law; and

WHEREAS, the City Council recognizes that subsequent to the adoption of the Future Land Use Plan it is necessary to revise and update the City’s Zoning Code to be consistent with the policies and goals of the Future Land Use Plan; and

WHEREAS, by Resolution No. 87-2012 of June 18, 2012, the City Council accepted the report of the Pace Law School Land Use Law Center making recommendations for the streamlining of the City’s land use process; supported a comprehensive review and update of the City’s land use laws, including an update of the City’s entire Zoning Code; and authorized the City Manager to take such steps as are necessary to seek funding sources for a comprehensive update of the City’s Zoning Code; and

WHEREAS, the City, in coordination with the Greater Newburgh Partnership (“GNP”), appointed a Zoning Advisory Team which has revised City of Newburgh Zoning Code and Map to comply with and conform to land use policy recommendations clearly set forth in the 2011 Future Land Use Plan; and

WHEREAS, the Zoning Advisory Team has presented a Draft Zoning Code Update to the City Council and by Resolution No. 37-2014 of February 24, 2014, this Council accepted the Draft Zoning Code Update from the Zoning Advisory Team and agreed to take such steps as are necessary and appropriate to review, adopt and implement a comprehensive update of the City of Newburgh Zoning Code; and

WHEREAS, after due notice, this Council notice held a public hearing on the Draft Zoning Code and Map at a regular meeting of the City Council on May 12, 2014 and which continued on at regular meetings of the City Council on May 27, 2014, June 9, 2014 and July 14, 2014; and

WHEREAS, this Council determined at that time that the Draft Zoning Code and Map as proposed required additional review, public input and modification; and

WHEREAS, on March 9, 2015, after additional review and modification, a Revised Draft Zoning Code was submitted to this Council; and

WHEREAS, public informational sessions to advise and update the public about the proposed draft zoning code were held on December 10, 2014, February 8, 2015 and May 13, 2015, and after due notice, this Council held a public hearing on the Revised Draft Zoning Code at a regular meeting of the City Council on April 13, 2015; and

WHEREAS, a final draft of the proposed Zoning Code and Map was submitted to Council on June 11, 2015; and

WHEREAS, by Resolution No. 100-2014 of April 28, 2014, in compliance with SEQRA, the City Council of the City of Newburgh declared its intent to assume Lead Agency status, classified the project as a Type I action, proposed to accept as complete an Environmental Assessment Form and referred the proposed Chapter 300 entitled "Zoning" to and the Orange County Planning Department pursuant to General Municipal Law Section 239-m; and

WHEREAS, by Resolution No. 164-2014 of July 14, 2014, in compliance with SEQRA, the City Council of the City of Newburgh declared itself to be Lead Agency status for the environmental review of the action pursuant to 6 NYCRR 617.6 and accepted Part 3 of the Environmental Assessment Form ("EAF"); and

WHEREAS, the Draft Zoning Code and Zoning Map together with the FEAF was duly submitted to the Orange County Planning Department for review pursuant to General Municipal Law Section 239-m and the Orange County Planning Department has replied with its recommendations; and

WHEREAS, this Council having duly held a third public hearing on the final draft of the proposed Zoning Code and Zoning Map at a regular meeting of the City Council on July 13, 2015; and

WHEREAS, this Council having duly reviewed the FEAF and all public comments received and having issued a negative declaration on this action by Resolution No. -2015 of July 13, 2015;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Newburgh, New York that that Chapter 300 of the Code of Ordinances of the City, entitled "Zoning" and being Ordinance No. 18-2000 of December 11, 2000, as amended, be and hereby is repealed in its entirety; and

BE IT FURTHER ORDAINED, that a new Chapter 300 of the Code of Ordinances entitled "Zoning" and Zoning Map of the City of Newburgh be and hereby are enacted to read as annexed hereto in Schedule "A" and "B" respectively and made a part hereof; and

BE IT FURTHER ORDAINED, this Ordinance shall take effect on September 1, 2015.

Councilwoman Abrams moved and Councilwoman Mejia seconded that the ordinance be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

City of Newburgh, Chapter 300, Zoning

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ARTICLE I—TITLE, SCOPE, AND PURPOSES

§300-1. Title

This Chapter shall be known and may be cited as the “City of Newburgh, New York Zoning Ordinance.

§300-2. Introduction and User Guide

- A) This Chapter enables the City of Newburgh to protect the diverse character of the City while also giving landowners a range of options and choices for the use, development, and conservation of their land. It is designed to strike a balance between achieving the community’s goals as expressed in the City’s Comprehensive Plan and protecting the property interests of landowners, providing a development approval process that is predictable, efficient and fair.
- B) Overview: This section provides a brief overview of what is in the Zoning Law.
 - 1) This Chapter divides the City into land use and overlay districts and establishes rules for the use of land in each district. The text is accompanied by a Zoning Map which shows where the various districts are located.
 - 2) The Schedule of Use Regulations in §300-31 identifies the uses allowed in each district. The definitions in §300-6 explain meanings of the different use categories. Several of the uses are also regulated by “supplementary regulations” in Article VIII, which are referenced in the Schedule of Use Regulations.
 - 3) Article V, and the Schedules §300-32, contain dimensional regulations for each district, covering lot size, setbacks, and other requirements about the permissible amount, size, type, and location of development on a lot.
 - 4) Articles VI and VII address “overlay” districts, which are special districts designed primarily to protect special resources from inappropriate development and to maintain the City’s character and natural and historic resources. The provisions of these districts apply in addition to those of the “underlying” land use district.
 - 5) Article V and §300-33 contains options for flexibility in development patterns, particularly the use of Conservation Development Districts (CDD), which preserve open space by concentrating development on a portion of a parcel.
 - 6) Article X contains rules for allowing the continuation of buildings and uses that were legal under previous regulations but do not conform to this Chapter.
 - 7) Supplementary regulations in Article VIII contain performance standards for all development, as well as additional requirements for specific types of uses and structures.
 - 8) Articles X, XI, XII and XIII explain the procedures for obtaining various types of approvals and permits from the City, including land use permits from the Building Inspector, Special Use Permits and Site Plan approval from the City Planning Board, and variances from the Zoning Board of Appeals. §300-123 contains the procedures for amending this Chapter to change the map or the text.

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C) How to Use this Chapter. Landowners and others who use this Chapter are encouraged to meet with the Building Inspector to discuss how this Chapter applies to their property. For any large-scale development (a large business or a development of several homes), it is also a good idea to consult with the City's Comprehensive Plan to understand how to make a proposed development fit within the City's vision of its future. The usual sequence of steps in using this Chapter is as follows:

- 1) Check the Zoning Land Use District Map to determine land use district(s) in which your property is located.
- 2) Check the Overlay District Map(s) to see which of the overlay districts apply to your land. Review the provisions of applicable overlay districts in §Articles V, VI and VII to see how they may affect what you can do with your land.
- 3) Consult the Schedule of Use Regulations and text in §300-31, along with any relevant definitions in §300-6 to determine whether your proposed use is allowed in that district and what permits may be needed to approve it. Also, check the specific sections that address the district in which your land is located in as well as any supplementary regulations in Article VIII that may apply to your proposed use.
- 4) Consult the Schedules of Area, Bulk, and Parking Regulations in §300-32 to see which setbacks and other dimensional standards apply.
- 5) If your land is in the CDD, review the requirement of a conservation analysis and the various development options provided in §300-33 to determine which you want to pursue.
- 6) If you have an existing use that is no longer permitted, or if your existing building or lot does not comply with dimensional standards for your zoning district, refer to Article X to determine what you can do with it.
- 7) If the Schedule of Use Regulations indicates that your proposed use or structure can go forward with just a building permit, refer to Article III. If the use will require a Special Use Permit or Site Plan approval, turn to Articles X and XI for the procedures to follow.
- 8) If your proposed use or structure is not permitted, you may want to petition for either a variance from the Zoning Board of Appeals (as provided in Article XIII) or a zoning amendment from the City Council (as provided in §300-123). These options should be discussed with the Building Inspector before they are pursued. Any zoning amendment must be consistent with the Comprehensive Plan.

§300-3. Scope

Except as hereinafter provided:

- A) No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the zoning district(s) in which it is located.
- B) No building shall hereafter be erected or altered to exceed the height, to house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller yards than is specified herein for the district(s) in which such building located.

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- C) No part of a yard or other open space about any building required for the purpose of complying with the provisions of this Chapter shall be included as part of a yard or other open space similarly required for another building.

§300-4. Purposes

This Chapter has been adopted and deemed necessary to achieve the following purposes:

- A) To promote the orderly development and redevelopment of the City.
- B) To recognize, preserve, and promote the character of the City, which is one of mixed use, tightly knit, and urban in nature.
- C) To promote the goals and objectives of the Comprehensive Plan.
- D) To establish the appropriate location of various uses, buildings, and open spaces necessary to protect public health and safety.
- E) To provide a range of housing opportunities for all segments of the population with due consideration of regional housing needs, ensuring that affordable housing remains in appropriate proportion to the development of market rate housing.
- F) To encourage a range of business activities in appropriate locations by concentrating businesses in or near transportation corridors, and to promote economic development by building on the tremendous physical, aesthetic, and historical assets of the City.
- G) To preserve the historic and architectural features and districts that make Newburgh unique and desirable, as well as for the basis for the overall character of the community.
- H) To promote the appropriate use, conservation and enjoyment of the public spaces of the City, including sidewalks, streets, parks and the waterfront.
- I) To conserve the natural resources of the City by encouraging development in appropriate locations and by limiting building in areas where it would adversely affect the City's ecological habitats.
- J) To improve transportation facilities in areas designated for more intensive development, taking advantage of existing regional transit programs and encouraging the implementation of new programs.
- K) To reduce traffic congestion on Broadway and other major transportation routes by establishing a pattern of development and circulation that reduces the need for driving, provides alternative routes between destinations, and encourages walking, bicycling and the use of regional transportation services.

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ARTICLE II—DEFINITIONS AND WORD USAGE

§300-6. Definitions and Word Usage

- A) Except where specifically defined herein, all words used in this Chapter shall carry their customary meanings. Words used in the present tense include the future and the plural the singular. The word “shall” is intended to be mandatory, while “should” is not; and “occupied” or “used” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied.” In general, this Chapter uses the word “permitted” to describe an action that requires a permit and “allowed” when a permit is not required.
- B) Definitions:
1. **ACTIVITY FACILITY:** A business which, for compensation, offers indoor recreational activities such as dance, martial arts, arts and crafts, musical or theatrical instruction, children’s gyms and play center, and other places of public or private entertainment. Activity facilities shall not include facilities intended primarily for spectator activities, such as, but not limited to stadia and arenas, automotive tracks, bowling alleys, parlors or amusement parks.
 2. **ADULT DAY CARE FACILITY:** An establishment which provides day-care services for hire to adults who, by reason of physical or other limitations associated with age, physical or mental disabilities or other factors, are unable or substantially unable to live independently without supervision.
 3. **ADULT USES:** An adult bookstore, adult motion picture theater, or adult entertainment cabaret, as defined herein.
 - a) **ADULT BOOKSTORE:** An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, or other periodicals, films, slides and videotapes, which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual activities or exposing specified anatomical areas.
 - b) **ADULT FILM THEATER:** An enclosed building used primarily for presenting material motion pictures, films, slide shows or videotapes distinguished or characterized by an emphasis on matters depicting, describing or relating to sexual activities or exposing specified anatomical areas.
 - c) **ADULT ENTERTAINMENT CABARET:** A building or portion thereof regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of sexual activities or specified anatomical areas for observation by patrons therein.
 4. **AGRICULTURE:** An activity which includes the cultivation of the soil for food products or other useful or valuable growths of the field or garden, nursery stock and commercial greenhouses, but does not include dairying, raising of livestock, breeding or keeping of animals, fowl or birds where the same is carried on as a business or gainful occupation. “Agriculture” includes also the sale at retail of farm, garden or nursery products produced on the premises.

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5. **AMUSEMENT CENTER:** A place of business wherein three or more coin-operated machines, games of skill or chance or other machines of a similar nature are available for use or play by the general public.
6. **ANIMAL CARE CENTER:** Any building or portion of a building designed or used for the care, observation, or treatment of domestic animals, or for the keeping, breeding or boarding for compensation of dogs, cats, or other domestic animals, when such boarding is for more than three (3) consecutive hours.
7. **APARTMENT HOUSE (SAME AS MULTIFAMILY DWELLING):** A residential building that contains more than four (4) dwelling units, with one primary entrance to access all dwelling units contained therein. An apartment house may include accessory uses shared by residents of the apartment house, including recreational facilities, laundry rooms, parking, seating areas and open space for the exclusive use of residents residing in the complex.
8. **APARTMENT, ACCESSORY:** A self-contained residential dwelling unit, clearly incidental and secondary to the principal dwelling of which it is a part, having a separate entrance and containing separate cooking, eating, sanitation and sleeping facilities for the exclusive use of the occupant in a one-family dwelling, or in a separate accessory structure on the same lot as a one-family dwelling.
9. **ASSEMBLY HALL/BANQUET HALL:** Buildings in which the primary or intended occupancy or use is the assembly for amusement, athletic, civic, dining, educational, entertainment, political, recreational, religious, social, or similar purposes, except an assembly hall shall not include any use defined elsewhere herein, in which kitchen facilities may or may not exist.
10. **AUTOMOBILE-GASOLINE STATION:** Any building or land area used for the retail dispensing or sales of automobile fuels, which activity may be accompanied by accessory uses such as sales of lubricants, tires, accessories or supplies, and prepackaged food items and tangible consumer goods, primarily for self-service by the customer.
11. **AUTOMOBILE SALES:** Any building, land area or other premises used for the display, sale or lease of new or used automobiles, vans, trucks, trailers, or boats, but not including any repair work. Such facilities may not conduct repair services as an accessory use other than warranty or other minor repair service.
12. **AUTOMOBILE WASH:** Any building or land area, the use of which is devoted to the business of washing or waxing automobiles for a fee, whether by automated cleansing devices or otherwise.
13. **AUTOMOBILE-SERVICE/REPAIR:** Any area of land, including structures thereon, available to the public, operated for gain, and which are used for repair, greasing, washing, servicing, adjusting or equipping of automobiles or other vehicles.
14. **BANK:** A financial institution that is open to the public and engaged in deposit banking, and that may perform closely related functions, such as making loans, investments, and fiduciary activities.
15. **BAR:** A commercial establishment, open to the general public, which sells and serves alcoholic beverages for consumption on the premises and where food may be served as an accessory use. The term "bar" includes "barroom", "wine bar", "tavern", "pub", and "saloon".
16. **BASEMENT:** A story that is wholly or partly below grade, but at least ½ of its height, measured from floor to ceiling, is above the average established curb level or

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- finished grade of the ground adjoining the building.
17. **BED AND BREAKFAST:** A lodging facility in an owner occupied dwelling offering from two to five (2-5) guest rooms, without separate kitchen facilities, for paying, transient guests for a period not to exceed fifteen (15) consecutive days per guest. A dining room and kitchen may be provided for serving guests of the facility, but shall not be open to the public. An AirB&B is a variant of this use. Short-term, in-home lodging shall apply for one room for up to three (3) paying guests.
 18. **BILLIARD PARLOR:** A building, or portion thereof, having within its premises three (3) or more pool tables, billiard tables, or a combination thereof.
 19. **BOARDING HOUSE:** An owner occupied dwelling unit, with non-transient boarders, and with common rooms used and accessible to all residents, within which are boarding units that are rented individually and occupied for sleeping and/or living purposes to non-transient occupants. A boarding house shall not be considered a roominghome.
 20. **BOARDING UNIT:** Any room or group of rooms forming a habitable unit used or intended to be used for living or sleeping but not used for cooking purposes.
 21. **BOAT REPAIR:** A facility where boats are repaired and may be stored.
 22. **BOWLING ALLEY:** Indoor facility for the sport of bowling, with customary accessory uses, such as snack bars.
 23. **BUILDING ACCESSORY:** A building, the use and size of which is incidental to, and complimentary of, the principal building on a lot.
 24. **BUILDING FRONT LINE:** The line of the face of the building nearest the front lot line. The face includes covered porches, but does not include steps.
 25. **BUILDING MAIN (PRINCIPAL):** The building in which is conducted the primary use of the lot on which it is located.
 26. **BUIDING:** (Includes "structure") Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.
 27. **CABARET:** Any room, place, or space in which any musical entertainment, singing, dancing, or other similar amusement takes place in connection with a bar and/or restaurant, except for an Adult Cabaret.
 28. **CAR RENTAL:** A business that rents vehicles to persons or businesses for use on a transient basis. The business may include on-site facilities for servicing, storing, repairing, and fueling the vehicles.
 29. **CELLAR:** That space of a building that is partly or entirely below grade which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.
 30. **CEMETERY:** A place used for the interment of human or animal remains or cremated remains.
 31. **CHILD DAY CARE CENTER:** A facility that is not also a dwelling unit that provides care for infants and preschool children and may offer pre-kindergarten educational service, on a regular basis for more than three hours per child and is defined in 18 NYCRR Part 413 and regulated in accordance with 18 NYCRR 418.
 32. **COLLEGE/UNIVERSITY:** An institution for post-secondary education, which is licensed by the State of New York to grant associate, baccalaureate, or higher degrees.
 33. **COMMERCIAL LAUNDRY:** An establishment that launders and/or dries articles for

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- commercial and not individual, customers.
34. **COMMUNITY CENTER:** A place, structure, area, or other facility used for providing religious, fraternal, social, educational, or recreational programs generally open to the public, not operated for profit, and designed to accommodate and serve significant segments of the local community.
35. **COOPERATIVE HOUSE:** A dwelling unit that is rented as a singular unit and not occupied by a family, as defined in this Chapter, within which are two or more boarding units occupied for sleeping and/or living purposes by non-transient occupants. A cooperative house shall not be considered to be a rooming house.
36. **COTTAGE INDUSTRY:** A use that is conducted wholly within an enclosed building that involves the manufacturing, production, processing, fabrication, assembly, treatment, repair, or packing of finished products predominantly from previously prepared or refined materials (or from raw materials that do not need refining). Light industry is capable of operation in such a manner that does not cause a noticeable amount of noise, dust, odor, smoke, glare, or vibration outside of the building in which the activity takes place. Such a use may or may not contain retail space. A machine shop is included in this category.
37. **COVERAGE, BUILDING:** The area that is covered by all of the buildings on the lot.
38. **CURB LEVEL:** The established elevation of the street grade at the point that is opposite the center of the wall nearest to and facing the street line. Where a building is on a corner lot, the curb level is the average of the mean levels of the curb line on the two intersecting streets. Where there is uncertainty about the curb level, it shall be determined by the City Engineer.
39. **DISTRIBUTION FACILITY/WAREHOUSE:** A facility involving the storage and shipment of goods in allotments. This use does not involve the manufacture or sale of goods from the premises.
40. **DORMITORY:** A building intended or used principally for sleeping accommodations, where such building is directly related to an educational or public institution, or house of worship. Such building may include common kitchen and gathering rooms, but does not contain complete dwelling units.
41. **DRIVE THRU (BANK, FAST FOOD RESTAURANT, PHARMACY):** An establishment that dispenses products or services to patrons who remain in vehicles.
42. **DRY CLEANER:** An establishment for the on-premises mechanical cleaning of garments, articles or goods of fabric for retail customers, or where drop-off and pick up occurs for garments or articles that are sent to another location for mechanical cleaning or laundering. A dry cleaning establishment does not include a laundry or laundromat, which provides self-service washing or drying for use by retail customers.
43. **DWELLING UNIT:** A single unit with one or more rooms with provisions for living, cooking, sanitary and sleeping facilities arranged for the use of one family only.
44. **DWELLING, DETACHED:** A dwelling having no common walls, floors or ceilings with any other dwelling unit.
45. **DWELLING, FOUR-FAMILY:** A building containing four (4) dwelling units only, on a single lot of record.
46. **DWELLING, MULTI-FAMILY:** See APARTMENT HOUSE.
47. **DWELLING, SINGLE FAMILY:** A building containing not more than one dwelling unit and not having more than one kitchen on a single lot of record.
48. **DWELLING, ROW OR ATTACHED (TOWNHOME):** A dwelling, having common

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walls with one or more dwelling units, also referred to as a "townhome". A row dwelling sharing one common wall shall be deemed an end unit. This term shall also refer to two dwellings sharing one party or lot line wall and commonly referred to as a "duplex".

49. DWELLING, THREE-FAMILY: A building containing three (3) dwelling units only, on a single lot of record.
50. DWELLING, TWO-FAMILY: A building containing two (2) dwelling units only, on a single lot of record.
51. DWELLING: Any building or portion thereof designed or used exclusively for non-transient residential use.
52. FAMILY DAY CARE: A facility located in a residential structure, which is owner-occupied as a family residence, that provides daytime care of more than three (3) hours per day per child for three to twelve (3 – 12) infants, pre-school children, and school age children 6 to 12 years of age for compensation. A Family Day Care includes those day care facilities defined by New York State in 18 NYCRR Part 413 as "Family Day Care Home" and "Group Family Day Care Home. Such facility must be licensed by New York State and operated in accordance with all applicable regulations.
53. FAMILY: One, two, or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.
54. FLOOR AREA, BUILDING: The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not devoted to residential use but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.
55. FRONTAGE OCCUPANCY: The percentage of the lot width which must be occupied by either a front building façade or structures that screen parking, located within the area of the front lot line and the maximum front yard setback.
56. FRONTAGE: The length of a lot that borders a single street.
57. FUNERAL HOME: The establishment of a funeral director or undertaker, which includes facilities for the conduct of funeral services, but not cremation.
58. GARAGE, PRIVATE: Part of a principal residential building, or an accessory building located on the same lot as the principal residential building, designed primarily for the storage of motor vehicles.
59. HEIGHT, BUILDING: The vertical distance measured from curb or grade level at the front of the building to the highest level of a flat or mansard roof or to the average height of a pitched, gable, hip or gambrel roof, excluding bulkheads, and similar constructions enclosing equipment or stairs, provided that they are less than twelve (12) feet in height and do not occupy more than thirty percent (30%) of the area of the roof upon which they are located.
60. HOME OCCUPATION: Any use customarily conducted entirely within a dwelling or its accessory structures and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of dwelling for residential purposes and does not change the character thereof.
61. HOSPITAL: An institution, licensed by the State of New York, which provides primarily transient or acutely needed human physical and/or mental health services and which includes inpatient facilities.
62. HOTEL: A building, or portion thereof, containing rooms occupied by transient guests who are lodged for payment, with or without meals, and in which there may be provided

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- such services as are accessory and incidental to the use thereof as a temporary residence, such as dining, conference centers, recreational facilities and gift shops for the guests of the hotel.
63. **HOUSE OF WORSHIP:** A building, or portion thereof, together with its accessory buildings and uses, where persons regularly assemble for religious worship, services, and social events and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain ceremonies and purposes.
64. **IN-LAW APARTMENT:** See APARTMENT, ACCESSORY.
65. **INDUSTRIAL USES:** A business use or activity at a scale greater than home industry, involving the manufacture, fabrication, processing, reduction, assembly, or destruction of any article, substance, or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof.
66. **LAUNDROMAT:** A facility which provides self-service washing or drying for use by retail customers.
67. **LIVE/WORK:** A dwelling which is owner occupied, and which provides a commercial ground floor space and residential space above, for the family, craft or business, and retail space for creating sales.
68. **LOT LINE:** Any line dividing one lot from another or separating a lot from a street right-of-way line.
69. **LOT, CORNER:** A lot at the junction of, and having frontage on, two or more intersecting streets.
70. **LOT, DEPTH:** The mean distance between the front and rear lot lines, measured in the general direction of its side lot lines.
71. **LOT, THROUGH:** A lot having frontage on two streets, but not at the intersection of those two streets.
72. **LOT, WIDTH:** The mean distance of a lot measured at right angles to its depth, at the required setback line.
73. **LOT:** (Includes "plot") A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this Chapter.
74. **MEMBERSHIP CLUB:** An unincorporated association of persons for common social purpose or an association incorporated under the Membership Association Law, and which association or membership corporation is not conducted for profit and is not a part of, related to, or associated with a profit-making venture and which is managed by officers or directors, serving without pay and chosen or elected directly by members who form such an association or membership corporation.
75. **MIXED USE:** A development or a single building in which there may be a blend of uses including residential, commercial, cultural, institutional, or industrial, where those functions are physically and functionally integrated; most prominently a ground floor with a restaurant, theater, or retail shop and offices and/or residential use above.
76. **MOBILE HOME:** A structure mounted on axles and wheels containing living facilities and which was designed to be towed by an automobile or truck from place to place. Such structure will not be considered a mobile home for purposes of this Chapter if it is placed on a permanent foundation and modified to meet applicable building code requirements for a residential structure.
77. **MOTEL:** See 'hotel'.
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78. **MUSEUM:** A building serving as a repository for a collection of natural, scientific or literary curiosities, objects of interest or works of art, and arranged, intended and designed to be used by members of the public for viewing, with or without an admission charge, together with customary accessory uses including, for example, retail sale of goods to the public; café food service, art, dance and music performances, literary readings, and showing of films.
79. **NEIGHBORHOOD RETAIL:** A store serving the local retail business needs of the residents of the neighborhood, including but not limited to books, flowers, clothing, groceries, and pharmaceuticals.
80. **NONCONFORMING LOT:** Any lot lawfully existing on record on the effective date of this Chapter, or any amendment thereto, that does not meet the bulk and area requirements of this Chapter for the zoning district in which such lot is situated as a result of the enactment.
81. **NONCONFORMING STRUCTURE:** Any building lawfully existing on the effective date of this Chapter, or any amendment thereto, that does not meet the bulk and area requirements of this Chapter for the zoning district in which such building is situated as a result of the enactment.
82. **NONCONFORMING USE:** Any use lawfully existing on the effective date of this Chapter, or any amendment thereto, that does not conform to the district use regulations of this Chapter for the zoning district in which such use is situated as a result of the enactment.
83. **NURSING HOME:** An institution, licensed by the State of New York, which provides nursing care and related medical services on a 24-hour basis to primarily non-transient clients for remuneration.
84. **OFFICE PARK:** A group of two or more principal buildings and their accessory uses, together with any open space remaining, located on one lot, which buildings have a unified Site Plan and shall be designed to function as one project. The buildings in an "office park" shall be occupied or used principally for businesses or professional offices that are designed, constructed, and maintained on a coordinated basis.
85. **OPEN SPACE:** That portion of the lot that is unencumbered by any structure or any other impervious surface.
86. **PARKING AREA COMMUNITY:** A building, or part thereof, or a surface used for parking vehicles for remuneration.
87. **PARKING SPACE:** A space, available for the parking of one vehicle.
88. **PARKS, OPEN SPACE AND RECREATION:** Those areas owned or used by the City, other public entity or government, or non-profit organizations that are devoted to parks, playgrounds, recreation areas, nature preserves, or open space.
89. **PERSONAL SERVICES:** An establishment that is primarily engaged in frequent or recurring provision of individual services generally related to personal needs, and is not separately defined herein. These uses may also include accessory retail sales of products related to the service provided. Examples of personal services include but are not limited to: barber shops, nail salons, massage facilities, tailors.
90. **PROFESSIONAL OFFICE:** The office of a member of a recognized profession maintained for the conduct of that profession in any of the following related categories: architectural, engineering, planning, law, interior design, accounting, insurance, real estate, medical, dental, optical, or any similar type of profession.
91. **PUBLIC UTILITY:** Any person, firm, corporation, or governmental agency duly

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- authorized to furnish to the public, under governmental regulation, electricity, gas, water, sewage treatment, steam, cable television, telephone, or telecommunications but shall not mean any person or entity that provides wireless telecommunication services to the public.
92. **RECREATIONAL VEHICLE:** A vehicular unit, which is designed as a temporary dwelling for travel, recreational, and vacation use, and which is self-propelled, mounted on, or pulled by another vehicle. Examples include, but are not limited to a travel trailer, camping trailer, truck camper, motor home, fifth-wheel trailer, or van camper.
93. **RESIDENTIAL CARE FACILITY:** A supervised residential board and care establishment, used as a group residence or extended care facility of the care of persons, where compensation and/or reimbursement of costs is paid to an operator, pursuant to state or federal standards, licensing requirements, or programs funding residential care services. The residential care facility provides common eating facilities for residents and common meeting or social or recreation areas. Such housing may also include daily activity assistance, such as dressing, grooming, bathing, etc.
94. **RESTAURANT:** Any establishment where the principal use is the preparation and sale of food and beverages to customers seated at a table or counter, served by a waiter or waitress, or at a buffet for consumption of the food on the premises. A restaurant may include the serving of alcoholic beverages and the provision of carry-out food service if they are incidental to the consumption of food and beverages. The term "restaurant" does not include a business whose principal operation is as a bar, cabaret, carry-out food service, or a fast-food establishment.
95. **RESTAURANT, CARRY-OUT:** Any establishment where food and/or beverages are prepared and served in a read-to-consume state and whose design or principal method of operation includes one or both of the following characteristics: customers order from a menu board or serve themselves from a buffet and principally carry out their food and/or beverages for consumption off premises.
96. **RESTAURANT, FAST-FOOD:** Restaurants where most customers order and are served food inside the premises at a counter, to be taken to a table for consumption or in packages prepared to leave the premises. See **DRIVE THRU** for where customers are served their food in a motor vehicle through a service window, in packages prepared to leave the premises.
97. **RETAIL:** A business that sells goods directly to the general public, for business, personal or household consumption, where such goods are available for immediate purchase and removal from the premises by the purchaser and are not defined elsewhere in this Chapter. Retail businesses include but are not limited to hardware stores, liquor stores, newsstands, shoe stores, stationery stores, convenience stores.
98. **ROOMING HOUSE:** Any dwelling, other than a boarding house, within which are boarding units rented individually and occupied for sleeping and/or living purposes to non-transient occupants. No common rooms are provided for the use of the residents.
99. **SCHOOL OF GENERAL INSTRUCTION (EDUCATIONAL SERVICES):** Any public school operated under the laws of the State of New York or nonpublic school offering courses in general instruction at least five days per week and seven months per year and generally serves students in grades corresponding to Pre-K through 12th grade.
100. **SELF-STORAGE:** A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for storage of personal property.
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101. SETBACK: The horizontal distance from such lot line to the part of the building which is nearest to such line.
102. SHOPPING CENTER: An area planned, as a whole with one Site Plan approval, for occupancy of three or more retail stores, light industrial uses, or professional offices with common accessory parking, that are designed, constructed, and maintained on a coordinated basis.
103. SIGN: Includes every sign, billboard, general sign, wall sign, roof sign, illuminated sign projecting sign, temporary sign, marquee and canopy and shall include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person when the same is placed out of doors in view of the general public.
104. SHORT-TERM, IN-HOME LODGING: Lodging for paying guests for no more than one room and no more than three guests and for no more than 15 days is allowed without registration. (See BED & BREAKFAST).
105. STORAGE YARD: A building or area of land where a person, firm or corporation engaged in the construction business, or a related field, stores building materials, equipment and supplies exclusively in the business as a contractor.
106. STORY, HALF: A story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two (2) feet above the floor of such story.
107. STORY: The portion of a building which is between one floor level and the next higher floor level, or the roof. If a mezzanine floor area exceeds 1/3 of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story when its ceiling is six (6) or more feet above the finished grade. A cellar shall not be deemed to be a story if unfinished and without human occupancy.
108. STREET: A public or private way which affords the principal means of access to abutting properties.
109. TATTOO PARLOR: Any building or premises in which a tattooist lawfully conducts their practice of marking a body with indelible ink or pigments.
110. TAXI SERVICE: A service that offers transportation in motor vehicles to persons for compensation. The business may include facilities for servicing, storing, and fueling the vehicles.
111. TECHNICAL SCHOOL: A school established to provide for the teaching of industrial, clerical, managerial, trade, or artistic schools.
112. THEATER/AUDITORIUM: A place of public assembly used for spectator presentations including movie or professional theater, indoor concert venue or other performance with temporary or permanent seating, for admission to which an entrance fee is received.
113. TOWNHOME: See "DWELLING, ROW OR ATTACHED."
114. TRAILER: Any vehicle without motive power, designed to be towed by a motor vehicle, except as defined elsewhere herein.
115. TRANSIENT: Temporary daily or weekly occupancy.
116. USE, ACCESSORY: A use that is clearly incidental to the principal use of a building or lot.
117. WHOLESALE: An establishment primarily engaged in the display, storage, distribution and sale of merchandise to retailers to industrial, commercial, institutional, or professional business users, or to other wholesalers, or acting as agents or brokers and

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buying merchandise for, or selling to such individuals or companies. Such establishments are not generally open to the general public.

118. YARD: (from rear, side): The portion of the lot between the lot line and the required set-back; or if no minimum setback is required the portion of the lot between the lot line and the façade of the building.

ARTICLE III—ADMINISTRATION

§300- 7. Administration and Enforcement Official

- A) The provisions of this Chapter shall be administered and enforced by the Building Inspector in accordance with the provisions established in Chapter 122, §122-1 through §122-27 of the Code of the City of Newburgh. The Building Inspector shall be provided with the assistance of such other public officials and employees as the City Manager may direct.
- B) No building permit, Certificate of Occupancy or other permit or license shall be issued if it would be in conflict with the provisions of this Chapter or Article I of Chapter 122, entitled “Administration and Enforcement of Uniform Code”, or Chapter 172 entitled, “Fire Prevention” of the Code of the City of Newburgh, or any other applicable local, state, or federal law or regulation.
- C) In accordance with §122-5 of the Code of the City of Newburgh, the Building Inspector may delegate, in writing, to such other officials the authority to perform inspections, review applications, issue notices of violation and issue permits and to enforce the provisions of this Chapter. In the performance of such functions, these officials shall be responsible to the Building Inspector, and the Building Inspector shall be responsible for the work that they perform.

§300-8. Applicant's Requirements

- A) In order to apply to the City Planning Board, Zoning Board of Appeals, or Architectural Review Commission, except as specifically provided for elsewhere in this Chapter, the Applicant must have a certain legal interest in that for which he/she is applying, which interest must be one of the following:
 - 1. Owner
 - 2. Contract Vendee/Purchaser or holder of an option to purchase wherein the purchase agreement or option is binding and subject to cancellation based solely on the adjudication of the Application
 - 3. A verified agent of one of the above. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner that the proposed work is authorized by the owner and that the Applicant is authorized to make such application.

§300-9. Schedule of Fees, Collection Procedures

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- A) The schedule of fees for applications made pursuant to this Chapter shall be as specified in §163-1. Schedule of Code Fees, of the Code of the City of Newburgh. A copy of this schedule and the procedure for collecting those fees shall be available in the office of the Building Inspector.

§300-10. Escrow

A) Escrow Deposits:

1. In accordance with Chapter 163 of the Code of Ordinances of the City of Newburgh, any application for a Special Use Permit, Site Plan or subdivision approval, zoning amendment, variance, or other appeal, the reviewing board may require an Applicant to deposit an initial sum of money into an escrow account in advance of the review of the application. Said sum shall be based on the estimated cost to the City of reviewing the particular type of application before it. The reviewing board may also consider the City's survey of professional review expenses in determining the initial sum of money to be deposited in an escrow account by an Applicant.

B) Escrow Funds:

1. In accordance with Chapters 158 and 163 of the Code of Ordinances of the City of Newburgh, escrow funds shall be used to cover the reasonable and necessary costs of reviewing an application. Costs may include staff costs or consultant fees for planning, engineering, legal, and other professional and technical services required for the proper and thorough review of an application. The reviews governed by this section shall include all environmental review pursuant to law including review of the proposed action under the State Environmental Quality Review Act (SEQR).
2. The review expenses provided for herein are in addition to application or administrative fees required pursuant to other sections of the City of Newburgh. Funds deposited by Applicants pursuant to this section shall not be used to offset the City's general expenses of professional services for the several boards of the City or its general administrative expenses.
3. Fees charged strictly as a result of a SEQR review shall in no event exceed the maximum amounts that can be charged pursuant to the SEQR regulations in §617.13 "Fees and costs" of the State Environmental Quality Review Act.
4. Upon receipt of monies requested for an escrow account, the Building Inspector shall remit to the City Comptroller who shall cause such monies to be placed in a separate non-interest-bearing account in the name of the Applicant/Application and shall keep a separate record of all such monies deposited and the name of the Applicant and project for which such sums were deposited.
5. Itemized vouchers shall be submitted to the City Comptroller for services rendered on behalf of the City regarding a particular application. After review and approval in accordance with §300-10 (C) vouchers shall be paid out of the monies so deposited, and shall debit the separate record of such account accordingly.

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C) Review of Vouchers; Payment

1. The Director of Planning and Development shall review and audit all such vouchers and shall approve payment of only such consultant charges as are reasonable in amount and necessarily incurred by the City in connection with the review and consideration of applications. In auditing the vouchers, the Director of Planning and Development may take into consideration the size, type and number of buildings to be constructed, the topography of the site at issue, environmental conditions at such site, the infrastructure proposed in the application and any special conditions the applicable Board (City Planning Board, Zoning Board, Architectural Review Board) may deem relevant.
2. In no event shall an Applicant make direct payment to any consultant retained by the City to review applications.

D) If at any time during the processing of an application there shall be insufficient monies within the established escrow account to pay the approved vouchers in full, or if it shall reasonably appear to the reviewing board that escrow funds will be insufficient to meet vouchers yet to be submitted, the reviewing board shall cause the Applicant to deposit additional sums as the board deems necessary or advisable in order to meet such expenses or anticipated expenses.

E) In the event the Applicant fails to deposit the requested review fees into an escrow account, any application review, approval, permit or certificates of occupancy may be withheld or suspended by the reviewing board, officer or employee of the City until such monies are deposited.

F) Upon completion of the review of an application or upon the withdrawal of an application, and after all fees already incurred by the City have been paid and deducted from the escrow account, any balance remaining in the escrow account shall be refunded within sixty (60) days after the Applicant's request.

§300-11. Building Permits, Certificates of Occupancy and Site Plan Approval

A) Building Permit

1. The Building Inspector shall issue building permits and certificates of Occupancy where appropriate for buildings constructed or altered in accordance with the provisions of the Uniform Fire Prevention and Building Code. In the case of demolition, this permit shall be called a "demolition permit".
2. No building permits or Certificates of Occupancy shall be issued by the Building Inspector except where all the provisions of this Chapter have been complied with.
3. No land shall be used or occupied and no building hereafter erected, altered or extended shall be used or changed in use until a Certificate of Occupancy has been issued by the Building Inspector in accordance with the provisions of the New York State Uniform Fire Prevention and Building Code.

B) Site Plan Approval. Site Plan approval from the City Planning Board shall be required for the conversion or change in use of any existing building, structure, or parcel of land as provided in §300-31 and in accordance with the provision for the Overlay Districts as provided in Articles IV and V.

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§300-12. Application for Building Permit

- A) Applications for Building Permits shall be prepared and submitted in accordance with the regulations provided in the Uniform Fire Prevention and Building Code and any additional regulations provided in the relevant sections of the Code of the City of Newburgh.
- B) All applications required by this Chapter shall be on such forms specified by the Building Inspector. All forms shall be available from, and returned to, the Building Inspector.
- C) Applications shall be accompanied by the additional information required by this Chapter and that may also be indicated on the forms.
- D) Unless otherwise noted on the forms, or written direction from the Building Inspector, applications and supporting material shall be provided in hard copy in a number and size proscribed on the form, and optionally, as digital files.
- E) An application shall not be considered as submitted nor shall it be accepted and processed until the application, completely and correctly filled in is accompanied by all the minimum basic information and the proper fee as established under this Chapter.
- F) Process to Obtain Permits: The process to obtain necessary permits to erect, occupy, or change the use of a permitted structure or lot are as follows:
 - 1. Any person intending to undertake new construction, structural alteration, or change in the use of a building or lot shall apply to the Building Inspector for a building permit by submitting the appropriate application form and paying the required fee. For rules governing changes of use, see §300-31, and Articles VI and VII.
 - 2. The Building Inspector shall grant or deny the permit as provided in §300-12(G), or refer the application to the City Planning Board if a Special Use Permit and/or Site Plan approval is required in accordance with §300-31.
 - 3. If a building permit is issued, the Applicant may proceed to undertake the action permitted. Upon completion of any construction, the Applicant shall apply to the Building Inspector for a Certificate of Occupancy (for building permits only).
 - 4. If the Building Inspector finds that the Applicant's action has been taken in accordance with the building permit, the Building Inspector shall issue a Certificate of Occupancy as provided in §300-13(B), allowing the structure to be occupied.
 - 5. If the Building Inspector denies a building permit application and does not refer the application to the City Planning Board, Zoning Board of Appeal or Architectural Review Commission, the Applicant may appeal in accordance with the provisions of §300-14.
- G) Action Upon Application
 - 1. The Building Inspector shall promptly review the application and approve or deny it, providing the reason for denial in writing. A copy of the approved or disapproved

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- application shall be delivered or mailed to the Applicant within a time frame not to exceed thirty (30) working days of the submittal to the Building Inspector.
2. An application with the approval of the Building Inspector shall become effective when the Building Inspector has filed written approval of the permit application. A copy of the building permit shall be placed in the permanent file for the property.
- H) Invalid Approval: No building permit shall be valid unless it complies with all provisions of this Chapter. Any permit approved in violation of this Chapter shall be void.
- D) Failure to Complete Construction.
1. In accordance with §122-17, Duration of Building Permit; extensions, of the Code of the City of Newburgh, a building permit shall be effective to authorize the commencing of work in accordance with the application, plans and specifications on which it is based for a period of six (6) months after the date of its issuance. For good cause, the Building Inspector may allow a maximum of two (2) extensions for periods not exceeding three (3) months each provided an application for extension is received at least thirty (30) days prior to the expiration of such building permit.
 2. Any structure for which a building permit has been issued which remains partially complete with no substantial progress over a six (6) month period shall be considered a violation of this Chapter to be remedied pursuant to §300-121.
- J) Termination of Building Permit: An approved building permit shall terminate and become void if there is no construction of the new use within six (6) months of the date of approval.
- K) Withdrawal by Applicant. In the event that it is determined by the Applicant after the issuance of a building permit and payment of the required fee that the proposed construction is not desired and there is no intent to proceed with reference to the same, then and in that event a letter signed by the Applicant, expressing his/her intention not to continue, shall be received by the Building Inspector.

§300-13. Certificates of Occupancy

No building or structure hereafter erected, constructed, enlarged, altered, or moved and no enlarged, extended, altered, or relocated portion of an existing building or structure shall be occupied or used until a Certificate of Occupancy has been issued by the Building Inspector, in accordance with the provisions of the Uniform Fire Prevention and Building Code, Chapter 172, Fire Prevention of the Code of the City of Newburgh, this Chapter, and any other applicable laws and regulations.

- A) Exception for minor alterations. No Certificate of Occupancy shall be required for any alteration of or ordinary repairs to an existing building or structure which is not structural in nature and which does not require a building permit pursuant to the provisions of this Chapter, the Uniform Fire Prevention and Building Code, Chapter 172, Fire Prevention, of the Code of the City of Newburgh.

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B) Issuance of a Certificate of Occupancy:

1. The Building Inspector shall examine the location of any new structures or improvements to existing structures and shall determine whether or not such new structures or improvements comply with the setbacks and other requirements of this Chapter, including the terms and conditions of any Site Plan approval, Special Use Permit, variance, subdivision approval, or conservation easement granted. The Building Inspector shall maintain complete records of the dates of inspections conducted hereunder, the names of all persons attending such inspections, the extent of completion of the work on each date, and any other observations relevant to determining compliance with this Chapter.
2. After work has been completed, inspected, and found to be in full compliance with the building permit, the Building Inspector shall issue a Certificate of Occupancy. A copy of the Certificate of Occupancy shall be placed in the permanent property file for the property.

C) Effective Date of Certificate of Occupancy. A Certificate of Occupancy shall become effective upon filing in the permanent file for the property, together with the building permit and all previous applications and approvals granted.

D) Before issuing a Certificate of Occupancy, the Building Inspector must confirm with the City Comptroller that all fees incurred by the City for the review and processing of said application have been paid and deducted from the escrow account. Only when confirmation that all fees have been paid, can the Building Inspector issue the Certificate of Occupancy.

§300-14. Reapplication After Denial

- A) When an application has been duly processed and denied and no appeal has been made or when an appeal has been made but the body appealed to has sustained the denial, said application shall not be eligible for reconsideration for one (1) year following such denial.
- B) A new application affecting all or part of the same property or use must be substantially different from the denied application to be eligible for consideration within one (1) year of the denial of the original application.

(§300-15 through §300-20 reserved)

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ARTICLE IV—LAND USE AND OVERLAY DISTRICTS

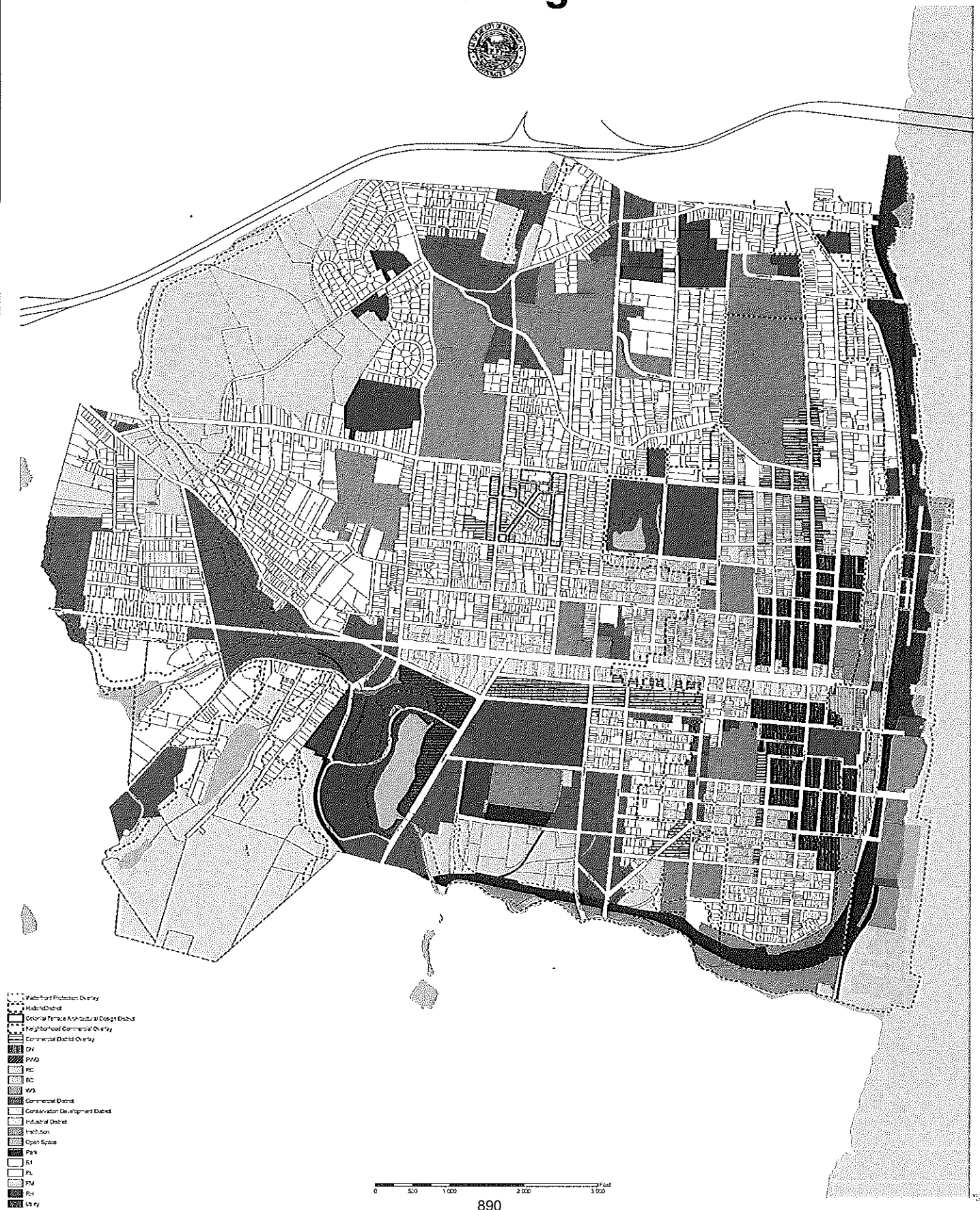
§300-21. Establishment of Districts

- A) For the purposes listed in §300-4, the City of Newburgh is hereby divided into the following Zoning Districts:
- B) Traditional Zoning Districts:
 - 1. R-1 – Single Family District
 - 2. Residential – Low Density (R-Low)
 - 3. Residential –Medium Density (R-Med)
 - 4. Residential– High Density (R-High)
 - 5. Planned Office District (PO)
 - 6. Commercial District (CD)
 - 7. Conservation Development District (CDD)
 - 8. Industrial District (IND)
- B) Form Based Districts
 - 1. Broadway Corridor (BC)
 - 2. Downtown Neighborhood (DN)
 - 3. Waterfront Gateway (WG)
 - 4. Planned Waterfront District (PWD)
- C) Overlay Districts
 - 1. In addition to these land use districts, the following overlay districts are hereby created:
 - a) East End Historic District Overlay (EEH)
 - b) Colonial Terraces Architectural Design District Overlay (CTA)
 - c) Waterfront Protection Overlay (WPO)
 - d) Neighborhood Commercial Overlay (NC)
 - 2. Overlay districts do not change the use and dimensional requirements of the underlying land use districts, unless specifically so stated in this Chapter. On any given parcel of land, more than one overlay district may apply.

§300-22. Zoning Map

- A) The location and boundaries of the zoning districts are established as shown on the Zoning Map of the City of Newburgh, attached hereto and made a part of this Chapter.
- B) Re-adoption of Maps. The Official Zoning Map shall be kept in the office of the City Clerk, the Building Inspector/Code Enforcement, and the Planning Department, and shall be reviewed for accuracy and updated at least once annually with any Zoning Map amendments adopted in the previous year by the City Council or its designee.
- C) Zoning Map Amendment. Changes may be made in district boundaries or other matter portrayed on the Zoning Maps only by zoning amendments adopted by the City Council. Such changes shall be noted by the City Clerk on the Official Zoning Maps promptly after the City Council adopts such an amendment.

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- D) Final Zoning Authority. Each ordinance adopting an amendment shall be the final authority as to the current status of lands, structures and uses in the City.
- E) Authorized Map Changes. Any unauthorized map change made by any person shall be considered a violation of this Chapter, punishable under Article IVX of this Chapter.

§300-23. Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of any of the Zoning Districts, the following rules apply:

- A) Where district boundaries are indicated as approximately following or parallel to the center lines of streets or highways, or the boundaries of streets, highways, or rights-of-way, the district boundary shall be construed as following or being parallel to said center or boundary lines.
- B) Where a land use district boundary divides a lot line in a single ownership existing at the effective date of this Chapter, the City Planning Board may grant a Special Use Permit to allow the uses authorized and the district requirement of the less restricted portion of such lot to extend up to a maximum of fifty (50) feet into the more restricted portion of the lot. This provision shall not apply to Overlay Districts.
- C) Where district boundaries are so indicated that they approximately follow lot lines in effect at the time of the effective date of this Chapter, the district boundary shall be construed as following said lot line.
- D) Where the boundary of a district follows shorelines, streams, creeks and waterbodies, said boundary shall be deemed to follow such shorelines and, in the event of change in the shoreline, shall be deemed as moving with the actual shoreline.
- E) Where the boundary of a district follows shorelines, creeks, streams, lakes, or other bodies of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the City, State or Federal Agency, unless otherwise indicated.
- F) Within the Water Protection Overlay District, where the overlay district is based upon natural features, such boundaries may be more precisely established through field investigation by a qualified professional.

§300-24. Higher Standards to Prevail

In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements. Whenever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the highest standards, shall govern.

(§300-25 through §300-30 reserved)

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ARTICLE V—LAND USE DISTRICT REGULATIONS

§300-31. Allowable Uses, Accessory and Mixed Uses; Change of Use

- A) Purpose. The use regulations in this article are intended to allow flexibility of land use to encourage business development that is consistent with the character and scale of the City of Newburgh. In reviewing applications for Special Use Permits and Site Plan approval, the City Planning Board shall impose any conditions that may be necessary to ensure that a proposed use will be compatible with its surroundings. The City Planning Board shall deny any proposed use which does not satisfy the criteria in this Chapter.
- B) Use Restrictions and Schedule of Use Regulations. No structure or land shall be used except as provided in the Schedule of Use Regulations. In the event that a particular proposed use does not fit into one of the categories shown on the Schedule of Use Regulations, it shall be considered to be prohibited.

SCHEDULE OF USE REGULATIONS KEY

- P** Designates a use permitted by right. Usually requires a building permit and a Certificate of Occupancy from the Building Inspector, but does not require review by any municipal board.
- P*** Designates a use permitted by right subject to Site Plan review by the City Planning Board [Article XI]
- S** Designates a use permitted by Special Use Permit of the City Planning Board [Article XII]
- A** Designates a use that is permitted as a use accessory to a use permitted by right, with Site Plan approval, or with a Special Use Permit.
- C) Prohibited Uses. Any use, whether or not listed in the Schedule of Use Regulations, is prohibited if it does not satisfy the standards and criteria in §300-31, §300-129, and Appendix A.
- D) Accessory Uses. Uses customarily incidental and subordinate to principal uses shown on the Schedule of Use Regulations shall be allowed on the same terms as the principal uses, whether or not on the same lot, unless otherwise indicated on the Schedule of Use Regulations. Noncommercial recreational use shall be permitted as an accessory use in all districts.
- E) Mixed Use. The City of Newburgh encourages the mixing of uses where such mixing does not create land use conflicts. Accordingly, all Special Use Permit and/or Site Plan reviews for the same project shall be consolidated into one proceeding before the City Planning Board for Site Plan Approval.
- F) Change of Use or Structure. A change of use is the initiation of a use that is in a different use category, as listed on the Schedule of Use Regulations, from the existing use of the site

Schedule of Use Regulations

Use	R-1	Low Density Res	Med Density Res	High Density Res	Commercial	Industrial	Commercial District Overlay/ Neighborhood Commercial Overlay	Conservation Development District	Broadway Corridor (BC)	Downtown Neighborhood (DN)	Waterfront Gateway (WG)	Planned Waterfront District (PWD)
Apartment House			P*	P			P*	P*	P	P*	P*	P*
Four Family Dwelling			P	P*			P*	P*	P	P*	P*	P*
Two or Three Family Dwelling		P*	P	P				P*	P	P	P*	P*
Row or Attached Dwelling (Townhome)		P	P					P*		P	P*	P*
Two-Family Detached Dwelling		P*	P	P				P*		P	P*	
One-Family Detached Dwelling	P	P*	P	P				P*		P	P*	P*
Residential Care Facility			S	S				P*	P	P	P*	P*
Cooperative House		P	P	P					P	P	P*	P*
Accessory Apartment	A;S	A	A	A					P	P	P*	P*
Bed & Breakfast	A;S	A;S	A;S	A;S				A;S	A;S	A;S	A;S	A;S
Short Term In Home Lodging	A;S	A	A	A				A	A	A	A	
Boarding House		S	S									
Customary Home Occupation		A;S	A;S	A;S				A;S	A;S	A;S	A;S	A;S
Rooming House					S				S	S	S	S
Mixed Use with Residential			P*	P*					P*	P*	P*	P*
Live Work			P*	P*					P*	P*	P*	P*
Buildings, uses or facilities of any												
Governmental Unit			P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Cemetery		P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
College/University		P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Community Center		P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Parking Lot		S	S	S	P	P	P	P*	P*	S	S	S
Community Parking Lot	S	S	P*	P*	P	P	P	P*	P*	S	S	S
Dormitories		A	A	A	A	A	A	A	A	A	A	A
Hospital				A	A		A	A	A;S	A		
House of Worship		P*	P*	P*	P*	S	S	S	P*	P*	P*	P*
Membership Club					S	S	S	S	P*	P*	P*	P*
Museum					S	S	S	S	P*	P*	P*	P*
Parks, Open Space, Recreational Facilities		P	P	P	P	P	P	P*	P	P	P*	P*
Public Libraries				P			P*		P*	P*		
School of General Instruction			P*	P*	P*	P*			P*	P*	P*	P*

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or structure. A change of ownership, tenancy, or occupancy, or a change from one use to another within the same category, shall not be considered a change of use, unless the change would result in the expansion of any existing use or any change of use of a property or structure, enlargement or addition of a sign or an increase of more than 20 percent (20%) in vehicle trip generation as indicated in current trip generation rates contained in the publications Trip Generation or Trip Generation handbook published by the Institute of Transportation Engineers (ITE).

1. Uses by right (P). Any change of use of land or existing structures to a use permitted by right without Site Plan review (P on the Schedule of Use Regulations) shall not require approval from the City Planning Board or the Building Inspector. This shall not affect applicable requirements for obtaining building permits for construction or expansion of a structure from the Building Inspector under Chapters 121, 122, 125, and 126 of the Code of the City of Newburgh.
 2. Uses by right subject to Site Plan review (P*). Except for one and two family dwellings on a single lot, any change of the use of an existing structure to a use permitted by right subject to Site Plan review shall require Site Plan review only if it involves:
 - a) The development or redevelopment of any property or structure, including but not limited to vacant property, for a new use.
 - b) Any use requiring a special Use Permit, subject to any exceptions contained in Articles XII and XIII of this Chapter.
 - c) The expansion of any existing use or any change of use of a property or structure, where the City Planning Board has determined that the alteration will substantially intensify the use or substantially modify the site with respect to the generation of traffic, pedestrian movement, parking needs, noise, glare, exposure to hazard from fire or flood, utilization of water supply, sanitary sewer, drainage or other utility system and may have a substantial impact upon the character or environment of the surrounding area. This includes an increase in density in residential areas.
 3. Uses by Special Use Permit ("S" on the Schedule of Use Regulations)
 - a) A Special Use Permit shall be required for any change of use from a use that does not require a Special Use Permit, or a use permitted in the zone, to a use that does require a Special Use Permit.
 - b) Once a Special Use Permit has been granted, it shall run with the land and apply to the approved use and to all subsequent owners, tenants and occupants engaged in the same use. The Special Use Permit shall also apply to any subsequent use of the property in the same use category, provided that such use has no greater impact on adjoining properties, complies with all terms and conditions of the Special Use Permit, and does not involve new construction, enlargement, exterior alteration of existing structures, increased parking, or other changed use of outdoor areas. Any change to another use allowed by Special Use Permit shall require the granting of a new Special Use Permit or a Special Use Permit amendment.
- G) Rebuilding, Replacement, Expansion of Structures. The rebuilding/replacement on the same footprint of any structure for a use which requires Site Plan review (P*) or a Special

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Use Permit (S) shall require Site Plan review, even if it is a continuation of the same use.

H) Special Site Design Considerations.

1. In the Conservation Development District (CDD). The purpose of the CDD is to encourage conservation of environmental resources in exchange for flexibility in build and area requirements and the potential for granting more intensive development if conservation goals stated in §300-33 are achieved. A minimum of 50 percent (50%) of net land shall be preserved by a permanent conservation easement or deed restriction as open space. Buildings shall have a maximum height of four (4) stories or fifty (50) feet and a maximum length of two hundred (200) feet. Additional regulations for the CDD are in §300-33.
2. Buildings shall be placed in front of their parking lots to screen the parking from the road. This requirement shall not apply if the entire site is screened from the road by natural vegetation and/or natural topography. The City Planning Board may modify or waive this requirement where unusual lot configurations such as corner lots or through lots make compliance with this requirement impractical or impossible or where the predominant character of surroundings development is such as compliance with this requirement would serve no useful purpose, provided that the Applicant minimizes the visual impacts of such parking areas.

§300-32. Density Dimensional Regulations

- A) Applicability. The Density and Dimensional Regulations in this section apply to the 'traditional' zoning districts, as defined in §300-21. The density and dimensional regulations for the 'Form Based' districts, as defined in §300-21, are regulated in Article XV of this Chapter and in Appendix B.
- B) Purpose. The restrictions and controls in this section regulate development as set forth in Schedule of Bulk, Area, and Parking Regulations, which are supplemented by the other sections of this Chapter. This Chapter shall not interfere with or abrogate or annul any easement, covenant or other agreement between parties; provided, however, that when this Chapter imposes a greater restriction on the use of buildings or land or on the height of buildings or requires larger open spaces or imposes any higher standards than are imposed or required by any other statute, law, ordinance, rule or regulation, or by any easement, covenant or agreement, the provisions of this Chapter shall control. Where the requirements of this Chapter differ from the requirements of another statute, law, ordinance, rule or regulation, the more restrictive shall govern.
- C) Exempt Uses. The provisions of this article shall not apply in any of the following instances:
 1. Public parks, playgrounds or similar recreational areas owned or operated by a governmental authority with permission of the Building Inspector.
 2. Fire houses, police stations, or other public safety uses owned or operated by the City of Newburgh, Orange County, or by any governmental authority, with permission of the Building Inspector.

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3. Other municipal buildings, uses, or utility services operated by the City of Newburgh with permission of the Building Inspector.

D) Additional Dimensional Requirements

1. Corner Lots. A yard equal to the required front yard shall be provided with respect to any lot line that abuts a street. The other yards shall be deemed to be side yards.
2. Through Lots. The Building Inspector shall designate a front and rear yard in keeping with the predominant development pattern of the area and/or to promote consistency with the goals of the Comprehensive and Land Use Plans.
3. With respect to one-, two-, three-, and four-family houses, no more than one principal building and its accessory structures and uses may be located on one lot.

E) Subdivision of a Lot. Where a lot is subdivided from an existing lot already occupied by a building or structure, both the existing lot and the newly subdivided lot shall conform with the requirements of this Chapter with respect to existing building(s) and all yards and other required spaces in connection therewith.

F) Required Street Frontage. No building permit shall be issued nor shall any Site Plan be approved for the construction of any new building or structure unless the lot upon which the use is to be established or such structure is to be built has frontage of at least twenty (20) feet on a dedicated public street or on a street or highway, which has been suitably improved to City road standards or a bond posted therefor and unless the actual access to such use or such structure will be over such frontage.

G) Multiple Residential Buildings on One Lot. A lot may contain more than one principal apartment house provided that the lot conforms to the applicable density requirements of the underlying zoning district. Such lot may not later be subdivided unless the subdivided lots conform to the dimensional regulations in effect when the subdivision is proposed.

H) Projections into Required Yards.

1. Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, belt courses, pilasters, leaders, chimneys, cornices, eaves and ornamental features, provided that no such projection may extend more than four (4) feet into any required yard.
2. Bays including their cornices and eaves, may extend not more than four (4) feet into any required yard provide that the sum of such projections on any wall shall not exceed one-third ($1/3$) the length of such wall.
3. An open fire balcony or fire escape may extend not more than four (4) feet into any required yard.
4. Steps and stairs may extend not more than four (4) feet into the required side or rear setback area.
5. Awnings or movable canopies may extend not more than four (4) feet into the required side or rear setback area.

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- D) Height Exceptions. The height limitations in the Dimensional Table shall not apply to any flagpole, radio or television receiving antenna, spire or cupola, chimney, elevator or stair bulkhead, parapet or railing, water tank, or any similar non-habitable structure, provided that such structure is firmly attached to the roof or side of a building and covers no more than ten percent (10%) of the roof area.
- J) Setbacks for Accessory Structures and Uses.
1. Any accessory structure attached to a principal building and any detached garage, tennis court, or swimming pool shall comply with the minimum setback requirements of this Chapter applicable to the principal building. Other detached accessory structures or uses may encroach into required setback areas provided that they:
 - a) Are not used for human habitation;
 - b) Have a footprint no larger than two hundred (200) square feet;
 - c) Do not exceed sixteen (16) feet in height;
 - d) Do not occupy more than ten percent (10%) of the rear setback area;
 - e) Are set back at least ten (10) feet from side lot lines;
 - f) Are not located closer to the street than the front yard setback required for a principal building, except for fences, gates, mailboxes, signs, with less than one hundred (100) square feet of footprint, as well as ornamental structures such as entry pillars and statues; and
 - g) Are not used for housing animals.
 2. For corner lots the setback from all streets shall be the same for accessory structures as for principal buildings.
 3. For watercourse setbacks see §300-46.
- K) Setbacks Involving Irregular Buildings and Lot Lines. Where structures or lot lines are irregular or unusual in configuration, all points on the structure shall satisfy the minimum setback requirements from that point on the lot line which is the shortest distance from the structure.
- L) Fences (including hedges). The setback requirements of this Chapter shall not apply to any fences less than four (4) feet high in any front, side, or rear yard, except where corner clearances are required for traffic safety.

§300-33. Conservation Development District

- A) Purpose and Intent. The purpose of the Conservation Development District (CDD) is to encourage conservation of environmental resources in exchange for flexibility in bulk and area requirements and the potential for granting more intensive development if conservation goals stated herein are achieved. The primary goals of the CDD are to:
1. Preserve open space;
 2. Preserve or enhance environmentally sensitive features;
 3. Protect steep slopes by preserving vegetative cover to minimize the impacts of erosion and sedimentation;
 4. Provide opportunities for on-site storm water management and groundwater recharge;

Schedule of Bulk, Area and Parking Regulations

Single Family Residential* / Low Density Residential

Use	Use Type*	Minimum Area Lot (sq. feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Yard (feet)	Minimum Side Yard Each (feet)	Minimum Rear Yard (feet)	Maximum Height (Stories)	Maximum Height (feet)	Maximum Lot Coverage %	Off-Street Parking Required
One-Family detached dwelling: Two or Three Family Dwelling (new construction) (1)	P	2500	25	95	15	10	20	3	40	30%	2 per dwelling unit
Row or Attached Townhouse	P	2500	25	95	10	5	20	3	40	40%	1 per dwelling unit
Two or Three Family dwelling within a pre-existing building	P	2500	25	95	15	10	20	3	40	30%	2 per dwelling unit
Residential Care Facility	S	2500	25	95	10	5	20	3	40	30%	As determined by Planning Board
Cooperative House (3)	P	2500	25	95	15	10	20	3	40	30%	2 per 3 bedrooms, or portion thereof
Bed & Breakfast	A; S	2500	25	95	10	5	20	3	40	30%	1 per quest room; 1 for dwelling unit
Boarding House	S	3500	30	80	10	5	20	3	40	40%	2 per 3 bedrooms, or portion thereof
Child Day Care	S	2500	25	95	15	10	20	3	40	30%	2
Home Occupation/Home Professional Office	A; S	2500	25	95	15	10	20	3	40	30%	dwelling unit requirement plus 1 per non-resident employee
Cemetery	P*	40,000			20	20	20	2	25	As determined by Planning Board	
College/University	P*				As Determined by City Planning Board and in accordance with facility master plan. *						
Community Center	S	5000	45	95	15	10	20	3	40	50%	
Community Parking Area	S	2500			5	5	5	4			
Cottage Industry	S	2500	25	95	15	10	20	3	45	60 percent	1 per 500 sq
House of Worship	P*	5000	45	95	15	10	20	3	40	50%	As determined by Planning Board
Private Recreational Facilities	A	5000	45	95	15	10	20	3	40	50%	As determined by Planning Board
Public Parks, Playgrounds	P										As determined by Planning Board
Agriculture	S										

*Single family residential is the only use permitted in the Single Family Residential district.

- 1) A detached dwelling may have less than the required side yard on one side if a ten-foot yard is provided by the adjacent use along the same lot line AND where the dwelling provides a ten-foot minimum side yard along the other side
- 2) Parking subject to Article IX.
- 3) Cooperative Houses in existence at the time this Chapter is adopted, must submit a complete application for a Special Permit to the City Planning Board within six months of this Chapter's adoption. Accessory structures and uses are permitted pursuant to Section 300-31. Accessory Uses and Structures, as well as other applicable sections of this Chapter.

Schedule of Bulk, Area and Parking Regulations

Medium Density Residential

Use	Use Type	Minimum Area Lot (sq. feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Yard (feet)	Minimum Side Yard Each (feet)	Minimum Rear Yard (feet)	Maximum Height (Stories)	Maximum Height (feet)	Maximum Lot Coverage %	Off-Street Parking Required
Apartment House*	P*	1,800 sq. dwelling unit	45	80	10	10	20	4	45	50%	0.75 per bedroom
One-Family detached dwellings, Two or Three Family Dwelling (new construction) (1)	P	2500	25	95	10	5	20	3	40	30%	2 per dwelling unit
Row or Attached Townhouse	P	2500	25	95	10	5	20	3	40	40%	1 per dwelling unit
Two, Three, or Four Family dwelling within a pre-existing building	P	2500	25	95	10	5	20	3	40	30%	1 per dwelling unit
Residential Care Facility	S	2500	25	95	10	5	20	3	40	30%	As determined by Planning Board
Cooperative House	P	2500	25	95	10	5	20	3	40	30%	2 per 3 bedrooms; or portion thereof
Bed & Breakfast	A; S	2500	25	95	10	5	20	3	40	30%	1 per guest room; 1 for dwelling unit
Boarding House	S	3500	30	80	10	5	20	3	40	40%	2 per 3 bedrooms; or portion thereof
Home Occupation/Home Professional Office	A; S	2500	25	95	10	5	20	3	40	30%	dwelling unit requirement plus 1 per non-resident employee
Live/Work	P*	2500	25	95	10	5	20	3	40	40%	2
Buildings, uses or facilities of Governmental Unit	P*	5000	45	95	15	10	20	3	40	50%	As determined by Planning Board
Cemetery	P*	40,000			20	20	20	2	25	As determined by City Planning Board.	
College/University	P*			As Determined by City Planning Board and in accordance with facility master plan. *							
Community Center	P*	5000	45	95	15	10	20	3	40	50%	As determined by Planning Board
Community Parking Area	S	2500			5	5	5	4			
Cottage Industry	S	2500	25	95	15	10	20	3	45	60 percent	1 per 500 sq. ft.
Child Day Care	S	2500	100	100	15	10	20	2.5	35	50%	2 per classroom
House of Worship	P*	5000	45	95	15	10	20	3	40	50%	As determined by Planning Board
Public Parks, Playgrounds	P										As determined by Planning Board
Professional Office	P	5000	45	95	15	10	20	3	40	50%	As determined by Planning Board
School of General Instruction	P*	15000	100	150	30	30	30	3	40	50%	1 per 16 students
Laundromat	P*	2500	25	95	10	10	10	3	35	70 percent	1 per 500 square feet
Nursing Home	S	15000	100	150	0	10	20	6	60	55 percent	1 per 4 beds, or as determined by City Planning
Neighborhood Retail	S	2500	25	95	10	10	10	3	35	70 percent	1 per 500 square feet
Agriculture	S										

1) A detached dwelling may have less than the required side yard on one side if a ten-foot yard is provided by the adjacent use along the same lot line AND where the dwelling provides a ten-foot minimum side yard along the other side lot line.

2) Where a dwelling shares a common wall meeting applicable building and construction codes, no side yard is required.

3) Boarding Houses in existence at the time this Chapter is adopted, must submit a complete application for a Special Permit to the City Planning Board within six months of this Chapter's adoption.

4) Parking subject to Article IX.

* New Construction of Apartment Houses in the Medium Density District is limited to 10 units per lot.

Accessory structures and uses are permitted pursuant to Section 300-31, Accessory Uses and Structures, as well as other applicable sections of this Chapter.

Schedule of Area, Bulk, and Parking Regulations
High Density Residential

Use	Use Type	Minimum Area Lot (sq. feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Yard (feet)	Side Yard Each (feet)	Minimum Rear Yard (feet)	Maximum Height (Stories)	Maximum Height (feet)	Maximum Lot Coverage %	Off-Street Parking Required
Apartment House	P	500 per dwelling unit	30	70	0	10	20	6	60	55 percent	0.75 per bedroom
Two, Three, or Four Family dwelling within a pre-existing building	P	2,000	20	70	0	5	20	4	45	55 percent	As determined by City Planning Board.
One-Family detached dwelling; Two or	P	2,000	20	70	0	5	20	3.5	45	55 percent	None
Residential Care Facility	S	2,000	20	70	0	5	20	4	45	55 percent	0.33 per bedroom (or as determined by City Planning Board)
Cooperative House	P	2,000	20	70	0	5	20	4	45	55 percent	None
Bed & Breakfast	A/S	2,000	20	70	0	5	20	4	45	55 percent	1 space per guest room (in addition to those required for dwelling unit)
Home Occupation / Home Professional Office	A/S	2,000	20	70	0	5	20	4	45	55 percent	0.33 per non-resident employees, in addition to dwelling unit requirement
Live/Work**	P*	2,000	20	70	0	5	20	4	45	55 percent	2
Buildings, Uses or Facilities of any Governmental Unit/ Public Library	P*/P	2,000	20	70	0	5	20	2.5	35	70 percent	As determined by Planning Board
Cemetery	P*	40,000			20	20	20	2	25	As determined by City Planning Board.	
College/University	P*				As Determined by City Planning Board and in accordance with facility master plan.						
Community Center	P*	5,000	45	95	15	10	20	3	40	50%	As determined by Planning Board
Public Parking	S				5	5	5	4	45		
Hospital	A				As Determined by City Planning Board and in accordance with facility master plan. *						
House of Worship/ Assembly Hall/ Funeral Home	P*	7,500	75	100	0	20	20	3	40	70 percent	1 per 5 seats
Public Parks, Playgrounds, Open Space	P										
School of General Instruction	P*	15,000	100	150	0	10	30	3	40	70 percent	1 per 19 students
Adult Day Care Center	P*	5,000	30	70	0	5	20	3	35	55 percent	1.5 per classroom
Child Day Care Center	S*	5,000	30	70	0	5	20	3	35	55 percent	1.5 per classroom
Hotel/Motel	P*/P	7,500	75	100	0	20	20	4	45	60 percent	1.0 per room; plus parking for accessory uses
Laundromat	P*	5,000	30	70	0	5	20	2	25	55 percent	1 per 500 square feet
Movie or Professional Theater	S							4	45	60 percent	1 per 4 seats
Nursing Home	S	15,000	100	150	0	10	20	6	60	55 percent	1 per 4 patient beds, or as determined by City Planning Board
Taxi Service	S	5,000	30	70	10	5	10	2	25	60 percent	1 per 300 sq. ft. plus adequate parking for all fleet vehicles
Automobile service/Repair	S	5,000	30	70	10	5	10	2	25	60 percent	2 per repair bay
Neighborhood Retail	S	2,500	25	95	10	10	10	3	35	70 percent	1 per 500 square feet
Professional Office	P	5,000	30	70	0	5	20	3	35	55 percent	As determined by Planning Board
Agriculture	S				As Determined by City Planning Board and in accordance with facility master plan.						

1) A detached dwelling may have less than the required side yard on one side if a ten-foot yard is provided by the adjacent use along the same lot line AND where the dwelling provides a ten-foot minimum side yard along the other side lot line.

- 2) Where a dwelling shares a common wall meeting applicable building and construction codes, no side yard is required.
 - 3) Boarding Houses in existence at the effective date of this Chapter, must submit a complete application for a Special Use Permit to the City Planning Board within six months of the effective date of this Chapter.
 - 4) Parking subject to Article IX.
- Accessory structures and uses are permitted pursuant to §300-31, Accessory Uses and Structures, as well as the other applicable sections of this Chapter.

Schedule of Bulk, Area and Parking Regulations
Commercial and Industrial Zones

Use	Commercial Type	Industrial Type	Commercial District Overlay/Neighborhood	Corridor Use Type	Minimum Front Yard (feet)	Minimum Side Yard Each (feet)	Minimum Rear Yard (feet)	Maximum Height (Stories)	Maximum Height (feet)	Maximum Lot Coverage (percent)	Off-Street Parking Required 2
Activity Facility	P*	P*	P*	P	—	—	—	4	45	60 percent	1 per 4 people allowed during maximum occupancy
Adult Day Care Facility	P*	P*	P*	P	—	—	—	4	45	60 percent	1 per 300 sf
Adult Uses	S	S	P*	—	—	—	—	4	45	60 percent	1 per 2 people allowed during maximum occupancy
Agriculture	P*	P*	P*	—	As Determined by City Planning Board and in accordance with facility master plan	—	—	—	—	—	—
Amusement Center	P*	P*	P*	S	—	—	—	—	—	60 percent	1 per 200 sf
Animal Care Facility	S	S	P*	S	—	—	—	4	45	60 percent	1 per 200 sf
Assembly Hall/Banquet Hall	P*	P*	P*	P*	—	—	—	4	45	60 percent	1 per 3 people allowed during maximum occupancy
Automobile Gasoline Station	S	S	S	—	10	5	10	1	15	60 percent	1 per 3 cars minus: plus parking for accessory uses
Automobile Service/Repair	S	S	S	—	10	5	10	2	25	60 percent	2 per repair bay
Automobile Wash	S	S	S	—	10	5	10	1	15	60 percent	—
Bank	P*	A	P*	P	—	—	—	4	45	60 percent	1 per 300 sf
Bar	P*	P*	P*	P	—	—	—	4	45	60 percent	1 per 150 sf
Billiard Parlor	P*	P*	P*	P	—	—	—	4	45	60 percent	1.5 per table
Boat Repair	P*	P*	P*	—	10	5	10	2	25	60 percent	As determined by City Planning Board
Bowling Alley	P*	P*	P*	P*	—	—	—	4	45	60 percent	3 per lane; plus parking for accessory uses if such
Brewing of malt beverages or distilled spirits primarily for on-site consumption	P*	P*	P*	P*	10	10	10	4	45	70 percent	1 per 1,000 square feet
Business or Professional Office	P	P	P	P	—	—	—	4	45	60 percent	1 per 300 sf
Cabaret	S	S	P	P	—	—	—	4	45	60 percent	1 per 100 sf
Car Rental	P*	P*	P*	P	10	5	10	2	25	60 percent	1 per 300 sf; plus adequate parking for rental
Cemetery	P*	P*	P*	P*	20	20	20	2	25	As determined by City Planning Board	As determined by City Planning Board
College/University	S	S	P*	P*	As Determined by City Planning Board and in accordance with facility master plan	—	—	—	—	—	—
Concessions	S	S	P*	P	—	—	—	4	45	60 percent	1 per 500 sf
Child Day Care Center	P*	P*	P*	P	10	10	10	3	35	70 percent	1 per 1,000 square feet
Distribution Facility/Warehouse	P*	P*	P*	P*	—	—	—	4	45	60 percent	As determined by City Planning Board
Drive-Thru	P*	P*	P*	P*	—	—	—	—	—	—	—
Dry Cleaner / Commercial Laundry	P*	P*	P*	P*	10	10	10	3	35	70 percent	1 per 500 square feet
Funeral Home	P*	P*	P*	P*	—	—	—	4	45	60 percent	1 per 100 sf OR, 1 per 5 seats in chapel, whichever
Hospital	A	A	P*	A/S	As Determined by City Planning Board and in accordance with facility master plan	—	—	—	—	—	—
Hotel/Motel	P*	P*	P*	P*	—	—	—	4	45	60 percent	1.0 per room; plus parking for accessory uses
House of Worship	P*	P*	P*	P*	0	20	20	4	45	70 percent	1 per 5 seats
Industrial Uses	P*	P*	P*	P*	10	10	10	3	35	70 percent	1 per 1,000 square feet
Membership Club	S	S	P*	P*	—	—	—	4	45	60 percent	As determined by City Planning Board
Movie or Professional Theater	S	S	P*	S	—	—	—	4	45	60 percent	1 per 4 seats
Museum	S	S	P*	P*	—	—	—	4	45	60 percent	1 per 300 sf
Nursing Home	S	S	P*	P*	0	10	20	6	60	55 percent	1 per 4 beds, or as determined by City Planning Board
Park	P	P	P	P	—	—	—	—	—	—	As determined by City Planning Board
Parking Area, Community	P	P	P	P*	5	5	5	4	45	—	—
Personal Services	P	P	P	P	—	—	—	4	45	60 percent	1 per 300 sf
Residential Care Facility	P*	P*	P*	P	—	5	20	4	45	55 percent	0.33 per sleeping room for as determined by City
Restaurant	P*	A	P*	P	—	—	—	4	45	60 percent	1 per 100 sf
Restaurant, Carry-Out	P*	A	P*	P	—	—	—	2	25	60 percent	1 per 100 sf
Restaurant, Fast-Food	P*	A	P*	P	—	—	—	2	25	60 percent	1 per 100 sf
Retail Store	P	A	P*	P	—	—	—	2	45	60 percent	1 per 300 sf
Retail, Neighborhood	P	A	P	P	—	—	—	4	45	60 percent	1 per 300 sf
Rooming House	S	S	P	S	—	—	—	4	45	60 percent	0.5 per boarding unit
Self Storage	P*	P*	P*	—	10	10	10	4	45	70 percent	1 per 1,000 square feet
Shopping Center	P*	P*	P*	—	—	—	—	4	45	60 percent	1 per 300 sf
Tattoo Parlor	P	P	P	P	—	—	—	4	45	60 percent	1 per 300 sf
Taxi Service	S	S	S	P	10	5	10	2	25	60 percent	1 per 300 sf; plus adequate parking for all fleet
Technical School	S	P*	S	S	—	—	—	4	45	60 percent	As determined by City Planning Board
Wholesale	P	P*	P	P*	10	10	10	4	45	70 percent	1 per 1,000 square feet

1) Must also comply with §300-53.

2) Pending subject to Article IX

3) Cemetery must have a minimum lot size of 40,000 square feet.

Accessory structures and uses are permitted pursuant to §200-31, Accessory Uses and Structures, as well as the other applicable sections of this Chapter.

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5. Protect and enhance scenic views;
 6. Encourage flexibility in the design of residential land uses that may not be permitted under traditional zoning regulations;
 7. Promote a range of housing types;
 8. Create on-site recreation opportunities;
 9. Promote integration with neighboring land uses through trails and waterfront access points.
- B) Allowable Uses. Any uses permitted by right in the residential R-1, R-Low, R-Med., R-High Districts.
- C) Definitions. For the purposes of this section, 'environmental resource areas' are areas of slopes over twenty percent (20%), delineated wetlands, streams, lakes, and their adjacent 100-foot buffers, one hundred (100) and five hundred (500) year floodplains and floodways, areas within the WPO, ridgelines, scenic view sheds, ecologically sensitive areas and other environmentally sensitive features determined by the City Planning Board.
- D) Standards.
1. Multiple parcels allowed. Contiguous parcels under common ownership may be considered as one 'site' under this section.
 2. Applications for Site Plan approval must be in keeping with, and further the goals stated in, the purpose and intent of this subsection.
 3. Dimensional Standards. The density and dimensional standards in §300-32 and all other density and dimensional regulations in this Chapter other than those contained in this section and the parking and loading requirements in Article IX, shall not apply and are superseded by this subsection. Dimensional and density standards shall be approved by the City Planning Board based on physical characteristics of the site, the character of the proposed development, relevant performance standards in this Chapter, and the requirements of the SEQRA process.
 - a) The number of dwelling units allowed in a CDD shall be equal to the gross area of the CDD site less the 'environmental resource areas'; the remaining number divided by three thousand (3,000) square feet.
 - b) Applicants in the CDD may be eligible for a density bonus of up to twenty percent (20%), at the discretion of the City Planning Board, based on the plan's furtherance of the purposes of this article.
 - c) Buildings shall have a maximum length of two hundred (200) feet.
 - d) Buildings shall have a maximum height of four (4) stories or fifty (50) feet. However, the City Planning Board may adjust the maximum allowable height in order to maintain compatibility with surrounding land uses or to protect important views or to protect, preserve, and enhance the environmental features of the site.
 - e) Maximum impervious coverage shall be fifteen percent (15%) of the total gross land area, including preserved open space areas.
 4. A minimum of fifty percent (50%) of the land area of the parcel shall be preserved by a permanent conservation easement or deed restriction as open space. Open space land preserved under this subsection may include ponds and streams, wetlands and

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wetland buffers, steep slopes, ridgelines, scenic view-shed areas, and recreational areas such as trails. It shall not include land that is covered by impervious surface other than trails or paths.

5. Each CDD site must include passive recreation on the site, such as walking trails.
 6. The development area shall be treated as a unit. Regardless of the form of ownership of the property or its division into separate parcels, the open space, and other dimensional requirements in this section shall apply to the entire area zoned CDD and not to any individual parcels or lots which are portions thereof.
 7. Off-street parking must be provided on the CDD site in accordance with requirements stated in Article IX. Parking areas must be screened from environmental resource areas and adjacent residentially zoned parcels, except where doing so would not further the goals of this section (i.e., parking areas of two adjacent CDD sites may abut each other without screening).
 8. Adequate internal circulation must be provided, including adequate access for emergency vehicles.
- E) Application Procedure. For any application within the Conservation Development District, the Applicant shall prepare a conservation analysis of the land (as described in Section §300-33D to be submitted with the Site Plan Application. The Site Plan Application in a CDD shall also contain such other information as the City Planning Board deems necessary to determine whether or not the Plan complies with the requirements of this subsection. The Site Plan Application package shall also include a management plan for the future of the proposed development as a unified entity.
- F) The City Planning Board shall refer applications for Site Plan approval under this section to the Conservation Advisory Council (CAC). The CAC has thirty (30) days from the referral to provide its comments on the application.

(§300-34 through §300-35 reserved)

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ARTICLE VI—HISTORIC OVERLAYDISTRICT

§300-36. Historic and Architectural Design Overlay Districts: Purpose

- A) The National Historic Preservation Act of 1966 established the national historic preservation program, which operates as a decentralized partnership between the federal government and the state. The 1980 amendments to the National Historic Preservation Act authorized the Certified Local Government (CLG) program, a federal-state-local preservation partnership. Under this program, the Secretary of the Interior certifies local governments as CLGs if they meet several requirements developed by the National Park Service and the State Historic Preservation Office (SHPO).
- B) To maintain CLG status, the City must adhere to requirements which include maintenance of a local historic preservation commission with the power to designate or recommend designation of historic properties; provide historic preservation guidance; and approve or disapprove demolition, relocation, new construction, or exterior alteration affecting designated properties within its jurisdiction.
- C) Based on the above authority, and inasmuch as the City of Newburgh has many significant historic, architectural and cultural resources which constitute its heritage, this section is intended to establish an Architectural Review Commission:
 - 1. To foster public knowledge, understanding, and appreciation in the beauty and character of the City of Newburgh, and in the accomplishments of its past;
 - 2. To ensure the harmonious, orderly, and efficient growth and development of the City;
 - 3. To enhance the visual character of the city by encouraging new design and construction that complements the City's historic buildings;
 - 4. To protect and promote the economic benefits of historic preservation to the City, its inhabitants and visitors;
 - 5. To protect property values in the City;
 - 6. To promote and encourage continued private ownership and stewardship of historic structures;
 - 7. To identify as early as possible and resolve conflicts between the preservation of historic landmarks/districts and alternative land uses; and
 - 8. To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.
- D) Scope. In 1977 the Newburgh City Council designated the East End Historic District. In 1985 the district was enlarged and added to the National Register of Historic Places. The Colonial Terraces was added and Design Guidelines adopted by City Council in 2005.

§300-37. Architectural Review Commission

- A) Creation and Membership. There is hereby continued a Commission to be known as the "City of Newburgh Architectural Review Commission (ARC). The ARC shall consist of seven (7) members to be appointed by the City Manager as follows:

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1. At least one shall be an historian; such member may be a nonresident of the City;
 2. At least three shall be residents of a historic district or architectural design district established within the city or residents of a designated individual landmark building;
 3. At least one shall be an architect; such member may be a nonresident of the City;
 4. All should have demonstrated significant interest in and commitment to the field of historic preservation or architecture evidenced by involvement in a local or regional historic preservation group, employment or volunteer activity in the field of preservation planning, or other serious undertaking in the field of historic preservation.
 5. Except as provided above, all members shall be residents and shall have an interest in historic preservation and architectural development within the City of Newburgh;
 6. In the event that individuals cannot be identified to fulfill the qualifications of (1), (2), (3) or (4) above, members who fulfill (4) may be appointment.
- B) Members shall serve a term of five (5) years from their most recent appointment.
- C) Two (2) alternate members of the ARC shall be appointed by the City Manager for a term of two (2) years, commencing on the date of appointment. These members shall serve when members are absent or unable to participate on an application before the ARC. The Chairman of the ARC may designate an alternate substitute for a member when such member is unable to participate on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of every ARC meeting at which the substitution is made. All provisions of state law and local law, codes, rules and regulations relating to ARC member eligibility, vacancy in office, or removal, compatibility of office and service on other boards, as well as any provisions of any local law or local ordinance relating to training, continuing education, compensation and attendance, performance of duties, qualifications and others, shall also apply to alternate members.
- D) Chairman. The Chairman shall be appointed by the City Manager. If the City Manager shall not appoint a Chairman, then the Chairman shall be elected by the members of the ARC.
- E) Vacancies occurring other than by expiration of term shall be filled for the remainder of the unexpired term in the same manner as the original appointments.
- F) Meetings. The ARC shall meet at least monthly, but may be held at any time on the written request of the majority of ARC members or on the call of the Chairman.
- G) Secretary. The secretary is a staff member of the City, and not a voting member of the ARC. The Secretary shall keep and make available to the public on request all records of meeting minutes, attendance, resolutions and reports.

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- H) Quorum. A quorum for the transaction of business shall consist of four (4) of the ARC members. A majority of the full authorized membership is required to grant a Certificate of Appropriateness or designate a landmark, historic district or architectural design district.
- I) Training. Each member shall complete a minimum of four (4) hours of training each year, designed to assist the members to be more effective in carrying out their duties.

§300—38. Powers and Duties of the ARC

- A) The ARC shall exercise aesthetic judgment to maintain the character of historic and architectural design districts, or a landmark, and to prevent construction, reconstruction, alteration or demolition, which would be out of harmony with the architectural aesthetics, style, materials, colors, line and details of the district and/or landmark.
- B) In addition to the aforementioned powers, the powers of the ARC shall include:
 - 1. Adoption of criteria for the identification of significant local historic, architectural, and cultural landmarks and for the delineation of historic districts.
 - 2. Conduct surveys of significant historic, architectural, and cultural landmarks and historic districts within the City.
 - 3. Recommend to the city Council the designation of a local building, structure or property or a collection of buildings, structures or properties as a local landmark, historic district or architectural design district, hereafter referred to as “designated properties.”
 - 4. Recommend to the State Historic Preservation Office the listing of any local landmark for inclusion on the State Register of Historic Places.
 - 5. Increasing public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs.
 - 6. Provide advice and guidance to owners, contract vendees, and residents of historic districts on financing sources that are available specifically to properties within the historic districts, such as the federal Historic Rehabilitation Tax Credit and Property Tax Abatements.
 - 7. Approval or disapproval of applications for Certificates of Appropriateness pursuant to this article as to designated properties pursuant to this article and as to all changes in exterior features or demolition of designated properties duly established by ordinance of the City, with the exceptions of those changes stated in Section §300-40(A)(4) of this Chapter.

§300.39 Designation of Landmarks or Historic Districts or Architectural Design Districts

The commission shall delineate landmarks or historic districts and recommend them to the City governing board for designation under local law.

- A) Local Landmark Designation.
 - 1. The ARC may make a recommendation to the City Council for the local designation of a structure, building or property as a landmark if it:

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- (a) exemplifies or possesses special character, or historic or aesthetic interest of value as part of the political, economic, or social history of the City;
 - (b) is identified with persons or events significant in local, state, or national history;
 - (c) embodies the distinguishing characteristics of a type, period or method of construction or design style, or is a valuable example of the use of indigenous materials or craftsmanship; or is representative of the work of a designer, architect or builder;
 - (d) represents an established and familiar visual feature of the community by virtue of its unique location or singular physical characteristic, represents an established and familiar visual feature of the community; or
 - (e) has yielded or may be likely to yield information important in prehistory or history.
2. Notice of a proposed designation shall be sent by certified mail to the owner of the property proposed for designation at the address on file for said property owner with the city Assessor, describing the property proposed and announcing a public hearing by the City Council to consider the designation. The proposal shall also be published at least once in all official newspapers of the City at least five (5) days prior to the date of the public hearing. Once the City Council has issued notice of a proposed designation, no building permit shall be issued by the Building Inspector until the City Council has made its decision.
 3. The City Council shall hold a public hearing prior to designation of any local landmark. The ARC, owners, and interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural, or cultural importance of the proposed landmark. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.
 4. The City Council shall forward notice of each property designated as a local landmark to the office of the Orange County Clerk for recordation.
 5. The location of each local landmark designated henceforth shall be specified in detail and shall be filed, in writing, in the Building Inspector's office for public inspection.
- B) Historic District or Architectural Design District.
1. The ARC may recommend to the City Council the designation of a group of properties as a local historic district or architectural design district if the proposed district:
 - a) Contains properties which meet one or more of the criteria for designation of a landmark; and
 - b) By reason of possessing such qualities, constitutes a distinct section of the City.
 2. Designation of an historic district or architectural design district represents an amendment to this Chapter and Zoning Map and shall be done in accordance with procedures contained in §300-39 of this Chapter and in accordance with Section 83 of the General City Law of the State of New York.
 3. The location of each local historic district or architectural design district designated henceforth shall be specified in detail and shall be filed, in writing, in the Building Inspector's office for public inspection.
 4. The location of each historic district or architectural design district shall be shown as an overlay district on the City of Newburgh Zoning Map.

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5. The City Council shall forward notice of each designated historic district or architectural design district to the office of the Orange County Clerk for recordation.

§300-40 Certificate of Appropriateness

A) Certificate required:

1. The City of Newburgh Architectural Review Commission is responsible for the approval or disapproval of proposals for exterior changes to a historic property designated under local law. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or move of a designated historic landmark or property within a designated historic district without first obtaining a Certificate of Appropriateness that authorizes such work from the City of Newburgh ARC.
2. The building department shall receive and file all applications issued for any individual landmark, or landmarks or historic district to which this local law applies. The building department shall transmit a copy of any such application to the commission.
3. The building department may set up a preliminary review at the request of the applicant, which will include an informational overview of process and requirements.
4. The commission may require that the application for certificate of appropriateness (COA) be supplemented by such additional information or materials as may be necessary for a complete review by the commission. The commission may impose such reasonable conditions or restrictions as it is necessary or appropriate on a case-by-case basis to promote or achieve the purpose of this Article.
5. Exemptions: The following activities do not require a Certificate of Appropriateness under this Article:
 - a) Repair, replacement and installation of electrical, plumbing, heating and ventilation systems, provided that such work does not affect the exterior of the structure.
 - b) Caulking, weather stripping, glazing and repainting of windows.
 - c) Repair of porches, cornices, exterior siding, doors, balustrades, stairs or other trim when the repair is done in-kind to match historic material and form.
 - d) Repair of storm windows (exterior, interior or wood), provided they match the shape and size of historic windows and that the meeting rail coincides with that of the historic window; color should match the window frame trim.
 - e) Installation of new window jambs or jamb liners.
 - f) Repair or replacement of awnings when work is done in-kind to match existing materials and form.
 - g) Roof repair of historic roofing with materials that matches the existing material in form or better.
 - h) Repair of gutters and downspouts that match the existing material in form or better.
 - i) Installation of insulation where exterior siding or trim is not altered or damaged and is not inset from the insulation or stays proud of the building plane as intended.
 - j) Repair of existing roads, driveways, sidewalks and curbs, provided that work

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- is done so that there are no changes in dimension or configuration of those features. Concrete used for sidewalks, curbs and driveway aprons shall be dyed in the mix prior to placing to emulate bluestone in the historic district.
- k) Exterior lead paint abatement that includes scraping and repainting of exterior work and masonry surfaces.
 - l) Repair of fencing when work is done in-kind to match existing material and form.
 - m) Repair or replacement of water, gas, storm or sewer lines.
 - n) Emergency repairs necessitated by a casualty to the property (fire, storm, flood, etc.)
- B) In passing upon an application for a Certificate of Appropriateness, the ARC shall not consider changes to interior spaces, unless they are open to the public, or to architectural features that are not visible from a public place, public street, or alley; unless the designation of the property in the historic record documents interior features of the property.
- C) Decision-Making. The ARC's decision shall be based upon the following principles:
- 1. Designated properties which contribute to the character of an historic district or architectural design district shall be retained, with their historic or architectural features altered as little as possible.
 - 2. Any alteration of a designated property shall be compatible with its historic character as well as with the surrounding district; and
 - 3. New construction shall be compatible with the district in which it is located and in harmony with the design guidelines established for such district.
 - 4. Items not contemplated at the time of this or other reference publications shall be at the discretion of the ARC.
- D) Principles of Compatibility. The ARC shall consider the following factors:
- 1. The general design, character, and appropriateness to the property of the proposed alteration or new construction.
 - 2. The scale of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood.
 - 3. Texture, materials, and color and their relation to similar features of other properties in the neighborhood.
 - 4. Visual and aesthetic compatibility with surrounding properties, including proportion of the property's front façade, proportion and arrangement of windows and other openings within the façade, roof shape, and the rhythm of spacing of properties in streets, including setback.
 - 5. The importance of historic, architectural or other features to the significance of the property.
 - 6. The proposed action's consistency with design guidelines established for an historic or architectural design district.
- E. Special Demolition Considerations. In considering applications for demolition, the ARC shall consider:
- 1. Whether the building or structure is dangerous to health, safety or life.
 - 2. The extent, significance, and expense of repairs needed to maintain the structure in good repair.
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3. The historic value of the structure or property.
4. The contribution of the structure or property to community character, or an existing, locally-designated historic or architectural district.
5. The existence and extent of hardship criteria, including whether:

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- a) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible, without being allowed the proposed demolition.
 - b) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return, without being allowed the proposed demolition.
 - c) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
6. The potential of relocating the building and any other information considered necessary by the ARC.
- F) Certificate of Appropriateness Application Procedure. Prior to the commencement of any work requiring a certificate of appropriateness, the property owner, or contractor with written authorization of the owner, shall file an application for a building permit with the City of Newburgh Building Inspector and an application for such certificate with the commission. The application shall contain the following:
1. Name, address, and telephone number of applicant;
 2. Building permit application number as assigned by the building department;
 3. Location and photographs of property;
 4. Name of the NYS Registered Design Professional (i.e. Registered Architect) hired by the Applicant. Unless the residential homeowner creates the drawings themselves, all drawings submitted by a NYS RDP must have the seal and signature of the Licensee;
 5. Elevation drawings of proposed changes, if available;
 6. Perspective drawings, including relationship to adjacent properties, if available;
 7. Samples of building materials to be used, including their proposed color;
 8. Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property; and any other information which the commission may deem necessary in order to visualize the proposed work;
 9. Copies of all SEQRA documents and proceedings.
 10. Upon submission of a complete application, the commission shall have the authority to, without public hearing and notice:
 - a) determine whether the proposed work constitutes ordinary maintenance and repair for which a certificate of appropriateness is not required;
 - b) approve work which is considered replacement-in-kind;
 - c) approve work that is of any other type that has been previously determined by the commission to be appropriate for delegation to staff.
- G) Consent Agenda. The ARC is empowered to consider and approve multiple applications with a single motion which have been placed on a consent agenda. The decision shall be based on:
1. The nature and extent of the alteration or demolition being proposed.
 2. The degree to which the application is in conformance with the appropriate Design Guidelines.

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3. Written 'Consent Agenda Guidance', approved by the ARC regarding paint colors, materials, and items generally suitable for specific purposes within the district.
 4. Items placed on the Consent Agenda shall be listed on the ARC's meeting agenda and announced at the meeting. A majority vote of the ARC members present at the meeting may remove an item from the Consent Agenda and place it on the regular agenda for full consideration by the ARC.
 5. The Chair of the ARC shall entertain a motion to approve items placed on the Consent Agenda upon hearing no objection to the applications remaining on the list.
 6. Applicants with items pending on the Consent Agenda do not need to attend the ARC meeting at which their application is being considered.
- H. No building permit shall be issued for such proposed work until a Certificate of Appropriateness has first been issued by the ARC. The Certificate of Appropriateness required by this section shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the City of Newburgh.
- I. In such cases when the current property owner does not plan on carrying out the work applied for, but rather wants to transfer the COA approval to a subsequent owner, the ARC approval shall be conditioned upon completion of the approved scope of work within a reasonable time-frame or twenty-four (24) months . Renewals of such conditions may be granted at the sole discretion of the ARC upon application at least thirty (30) days prior to the expiration of the time limit.
- J. The ARC shall approve, deny, or approve the application for a certificate with modifications within sixty (60) days from the closing of the public hearing, if any, and otherwise within sixty (60) days from the receipt of the completed application. The ARC shall hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views. Notice of such public hearing shall be published in the official newspaper of the City of Newburgh at least five (5) days prior to said hearing.
1. A public hearing shall not be required for an application limited to approval of paint color or repair or maintenance of a building or structure or property that does not involve the alteration or removal of any exterior feature.
 2. A public hearing shall not be required for items on the Consent Agenda.
- K. All decisions of the ARC shall be in writing. A copy shall be sent to the Applicant by regular mail and a copy filed with the Building Inspector's office for public inspection.

§300-41. Appeal of COA Decision, Hardship

- A) An applicant whose certificate of appropriateness for a proposed alteration of a landmark property has been denied may apply for relief on the ground of economic hardship. In order to prove the existence of economic hardship related to a proposed alteration, the applicant shall establish that the denial of a certificate of appropriateness will prevent the property

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owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible.

- B) Consultation; Plan Development. The applicant shall consult in good faith with the commission, local preservation groups, and other interested parties in a diligent effort to seek an alternative that will result in appropriate preservation of the property. The consulting parties may include interested purchasers, as well as preservation and other interested organizations, public agencies, developers, real estate agents and individuals who may be instrumental in developing an economically feasible solution.
- C) Economic Hardship; Criteria. Following the denial of a certificate of appropriateness, the applicant may request a certificate of economic hardship. In all cases other than a proposed demolition, removal or relocation, the applicant shall prove the existence of economic hardship by demonstrating to the commission that: (1) the applicant cannot realize a reasonable return if compliance with the commission's decision is required, provided, however, that the lack of reasonable return is proven by the applicant to be substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested relief, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.
- D) The commission, in the granting of a certificate of economic hardship, shall grant the minimum terms deemed necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health safety and welfare of the community.
- E) Public Hearing.
 - 1. The commission may hold a public hearing on the hardship application at which an opportunity will be provided for the applicant and public to present their views on the hardship application.
 - 2. If no public hearing is held, the commission must render a decision on the hardship application within sixty two (62) days following its receipt of a complete application.
 - 1. A complete application includes the conclusion of all activities under (c) initiated to consult with necessary parties to determine whether the property may be preserved or rehabilitated in a manner that alleviates the hardship that would otherwise result while substantially accomplishing the goals of this local law.
 - 2. A complete application also includes receipt by the commission of all submissions necessary to meet the applicant's burden of proof.
 - 3. Following the submission of a complete application, the commission may schedule a public hearing within a reasonable time and determine within 62 days following to the close of any public hearing held on the application whether the applicant has met his or her burden of proof.

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F) Commission Decision.

1. If the commission finds that the applicant's burden of proof has not been met, the commission shall deny the application for a certificate of economic hardship.
2. If the commission finds that the applicant's burden of proof has been met, the commission shall issue a preliminary determination of landmarks or economic hardship within 62 days of the close of any public hearing held on the application or within 62 days after the commission has received a complete application.
3. Within 62 calendar days following the commission's preliminary determination of economic hardship the commission must make a final determination.
4. A decision of the commission on the hardship application shall be in writing and shall state the reasons for granting or denying it. A copy shall be sent to the applicant by certified mail/return receipt requested or courier service with proof of delivery or personal service with proof of delivery and a copy filed with the City clerk's office for public inspection.

G) No building permit or other land use approvals shall be issued unless the commission grants the hardship application. If the hardship application is granted, the commission shall approve only such work as is necessary to alleviate the hardship.

§300.42 Demolition, Removal, or Relocation of Landmark Buildings

- A) Demolition of an individual landmark or of a structure located in and contributing to the significance of a historic district shall be allowed only in case of economic hardship, unless the building department, upon due deliberation has made an express written finding that the structure presents an imminent threat to the public health, safety and welfare.
- B) Any person desiring to demolish a designated historic building shall first file an application for a historic building demolition permit with the building department and an application for such certificate with the commission. An applicant must submit the following items:
1. Current level of economic return;
 2. Amount paid for the property, date of purchase, party from whom purchased, and relationship between the owner of record, the applicant, and person from whom property was purchased;
 3. Annual gross and net income from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;
 4. Remaining balance on the mortgage or other financing secured by the property and annual debt-service, if any, during the prior three (3) years;
 5. Real estate taxes for the previous four (4) years and assessed value of the property according to the two (2) most recent assessed valuations;
 6. All appraisals obtained within the last two (2) years by the owner or applicant in connection with the purchase, financing, or ownership of the property;

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7. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other;
 8. Any state or federal income tax returns relating to the property for the last two years;
 9. Any listing of property for sale or rent, price asked, and offers received, if any, within the previous two (2) years, including testimony and relevant documents regarding: (a) any real estate broker or firm engaged to sell or lease the property, (b) reasonableness of price or rent sought by the applicant, or (c) any advertisements placed for the sale or rent of the property;
 10. Feasibility of alternative uses for the property that could earn a reasonable return;
 11. Report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any buildings on the property and their suitability for rehabilitation;
 12. Cost estimates for the proposed construction, alteration, demolition, or removal, and an estimate of any additional cost that would be incurred to comply with the requirements for a certificate of appropriateness;
 13. Estimated market value of the property: (a) in its current condition; (b) after completion of the proposed alteration or demolition; and (c) after renovation of the existing property for continued use;
 14. Expert testimony or opinion on the feasibility of rehabilitation or reuse of the existing structure by an architect, developer, real estate consultant, appraiser, and/or other real estate professional experienced in historic properties and rehabilitation;
 15. Any evidence of self-created hardship through deliberate neglect or inadequate maintenance of the property; and
 16. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
- C) Demolition of any such building may be approved only in connection with approval of a replacement project.
- D) The commission shall hold a public hearing and shall take one of the following actions:
- (1) Approve the demolition permit in conformance with the provisions F of this Article below,
 - (2) Approve the demolition hardship permit subject to a waiting period of up to one hundred twenty (120) days to consider relocation/documentation;
 - (3) Deny the permit.
- E) During the continuance period, the commission may investigate relocation of the building (on site) or modification of the building for future uses in a way which preserves the architectural and historical integrity of the building.
- F) Demolition, Removal or Relocation Hardship Criteria
1. Certificate of appropriateness for demolition, removal or relocation. An applicant whose certificate of appropriateness for a proposed demolition, removal or relocation of a landmark, resource or property has been denied may apply for relief on the ground of economic hardship. In order to prove the existence of economic hardship sufficient to justify demolition, removal, or relocation, the applicant shall establish that the denial of a certificate of appropriateness will prevent the property owner from earning a

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- reasonable return on investment, regardless of whether that return represents the most profitable return possible.
2. Certificate of Appropriateness for Demolition. The applicant for a certificate of appropriateness for demolition must establish to the commission's satisfaction, an imminent plan of reuse or redevelopment of the affected property. The applicant for an income-producing property shall establish that:
 - a) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and,
 - b) the property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and,
 - c) efforts to find a purchaser interested in acquiring the property and preserving it have failed.
 - d) In deciding upon such application for removal, relocation or demolition, the commission may consider whether the owner has created his own hardship through waste and neglect, thereby permitting the property to fall into a serious state of disrepair.
 3. Before approving the removal, relocation or demolition of an individual landmark or structure within a historic district, the commission may suspend the application for up to one hundred and eighty (180) days to allow the applicant to consult in good faith with the commission, local preservation groups, and the public in a diligent effort to seek a less intrusive alternative to demolition.

§300.43. Administration and Enforcement

- A) Enforcement. All work performed pursuant to a Certificate of Appropriateness issued under this article shall conform to the requirements stated in the Certificate or reasonably implied therein. It shall be the duty of the Building Inspector to periodically inspect any such work to assure compliance with the Certificate and all applicable law. In the event any requirement included in the Certificate of Appropriateness has not been met, or upon notification of that fact by the historic preservation commission, the Building Inspector shall issue a stop-work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop-work order is in effect.
- B) Any owner or person in charge of a property who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this local law in the absence of a certificate of appropriateness, a finding of economic hardship, or other approval by the commission, may be required by the City Council to restore the property and its site to its appearance prior to the violation.
- C) Maintenance Required. Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district which does not involve a change in the design, material, color, or outward appearance. No owner or person with an interest in a designated property shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural or historic feature which would, in the judgment of the ARC,

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produce a detrimental effect upon the character of a historic or architectural district as a whole or the life and character of a landmark. Examples of such deterioration include:

1. Deterioration of exterior walls or other vertical supports;
2. Deterioration of roofs and other horizontal members;
3. Deterioration of exterior chimneys;
4. Deterioration or crumbling of exterior stucco or mortar;
5. Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors and
6. Deterioration of any features so as to create a hazardous condition which could lead to a claim that demolition is necessary for the public safety.

D) Violations. If, in the judgment of the commission, a violation exists that will result in a detrimental effect upon the life and character of a designated historic resource, landmark, property or on the character of a historic district as a whole, the commission shall notify the Building Inspector. If, upon investigation, the Building Inspector finds non-compliance with the requirements of the Property Maintenance Code of the New York State Fire Prevention and Building Code, or any other applicable law or regulation, the building inspector shall order such remedies as are necessary and consistent with this local law and shall provide written notice thereof to the secretary of the commission.

E) Penalties

1. Failure to comply with any of the provisions of this article shall be deemed a violation, and upon conviction the violator shall be liable to a fine of not less than \$500 or fifteen (15) days in jail or both for each day the violation continues.
2. Any person who demolishes, alters, constructs or permits a designated property to fall into a serious state of disrepair in violation of this article shall be required to restore the property and its site to its appearance prior to the violation. An action to enforce this subsection may be brought by the City in any court of competent jurisdiction. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

F) Appeals. Any person aggrieved by a decision of the commission relating to a certificate of economic hardship or a certificate of appropriateness may, within fifteen (15) days of the decision, file a written appeal to the City governing board for review of the decision. Appellate review shall be based on the same record that was before the commission and using the same criteria in this Article.

G) Termination of Certificate of Appropriateness: An approved Certificate of Appropriateness shall terminate and become void if there is no building or demolition permit filed with Building Inspector as per §300-11 and §300-12 of this Chapter, within twenty-four (24) months of the date of approval.

§300-44. Designation of Districts and Standards

A) Design Guidelines. The City Council, by resolution, may adopt design guidelines for any historic or architectural design district. Said design guidelines shall be drafted with the

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input and participation of the ARC and owners of property located within the district. A public hearing shall be held prior to the adoption of design guidelines, and notice of said public hearing shall be in accordance with section §300-39.

- B) The ARC, in its deliberations, shall be guided by design guidelines that have been duly adopted by the City Council in any review authorized herein.
- C) The East End Historic District. The ARC, in its deliberations, shall be guided by the East End Historic District Guidelines, duly adopted by the City Council by ordinance No. 2-2008, dated February 25, 2008 and by the City Council's adoption of the CLG update scheduled for 2015.
- D) Colonial Terraces Architectural Design District. The ARC, in its deliberations, shall be guided by the 'Colonial Terraces Design Guidelines' duly adopted by the City Council by Ordinance No. 3-2-5, dated June 20, 2005.

(§300-45 reserved)

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ARTICLE VII—OTHER OVERLAY DISTRICTS

§300-46. Waterbody Protection Overlay (WPO) District

- A) Purpose and Intent. The Waterbody Protection Overlay District (WPO) is established to provide protection to the City's waterbodies, creek and stream corridors. Creating and preserving vegetated stream and creek buffers will be protective of water quality, will prevent erosion and preserve and enhance animal habitat and plants to sustain the ecological services provided by aquatic resources such as ponds, lakes, and streams. It is also imperative to note the designation of the Hudson River as a National Heritage Site in the mid-Hudson region.
- B) The purpose of this section is to regulate land uses within or adjacent to a stream corridor or waterbody to protect water quality, habitat and biodiversity, and scenic resources, and to reduce the risk of damage from flooding. It is important to note that the entire Quassaick Creek Watershed, which originates in Ulster County, and drains the northeastern portion of Orange County, flows through the City of Newburgh to the Hudson River. It is therefore imperative to the protection of public health, safety, and welfare to appropriately manage development adjacent to this critical resource. The primary goals of the WPO are to:
1. Promote the ecological health, biodiversity and natural habitats of the creeks, stream corridors and waterbodies with the City of Newburgh by:
 - a) Maintaining and restoring riparian buffer vegetation;
 - b) Minimizing stream channel constraints; and
 - c) Other best management practices.
 2. Provide for responsible development of parcels adjacent to the City's creeks, streams and waterbodies.
 3. Protect public health and welfare by preserving water quality, filtering pollution and sediments and reducing the risk of damage from flooding.
 4. Enhance the aesthetic character of the City's creeks, streams and waterbodies, which are a source of civic pride.
 5. Promote public access to the shore of the creeks, streams and waterbodies.
 6. Re-orient development to feature the streams, creeks and waterbodies and allow the public to use the shore and the water resources for passive and active recreation.
 7. Promote public awareness of the vital ecological and historic value of the mapped waterbodies of the City of Newburgh.
- C) Boundaries. The Water Protection Overlay District includes all land lying within one hundred (100) feet of the top of the bank on each side of the following waterbodies. Where there is no clearly defined bank, the district boundary shall be measured from the mean high-water line of the waterbody. Where there are steep slopes – also protected from development, the measurement will be from the top of the bank and continued along the top of the slope where it levels off until one hundred (100) feet is met.
1. Quassaick Creek
 2. Gidneytown Creek
 3. Harrison Pond

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4. Strook's Pond to the east of Harrison Pond and west of Gidneytown Creek
 5. Crystal Lake
 6. Muchattoes Lake
 7. Unnamed Ponds (2) southwest of Crystal Lake
 8. Unnamed Stream that flows into and out of Crystal Lake and is tributary to the Quassaick Creek. (Note: The portion of this unnamed stream northeast of Crystal Lake is not mapped on the National Hydrography dataset and is not accurately mapped by the NYS DEC.)
 9. That portion of the Hudson River that is not within the Planned Waterfront District (PWD) Zoning District.
- D) Regulatory Effect and Land Uses. The requirements of the Waterbody Overlay District shall apply to parcels that have any part within the WPO District, as shown on the zoning map, not just the portion of parcels within the WPO. The requirements of this section will be in addition to the requirements of the underlying zoning district.
- E) Setbacks. Within the WPO District, no principal structure shall be located within one hundred (100) feet of a creek, stream or waterbody, and no accessory structure two hundred (200) square feet or greater shall be located within fifty (50) feet of a watercourse. These setbacks shall not apply to docks, piers, bridges, and other structures, which, by their nature, must be located on, adjacent to, or over the watercourse. For purposes of determining setbacks, measurements shall be horizontal distances measured from the top of the bank or mean high-water line, as appropriate. For lots in existence prior to the effective date of this Chapter, and for any project for which an environmental impact statement has been prepared, the City Planning Board may modify these setback requirements, provided that the City Planning Board finds that the proposed construction will comply with the Subsection §300-46(F)(2).
- F) Site Plan Approval Requirement. Within the WPO District, no person shall clear, fill, dredge, excavate, deposit materials, or undertake any construction activities within the WPO without Site Plan approval as detailed in this Section.
1. All parcels having any part within the WPO shall be subject to Site Plan review and approval and may not be exempted from that requirement based on §300-46.
 2. The City Planning Board shall refer the Site Plan application to the Conservation Advisory Council. The CAC has thirty (30) days from the date of referral to provide its comment on the application.
 3. The City Planning Board may only grant site Plan approval for any of the activities noted in §300-31 if it finds the proposed activity is compliant with the following appropriate conditions:
 - a) The proposed activity will not result in erosion or pollution from surface or subsurface runoff. In making such determination, the City Planning Board shall consider slopes, drainage patterns, water entry points, soils erosion, depth to bedrock and high-water table, and other relevant factors.

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The proposed activity includes appropriate measures to minimize stormwater quantity and velocity, improve stormwater quality, promote inflow and infiltration, protect stream and lake/pond banks from erosion, improve the water quality of the City's waterways, and increase public awareness of these critical resources. This section applies to the entire parcel, not just the portion of the parcel within the WPO. These measures may include any of:

1. Vegetated stream-bank buffers;
 2. Rain Gardens and bio-retention swales;
 3. Storage and reuse of roof, sidewalk, and parking lot runoff;
 4. Pervious paving materials;
 5. Appropriately placed, designed, and managed constructed wetlands;
 6. Public access to resource;
 7. Public education materials (signs, kiosks, viewing areas, etc.);
 8. Other measures identified by the City, County, State or regional planning entities as appropriate to further the goals specified above.
- b) Any areas of natural resource preservation on the Site shall be linked, to the extent practical, with preservation areas on adjacent parcels.
 - c) The proposed activity would provide passive, non- permanent recreation and walking trails and/or public pedestrian access to the creek, stream or waterbody and will comply with all other applicable provisions of this Chapter.
 - d) Any new encroachment into the WPO has been demonstrated to be, in the City Planning Board's opinion, the only practicable alternative, taking into consideration other alternatives requiring no or lesser impacts within the WPO.
 - e) Any encroachment into the WPO is required so as not to deprive the owner of all reasonable returns on investment relating to the development of their parcel, if said parcel is in an undeveloped condition and in single ownership.
 - f) The planting and keeping of gardens in areas already cleared of natural vegetation and currently existing in a maintained condition (i.e. lawn).
 - g) The proposed activity will not result in degradation of scenic character and will be compatible with its surroundings.
4. If a Special Use Permit, Variance or Subdivision approval is required in connection with a project located in the WPO and subject to the provisions herein, the requirements of this section shall be considered in such a proceeding, and no separate Site Plan approval shall be required.

G) Erosion and Stormwater Management

1. For any Special Use Permit, Site Plan, Variance, or Subdivision application in which the area to be disturbed lies partially or wholly within the WPO, an erosion and sediment control plan shall be required pursuant to the Stormwater Management regulations in Chapter 248 of the Code of the City of Newburgh pursuant to § 248-60 (A).

H) For lots in existence prior to the effective date of this Chapter that are currently developed with a building, parking lot, or any other impervious surface within the WPO, and are applying for amendments to their Site Plan, Subdivision, Special Use Permit or Variance, at the time of application

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1. No increase in the amount of the WPO covered by impervious surface is allowed;
2. Site Plans must make maximum use of Low Impact Development techniques and other water quality/quantity improving development tools described in §300-86(F)(2)(b).

§300-47. Neighborhood Commercial Overlay District

- A) The purpose and intent of the Neighborhood Commercial Overlay District (NC) is to:
1. Recognize the existing development pattern within the area of the City along the gateways to the city and westernmost portion of Broadway.
 2. To allow multiple uses within buildings and within lots in order to promote market-driven uses and redevelopment within targeted areas of the City, as identified in the Future Land Use Plan.
- B) Within the NC Overlay District, the following uses are added to the list of uses permitted as of right but require site plan approval.
1. Retail Store
 2. Restaurant
 3. Personal Services
 4. Professional Office
 5. Mixed Use
 6. Animal Care Facility
 7. Adult Day Care Facility
 8. Child Care Center
 9. Technical School
- C) Off-Street Parking. Off-street parking required for the uses listed in paragraph (B) shall be the same as those listed for the "C-Commercial" district.
- D) Bulk and area requirements for the uses listed in paragraph (B) above shall be the same as the underlying zoning.

(§300-48 through §300-50 reserved)

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ARTICLE VIII—SUPPLEMENTARY REGULATIONS

§300-51. Environmental Performance Standards

- A) Compliance with Performance Standards. No use shall hereafter be established, altered, moved or expanded unless it complies with the performance standards set forth in this section. Continued conformance with such standards, once applicable, shall be a requirement for the continuance of any Certificate of Occupancy.
- B) Purpose of Performance Standards. Consistent with the general purposes of this Chapter, performance standards shall set specific controls on potentially objectionable external aspects of all uses in order to:
1. Reduce to a reasonable minimum the dissemination of smoke, gas, dust, odor or other atmospheric pollution outside the building in which the use is conducted.
 2. Control noise and light perceptible beyond the boundaries of the site of the use.
 3. Limit the discharge of treated wastes and prohibit the discharge of untreated wastes into any watercourse.
 4. Limit the dissemination of vibration, heat or electromagnetic interference beyond the immediate site on which the use is located.
 5. Limit physical hazard by reason of fire, explosion, radiation or any similar cause.
 6. Regulate and control the generation and flow of vehicular traffic in order to prevent hazardous conditions, traffic congestion, and excessive noise in the streets.
- C) Noise. No noises shall be emitted in violation of Chapter 212 of the Code of the City of Newburgh. In addition, the following specific standards apply to noise:
1. Sound levels shall be determined at the lot line of the lot from which the noise is emitted. Sound measurements shall be accomplished through a sound-level meter having an A-weighted filter and constructed in accordance with specifications of the American National Standards Institute or other generally accepted standard for the measurement of sound.
 2. No person, firm or corporation shall allow the emission of sound which, as measured at the lot lines, has a sound level in excess of:
 - a) Sixty (60) decibels on the A-weighted scale between the hours of 7:00 a.m. and 8:00 p.m. and,
 - b) Fifty (50) decibels on the A-weighted scale between the hours of 8:00 p.m. and 7:00 a.m.
 3. Sounds emitted at levels lower than those prohibited by Subsection 2 above shall not be permitted if, because of the type or frequency of the noise emitted, such sounds are offensive, disruptive or in continual disharmony with the character of an adjoining or nearby residential neighborhood.
 4. Exemptions. The following shall be exempt from the noise level regulations:
 - a) Noises not directly under the control of the property user.
 - b) Noises emanating from construction and maintenance activities between 8:00 a.m. and sunset, Monday through Friday.

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- c) The noises of safety signals, warning devices, emergency pressure-relief valves or other emergency warning signals.
 - d) Bells or chimes from a church or other place of worship.
- D) Exterior Illumination and Glare. No use shall produce glare so as to cause illumination beyond the boundaries of the property on which it is located in excess of 0.5 footcandle. All exterior lighting, including security lighting, in connection with all buildings, signs or other uses shall be directed away from adjoining streets and properties. The City Planning Board may require special efforts to reduce the impacts of exterior lighting, such as limiting hours of lighting, planting screening vegetation, or installing light shields to alleviate the impact of objectionable or offensive light and glare on neighboring residential properties and public thoroughfares.
- E) Review Procedures. As a part of Site Plan review of potentially objectionable external aspects and therefore be subject to these performance standards, the reviewing board may require the Applicant, at his or her own expense, to provide such evidence as it deems necessary to determine whether the proposed use will comply with these standards.

§300-52. Environmental Constraints

- A) Wetlands in Lot Areas Calculations. In computing minimum lot sizes pursuant to the Dimensional Table, the area of wetlands shall be subtracted from the total acreage in the lot area calculations.
- B) Steep Slopes. For any subdivision, Special Use Permit, Site Plan, Building Permit, Zoning Permit, or variance that involves the disturbance of slopes greater than 15%, conditions shall be attached to ensure that:
1. Adequate erosion control and drainage measures will be in place so that erosion and sedimentation do not occur during or after construction, as determined by the Planning Board.
 2. Cutting of trees, shrubs, and other natural vegetation will be minimized, as determined by the Planning Board.
 3. Safety hazards will not be created due to excessive road or driveway grades or due to potential subsidence, road washouts, landslides, flooding or avalanches, as determined by the Planning Board.
 4. Proper engineering review of plans and construction activities will be conducted by the City to ensure compliance with this section, paid for by escrow deposits paid by the Applicant.
 5. No Certificate of Occupancy will be granted until all erosion control and drainage measures required pursuant to this section have been satisfactorily completed.

Note: There will be no building allowed within the one hundred (100) feet of a waterbody within the Water Overlay District according to the procedural measurements outlined, in reference to §300-46.

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- C) Slope determinations shall be made based upon the topographic information required for a particular approval, along with such other topographic information as a reviewing board or official shall reasonably require or the Applicant shall offer. In cases of uncertainty or dispute, a qualified professional retained by the City, at the Applicant's expense, shall determine the location of regulated slopes.
- D) Not more than fifty percent (50%) of any land within easements or rights-of-way for overhead utilities (69 KV or greater) or within a designated street line shall be counted as part of any minimum lot area requirement. No building, structure, yard, or land proposed for prolonged habitual human occupancy shall be located within such easement; however, a road may traverse the easement.
- E) In calculating minimum lot area or allowable density, or dwelling unit count subject to §300-33, the portion(s) of the lot that include the following shall be subtracted from the total lot area prior to the calculation of the size subject to the fifty percent (50%) allowable build area:
 - 1. Ponds, streams, rivers, lakes;
 - 2. Delineated wetlands;
 - 3. Lands having slopes greater than twenty percent (20%);
 - 4. Areas within the Federal Emergency Management Agency designated one-hundred (100) and five hundred (500) year floodplains and floodways;
 - 5. Areas within the WPO;
 - 6. Ridgelines;
 - 7. Scenic Viewsheds;
 - 8. Ecologically sensitive areas and other environmentally sensitive features determined by the City Planning Board.

§300-53. Screening and Buffering in Nonresidential Districts with respect to Lots in the "C", "Ind" and "PO" Districts.

- A) There shall be a landscaped buffer strip along each boundary which adjoins a lot in the Residential Districts or an existing dwelling in any district. This strip shall be at least seven (7) feet in width and shall contain screening or plantings in the center of the strip not less than four (4) feet in width and six (6) feet in height at the time of occupancy of such lot. This planting strip shall be maintained by the owner or occupant and shall be maintained as a dense screen on a year-round basis.
- B) At least fifty percent (50%) of the plantings shall consist of evergreens.
- C) At the discretion of the City Planning Board, a solid wall or fence of at least six (6) feet in height may be substituted for such a landscaped buffer strip.

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§300-54. Parking and Storage of Tractors, Trailers, and Buses

- A) No person shall park, keep, or store, nor permit the parking, keeping, or storing on any lot within the Residential Districts of any “tractor”, “tractor-trailer combination”, “semitrailer”, or “bus” as defined in the Vehicle and Traffic Law of the State of New York.
- B) This section shall not be construed as permitting the continuation of any such storage, parking, garaging, or keeping as a nonconforming use, to a business lawfully in operation as of the effective date of this Chapter.
- C) The outside storage of not more than one (1) unoccupied recreational vehicle or boat and trailer not exceeding thirty-five (35) feet in length is permitted within lots in the Residential Districts.

§300-55. Outdoor Swimming Pools

- A) All swimming pools must meet the requirements of the New York State Building Code and must be operated and maintained in compliance with the New York Sanitary Code.
- B) No Swimming pool shall be filled or used until the Building Inspector certifies that the swimming pool meets all necessary requirements and that the owner has presented evidence of liability insurance of not less than \$100,000.

§300-56. Preservation of Public Rights-Of-Way

- A) Notwithstanding any other provision contained herein, the rights of the City to open, grade, pave and complete for public use the severable streets and roads laid out pursuant to the authority of the Laws of 1867, Chapter 674, and set forth in the commissioner’s Report of the Streets and Roads in the City of Newburgh dated February 11, 1868, shall be preserved and maintained.
- B) Notwithstanding any other provision contained herein and for the purpose of ensuring a connection between the shore of said City and the navigable waters of the Hudson River and enabling the authorities of the City to extend all streets terminating at the river into the waters of the Hudson River, all estate, title and interest to all such lands under water of the river in front of said streets shall be vested in the City for the use and purpose of public streets and highways forever.
- C) Notwithstanding any other provision contained herein, all existing public rights-of-way and easements, including but not limited to rights of travel on City streets and access to the Hudson River, shall be preserved and maintained.

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- D) Notwithstanding any other provision contained herein, all rights granted to the City of Newburgh by the Charter of the City of Newburgh and the laws of the State of New York to extend existing City Streets to the Hudson River shall remain in force and effect.
- E) Notwithstanding any other provision contained herein, all rights granted to the City of Newburgh by the Charter of the City of Newburgh and the laws of the State of New York to extend Front Street shall remain in force and effect.

§300-57. Public Utilities

Nothing in this Chapter shall restrict the construction or use of underground or overhead distribution conduits of public utilities operating under the laws of the State of New York. Public utility buildings and electrical substations are permitted in all zoning districts; however, they are only permitted in a residential district when the location within such district is necessary for the direct furnishing of service to customers and provided that no offices, warehouses, construction, repair shops or garage facilities are included, and provided that a Special Use Permit is obtained from the City Planning Board. Nothing herein shall be construed to allow cellular or personal communication facilities in accordance with this section.

§300-58. Mobile Homes

No mobile home shall be permitted in any district in the City of Newburgh, except as an office by a contractor during construction, upon issuance of a permit by the Building Inspector and payment of the appropriate fee.

§300-59. Animal Care Facilities

- A) The City Planning Board will determine the maximum number and type of animals to be boarded based on site conditions, ability of the proposed facility to provide a safe and sanitary environment for the animals and their caretakers, and the ability to mitigate any potential noise, odor, or community character impact.
- B) The City Planning Board may consider the number and size of animals to be sheltered and impose reasonable conditions to protect neighbors, aesthetic impact and animal safety in order to ensure the health, safety and general welfare of the community.
- C) All boarding of pets shall be indoors.
- D) If stored outside, no animal waste or substance which produces a noxious or offensive odor or dust shall be stored or permitted to accumulate within 200 feet from any lot line, 100 feet from any street, wetland, lake or stream. The storage area, whether inside or outside shall not attract or harbor vermin, rodents, flies or other animals and shall be subject to the approval of the City Planning Board. If the Building Inspector or other code Enforcement

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Officer determines that a problem does exist, he or she shall so notify the owner in writing and the owner must commence steps to rectify the situation within a timely fashion but not to exceed thirty (30) days. If the problem is not rectified in a satisfactory manner, the Building Inspector or other Code Enforcement Officer may commence criminal proceedings against the owner or other person(s) responsible for such violation(s) and, upon a conviction thereof, such owner or other responsible person shall be liable for any and all fines and/or penalties applicable to violations of this Chapter. If the situation is not rectified within thirty (30) days from the date upon which the violation should have been rectified, the Building Inspector or Code Enforcement Officer may commence any and all appropriate proceedings for revocation of the Special Use Permit.

§300-60. Adult Uses

- A) Location. No adult use shall be located within five hundred (500) feet of:
 - 1. Any dwelling unit, provided that as of the effective date of this Chapter said dwelling existed.
 - 2. Any lot within the Residential Districts and the Broadway Corridor, Downtown Neighborhood, Waterfront Gateway or the Planned Waterfront District zoning districts.
 - 3. Another adult use.
 - 4. Any school, church, house of worship, park, playground, or playing field.
- B) No more than one adult use as defined in this Chapter shall be located on any lot.
- C) In all districts, a nonconforming adult use shall terminate within one year after the effective date of this Chapter or from such later date that the adult establishment becomes nonconforming, except that such use may be continued for a limited period of time by the Zoning Board of Appeals provided that:
 - 1. An application is made by the owner of such use to the Zoning Board of Appeals at least one hundred and twenty (120) days prior to the date on which such use must terminate.
 - 2. The Applicant has made, prior to the nonconformity, substantial financial expenditures related to the nonconforming use;
 - 3. The Applicants has not recovered substantially all of the financial expenditures related to the nonconforming use; and
 - 4. The period for which such use may be permitted to continue is the minimum period sufficient for the Applicant to rec over substantially all of the financial expenditures incurred related to the nonconforming use.
 - 5. For the purposes of this section, "financial expenditure" shall mean the capital outlay made by the Applicant to establish the adult use, exclusive of the fair market value of the building in which the use is located and exclusive of any improvements unrelated to the nonconforming adult use.

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§300-61. Local Waterfront Revitalization Program

In addition to the requirements set forth in this Chapter 300 of the Code of the City of Newburgh, the City of Newburgh Local Waterfront Revitalization Program adopted May 14, 2001, as it may be amended from time to time, shall apply to all properties located within the City of Newburgh Local Waterfront Revitalization Program boundaries and compliance with the City of Newburgh Waterfront Consistency Review Law, Chapter 159, Article III of the Newburgh City Code, is required. A copy of the City of Newburgh Local Waterfront Revitalization Program is available in the office of the Newburgh City Clerk.

(§300-61 through §300-65 reserved)

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ARTICLE IX—OFF-STREET PARKING AND LOADING

§300-66. General Requirements

- A) Applicability. In any district, if a new structure is constructed, the use of any structure is enlarged or extended, and the use of any lot is established or any existing use is changed after the effective date of this Chapter, off-street parking and off-street loading spaces shall be provided in accordance with the requirements of the bulk and area tables for the appropriate district as well as the requirements of this article.
- B) Exemption. If a structure or use in existence prior to the effective date of this Chapter is expanded or enlarged, it shall not have to comply with the requirements of this Article if such expansion or enlargement would require less than a fifteen percent (15%) increase in the number of parking spaces that would have been required of the use as it existed on the effective date of this Chapter.
- C) When units or measurements determining the number of required parking or loading spaces result in a requirement of a fractional space, any fraction equal to or greater than one-half shall be rounded up.
- D) Except as provided in §300-54 or §300-157, parking and loading spaces required by this Chapter shall be required to be on the same lot as the use they are intended to serve.
- E) Off-street parking in front of the building will only be permitted with site plan approval from the Planning Board. The plan shall include trees and plantings that adequately screen the parked cars from street views. All residential dwellings for which front yard parking is proposed will have to have obtain site plan approval even if no significant construction is occurring.

§300-67. Off-Street Parking Standards

- A) New building in 'Traditional' Zoning Districts. 'Traditional' zoning districts, as defined in § 300-21(B), shall be subject to the minimum off-street parking requirements specified in the Schedule of Bulk, Area, and Parking Regulations.
- B) 'Form-Based Zoning Districts. 'Form-Based districts, as defined in §300-21 (C), shall be subject to the minimum off-street parking requirements specified in Article XV.
- C) New buildings shall include off-street parking plans as part of the design of the building. Uses that are particularly 'parking dependent' such as theaters and supermarkets, shall include the number of parking spaces associated with their use as outlined in the Schedule of Use Tables accompanying this Chapter.
- D) New buildings that require site plan approval shall include off-street parking plans for

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bicycles as part of the design of the building. The number of spaces and design of the facilities shall be determined in consultation with the Planning Board as part of the site plan review process.

§300-68. Design, Layout and Construction of Parking Areas

- A) Standards for Parking and Loading Spaces. When five (5) or more parking spaces or two (2) or more loading spaces are required, said spaces shall meet the following standards, and the plans shall be approved by the Building Inspector.
1. Each perpendicular parking space shall not be less than nine (9) feet by eighteen (18) feet. No less than three hundred (300) square feet of parking area, including space for maneuvers, shall be provided per parking space, and the arrangement of parking spaces shall be approved by the Building Inspector.
 2. Each loading space shall be not less than 1,000 square feet in horizontal area nor less than fourteen (14) feet in height, including space for maneuvering, and the arrangement of layout of off-street loading areas shall be approved by the Building Inspector.
 3. Any portion of any entrance or exit driveway shall not be closer than twenty (20) feet to the curb line of an intersecting street nor closer than five (5) feet to any lot line, and both distances shall be maintained by a curb.
 4. Any two driveways leading from a street to a single lot shall not be within thirty (30) feet of each other at their intersections with the front lot line for an interior lot and forty (40) feet for a corner lot.
 5. Any entrance or exit driveway for a residential use shall not exceed twenty (20) feet nor be less than twelve (12) feet in width at its intersection with the front lot line. Any entrance or exit driveway for a nonresidential use shall not exceed twenty-four (24) feet nor be less than twelve (12) feet in width at its intersection with the front lot line.
 6. Exits and entrances shall be a minimum of fifty (50) feet from any entrance or exit located on the same side of the street on which the entrance or exit abuts, unless the Planning Board determines that this distance may be reduced without impacting public safety.
 7. Exits and entrances shall be a minimum of two hundred (200) feet, as measured along the side of the street on which they abut, from any school, public playground, church, public library, hospital, or institution for dependents or children.
- B) Location and Screening,
1. All off-street parking shall be located behind or to the side of the principal building, except as provided in §300-31(H)(2), §300-33(D), §300-66E, and §300-143, and except for the parking of bicycles. Parking spaces located in a side yard shall, if possible, be screened from public view. Adjoining parking areas shall be connected directly to one another or to a service road or alley wherever feasible to reduce turning movements onto roads.
 2. If a parking lot containing five (5) or more spaces lies within or borders the WPO, or any R District, a buffer zone at least five (5) feet wide shall be planted with trees or dense vegetation to provide screening along all boundary lines, unless the adjoining properties are in the "C", "PO", or "Ind" districts.
 3. No portion of the area used for parking within the "Commercial", "Industrial", or "Planned Office" districts shall be within twenty (20) feet of a residential dwelling on

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an adjoining lot. The Planning Board may reduce this setback requirement based on the unique circumstances of the site plan application or the inclusion of additional mitigation, such as appropriate landscaping, fencing, or similar measures designed to screen and buffer the parking lot from the residential dwelling.

- C) Construction of parking areas. Parking areas shall be surfaced with a suitable durable dustless surface, including but not limited to asphalt, concrete, paving stones, or Belgian block, which shall meet the approval of the City Planning Board. Parking areas shall be constructed with adequate drainage. Surfacing, grading, and drainage shall facilitate groundwater recharge by minimizing impermeable pavement and runoff. Overflow or peak period parking surfaces shall be permeable. Oil traps may be required for larger paved parking lots.
- D) Landscaping and Screening
 - 1. Parking areas shall be designed and landscaped to avoid long, uninterrupted rows of vehicles by breaking them into separate parking lots divided by tree lines, alleys, pedestrian areas, or buildings. Parking lots containing more than forty (40) spaces shall be divided into smaller areas by landscaped islands at least five (5) feet wide located no more than one hundred twenty (120) feet apart. All islands shall be planted with three-inch minimum caliper shade trees at a density of at least one tree for every twenty (20) linear feet of island. Parking lots containing fewer than forty (40) spaces shall provide at least one three-inch minimum caliper shade tree per eight (8) spaces.
 - 2. The screening shall consist of a solid fence or wall not less than three (3) feet nor more than six (6) feet in height or shrubbery planted not more than three (3) feet apart on center, at least two (2) feet from the lot line, and all maintained in good condition. No portion of an area used for parking shall be closer than five (5) feet to a sidewalk.
 - 3. A substantial bumper of masonry, steel or heavy timber shall be placed near all interior lot lines to protect structures and property abutting a parking or loading area for parking areas with five (5) vehicles or more.
- E) Lighting. Lighting within parking lots shall be on low poles of twelve (12) to fifteen (15) feet maximum height, with color-corrected lamps and cutoff luminaires designed to minimize glare and light pollution. Design of poles and luminaires shall be compatible with the style of the architecture and adjoining streetscape treatment. Sidewalks leading from parking lots shall be lit with bollard lighting and indirect illumination of buildings and vegetation.
- F) Nonconforming parking lots shall be brought into conformity with this Section to the extent practical whenever a Site Plan or Special Use Permit application is filed for an expansion or change of use.

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§300-69. Off-Street Loading Space Requirements

- A) General Requirement. Loading docks and service areas shall be located to minimize visual intrusion on public spaces and ensure pedestrian and automobile safety by separating truck traffic and loading operations from pedestrian and automobile circulation. Where appropriate, loading docks shall be screened by walls extending from a building face or placed within arcades or other architectural features assigned to blend them with the architecture of the building. Adjacent buildings shall be sited to allow shared access to loading docks through the use of common loading zones or service alleys.
- B) In any district, in connection with every building or building group or part thereof hereafter erected and having a gross floor area of 10,000 square feet or more which is to be occupied by industrial, distribution, or commercial uses, there shall be provided and maintained on the same zone lot with such building off-street loading berths in accordance with the following requirements:

Use	Square Feet of Floor Area	Required Off-Street Loading Berths
Retail, Commercial,	10,000 - 25,000	1
Wholesale, Industrial	25,000 - 40,000	2
Storage	40,000 - 60,000	3
	60,000 - 100,000	4
	For each additional 50,000	+1
Marinas, Boat Repair	Per 10,000	1

- C) Each loading space shall be not less than ten (10) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height and may not occupy any part of a required front or side yard.

§300-70. Shared Parking and Special Off-Street Parking Permit

- A) The use of the same off-street parking or loading spaces by two or more uses is allowed, subject to the provisions of Article XII or when an Applicant has been granted a Special Off-Street Parking Permit pursuant to the requirements of this section.
- B) When an application made pursuant to this Chapter does not require Site Plan approval, an Applicant may apply for a Special Off-Street Parking Permit from the City Planning Board. The City Planning Board may grant a Special Off-Street Parking Permit to an Applicant in

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order to modify the number of parking spaces otherwise required by this Chapter.

D) In order to grant the Special Off-Street Parking Permit and modify the required off-street parking requirements, the City Planning Board must find that:

1. such a reduction would still allow for adequate off-street parking given the use and the zoning district; or,
2. Adequate on-street parking within 500 feet is available; or,
3. The owner can secure a written agreement for shared parking from a use within five hundred (500) feet.

E) When off-street parking or loading serves two or more uses, whether such uses are on the same lot or on separate lots within five hundred (500) feet, the City Planning Board may reduce the number of off-street parking spaces required of each use if it finds that the number of off-street parking spaces proposed will substantially meet the intent of this article by reason of variation in the probable time of maximum parking demand for each use. In such event, the City Planning Board may condition the Special Off-Street Parking Permit on certain hours of operation for each use.

F) Procedure

1. Applications for a Special Off-Street Parking Permit shall be submitted to the Building Inspector in the manner and form proscribed by the City Planning Board, accompanied by the fee as listed in Chapter 163 of the Code of the City of Newburgh.
2. Complete applications for a Special Off-Street Parking Permit that are received by the deadline stipulated in the approved City Planning Board Policies and Procedures, which is available in the office of the Building Inspector, will be reviewed by the City Planning Board at the next regularly scheduled meeting.

(§300-71 through §300-75 reserved)

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ARTICLE X—NONCONFORMING USES AND STRUCTURES

§300-76. Continuation of Nonconforming Uses and Structures

- A) Any structure or use, which was legal when built or commenced, and which was in existence on the effective date of this Chapter, or amendment of this Chapter, which becomes non-conforming as a result of such enactment or amendment of this Chapter, may be continued as a legal non-conforming use.
- B) Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of such permit and the ground story framework of which, including the second tier of beams, shall have been completed within six (6) months of the date of the permit and which entire building shall be completed according to such plans as filed within one (1) year from the effective date of this Chapter.

§300-77. Discontinuance and Reestablishment

- A) Discontinuance. Whenever a nonconforming use has been discontinued for a period of eighteen (18) months, such use shall not thereafter be reestablished except as provided in §300-78(A), and any future use shall be in conformity with the provisions of this Chapter.
- B) Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.
- C) Reestablishment. The City Planning Board may issue a Special Use Permit for the reestablishment of the use after the eighteen (18) month period has expired if the Applicant has been prevented from continuing the use during the one-year period due to strikes, acts of God, disability, or other similar hardship beyond the Applicant's control.

§300-78. Change of Non-Conforming Uses

- A) A nonconforming use of a structure or parcel of land may, upon Special Use Permit by the City Planning Board, be changed to another non-conforming use, which is of the same or lesser impact, except that no use prohibited by Article V shall be permitted under any circumstances. No structure in which a non-conforming use has been changed to a use of lesser impact shall again be devoted to a non-conforming use with greater impact. In determining whether a use is of greater or lesser impact, the City Planning Board shall consider the impact criteria listed in §300-104. No nonconforming use shall be extended or expanded to displace a conforming use.
- B) Any nonconforming use of any open space on a lot outside a structure or of a lot not occupied by a structure shall not be extended.

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- C) any conforming principal use of a nonconforming structure may be extended throughout the existing structure.
- D) A nonconforming structure shall not be moved to any other location on the lot or any other lot unless every portion of such structure, the use, and the lot shall be deemed conforming.

§300-79. Restoration, Expansion and Repair

A non-conforming use or structure shall not be extended, enlarged, or structurally altered except as provided below.

- A) Any non-conforming use or structure determined to be unsafe may be restored to a safe condition, provided that such work on any nonconforming structure shall not place it in greater non-conformity.
- B) A building used for residential purposes, that is a non-conforming structure or use, may be rebuilt in the event of its total or partial destruction by fire or other in accordance with the provisions provided below. Such rebuilding shall require Site Plan approval by the City Planning Board.
 - 1. The area occupied by the foundation of the building must occupy the same or lesser amount of the area occupied by the damaged building.
 - 2. The rebuilt structure may not exceed the original height of the total or partially destroyed structure.
 - 3. The total square footage of the repaired or rebuilt building must be the same as, or less than, the damaged or destroyed building.
- C) "Building used for residential purpose" as herein, shall mean a building, which at the time of the damage by fire or other causes was used solely for residential purposes or, if the building was vacant, that it is designed solely for residential purposes.

§300-80. District Changes

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.

§300-81. Special Permit Uses

Any preexisting legal use which is allowable by Special Use Permit under this Chapter, but which has not been issued a Special Use Permit, shall be considered a permitted use. The expansion of such a use shall require Site Plan approval, unless such expansion has been permitted by a prior Site Plan approval.

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§300-82. Construction Started Prior to this Chapter

Any structure, for which construction was begun prior to the effective date of this Chapter, or of any amendment thereto, may be completed and used in accordance with the approved plans and specification for such structure. Any structure for which construction has not begun pursuant to approved plans shall be subject to the provisions of this Chapter and any amendments thereto, even if all pre-construction approvals have been granted. For purposes of this Subsection, "beginning construction" shall mean excavation and the pouring of footings or the installation of any other means of permanently attaching a structure to the ground.

§300-83. Existing Nonconforming Lots

- A) Any lot of record created prior to the effective date of this Chapter, which does not comply with the area, density, or dimensional requirements of this Chapter shall be deemed to comply with such requirements, and no variance shall be required for its development or for any addition to or other alteration of a structure, provided that the following conditions are satisfied.
 - 1. The following minimum area and dimensions are maintained, unless smaller dimensions are permitted in the district:
 - a) Lot area: 2,000 square feet.
 - b) Side setback: Fifteen percent (15%) of lot width but not less than five (5) feet per side.
 - c) Rear setback: Fifteen percent (15%) of lot depth but not less than ten (10) feet.
 - 2. All Health Department regulations are satisfied.
- B) A nonconforming lot may be subdivided only if the subdivision plat shows that every subdivided portion of such lot will be merged with adjoining properties to increase the area of such properties, thereby eliminating the nonconforming lot.
- C) Notwithstanding the foregoing provisions, any undeveloped lot in a subdivision which was not properly approved by the City Planning Board or City Council or not filed in the office of the County Clerk, and whose area or dimensions do not comply with the requirements of this Chapter, shall be considered a violation of this Chapter and shall not be protected under paragraph (A) of this Section.

(§300-84 through §300-85 reserved)

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ARTICLE XI—SITE PLAN APPLICATION AND APPROVAL

§300-86. Site Plan Review

- A) Purpose. The City of Newburgh requires Site Plan review by the City of Newburgh Planning Board in accordance with the requirements of Article V. The purpose of Site Plan review is to provide oversight of specific types of development to ensure compliance with all appropriate land development regulations and consistency with the City's adopted planning and policy documents.
- B) Applicability. Site Plan approval by the City of Newburgh Planning Board shall be required by all permitted uses listed in the Schedule of Use Regulations as requiring Site Plan approval only. Site Plan review shall be included as an integral part of the Special Use Permit approval process as required in Article XII of this Chapter. The City Planning Board will refer to the International Dark Sky Lighting standards when reviewing all plans.

§300-87. Required Information

- A) An application for Site Plan approval shall be accompanied by plans and descriptive information sufficient to clearly portray the intentions of the Applicant. Site Plans shall be prepared by a licensed professional engineer, architect, or landscape architect and shall include the following, unless waived by the City of Newburgh Planning Board:
1. A vicinity map drawn at the scale of 1,000 feet to the inch or larger that shows the relationship of the proposal to existing community facilities which affect or serve it, such as roads, shopping areas, schools, etc. The map shall also show all properties, subdivisions, streets, and easements within 500 feet of the property.
 2. An existing conditions map, showing existing buildings, roads, utilities, and other man-made features, as well as topography and all existing natural land features that may influence the design of the proposed use, such as rock outcrops, existing watercourses, wetlands, floodplains, drainage retention areas, soils, marshes, wooded areas, single trees with a diameter of twelve (12) inches or more, measured three (3) feet above the base of the trunk, and other significant existing features located within any area where clearing will occur.
 3. A field survey of the boundary lines of the parcel, giving complete descriptive data by bearings and distances, made and certified by a licensed surveyor.
 4. A Site Plan drawn at a scale and on a sheet appropriate to the project. The information listed below shall be shown on the Site Plan and all sheets submitted in the Site Plan application package:
 - a) Name of the project, section, block and lot number, street names and project site boundaries, fire lanes, date of plan, North arrow and scale of plan, name and address of the owner of record, developer, and seal of the engineer, architect, and landscape architect. If the Applicant is not the owner of record, a letter of authorization shall be required from the owner.
 - b) The names of all owners of record of all adjacent property within five hundred (500) feet of the site's perimeter.

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- c) Zoning district boundaries with five hundred (500) feet of the site's perimeter shall be drawn and identified on the Site Plan, as well as any school, overlay and/or special district boundaries.
- d) Boundaries of the subject property, building or setback lines if different from those required in this Chapter, and lines of existing streets and lots as shown on the official map of the City of Newburgh or City tax map.
- 5. The location and use of all existing and proposed structures within the subject property as shown on the official map of the city of Newburgh or tax map, including all dimensions of height, area, all exterior entrances, and all anticipated future additions and alterations.
- 6. The location, height, size, materials and design of all proposed signs.
- 7. Traffic flow patterns within the site, entrances and exits, and loading and unloading areas, as well as curb cuts on the site and with one hundred (100) feet of the site. The City of Newburgh Planning Board may, at its discretion, require a detailed traffic study for large developments or for those in heavy traffic areas to satisfy the requirements of §300-91.
- 8. The location, size, dimensions, access and egress, circulation patterns and design of an off-street parking areas, including location of handicapped accessible parking and required signage.
- 9. The location of all present and proposed overhead or underground utility systems including:
 - a) Sewage lines, septic systems.
 - b) Water supply system (valves and hydrants, wells).
 - c) Telephone, cable and electrical systems.
 - d) Storm drainage system, including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes and drainage swales.
- 10. Erosion and sedimentation control plan to prevent the pollution of surface or ground water, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties as applicable.
- 11. Existing and proposed topography at two (2) foot contour intervals or such other contour interval as the Board shall specify. All elevation shall refer to the nearest United States Coastal and Geodetic Bench Mark.
- 12. The Location of all Floodplain Boundaries as Determined by the Federal Emergency Management Agency. In accordance with Chapter 175, Flood Damage Prevention, of the Code of the City of Newburgh, if any portion of the parcel is within the one-hundred-year (100-year) floodplain, the area will be shown and base flood elevations given. Areas shall be indicated within the proposed site and with fifty (50) feet of the proposed site where soil removal or filling is required, showing the approximate volume in cubic yards. The plan shall specify all nonstructural measures to minimize flood damage, including but not limited to:
 - a) The setback of buildings and structures away from the floodplain.
 - b) The planting of vegetation and installation of drainage.
 - c) The flood-proofing of buildings or their elevation above the base flood level.
- 13. Lighting Plan, Including the Existing and Proposed Location, Height, Intensity and Bulk Type (Sodium, Incandescent, etc.) of all External Lighting Fixtures. The direction

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of illumination and methods to eliminate glare onto adjoining properties shall also be shown.

14. A landscaping, planting and grading plan showing proposed changes to existing features and any proposed new features shall be shown.
 15. For new construction or alterations to any structure, a table containing the following information shall be included:
 - a) Estimated area of structure intended to be used for particular uses such as retail operation, office, storage, etc.;
 - b) Estimated maximum number of employees;
 - c) Maximum seating capacity, where applicable; and
 - d) Number of parking spaces existing and required for the intended use including parking for bicycles.
 16. Elevations at a scale of 1/4 inch equals one (1) foot for all exterior facades of the proposed structure(s) and/or alterations to or expansions of existing facades, showing design features and indicating the type and color of materials to be used.
 17. Where appropriate, the City of Newburgh Planning Board may request soil logs, percolation test results, and storm runoff calculations.
 18. Disposition plans for disposal of construction and demolition waste, either on site or at an approved disposal facility.
 19. SEQRA – Environmental Assessment Form or Draft Environmental Impact Statement.
 20. Where appropriate, a cultural resource survey of resources with historic or archaeological significance.
 21. Where the Applicant wishes to develop in stages, the Site Plan application must include the complete ultimate proposed development
 22. Identification of any hazardous materials associated with a proposed industrial use.
 23. Disclosure of information on the use, storage, treatment and disposal of any hazardous materials associated with a proposed industrial use.
 24. Other information that may be deemed necessary by the City of Newburgh Planning Board.
- B) Additional Viewshed Analyses for the WG, PWD, and portion of the DN districts.
1. Purpose and Intent. The purpose of this sub-section is to protect and enhance the City's scenic viewshed, comprised of natural, aesthetic and cultural resources formed by the landscape and geologic features of the City. It is the intent of the City of Newburgh to preserve scenic views to and from the Hudson River, the Hudson Highlands and the East Bank of the Hudson River.
 2. The views from the following locations are recognized by the City of Newburgh as providing significant benefits to the residents and visitors of Newburgh and as important parts of Newburgh's cultural heritage. The detailed description of the current views is noted specifically, to highlight the character of the current view as emphasis to the importance of its preservation.
 - a) The Dutch Reformed Church and at Montgomery and South Streets. From this vantage point looking south-southeast, the view is of Hudson Highlands, Bannerman's Island, and the Hudson.
 - b) Washington's Headquarters. The views to the southeast and east focus on the

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Hudson River and mountains beyond. The Hudson River, the lawn and the roof line of the building in the center of the view are horizontal in design. To the northeast there is a clear view of the Hudson River, the mountains beyond and the Newburgh- Beacon Bridge.

- c) Broadway and Colden Street. The foreground is occupied by open space identified for pedestrian walkways to the northeast, to the waterfront. Marine Drive, in the middle ground, runs parallel to the Hudson River. On the Hudson River's edge are low buildings that do not obstruct the view. The Newburgh-Beacon Bridge fades into the horizon. The view to the southeast features the sloping parkland in the foreground, low industrial buildings and a marina bay in the middle ground. The southeast view is dominated by the Hudson River, and the Hudson Highlands. There is some light industrial use presently in the middle ground. The foreground is sloping parkland and an undeveloped site.
 - d) Newburgh Public Library. The view from the eastern wall of the Newburgh Public Library, at an elevation of approximately one hundred (100) feet above sea level, provides a view of the Hudson.
 - e) The view to the south terminates at Orange County Community College. The north-facing view is of the Hudson Highlands, the Hudson River and the Newburgh Beacon Bridge. Existing structures on the waterfront frame the bottom of the view from this highpoint.
 - f) Bay View Terrace. The views from Bay View Terrace, between Overlook Place and Monument Street offer views of the Hudson River, the Hudson Highlands, Bannerman's Island and points north and south.
3. Visual Impact Analysis
- a) All applications for Site Plan approval within the WG, PWD or DN districts shall be evaluated for their impacts to the scenic views defined above during the Site Plan review process.
 - b) Visual Impact Analyses for applications requiring Site Plan approval will be evaluated by the Planning Board. If the Application does not require Site Plan approval, the Visual Impact Analyses will be evaluated by the Building Inspector.
4. Visual Impact Analysis Methodology.
- a) In connection with the Site Plan approval process, the City Planning Board shall require the Applicant to prepare photographic simulations of the proposed structure(s), within the context of the site, to determine whether or not a proposed structure or activity will adversely affect the scenic viewshed.
 - b) The City Planning Board can authorize alternative state-of-the-art visual impact assessment techniques to be employed by an Applicant in the preparation of the Visual Impact Assessment. Use of an alternative visual impact assessment methodology may only be employed by mutual agreement of the Applicant and the City Planning Board.
5. Referral. To assist in the evaluation, the City Planning Board shall refer all applications for Site Plan approval within the WG and PWD Zoning Districts to the Conservation Advisory Council (CAC). Such referral shall be done so as to allow the CAC at least thirty (30) days, but no more than 30 days after the next scheduled regular meeting to review and return comments

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6. **Public Hearing.** The City Planning Board must hold a public hearing on all Site Plan applications in accordance with Section §300-130.
 7. **Evaluation Criteria.** When making their determination of impacts to the scenic viewshed, Site Plan approval may only be granted by the City Planning Board if, with appropriate conditions attached, the proposed activity:
 - a) Will not significantly impair scenic character and will be aesthetically compatible with its surroundings.
 - b) Will minimize the removal of native vegetation, except where such removal may be necessary to open up or prevent the blockage of scenic views and panoramas from public places.
 - c) Will locate and cluster buildings and other structures in a manner that minimizes their visibility from public places.
 8. **Waivers.** The City Planning Board may waive one or more of the specific requirements of this subsection upon a written finding that such waiver will not impair the scenic preservation purposes of this Article. Any development which is the subject of a detailed visual assessment as part of an environmental impact statement shall be eligible for such waivers if supported by SEQR findings.
- C) **Waivers.** Upon findings by the City of Newburgh Planning Board that, due to special conditions peculiar to a site, certain information required in this section, §300-87, is inappropriate or unnecessary, the Board may vary, waive or defer the provision of such information, provided that such variance or waiver will not have detrimental effects on the public health, safety, or general welfare or have the effect of nullifying the intent and purposes of the Site Plan submission, City of Newburgh Master Plan or this Chapter.

§300-88. Procedures

- A) **Applicability.** This section applies for Site Plan approval applications where no Special Use Permit is required.
- B) **Pre-Application Planning Board Workshop**
1. **Purpose.** The purpose of the optional Pre-Application Planning Board Workshop is to provide cooperative consultation between the City of Newburgh and Applicants by providing the Applicant with the opportunity for informal discussion of site development proposals with the City Planning Board. The goal of the Pre-Application Planning Board Workshop discussion is for the City Planning Board to guide Applicants toward productive use of their land within the regulations, thereby avoiding and minimizing to the extent practicable, the potential for environmental impact. The intent of the Pre-Application Planning Board workshop is for the City Planning Board to provide Applicants with their general impressions of the proposed site development application, and provide the Applicant with general suggestions and advice, which may be incorporated into the formal submission.
 2. **Process.** Once the Building Inspector has referred an application to the City Planning Board for Site Plan approval in accordance with the requirements of §300-31, and prior to submission of a formal site development plan, an Applicant may request to be placed

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on a City Planning Board Workshop for an informal discussion of the proposal with the City Planning Board. Materials provided by the Applicant to the City Planning Board can be schematic, but provide sufficient information for the City Planning Board to provide informal comments and direction to the Applicant.

C) Post-Application Technical Workshop

1. Purpose. The purpose of the mandatory Post-Application Technical Workshop is to provide Applicants with the technical expertise of the City staff in advance of filing a formal application for review by the Planning Board. The goal of the Post-Application Technical Workshop is to provide Applicants with technical guidance on the required submission materials, and the roadmap through the review and approvals process.
2. Process. Prior to the submission of a formal site development plan, the Applicant must meet with the City Engineer, City Attorney, City Building Inspector, Department of Planning and Development, City Department of Fire Prevention and City Planning Board Chairperson (or designated representative) to discuss the proposed site development plan in order to determine, which of the subsequent requirements may be necessary in developing and submitting the required Site Plan.

D) Submission. An application for Site Plan approval shall be submitted to the Building Inspector, in accordance with the submission requirements (number of copies, digital files, etc.) and within the required deadlines stipulated in the approved City Planning Board Policies and Procedures available in the office of the Building Inspector. The information enumerated in §300-87 shall be submitted, as required along with:

1. A SEQRA Environmental Assessment Form or Draft Environmental Impact Statement.
2. The Site Plan application fee and any required escrow deposit for review costs, as determined by the City Engineer.

E) Application for Area Variance. Where a proposed Site Plan contains one or more features which do not comply with the dimensional regulations of this Chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to §300-115 without a decision or determination by the Building Inspector.

F) SEQRA Compliance. Upon receipt of application materials it deems complete, the City of Newburgh Planning Board shall initiate the New York State Environmental Quality Review process by either circulating the application and environmental assessment form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within the later of twenty (20) calendar days or the receipt of any additional information reasonably necessary to make the determination. Where the proposed action may have a significant effect on the environment, the City Planning Board shall issue a positive declaration and require the submission of a draft environmental impact statement (DEIS). No time periods for decision-making in this Chapter shall begin to run until either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation regulations or the issuance of a negative declaration.

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G) Referrals.

1. The Orange County Department of Planning. Upon receipt of application materials it deems to be complete, the City of Newburgh Planning Board shall refer to the Orange County Department of Planning in accordance of Section 239M of the General Municipal Code, any application for a Site Plan affecting real property, which shall be accompanied by a full statement of the matter under consideration, as defined herein, with five hundred (500) feet of the boundary of:
 - a) The municipal boundaries
 - b) Any existing county or state park or other recreational area
 - c) Any existing or proposed county or state roadway
 - d) Any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines
 - e) Any existing or proposed county- or state-owned land on which a public building or institution is situated.
2. Conservation Advisory Council. The City of Newburgh Planning Board shall refer any Site Plan application to the Conservation Advisory Commission for review and recommendations. Such referral shall be done so as to allow the CAC at least 30 days, running concurrently within the required 62 day City Planning Board required SEQRA timeframe, to review and return comments.

§300-89. Criteria

In reviewing Site Plans, the City of Newburgh Planning Board, and any City of Newburgh Board and/or Committee to which the Site Plan has been referred, shall consider the criteria set forth below. The City Planning Board may also use as approval criteria, the Orange County Department of Planning "Orange County Design Manual", Orange County's Watershed Design Guide 2014, and the City's Conservation Advisory Council's Green Infrastructure Guide 2015, and may adapt the recommendations of those documents to the requirements of this Chapter.

A) Layout and design

1. All structures in the plan shall be integrated with each other and with adjacent structures and shall, where practical, be laid out in a pattern that is consistent with the character of the City of Newburgh and/or within the neighborhood in which the development is proposed.
2. Structures that are visible from public roads shall be compatible with each other and with traditional structures in the surrounding area in architecture, design, massing, materials, and placement and shall harmonize with traditional elements in the architectural fabric of the area.
3. Architectural design shall be in keeping with the character of the City of Newburgh. In general, the design shall avoid flat roofs, large expanses of undifferentiated facades, and long, plain wall sections.
4. Where appropriate, setbacks shall maintain and continue the existing setback pattern of surrounding properties.

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5. The City Planning Board shall encourage the creation of landscaped parks or squares easily accessible by pedestrians.
6. Impacts on historic and cultural resources shall be minimized.

B) Nonpoint Source Pollution Protection Plans to achieve the following objectives:

1. Natural ground contours should be followed as closely as possible.
2. Areas of steep slopes, where high cuts and fills may be required, should be avoided.
3. Extreme care should be exercised in areas adjacent to natural drainageways so that their final gradient and resultant discharge velocity will not create additional erosion problems. Construction and post-construction runoff levels should be maintained at or below preconstruction levels at all times.
4. Natural protective vegetation should remain undisturbed, if at all possible, and restored when necessary.
5. The amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff should be limited.
6. The velocity of the runoff water on all areas subject to erosion should be reduced below that necessary to erode the materials.
7. A ground cover should be applied sufficient to restrain erosion on that portion of the disturbed area undergoing no further active disturbance.
8. Runoff from a site should be collected and detained in sediment basins to trap pollutants which would otherwise be transported from the site.
9. The angle for graded slopes and fills should be limited to an angle no greater than that which can be retained by vegetative cover. Other erosion-control devices or structures should be used only where vegetation and grading are not sufficient to control erosion.
10. The length as well as the angle of graded slopes should be minimized to reduce the erosive velocity of runoff water.

C) Landscaping

1. Landscape buffers shall be provided between uses that may be incompatible, such as large-scale commercial uses and residences. Such buffers may include planted trees and shrubs, hedgerows, berms, existing forest land or forest created through natural succession. The width of such buffer areas will depend upon the topography, scale of the uses, and their location on the property but shall normally be between fifty (50) feet and two hundred (200) feet.
2. Landscaping at all seasons of the year, shall be an integral part of the entire project area and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.
3. Primary landscape treatment shall consist of shrubs, ground cover, and shade trees and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape plants selected should generally be native to the region and appropriate to the growing conditions of the growing environment.
4. Insofar as practical, preservation of existing trees over twelve (12) inches in diameter will be attained to the maximum extent possible and other vegetation shall be conserved and integrated into the landscape design plan.

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5. For landscaping parking lots, see § 300-108(D).

D) Parking, Circulation and Loading.

1. Roads, driveways, sidewalks and off-street parking and loading space shall be safe and shall encourage pedestrian movement.
2. Vehicular and pedestrian connections between adjacent sites shall be provided to encourage pedestrian use and to minimize traffic existing roads. The construction of connected parking lots, service roads, alleys, footpaths, bike paths, and new public streets to connect adjoining properties shall be required where appropriate.
3. Off-street parking and loading standards in Articles VIII and IX shall be satisfied. However,
 - a) The City Planning Board shall have the authority to reduce the amount of off-street parking required in the underlying zone by up to twenty five percent (25%) when it finds that:
 - i. Such a reduction would still allow for adequate off-street parking given the use and the zoning district; or,
 - ii. Adequate on-street parking within five hundred (500) feet is available; or,
 - iii. The owner can secure a written agreement for shared parking from a use within five hundred (500) feet.
 - b) When off-street parking or loading serves two or more uses, whether such uses are on the same lot or on separate lots within five hundred (500) feet, the City Planning Board may reduce the number of parking spaces that would otherwise be required for each use upon a determination by the Board that the overall number of spaces to be provided will substantially meet the intent of this article by reason of variation in the probable time of maximum parking demand of each use. In such event, the City Planning Board may condition the Site Plan approval on certain hours of operation for each use.
4. Access from and egress to public highways shall be approved by the appropriate highway department, including city, county, and state.
5. All buildings shall be accessible by emergency vehicles.

E) Reservation of Parkland. Before the City Planning Board may approve any Site Plan containing residential units, such Site Plan shall also show, when required by such board, a park or parks suitably located for playground or other recreational purposes.

1. The City Planning Board shall not require land for park, playground or other recreational purposes until it has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the City. Such findings shall include an evaluation of the present and future needs for park and recreational facilities in the City based on projected population growth to which the particular Site Plan will contribute. Such findings shall provide an individualized determination that such required dedication or reservation is related both in nature and extent to the impact of the proposed Site Plan.
2. In the event the City Planning Board makes a finding pursuant to the preceding subsection that the proposed Site Plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreation purpose, but that a suitable

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park or parks of adequate size to meet the requirement cannot be properly located on such Site Plan, the City Planning Board may require a sum of money in lieu thereof. In making such determination of suitability, the Board shall assess the size and suitability of lands shown in the Site Plan which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate community. Any monies required by the City Planning Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited in the City of Newburgh Fund for Parkland, to be used by the City exclusively for park, playground or other recreational purposes, including the acquisition of property. Such payment shall be a condition of the Site Plan approval and shall be assessed in accordance with the Site Plan recreation fee schedule established under Chapter 163, Fees, of the Code of the City of Newburgh. No Site Plan shall be signed by the Chairman of the City of Newburgh Planning Board until such payment has been received by the City and receipt therefor provided to the city Planning Board.

F) Miscellaneous Standards

1. Buildings and other facilities shall be designed, located, and operated to avoid causing excessive noise on a frequent or continuous basis.
2. Exterior lighting fixtures shall be shielded to prevent light from shining directly onto neighboring properties or public ways, and to minimize light spillage. Light standards shall not exceed twenty (20) feet in height.
3. Drainage of the site shall recharge groundwater to the extent practical. The peak rate of surface water flowing off site shall not increase above predevelopment conditions and shall not adversely affect drainage on adjacent properties or public roads.
4. Applicable requirements for proper disposal of construction and demolition waste shall be satisfied and any necessary permits or agreements for off-site disposal shall be obtained.
5. No materials shall be placed below the finished grade of a site other than sand, gravel, rocks and soil that are uncontaminated by any solid waste or hazardous materials. Materials that were previously contaminated and have been reconditioned shall not be permitted except that decontaminated material may be used as a base for road or parking lot construction, provided that such decontaminated material does not pollute groundwater or surface water.
6. Hazardous Material. All hazardous materials are properly stored, treated, and disposed of in accordance with all relevant and applicable local, state and federal requirements.

§300-90. Public Hearing

The City of Newburgh Planning Board may, at its sole discretion, hold a public hearing on Site Plan in accordance with the procedures presented herein. If the City Planning Board determines that a Public Hearing is required, the City Planning Board shall hold such hearing within sixty two (62) days of accepting a completed application.

- A) At least ten (10) days prior to such hearing the Secretary of the City Planning Board shall:

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1. Mail, by regular mail, at the Applicant's expense, a notice in English and Spanish an announcement of the meeting to all property owners within five hundred (500) feet of the exterior boundaries of the property affected by the Application.
 - a) The Secretary of the Planning Board arranges for the Applicant to obtain the appropriate list from the Assessor's Office, prepares one copy in English and Spanish of the announcement of the meeting and a brief description of the application.
 - b) The Applicant prepares the envelopes, stamps them and returns the prepared mailing to the Secretary of the Board with a copy of the list of those to receive the mailing.
 2. Cause to be published in the official newspaper of the City, a notice (in English and Spanish) of such hearing and of the substance of the Application, at the Applicant's expense to be paid in advance.
- B) Prior to said hearing, the Secretary of the Board shall prepare an affidavit of mailing, swearing that the required mailings and publication have been performed, which documents shall become part of the application. The affidavit of mailing will be made available to the Applicant to present to the City Planning Board for the record of proceedings.
- C) For the purpose of the mailings required by this section, the term "owner" shall be construed to mean the owner as indicated on the Assessment roll of the City of Newburgh.

§300-91. Action

- A) The City of Newburgh Planning Board shall approve, approve with modifications and/or conditions, or deny any application for a Site Plan within sixty two (62) days after a public hearing, or if no public hearing is held, within sixty two (62) days of receipt of a final complete Site Plan application. The time within which the City Planning Board must render its decision may be extended by mutual consent of the Applicant and the City Planning Board. Any decision shall contain written findings explaining the rationale for the decision in light of the standards provided herein.
- B) Criteria for decisions on Site Plans shall be limited to those listed in §300-89.
- C) Conditions. In granting Site Plan approval, the City of Newburgh Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related and incidental to the proposed Site Plan and may be necessary in the Board's opinion to meet the objectives herein set forth. Upon granting of Site Plan approval, any such conditions must be met in connection with issuance of permits by applicable enforcement agents or officer of the City. These conditions may include:
1. Increasing dimensional or area requirements;
 2. Requiring the set-aside of perpetual open space land pursuant to §300-33;
 3. Specifying location, character and number of vehicle access points;
 4. Requiring landscaping, planting and screening;

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5. Requiring clustering of structures and uses in order to preserve environmental resources and minimize the burden on public services and facilities; and
6. Requiring performance guaranties to insure the completion of the project in accordance with the conditions imposed.

D) Referrals

1. Orange County Department of Planning

- a) No action shall be taken on applications referred to the Orange County Department of Planning until either the Orange County Department of Planning has issued its recommendation or a minimum of thirty (30) days and a maximum of up to two (2) days prior to a regularly scheduled meeting where a board will be taking action, have elapsed from the date of the receipt of the complete application, unless the County and City Planning Board agree to an extension of the County's time period for review.
- b) County Disapproval. A majority-plus-one vote of the City of Newburgh Planning Board shall be required to grant any Special Use Permit which receives a recommendation of disapproval from the Orange County Department of Planning. The City Planning Board shall set forth its reasons for such contrary action.

E) The decision of the City of Newburgh Planning Board shall be filed in the office of the City Clerk within five (5) business days after such decision is rendered and a copy thereof mailed to the Applicant. A resolution of either approval or approval with modifications and/or conditions shall include authorization to the City Planning Board Chairman to stamp and sign the Site Plan upon the Applicant's compliance with applicable conditions and the submission requirements stated herein.

F) If the City Planning Board's resolution includes a requirement that modifications be incorporated in the Site Plan, conformance with these modifications shall be considered a condition of approval.

G) If the Site Plan is disapproved, the City Planning board may recommend further study of the Site Plan and resubmission to the City Planning Board after it has been revised or redesigned.

§300-92. Implementation, Amendment and Enforcement of Approved Site Plan

A) Implementation. Within six (6) months after receiving approval of a Site Plan, with or without modifications, the Applicant shall submit multiple copies, as specified in the adopted City of Newburgh Planning Board Policies and Procedures available in the office of the Building Inspector, of the Site Plan to the City Planning Board for stamping and signing.

1. The Site Plan submitted for stamping shall conform strictly to the Site Plan approved by the City Planning Board, except that it shall further incorporate any required revisions or other modifications and shall be accompanied by the following additional information:

- a) Record of application for and approval status of all necessary permits from federal,

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state, and county officials.

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- b) Detailed sizing and final material specification of all required improvements.
 - c) An estimated project construction schedule. If a performance guaranty pursuant to Subsection B is to be provided by the Applicant for all or some portion of the work, a detailed site improvements cost estimate shall be included.
 - d) Proof of payment of the City Planning Board's review costs.
2. Upon stamping and signing the Site Plan, the City of Newburgh Planning Board shall forward a copy of the approved Site Plan to the Building Inspector and the Applicant. The Building Inspector may then issue a building Permit or Certificate of Occupancy if the project conforms to all required conditions.
- B) Performance Guaranty. A Certificate of Occupancy shall be issued until all improvements shown on the Site Plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. The performance guaranty shall be posted in accordance with the procedures specified in §27-a.7 of General City Law. The amount and sufficiency of such performance guaranty shall be determined by the City Engineer and all required forms and security shall be approved by the city of Newburgh Corporation Counsel.
- C) As-Built Plans and Inspection of Improvements. No Certificate of Occupancy shall be granted until the applicant has filed a set of as-built plans with the City Engineer and the Building Inspector, indicating any deviations from the approved Site Plan. The Building Inspector shall be responsible for the inspection of site improvements, including coordination with the City Engineer, and shall grant a Certificate of Occupancy upon a finding that the project as built complies in all material respects with the Site Plan.
- D) Site Plan Amendments. An approved Site Plan may be amended by filing an application with the City Planning Board for a Site plan amendment.
1. If the City Planning Board finds that such proposed amendment is consistent with the terms of any applicable Site Plan approval and does not represent a substantial change from the approved Site Plan, it shall grant the amendment.
 2. If the City Planning Board determines that the proposed amendment is consistent with the terms of the applicable Site Plan approval but is a substantial change from the approved Site Plan, it shall require a revised Site Plan approval process and follow the applicable procedures for Site plan approval contained herein.
 3. If the City Planning Board determines that the proposed amendment is inconsistent with the terms of the Site Plan approval, it shall deny the amendment, and require a revised Site Plan approval process and follow the applicable procedures for Site Plan approval contained herein.
- E) Expiration, Renewal, Revocation and Enforcement
1. Expiration. A Site Plan approval shall expire if the Applicant fails to obtain the necessary building permits or fails to comply with the conditions of the Site Pan approval within one (1) year of its issuance or if a Special Use Permit with which it is associated expires.

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2. **Renewal.** The City of Newburgh Planning Board may extend the time for application for a building permit, for a period not to exceed one (1) year, if, in its opinion, such action is warranted by the particular circumstances thereof. Applications for such an extension/ renewal must be received at least forty five (45) days prior to expiration. The City Planning Board may grant up to a two (2) one-year renewals/extension of the Site Plan approval at its discretion. In considering a Site Plan renewal, the City of Newburgh Planning Board shall evaluate whether any significant changes to the City of Newburgh's Master Plan or Code of the City of Newburgh have occurred since the issuance of the original approval. Should the City Planning Board determine that the Site Plan is substantially noncompliant with the City of Newburgh's Master Plan or Code of the City of Newburgh, the City Planning Board may deny the Site Plan renewal, and the Applicant may file an amended Site Plan application. Site Plans that have expired shall not be eligible for renewal.
 3. A Site Plan approval may be revoked by the City Planning board that approved it, upon notice and opportunity to be heard, if the permittee violates the conditions of the Site Plan approval or engages in any construction or alteration not authorized by the Site Plan approval.
- F) **Violation.** Any violation of the conditions of a Site Plan approval shall be deemed a violation of this Chapter and shall be subject to enforcement action as provided herein.

(§300-93 through §300-100 reserved)

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ARTICLE XII—Special Use Permits

§300-101. Purpose

- A) The city of Newburgh land use regulations are designed to allow a variety of uses of land, provided those uses do not adversely affect neighboring properties, the natural environment, or the character of the City. Therefore, to ensure that these uses are appropriate to their surroundings and consistent with the purposes of this Chapter, some uses are permitted only upon issuance of a Special Use Permit by the City Planning Board.
- B) Accessory uses or structures used in connection with a Special Use Permit shall be subject to the same approval requirement as the principal structure or use.
- C) Considerations. On application and after public hearing, the City Planning Board may authorize by resolution, the issuance of a Special Use Permit only for those uses in a district where this Chapter requires such a permit. In making its determination, the City Planning Board shall give consideration to any or all of the following as they may be appropriate:
 - 1. The special use requested is listed among the special uses in the zone for which the application is made.
 - 2. Criteria for particular special use(s) as listed in §300-103 of this Chapter, as applicable.
 - 3. The special use is of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
 - 4. The special use will not impair the integrity or character of the zone or adjoining zones nor be detrimental to the public health, morals or welfare.
 - 5. The special use will not impair the nature and condition of all adjacent structures and uses.
 - 6. The special use is in conformity with adopted Planning and Policy Documents including, but not limited to:
 - a) The City of Newburgh Master Plan
 - b) The City of Newburgh Local Waterfront Revitalization Plan
 - c) The City of Newburgh Land Use Plan

§300-102. Application and Procedures

- A) Preapplication Meeting. Before filing an application, a preliminary conference with the Building Inspector is required to discuss the nature of the proposed use and to determine the information that will need to be submitted in the Site Plan required to be submitted with the Special Use Permit application.
- B) An application for a Special Use Permit shall be submitted to the Building Inspector in accordance with the application submission deadlines as prescribed by the Building

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Inspector.

- C) Each application shall fully set forth the circumstances of the case. Every application shall refer to the specific provision of the Chapter involved.
- D) Fee. All applications for Special Use Permits made to the City Planning Board shall be accompanied by the fee as provided for in Chapter 163 of the Code of Ordinances of the City of Newburgh.
- E) Application for a Special Use Permit shall require Site Plan approval in accordance with the Site Plan regulations contained in this Chapter. The City Planning Board may waive Site Plan approval for a Special Use Permit application that will involve no physical alteration or disturbance to a site. At a minimum, the application for a Special Use Permit shall be accompanied by a plan showing the size and location of the lot, and the location of all buildings and proposed facilities, including access drives, parking areas, and all streets within two hundred (200) feet of the lot lines.
- F) If an application is for a parcel or parcels on which more than one use requiring a Special Use Permit is proposed, the Applicant may submit a single application for all such uses. The City Planning Board may grant the application with respect to some proposed uses and not others. For purposes of determining SEQRA compliance, all proposed uses on a single parcel or on contiguous or related parcels under single or related ownership shall be considered together.
- G) Application for Area Variance. Notwithstanding any provision of law to the contrary, where a proposed Special Use Permit contains one or more features, which do not comply with the dimensional requirements of this Chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to §300-115 without a decision or determination by the Building Inspector.
- H) State Environmental Quality Review Act (SEQRA) Compliance. Upon receipt of application materials it deems complete, the City Planning Board shall initiate the New York State Environmental Quality Review process by either circulating the application and environmental assessment form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within the later of twenty (20) calendar days, or the receipt of any additional information reasonably necessary to make the determination. Where the proposed action may have a significant effect on the environment, the City Planning Board shall issue a positive declaration and require the submission of a draft environmental impact statement (DEIS). No time periods for decision-making in this Chapter shall begin to run until either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation regulations or the issuance of a negative declaration.
- I) Referrals.

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1. Orange County Department of Planning. Upon receipt of application materials it deems to be complete, the City Planning Board shall refer to the Orange County Department of Planning in accordance of Section 239m of the General Municipal Code, any application for a Special Use Permit affecting real property, which shall be accompanied by a full statement of the matter under consideration, as defined herein, within five hundred (500) feet of the boundary of:
 - a) The City of Newburgh.
 - b) Any existing county or state park or other recreational area.
 - c) Any existing or proposed county or state roadway.
 - d) Any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines.
 - e) Any existing or proposed county- or state-owned land on which a public building or institution is situated.
 2. Conservation Advisory Council. The City Planning Board shall refer any Special Use Permit application to the CAC within ten (10) days of receipt, for review and recommendations. Such referral shall be done so as to allow the CAC at least thirty (30) days to review and return comments, unless extended by mutual agreement between the advisory agency and applicant or acting agency in the case of direct action.
- J) Notice and Hearing.
1. The City Planning Board shall hold a public hearing on a complete Special Use Permit application within sixty two (62) days of its submission.
 2. At least ten (10) days prior to such hearing the Secretary of the City Planning Board shall:
 - a) Mail, by regular mail, at the Applicant's expense, a notice in English and Spanish an announcement of the meeting to all property owners within three hundred (300) feet of the exterior boundaries of the property affected by the Application.
 - b) The Secretary of the Planning Board arranges for the Applicant to obtain the appropriate list from the Assessor's Office, prepares one copy in English and Spanish of the announcement of the meeting and a brief description of the application.
 - c) The Applicant prepares the envelopes, stamps them and returns the prepared mailing to the Secretary of the Board with a copy of the list of those to receive the mailing.
 3. Cause to be published in the official newspaper of the City, a notice (in English and Spanish) of such hearing and of the substance of the Application, at the Applicant's expense to be paid in advance.
 4. Prior to said hearing, the Secretary of the Board shall prepare an affidavit of mailing, swearing that the required mailings and publication have been performed, which documents shall become part of the application. The affidavit of mailing will be made available to the Applicant to present to the City Planning Board for the record of proceedings.
 5. For the purpose of the mailings required by this section, the term "owner" shall be construed to mean the owner as indicated on the assessment roll of the City of Newburgh.

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6. The Applicant shall also be required to post a notice on a sign purchased from the City Clerk stating that there is a pending application on the property, and providing the date, time, and place of the hearing, the place and times the application may be reviewed by the public, and a telephone number to call for further information. This sign shall be posted in public view in a conspicuous location within three (3) days after the City Planning Board establishes a public hearing date, shall be updated if more hearing dates are scheduled, and shall remain in place until the day after the hearing is closed.

K) Action

1. The City Planning Board shall approve, approve with modifications and/or conditions, or deny any application for a Special Use Permit within 62 days after the public hearing. The time within which the City Planning Board must render its decision may be extended by mutual consent of the Applicant and the Planning Board. Any decision shall contain written findings explaining the rationale for the decision in light of the standards contained in §300-103 and §300-104.
2. The Special Use Permit and accompanying Site Plan shall be implemented as provided in §300-92.
3. Conditions. The City 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 and may be necessary in the Board's opinion to meet the objectives herein set forth. Upon its 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 City. These conditions may include:
 - a) A time limitation on the term of the Special Use Permit
 - b) Imposing operating conditions including, for example, hours of operation
 - c) Increasing dimensional or area requirements
 - d) Requiring the set-aside of perpetual open space land pursuant to §300-33
 - e) Specifying location, character and number of vehicle access points
 - f) Requiring landscaping, planting and screening
 - g) Requiring clustering of structures and uses in order to preserve environmental resources and minimize the burden on public services and facilities
 - h) Requiring action by the Applicant, including the posting of performance bonds and furnishing of guaranties to ensure the completion of the project in accordance with the conditions imposed
 - i) Requiring the recording of an easement
 - j) The installation of storm water management controls
 - k) Referrals
 1. Orange County Department of Planning
 - i. No action shall be taken on applications referred to the Orange County Department of Planning until either the Orange County Department of Planning has issued its recommendation or a minimum of thirty (30) days and a maximum of up to two (2) days prior to a regularly scheduled meeting where a board will be taking action, have elapsed from the date of its receipt of the complete application, unless the County and City Planning Boards agree to an extension of the time period for review.

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- ii. County Disapproval. A majority-plus-one vote of the City Planning Board shall be required to grant any Special Use Permit which receives a recommendation of disapproval from the Orange County Department of Planning. The City Planning Board shall by resolution set forth its reasons for such contrary action.
 - 2. Conservation Advisory Council
 - i. Where the City Planning Board has referred the application for a Special Use Permit to the CAC for its advisory opinion, prior to making its determination, the City Planning Board shall consider the recommendation from the CAC with reference to the consistence of the proposed action. In the event that the CAC recommendation is not forthcoming with thirty (30) days following referral of the Coastal Assessment Form (CAF), the City Planning Board shall make its determination without the benefit of the CAC recommendation.
 - ii. If the City Planning Board receives comments/recommendation for the CAC and determines to proceed contrary to the recommendation(s) the City Planning Board shall include in its Findings, the reasons set forth for such contrary action.
 - l) No Special Use Permit shall be issued for property where the Building Inspector has found a violation of this Chapter, and where such violation has not been corrected, unless the granting of such Special Use Permit and Site Plan approval will result in a correction of said violation.
 - m) Filing. The decision of the City Planning Board shall be filed in the office of the City Clerk within five (5) business days after such decision is rendered and a copy thereof mailed to the Applicant.
- L) Expiration, Enforcement, Renewal and Amendment, Revocation
- 1. Expiration. A Special Use Permit shall expire if the Special Use Permit use or uses cease for more than twenty four (24) consecutive months for any reason or if the Applicant fails to obtain the necessary building permits or fails to comply with the conditions of the Special Use Permit within twelve (12) months of its issuance without renewal.
 - 2. Enforcement
 - a) The City Planning Board may establish a schedule of inspection to be conducted by the Building Inspector to determine continued compliance with this Chapter and any conditions of the Special Use Permit.
 - b) In any case where the conditions of a Special Use Permit have not been or are not being complied with, the Building Inspector shall give the applicant notice of intention to revoke such permit at least ten (10) days prior to a City Planning Board review thereon. After conclusion of the review, the City Planning Board may authorize the Building Inspector to revoke such permit.
 - c) Granting of a Special Use Permit does not exempt the Applicant from complying with all of the requirements of building codes and other ordinances.
 - 3. Renewal and Amendment

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- a) **Renewal.** Where a Special Use Permit has been granted, but the Applicant has failed to obtain the necessary building permits or fails to comply with the conditions of the Special Use Permit within twelve (12) months of its issuance, the City Planning Board may grant one (1) six (6) month extension, provided the Applicant submits a written request to the City Planning Board detailing the circumstances that have prevented the Applicant from pursuing a building permit or compliance with the conditions of the Special Use Permit. This renewal application must be submitted to the City Planning Board no less than sixty (60) days prior to the expiration of the Special Use Permit. The Applicant is responsible for tracking the dates. The Applicant will not receive notification from the City Planning Board, nor City Staff relative to renewal or expiration dates or required actions.
- b) **Amendment.** The terms and conditions of any Special Use Permit may be amended in the same manner as required for the issuance of a Special Use Permit, following the criteria and procedures in this article. Any enlargement, alteration, or construction of accessory structures not previously approved shall require Site Plan review only, provided that the use does not change.
- 4. **Revocation.** Any violation of the conditions of a Special Use Permit shall be deemed a violation of this Chapter and shall be subject to enforcement action as provided in Article XV. A Special Use Permit may be revoked by the City Planning Board if the permittee violates the conditions of the Special Use Permit or engages in any construction or alteration not authorized by the Special Use Permit.

§300-103. Standards for Individual Special Uses

In addition to the other criteria in this Chapter, the following individual special uses shall meet the criteria below.

- A) **Home Occupation, Professional Home-Based Office, or Live /Work:** Home occupations are deemed to be accessory uses and are permitted within a single-dwelling unit, or in a building or other structure accessory to a dwelling unit, and only by the person or persons maintaining their primary residence in said dwelling unit, subject to the requirements contained herein. For the purposes of this section, "primary residence" is defined as the location of an individual's residence for more than six (6) months of the year. A home occupation shall not require full site development plan submission. However, an Applicant shall be required to submit a lot survey indicating the location and size of the home or accessory building and the area of the home or accessory building to be used for purposes of the home occupation.
 - 1. The minimum lot size shall be that specified for the Zoning District.
 - 2. **Extent of Use.** Such occupation is carried on in an area not thirty three percent (33%) of the gross floor area of the principal building.
 - 3. At no time shall any premises be used in such a manner to cause the emanation therefrom of offensive or noxious odors, vapors, fumes, glare, dust, smoke, gas, vibration, noise, or radiation or be used in such a manner as to cause injury, annoyance or disturbance to any of the surrounding properties and to their owners and occupants.

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4. Mechanical and Electrical Equipment. Mechanical or electrical equipment capable of producing noise, electrical or magnetic interference with radio or television reception in the neighborhood shall be prohibited unless also equipped with means to prevent such interference.
 5. Outdoor Storage. There shall be no outdoor storage of materials, supplies, or equipment associated with the home occupation.
 6. Employees on Site. No more than two (2) paid or non-paid employees or assistants in addition to the home occupant may be engaged on the premises of the home occupation at any given time.
 7. Permitted Uses. It shall include no more than one of the following uses, provided that such uses are clearly incidental and secondary to the use of the dwelling unit for residential purposes:
 - a) Custom dressmaking
 - b) Art/music/dance instruction for not more than nine students simultaneously. Concerts or recitals are prohibited.
 - c) Professional office of engineer, architect, lawyer, insurance, real estate, accounting, or similar customary home office based professions
 - d) Photography, using home scale equipment
 - e) Professional Craft Workers and Artists and other uses consistent with the scope and intent of this section as determined and approved by the approving agency.
 8. Materials Delivery. The size, frequency, and duration of deliveries for the home occupation must be in keeping with the character of the zoning district and surrounding land uses.
 9. The City Planning Board may approve the operation of a home occupation subject to any condition it deems necessary to ensure that the use does not diminish or impact the peace, security and the overall residential quality of the neighborhood. This includes the provision of necessary off-street parking, if required.
 10. Evidence of Use. The home occupation shall not display or create outside the building any evidence of the home occupation, except that one unanimated, non-illuminated flat wall or window sign, having an area of not more than six (6) square feet, shall be permitted on each lot on which the building is situated, such sign to be in conformance with Chapter 250 of the Code of the City of Newburgh and/or §300 Form Based Code for the district in which the home occupation may occur.
 11. Commercial Vehicle Parking. Not more than one (1) commercial vehicle shall be permitted in connection with any home occupation and shall be stored in an enclosed garage, or otherwise screened from the street.
 12. Alterations. No alteration of the principal residential building shall be made which alters the residential character of the building.
- B) The standards for a Child Day Care Center shall be as follows:
1. The Special Use Permit application shall describe the anticipated occupancy of the facility by age group, i.e. infant, toddler, and school age, and the hours of operation of the facility, parking and circulation plan, New York state Department of Social Services application and license, and other information required to understand the operation.
 2. A floor plan of the day-care center shall be submitted.

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3. In addition to the parking space requirements contained in the Use and Bulk Tables, additional parking spaces shall be provided for drop-off and pickup of children at a rate of one parking space per fifteen (15) children. Said spaces shall be provided directly in front of the facility along an internal driveway or in an approved parking area. The most appropriate location for drop-off parking shall include a consideration of emergency access and shall be determined by the City Planning Board during Site Plan review. The drop-off location shall be clearly posted with appropriate signage or pavement markings. Fire lanes shall not be used for drop-off areas.
 4. Outdoor play areas shall be located at a minimum distance of twenty five (25) feet from any lot line or from any parking area and twenty five (25) feet from any public right-of-way and fenced in for safety. Outdoor play areas shall be directly accessible from the principal structure and shall not require crossing any street, driveway, or parking area for access. The City Planning Board may, as part of Site Plan review and in consultation with the prospective operator, modify the area requirement to apply only to the largest age group.
 5. A six (6) foot high solid fence or opaque fence combined with hedge or tree plantings shall be provided to screen the outdoor play area where it abuts a residential zoning district.
 6. Said facility shall provide a minimum of two (2) marked exits.
 7. Day-care centers shall adhere to the requirements of the New York State Uniform Fire Prevention and Building Code and all other applicable state guidelines that govern said uses
- C) The standards for a Drive-Thru Establishments and Automobile Washes shall be as follows:
1. A traffic queuing analysis must be submitted that demonstrates that there will be no queuing on public streets or rights of way and that all sidewalk areas will be kept clear of standing vehicles.
 2. For Automobile Washes, a water management plan, including water recycling, shall be submitted and approved by the City Planning Board, which plan limits, to the extent practicable, the amount of potable water used at the facility and demonstrates that the facility will adequately capture all runoff from the facility on-Site.
- D) The standards for a Shopping Center shall be as follows:
1. The Site shall be planned and developed subject to a coordinated plan.
 2. The Site and structures shall reflect the existing community character and incorporate existing building facades to the extent possible.
 3. The Shopping Center shall encourage pedestrian usage, not require outside storage, and have no light spillage onto adjacent properties.
 4. The required off-street parking shall be based upon §300-32 and Article X of this Chapter.
- E) The standards for a Cottage Industry / Live-Work shall be as follows:
1. Adequate landscaping and/or screening must be provided around any outdoor storage areas.

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2. Delivery hours shall be regulated by the Special Use Permit.
 3. Any potentially unique adverse impacts of the use, owing to the nature of the use, must be described in the Special Use Permit application and measures to mitigate such impacts must be provided.
- F) The standards for a Dry Cleaner / Commercial Laundry shall be as follows:
1. Applicants must provide copies of all applicable New York State and Federal permits required for operation.
 2. A chemical storage pan must be submitted detailing the nature, amount, and method for storing all liquid and solid chemicals on the premises. The plan must detail the features that guard against the possible release of chemicals into the air, sewer system, ground, or water.
- G) The standards for a Cabaret shall be as follows:
1. A building safety and evacuation plan must be submitted to, and approved by, the City Planning Board and Building Inspector.
 2. Adequate parking, either on- or off-street must be identified.
 3. Noise attenuation must be provided when, in the opinion of the City Planning Board, based on the proximity of the cabaret use to residential uses or the nature of the planned cabaret use, such attenuation will be needed to provide for the safe enjoyment of nearby residential users or other property owners.

§300-104. Findings

- A) In granting or denying special Use Permits, the City Planning Board shall take into consideration the scale of the proposed project, the possible impact of the proposed project on the adjacent properties and uses, and that such proposed Special Use Permit use does not interfere with or diminish the value of adjoining property. The City Planning Board shall also take account of any conditions imposed that would mitigate potential adverse impacts and preserve or enhance the character of the City of Newburgh. No Special Use Permit shall be granted for any property on which there exists a violation of the Chapter, including a violation of any condition of a previous municipal approval, unless the City Planning Board finds that the Applicant has no legal right or ability to remedy the violation or that the grant of a Special Use Permit is necessary to remedy a condition that poses a risk to public health or safety.
- B) Criteria. Before granting or denying a Special Use Permit, the City Planning Board shall make specific written findings establishing whether or not the proposed project:
1. Will comply with all land use district, overlay district, and other specific requirements of this Chapter and other local laws and regulations and will be consistent with the purposes of this Chapter and of the land use district in which it is located.
 2. Will comply with the applicable criteria in §300-103.
 3. Will not result in excessive off-premises noise, dust, odors, solid waste, or glare or create any public or private nuisances.

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4. Will not cause significant traffic congestion, impair pedestrian safety, or overload existing roads, considering their current width, surfacing, and condition, and any improvements proposed to be made to them by the Applicant.
5. Will be accessible to fire, police, and other emergency vehicles.
6. Will not overload any public water, drainage, or sewer system, or any other municipal facility.
7. Will not materially degrade any watercourse or other natural resource or ecosystem or endanger the water quality of an aquifer.
8. Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.
9. Will be subject to such conditions on operation, design and layout of structures, and provision of buffer areas as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the City.
10. Will be consistent with the goal of buffering nonresidential uses that are incompatible with residential use.
11. Will comply with applicable Site Plan criteria in §300-89.
12. If the property is in a residential district, will have no greater overall off-site impact than would full development of the property with uses permitted by right, considering relevant environmental, social, and economic impacts.

(§300-105 through §300-110 reserved)

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ARTICLE XIII—ZONING BOARD OF APPEALS

§300-111. Purpose and Establishment

- A) The purpose and intent of this article is to provide a body, the Zoning Board of Appeals (ZBA), to which may be referred appeals from the enforcement of this Chapter based upon alleged uncertainty in the text, error in administrative decisions or unique hardship.
- B) This Zoning Board of Appeals is not established as a means of altering this Chapter, the intent of this Chapter, or the purpose of this Chapter. It shall not permit any use in any zone which would be in conflict with such zone under the terms of this Chapter or which, in effect, would constitute a change in zoning.
- C) The Zoning Board of Appeals shall have all the powers and duties prescribed by law and this Chapter in connection with appeals to review any order, requirement, decision, interpretation, or determination made by an administrative official charged with the enforcement of this Chapter, generally the Building Inspector. An appeal may be taken by any person aggrieved or by any officer, department, board, or committee of the City.

§300-112. Continuation, Appointment and Organization; Alternate Members

- A) The Zoning Board of Appeals, as constituted at the time of the effective date of this Chapter, shall continue in existence in accordance with the provisions of the General City Law applicable thereto.
- B) The ZBA shall consist of seven (7) members. The term of office of each member shall be seven (7) years, and his term shall continue until a successor shall be appointed. If a vacancy shall occur other than by expiration of the term, it shall be filled by appointment of the City Manager for the unexpired term.
 - 1. Chairperson. One member shall be designated by the City Manager to act as Chairperson, or, on the failure to do so, the ZBA shall elect a Chairman from its own members. The City Manager shall appoint a Secretary, and the Zoning Board of Appeals shall prescribe rules for the conduct of its affairs in accordance with the provisions included in this Chapter and all applicable State regulations.
- C) Alternate Member. Two (2) alternate members of the Zoning Board of Appeals shall be appointed by the City Manager for a term of two (2) years, commencing on the date of appointment. These members shall serve when members are absent or unable to participate on an application before the Zoning Board of Appeals.
 - 1. The Chairman of the Zoning Board of Appeals may designate one of the appointed alternate members as an alternate substitute for a member when such member is unable to participate on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of every Zoning Board of Appeals meeting at which the substitution is made.

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- D) All provisions of state law and local law, codes, rules and regulations relating to Zoning Board of Appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of any local law or local ordinance relating to training, continuing education, compensation and attendance, performance of duties, qualifications and others, shall also apply to alternate members.

§300-113. General Powers and Duties

- A) The Zoning Board of Appeals shall have all the powers and duties prescribed by law and this Chapter, provided that none of the following provisions shall be deemed to limit any power of the Board that is conferred by law.
- B) Appeals of Orders, Requirements, Decisions, Interpretations or Determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation, or determination appealed and shall make such order, requirement, decision, interpretation, or determination, that in the opinion of the ZBA ought to have been made in the matter by the City of Newburgh Building Inspector or other administrative official charged with the enforcement of this Chapter.
- C) Power to Interpret Chapter. On appeal from an order, requirement, decision or determination made by an administrative official or on request by any official, board or agency of the City, the Zoning Board of Appeals shall have the power to decide any of the following matters:
1. Text: determination of the meaning of any portion of the text of this Chapter.
 2. Map: determination of the exact location of any zoning boundaries shown on the Zoning Map.
 3. Variances: granting of use or area variances, as defined herein.

§300-114. Appeals for Variance

- A) The Zoning Board of Appeals shall have the power, upon appeal of a determination by the Building Inspector, and after public notice and hearing, to vary or modify the application of any provisions of this Chapter relating to use, construction, or alteration of structures or the use of land, so that the spirit of this Chapter is observed, public safety and welfare secured and substantial justice is done.
- B) Variation from the strict enforcement of the terms of this Chapter may only occur where the literal enforcement of the requirements of this Chapter would involve practical difficulties or would cause undue hardships that would deprive the owner of the reasonable use of the land or buildings involved and would not carry out the spirit and purpose of this Chapter. Such a request shall be termed a 'variance'.
- C) An Applicant for a variance must demonstrate that a substantial and unique hardship would be created by the strict interpretation of the provisions of this Chapter and this hardship can

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be corrected by a variation in the regulations without causing undue hardship to others or to the city as a whole. The basis for this action is hardship on the individual rather than benefit to the public.

§300-115. Use Variance and Area Variances

A) Use Variances

1. The ZBA, on appeal from a decision or determination from the Building Inspector, shall have the power to grant use variances, authorizing the use of the land, which otherwise would not be allowed by this Chapter.
2. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the Applicant that the applicable zoning regulations and restrictions have caused unnecessary hardship.
 - a) In order to prove such unnecessary hardship, the Applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - i. The Applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - ii. The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the neighborhood;
 - iii. The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - iv. The alleged hardship has not been self-created.
3. Minimum Variance. The Zoning Board of Appeals, in granting use variances, shall grant the minimum variance that it deems necessary and the adequate to address the unnecessary hardship proven by the Applicant and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.
4. If the use variance is granted for a nonresidential use, the Applicant shall obtain Site Plan approval from the City Planning Board prior to commencing the use or obtaining a building permit.

B) Area Variances. The ZBA shall have the power, upon an appeal from a decision or determination of the Building Inspector, to grant area variances from the area or dimensional requirements specified in this Chapter.

1. The Zoning board of Appeals, in the granting of area variances, shall grant the minimum variance that it deems necessary and adequate while preserving and protecting the character of the neighborhood and the health, safety, and welfare of the community.
2. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider whether:
 - a) An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

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- b) The benefit sought by the Applicant can be achieved by some method feasible for the Applicant to pursue, other than an area variance;
 - c) The requested area variance is substantial;
 - d) The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - e) The alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.
- C) Ineligible Hardship. The following types of cases shall not be construed as eligible for consideration as hardship cases within the meaning of this Chapter:
- 1. The Applicant, with or without knowledge of the provisions of this Chapter, has acquired the site subsequent to the effective date of this Chapter.
 - 2. The Applicant has caused a self-imposed hardship by changing his circumstances after the effective date of this Chapter. (Example: The Applicant in selling a portion of a larger site has either created a new lot which is deficient in total area or has rendered the existing larger segment on which the structure is located insufficient in yard space.)
 - 3. The Applicant would realize financial advantage from a change to the site, the structure or the use.
- D) Transference. Unless otherwise specified at the time the variance is granted, the variance pertains to the subject property and not to the individual who applied. Consequently, the variance is transferable to any future owner of the subject property but cannot be transferred by the Applicant to a different site should said Applicant move to another location.
- E) Expiration. Unless otherwise specified at the time the variance is granted, it pertains to the subject property for an indefinite time. However, in the case where work has not been commenced and diligently prosecuted within one year after the date of granting of a variance, then without further action such variances shall become null and void.
- F) Imposition of conditions and safeguards. The Zoning Board of Appeals shall, in the granting of both use and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- G) Referral to City Planning Board. Where the Zoning Board of Appeals finds the zoning classification of a particular property to be conducive to the deprivation of all reasonable use of the land or building by the owner thereof and where such Board deems the same condition to apply generally to other land or buildings in the same neighborhood or zone said Board shall deny a variance on the grounds that the conditions and circumstances are not unique and shall call this condition to the attention of the City Planning Board accompanied by a recommendation that this Chapter be amended.

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§300-116. Procedures

- A) Contents of the Application. Appeals shall be submitted by filing a written notice of appeal to the Building Inspector and Zoning Board of Appeals within ninety (90) days after the filing in the City Clerk's office of the order, requirement, decision, interpretation, or determination of the administrative official charged with the enforcement of such ordinance or local law by filing with such administrative official and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought.
- B) Applications for appeals shall be filed on forms required by the ZBA. Such application shall refer to the specific relevant provisions of this Chapter and shall specify the grounds for the variance requested, the interpretation claimed, or for the reversal of an order, requirement, decision, or determination by the Building Inspector. The Building Inspector shall transmit all the papers constituting the record of the appeal to the Zoning Board of Appeals. In addition to these required materials, the application shall include as necessary:
1. A plot plan drawn to scale with accurate dimensions, showing the location of all existing and proposed structures on the lot
 2. A site context map showing the zoning of the parcel in question as well as the zoning of all adjacent properties
 3. Complete copies of the required application materials in the number and format prescribed by the Building Inspector.
 4. Fees. All appeals or requests for a variance made to the Zoning Board of Appeals
- C) Referrals
1. Orange County Department of Planning
 - a) Requests for variances that require referral to the Orange County Department of Planning shall be so referred pursuant to the General Municipal Law, Article 12-B, §§ 239-l and 239-m, as amended. The referral shall be accompanied by a full statement of such proposed action, and any materials and of forms required by the Orange County Department of Planning.
 - b) No action shall be taken on variances referred to the Orange County Department of Planning until either the Orange County Department of Planning has issued its recommendation or a minimum of thirty (30) days and a maximum of up to two (2) days prior to a regularly scheduled meeting where a board will be taking action, have elapsed from the date of its receipt of the full statement of the proposed variance, unless the Orange county Department of Planning and City of Newburgh Zoning Board of Appeals agree to an extension of the County's time period for review.
 - c) County Disapproval. A majority-plus-one vote shall be required to approve any variance, which receives a recommendation of disapproval from the Orange County Department of Planning because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.
 2. Planning Board Advisory Opinion: The Zoning Board of Appeals is not required to but may, in its discretion, refer any requests for appeals or applications for variances to the City Planning Board for review and recommendations. If no report is received from

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the City Planning board within thirty (30) days, the Zoning Board of Appeals may render its decision without said report.

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3. Conservation Advisory Council. Whenever a request for appeal or application for variance involves the City's waterfront area, the Zoning Board of Appeals shall determine the consistency of the proposed action as set forth in Chapter 159-5 of the code of the City of Newburgh known as the "City of Newburgh Waterfront Consistence review Law.: The Zoning Board of Appeals shall refer a copy of a completed Coastal Assessment Form (CAF) and other appropriate application materials to the Conservation Advisory Council within ten (10) days of its submission and, prior to making its determination, shall consider the recommendation of the CAC with reference to the consistency of the proposed action. In the event that the CAC recommendation is not forthcoming within thirty (30) days following referral of the CAF, the Zoning Board of Appeals shall make its determination without the benefit of the CAC recommendation.

D) Hearing and Public Notice

1. The Zoning Board of Appeals shall set a reasonable time after receipt of a complete application for the hearing of appeals and the Applicant shall be notified of the date.
2. At least ten (10) days prior to such hearing the Secretary of the City Planning Board shall:
 - a) Mail, by regular mail, at the Applicant's expense, a notice in English and Spanish and announcement of the meeting to all property owners within five hundred (500) feet of the exterior boundaries of the property affected by the Application.
 - b) The Secretary of the Planning Board arranges for the Applicant to obtain the appropriate mailing list from the Assessor's Office.
 - c) The Applicant prepares the envelopes, stamps them and returns the prepared mailing to the Secretary of the Board with a copy of the list of those to receive the mailing.
3. At least ten (10) days prior to the date of the hearing of appeals, the Secretary of the ZBA at the expense of the Applicant, to be paid in advance, shall give public notice by causing the publication of a notice of such hearing and the substance of the appeal, in the official newspaper of the City of Newburgh.
4. Prior to the public hearing, the Applicant shall submit to the ZBA affidavits of the Secretary of the Board swearing that the required mailings and publication have been performed, which documents shall become part of the application.
5. At the hearing, any party may appear in person or by agent or by attorney.
6. The Zoning Board of Appeals may adjourn the hearing for a reasonable period in order to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in the appeal.

E) Action. The Zoning Board of Appeals may, in conformity with the provisions of this Chapter, reverse, affirm, or modify, wholly or in part, the order, requirement, decision, interpretation or determination of the administrative official in accordance with the provisions of this Chapter.

1. Any such action shall be decided within sixty two (62) days after the close of the hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the Applicant and the Board.

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2. Every decision of the Zoning Board of Appeals shall be approved by the affirmative vote of a majority of all the members by resolution which contains a full record of the findings of the Zoning Board of Appeals in the case. If the Zoning Board of Appeals acts contrary to the recommendations of the City Planning Board or the County Planning Board, it shall give written reasons for such action.
- F) Filing of decision or action. Every order, requirement, decision, interpretation, or determination of the Zoning Board of Appeals shall be filed in the office of the City Clerk within five business days after the day such decision is rendered and shall be a public record. A copy thereof shall be mailed to the Applicant within the same five day period.
- G) Court review of Board decisions. Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law.
- H) Expiration of appeal decision. Unless otherwise specified by the Zoning Board of Appeals, a decision on any appeal shall expire if the appellant fails to obtain any necessary building permit within twelve (12) months of the date of such decision.
- I) Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Zoning Board of Appeals, after the notice of appeal shall have been filed, that such a stay of proceedings would, in the Building Inspector's opinion, by reason of facts stated in the certificate, would cause imminent peril to life or property. In such a case, proceedings shall not be stayed except by a restraining order, which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Building Inspector for due cause shown.
- J) Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any member of the Board within sixty two (62) days of the original decision. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the Board may reverse, modify, or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

(§300-117 through §300-120 reserved.)

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ARTICLE XIV—ENFORCEMENT, SEVERABILITY, WHEN EFFECTIVE

§300-121. Violations and Enforcement; Penalties for Offenses

- A) Inspection. To determine compliance with this Chapter, and in accordance with the provisions of the Uniform Fire Prevention and Building Code, and the Code of the City of Newburgh, the Building Inspector or any duly authorized City representative, upon showing the proper credentials in the discharge of his/her duties, may enter upon any building, structure or premises at any reasonable hour or in an emergency at any hour whatsoever upon the consent of the owner or occupant or pursuant to a lawful warrant.
- B) Notice of violation
1. Upon finding any new construction, improvements, or uses to be in violation of this Chapter, the Building Inspector shall transmit a written notice of violation, by registered or certified mail, to the owner and tenants of the property upon which the alleged violation occurs, describing the alleged violation. The notice of violation shall require an answer or correction of the alleged violation to the satisfaction of the Building Inspector within a reasonable time limit set by the Building Inspector. The notice shall state that failure to reply or to correct the alleged violation to the satisfaction of Building Inspector within the time limit constitutes admission of a violation of this Chapter. The notice shall further state that, upon request of those to whom it is directed, technical determinations of the nature and extent of the violation as alleged will be made and that if a violation as alleged is found, costs of the determinations will be charged against those responsible, in addition to such other penalties as may be appropriate, and that if it is determined that no violation exists, costs of determination will be borne by the City.
 2. If, within the time limit set, there is no reply but the alleged violation is corrected to the satisfaction of the Building Inspector, the notation "Violation Corrected" shall be made on the Building Inspector copy of the notice.
 3. If there is no reply within the time limit set (thus establishing admission of a violation of this Chapter) and the alleged violation is not corrected to the satisfaction of the Building Inspector within the time limit set, the Building Inspector shall take action in accordance with §300-121(C) of this Chapter.
 4. A permanent record of all notices of violation and their disposition shall be kept in the offices of the Building Inspector.
- C) Abatement of violations. The Building Inspector may issue a stop-work or cease and desist order and/or institute an appropriate legal action or proceeding to prevent, restrain, correct, or abate any violation of this Chapter to prevent the occupancy of premises or to prevent any activity, business, or use that violates this Chapter. Such legal action may include the issuance of an appearance ticket pursuant to the Criminal Procedure Law, §150.20(3).
- D) Penalties
1. A violation of this Chapter is an offense punishable by fine not exceeding \$250 or imprisonment for a period not to exceed fifteen (15) days, or both, for conviction of a

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first offense. Conviction of a second offense, committed within five (5) years of the first offense, is punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed fifteen (15) days, or both. Conviction of a third or subsequent offense committed within a period of five (5) years is punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed fifteen (15) days, or both. Each day's continued violation shall constitute a separate additional violation. A violation which creates an imminent hazard to health and safety shall be punishable by the same fine as above, as well as by imprisonment for a period not to exceed six (6) months per violation.

2. In addition, any person who violates any provision of this Chapter or who fails to do any act required thereby shall, for each and every such violation, pay a civil penalty of not more than \$100. When a violation of any of the provisions is continuous, each day thereof shall constitute a separate and distinct violation subjecting the offender to an additional penalty.
3. The imposition of penalties for any violation of this Chapter shall not excuse the violation nor permit the violation to continue. The application of the above penalties or prosecution for a violation of any provision of this Chapter shall not prevent the abatement of a violation pursuant to Subsection C, "Abatement of Violations". The expenses of the City in enforcing such removal, including legal fees, may be chargeable (in addition to the criminal and civil penalties) to the offender and may be recovered in a civil court of appropriate jurisdiction.

E) Complaints of Violations. Whenever a suspected violation of this Chapter occurs, any person may file a signed written complaint reporting such violation to the Building Inspector. The Building Inspector may also investigate any oral complaint made to his/her office. All complaints, written or oral, shall be properly recorded, filed, and promptly investigated by the Building Inspector.

F) Accountability. For every violation of the provisions of this Chapter, the owner, agent, contractor, lessee, ground lessee, tenant, licensee, or any other person who commits, takes part, or assists in such violation or who maintains any structures or premises in which any such violation exists shall be punishable according to the provisions of this Chapter.

G) Existing Violations. No application shall be received nor shall any application, if received, be reviewed or be granted for any variance, zoning change, Special Use Permit, Site Plan, subdivision, building permit, license, Certificate of Occupancy or any other change set forth in this Chapter if there are any existing violations of this Chapter for the lot or lots contained in said application, unless said application is required by the Building Inspector, City of Newburgh Corporation Counsel, or the reviewing agency in settlement of the outstanding violation.

§300-122. Severability

- A) If any clause, sentence, paragraph, subdivision, section or part of this Chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not

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affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

- B) It is hereby declared to be the intent of the City Council that this Chapter would have been enacted even if such invalid provision had not been included herein.

§300-123. Amendments

- A) Initiation. The City Council may, on its own motion or on petition or on recommendation from the City Planning Board or Zoning Board of Appeals, amend, supplement, or repeal the regulations and provisions of this Chapter. A property owner or authorized agent may apply for amendment to this Chapter by filing a petition with the City Council. The City Council shall be under no obligation to consider or review a petition for a zoning amendment. The petition shall include a description of the property or properties affected, a map showing the property or properties affected and all properties within a radius of five hundred (500) feet of the exterior boundaries thereof and the applicable filing fee.
- B) Review by Planning Agencies. As an aid in analyzing the implications of proposed amendments and to coordinate the effect of such actions on intergovernmental concerns, the City Council, shall refer proposed amendments to the City of Newburgh Planning Board and to the County Planning Department as required by §§ 239-l and 239-m of the General Municipal Law.
1. Referral to Orange county Department of Planning. No action shall be taken to approve a proposed zoning amendment referred to the Orange County Department of Planning until its recommendation has been received, or thirty (30) days have elapsed after its receipt of the full statement of the proposed amendment, unless the County and City agree to an extension beyond the thirty (30) day requirement for the County Planning Department's review.
 2. Referral to the City of Newburgh Planning Board . Every proposed amendment or change initiated by the City Council or by petition (but not if initiated by the City of Newburgh Planning Board) shall be referred to the City of Newburgh Planning Board for report thereon prior to public hearing. If the City of Newburgh Planning Board does not report within thirty (30) days of such referral, the City Council may take action without the City Planning Board report. This period of time may be extended by agreement of the City Council and City of Newburgh Planning Board.
- C) Public Hearing and Notice. No proposed amendment shall become effective until after a public hearing thereon, at which the public shall have an opportunity to be heard. If the City Council chooses to consider a proposed zoning amendment, it shall, by resolution at a duly called meeting, set the time and place for a public hearing on the proposed amendment and shall cause public notice to be given as required by the laws of New York State and specified below. If a proposed amendment is initiated by petition, the petitioner shall be responsible for publication of notice and for notice to adjacent municipalities if necessary.

City of Newburgh, Chapter 300, Zoning

1. Publication of Notice in Newspaper. Notice of the time and place of the public hearing shall be published at least ten (10) days in advance of such hearing in the official newspaper. This notice shall provide a summary of the proposed amendment in such reasonable detail as will give adequate notice of its, indicating the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.
2. Notice to Adjacent Municipalities. Written notice of any proposed amendment affecting property lying within five hundred (500) feet of an adjacent municipality shall be served in person or by mail upon the Clerk of such municipality at least ten (10) days prior to the date of public hearing. Representatives of neighboring municipalities receiving notification of a proposed amendment shall have the right to appear and be heard at the public hearing thereon but shall not have the right to review by a court.

D) Adoption.

1. The City Council may adopt amendments to this Chapter by a majority vote of its membership, except in the case of local protest or disapproval by the Orange county Department of Planning as noted below.
2. Count Disapproval. A supermajority (majority-plus-one) vote of all City Council members shall be required to pass any proposal which receives a recommendation of disapproval from the Orange County Department of Planning prior to City Council action, along with a resolution setting forth the reasons for such contrary action.

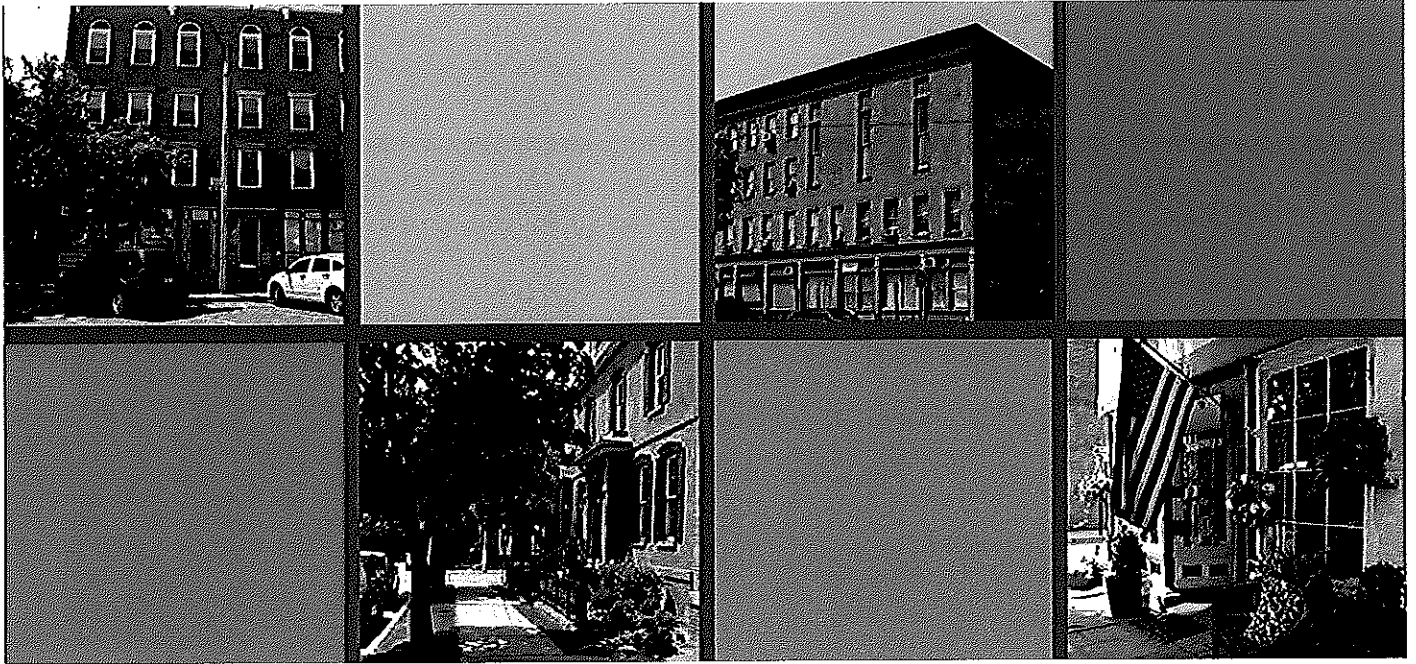
E) Effective Date. Unless the amendment provides for a different effective date, each amendment adopted by the City Council shall take effect when filed with the Secretary of the State of New York pursuant to the Municipal Home Rule Law of the State of New York.

§300-124. When Effective

This chapter, together with the Zoning Map and the Schedule of Use and Bulk Regulations, and Form Based Code incorporated herein and made a part of this Chapter, shall take effect ten (10) days after its publication and posting as required by City Law.

§300-125. Repeal of Existing Zoning Ordinance

The ordinance entitled "City of Newburgh, New York, Zoning Ordinance" effective 04-15-2006 including all amendments to said ordinance, is hereby repealed as of the effective date of this Chapter.



City of Newburgh, NY

Article XV of the Zoning Ordinance Form-Based Code: Downtown Districts and Waterfront

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§ 300-126 PURPOSE AND INTENT OF FORM-BASED CODE

§ 300-127 DISTRICTS DEFINED

§ 300-128 EXISTING CONTEXT

§ 300-129 SCHEDULE OF PERMITTED USES

PART 1: INTRODUCTION

In order to promote a more urban, walkable, and vibrant downtown, the City of Newburgh has chosen to utilize a Form-Based Zoning approach for its four downtown districts. The regulations in this Article supplement those regulations found in the rest of this Chapter and provide specific details on the form of development that is encouraged and allowed in this important section of the City.

This Form-Based Code will:

- Focus on the importance of building types and the relationship of one building to another
- Allow flexibility and variety with respect to uses within buildings and within a zoning district
- Help ensure new development is compatible with the existing urban fabric of downtown Newburgh
- Provide guidelines for the redevelopment of the waterfront
- Provide clarity to developers about what is desired and allowed
- Speed the application and approval process for projects meeting the requirements of this Article

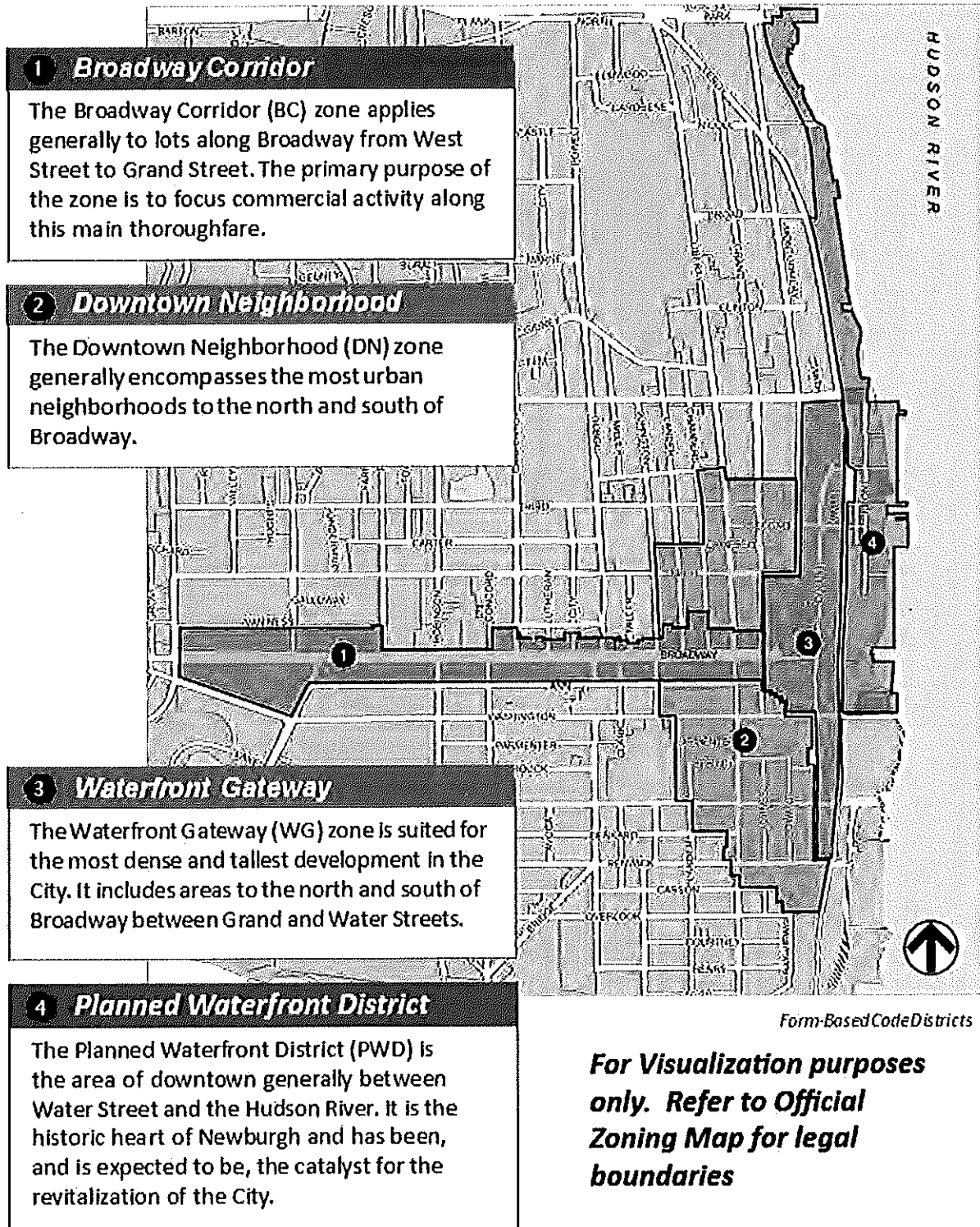
Organization

This Form-Based Code (FBC) is a fully binding and enforceable component of the City's Zoning Code. It is also designed as a 'stand-alone' resource for the development regulations for Newburgh's downtown.

The Form-Based Code is organized as follows.

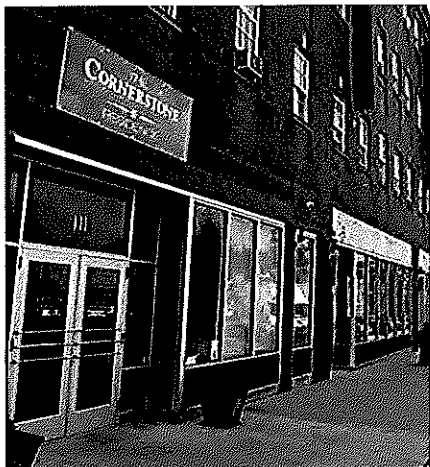
- Part 1: Introduction – This section describes the purpose and intent of the Form-Based districts and includes the schedule of permitted uses within the districts.
- Part 2: District Regulations and Guidelines – This section defines the development standards for each of the four downtown districts.
- Part 3: Supplementary Standards – This section provides detailed standards on building design, streetscape, and parking within the Form-Based districts.

The following four zoning districts, shown on the official Zoning Map of the City of Newburgh, are regulated through this Form-Based Code. The regulations in this form-based code regulate the use, bulk, area, and design of new construction within these four zoning districts.



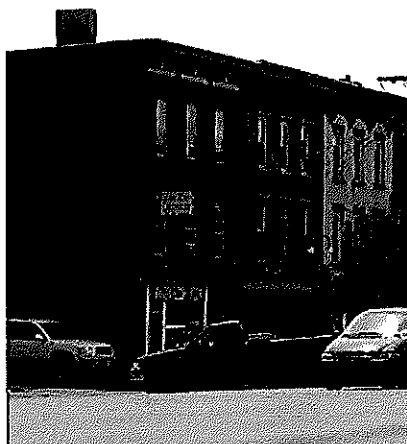
The following images on these two pages characterize some of the existing form within the downtown districts and show the diversity of existing building types and uses within the FBC districts. They are presented for informational purposes only.

BROADWAY CORRIDOR



Shopfront Building Type

- Shopfront building type used for residential use
- Entrance should be accentuated more



Shopfront Building Type

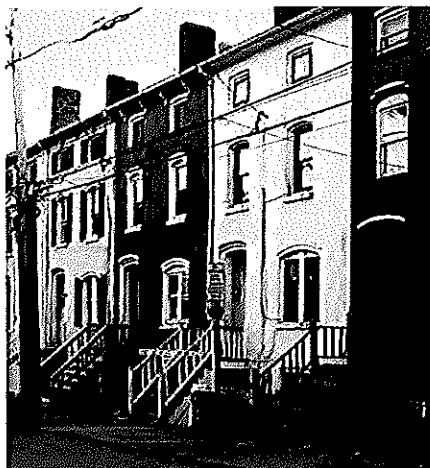
- Mixed-use buildings on Broadway
- Zero front and side yard setback
- Complementary, but not identical, architectural features
- Infill opportunities on vacant and underdeveloped lots



Civic Building Type

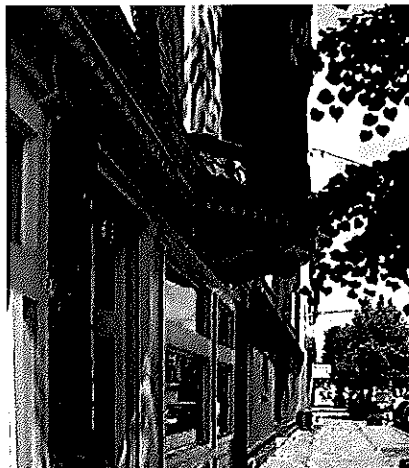
- Former Armory
- Distinctive architecture and building form
- Respects street wall

DOWNTOWN NEIGHBORHOOD



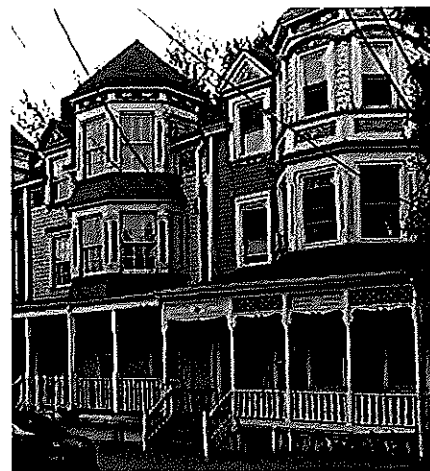
Rowhouse Building Type

- Façade breaks for every lot
- Stoop type entrance feature
- All houses are built with entrance feature right to front lot line



Shopfront Building Type

- Liberty/Grand Street commercial corridor
- High degree of transparency on the first floor
- Architectural feature (bay window) allowed to encroach onto public right of way to add visual interest



Rowhouse Building Type

- Porch type entrance feature
- Architectural accents, including bay windows, to maximize visual interest
- All houses are built with entrance feature to front lot line

WATERFRONT GATEWAY



Civic Building Type

- Institutional uses and civic buildings anchor Waterfront Gateway District
- Higher building to capitalize on Hudson River views and site topography

PLANNED WATERFRONT DISTRICT



Shopfront Building Type

- Front Street on the waterfront
- Ground-floor commercial and retail
- Awnings provide visual interest
- Setback should be used for public amenities



- Waterfront walkway between Hudson River and buildings
- Pedestrian path provided with lighting, seating, and other amenities

Permitted by Right and Permitted by Site Plan

The Form-Based Code allows a mix of uses, both within lots and within buildings. The following uses are permitted within the Form-Based districts as designated by P; are permitted within the Form-Based districts pending site plan review as designated by P*; or are permitted within the Form-Based districts by special permit from the Planning Board as designated by S.

Use	Broadway Corridor (BC)	Downtown Neighborhood (DN)	Waterfront Gateway (WG)	Planned Waterfront District (PWD)
Apartment House	P	P*	P*	P*
Four Family Dwelling	P	P*	P*	P*
Two or Three Family Dwelling	P	P	P*	P*
Row or Attached Dwelling (Townhome)		P	P*	P*
Two-Family Detached Dwelling		P	P*	
One-Family Detached Dwelling		P	P*	P*
Residential Care Facility	P	P	P*	P*
Cooperative House	P	P	P*	P*
Accessory Apartment				
Bed & Breakfast	A;S	A;S	A;S	A;S
Short Term In Home Lodging	A	A	A	
Boarding House				
Customary Home Occupation	A;S	A;S	A;S	A;S
Rooming House	S	S	S	S
Mixed Use with Residential	P*	P*	P*	P*
Live Work	P*	P*	P*	P*
Buildings, uses or facilities of any Governmental Unit	P*	P*	P*	P*
Cemetery	P*	P*	P*	P*
College/University	P*	P*	P*	
Community Center	P*	P*	P*	P*
Parking Lot	P*	S	S	S
Community Parking Lot	P*	S	S	S
Dormitories	A	A	A	A
Hospital	A;S	A		
House of Worship	P*	P*	P*	P*
Membership Club	P*	P*	P*	P*
Museum	P*	P*	P*	P*
Parks, Open Space, Recreational Facilities	P	P	P*	P*
Public Libraries	P*	P*		
School of General Instruction	P*	P*	P*	
Activity Facility	P	P	P*	P*
Adult Day Care Facility	P	P	P*	P*
Adult Uses				
Amusement Center	S	S		
Animal Care Facility	S	S		
Assembly Hall	P*		P*	P*
Bank	P		P*	
Bar	P	P*	P*	P*
Billiard Parlor	P	P*	P*	
Bowling Alley	P*	P*	P*	P*
Brewing of malt beverages or distilled spirits primarily for	P*	P*	P*	

on-Site consumption				
Professional Office	P	P	P*	P*
Cabaret	P	P	P*	P*
Car Rental	S	S	S	
Child Day Care	P	P	P*	P*
Cottage Industry	P	P	P*	P*
Drive-Thru (Bank, Restaurant, Pharmacy, etc.)	P*	P*	P*	
Funeral Home	P*	P*	P*	
Hotel	P*	P*	P*	P*
Laundromat	P	P		
Marina			P*	P*
Movie or Professional Theater, Indoor Concert Venue	S	S	S	S
Nursing Home	P*	P*	P*	P*
Office Park				
Personal Services	P	P	P*	P*
Restaurant	P	P	P*	P*
Restaurant, Carry-Out	P	P*	P*	
Restaurant, Fast-Food	P	P*	P*	
Retail	P	P	P*	P*
Retail, Neighborhood	P	P	P*	P*
Self Storage				
Shopping Center				
Tattoo Parlor	P	P	P*	P*
Taxi Service	P*			
Technical School	S	S	S	
Automobile Gas Station				
Automobile Sales				
Automobile Service/Repair				
Automobile Wash				
Agriculture				
Boat Repair				S
Distribution Facility/Warehouse				
Dry Cleaner; Commercial Laundry	P*			
Industrial Uses				
Storage Yard				
Wholesale	P*			

Architectural Review Commission

Lots within the East End Historic District must also comply with the requirements of Article VI.

PART 2: DISTRICT REGULATIONS AND GUIDELINES

§300-136 – Broadway Corridor

§300-137 – Downtown Neighborhood

§300-138 – Waterfront Gateway

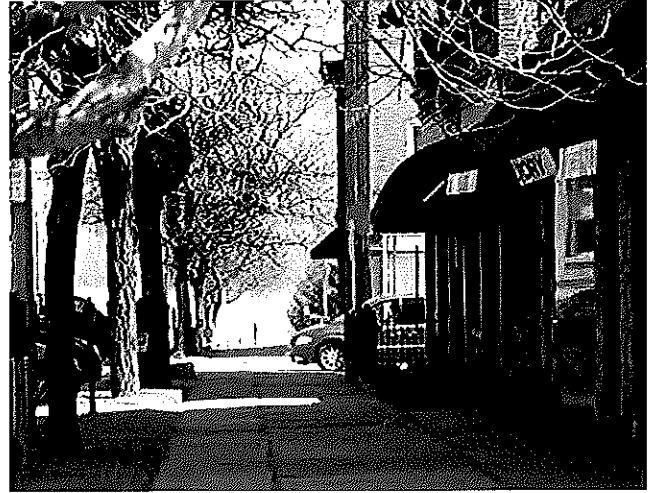
§300-139 – Planned Waterfront District

Part 2

§300-136 BROADWAY CORRIDOR



The Broadway Corridor is characterized by a wide street with shopfront type buildings fronting on the lot line. Current form encourages pedestrian activity and serves as the central commercial corridor in the City.



PURPOSE & INTENT

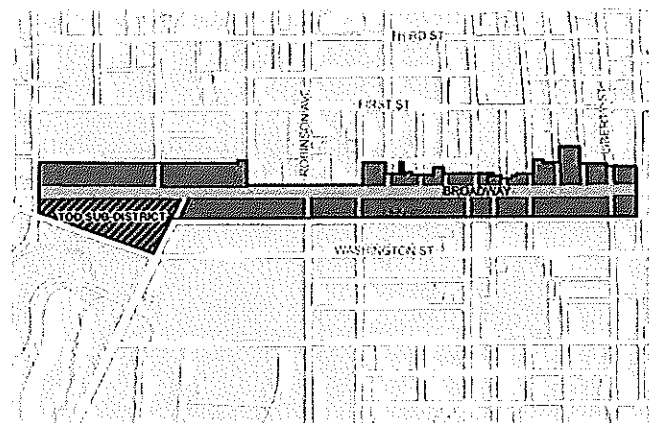
The purpose and intent of the Broadway Corridor is to:

- Promote a vibrant, pedestrian oriented Broadway;
- Focus new commercial development along Broadway;
- Provide for a mix of uses that serves the needs of the residents of, and visitors to, the City.

Within this district, the preferred form for new development is the shopfront form, also known as the Main Street form. This form generally features ground-floor retail with residential or commercial uses on the upper floors. Buildings with residential use only are allowed, but must follow the design guidelines for the district.

A transit oriented development is planned for the

western end of the district. The area is bound by Broadway to the north and West Street and Lake Street to the west and east. This 'sub-district' will feature the same general form as the rest of the corridor, but will allow slightly higher and more dense new development that will capitalize on transit investments made by the City and County.



Lot Standards

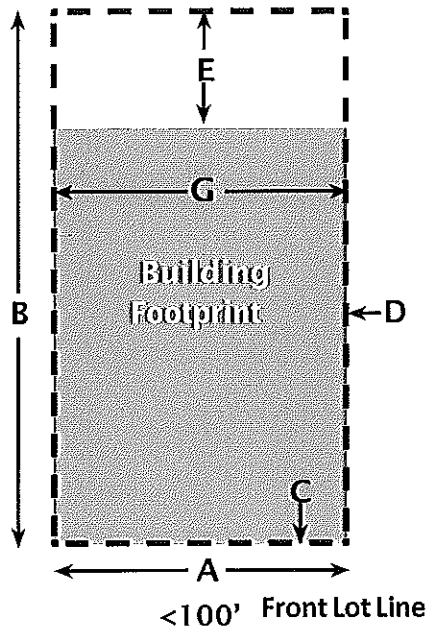
Buildings within the Broadway Corridor District shall comply with the following lot, building height, and building frontage requirements.

	MIN (feet)	MAX (feet)
(A) Lot Width	20	-
(B) Lot Depth	75	-
(C) Front Setback ¹	0	0/10
(D) Side Setback ²	0	0
(E) Rear Setback ^{3,4,5}	20	-
(F) Landscaped Area ⁶	10%	-
(G) Frontage Occupancy	80%	-
(H) Height ⁷		
Broadway Corridor	3 stories/35 feet	5 stories /65 feet
TOD 'sub-district' (south of Broadway between Lake and West Streets)	4 stories /45 feet	6 stories /75 feet

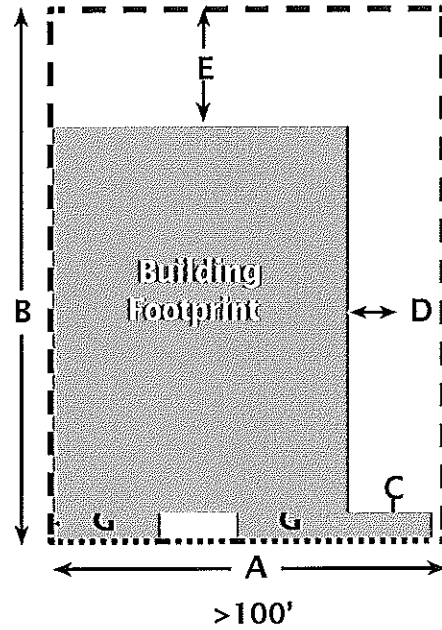
1. A maximum of 10 feet may be allowed only if the front yard has no parking and is landscaped and used in a manner that enhances the street life by such means as pocket parks or plazas, outdoor dining areas, or public art. No outdoor display of items for sale shall be permitted in the front yard.
2. Lots 100 feet wide or greater may have, but are not required to have, one side yard of 12 feet.
3. If the rear yard is dedicated to the City of Newburgh as all or part of a public parking lot or structure, the minimum setback shall be 5 feet with landscaping within the setback to screen from adjacent uses.
4. Lots fronting on Broadway and within the TOD sub-district are not required to have a rear yard.
5. Private service alleys are permitted within the rear yard.
6. Lots fronting on Broadway, and all those lots south of Broadway between West and Lake Streets, are not required to have a minimum landscaped area.
7. A 6th story is only allowed if set back from the front façade at least 15 feet.

Building Placement Examples

Rear Lot Line



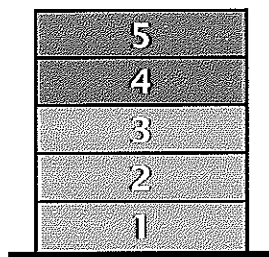
- Building placed at front lot line for continuous street wall
- Lot width <100 feet so no side yard allowed



- Recessed entrance allowed because 80% of façade is at lot line
- One side yard of 12 feet is allowed because lot width is greater than 100 feet

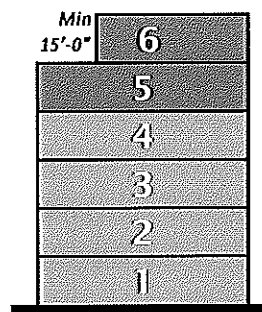
Building Height Diagrams

Broadway Corridor



- Minimum 3 stories (35 feet)
- Maximum 5 stories (65 feet)

TOD 'Sub-District'

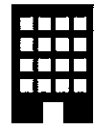
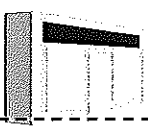
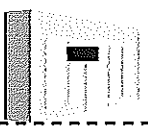
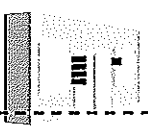
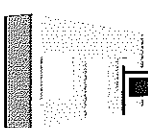
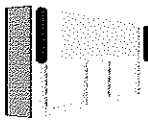


- Minimum 4 stories (45 feet)
- Maximum 6 stories (75 feet)
- 6th story must be setback 15 feet

max
min

Building & Sign Types

Buildings within the Broadway Corridor District must be of the Shopfront or Civic building type as defined in 3.1. Midrise buildings are also allowed in certain areas of the district. The table below illustrates the allowable sign types, as defined and regulated in 3.3, for each building type.

<i>Building Type</i> <i>Sign Type</i>	SHOPFRONT	MIDRISE*	CIVIC
BAND			
 BLADE			
 SHINGLE			
 AWNING			
 YARD			
 MARQUEE			
			

* Not allowed for buildings that front Broadway or are within the TOD sub-district.

§300-137 DOWNTOWN NEIGHBORHOOD



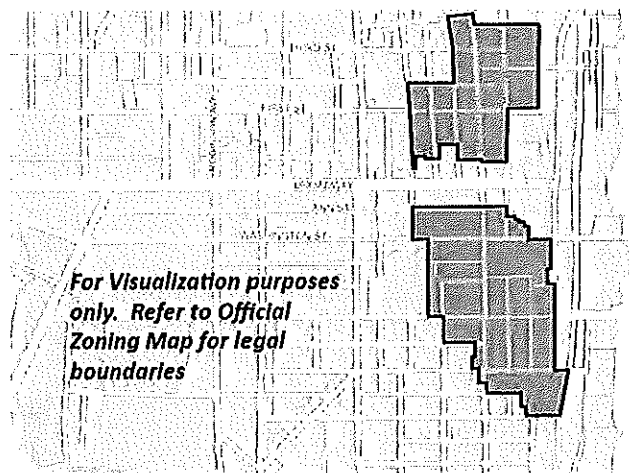
The Downtown Neighborhood is characterized by residential blocks featuring rowhouses, the Liberty/Grand Street commercial corridor with a mix of uses and building façades, and mixed-use blocks of residential with shopfronts on the corner.

PURPOSE & INTENT

The primary intent of this zone is to protect and promote the quality of the downtown residential neighborhoods immediately north and south of Broadway and the smaller scale mixed-use shop front buildings located primarily on Liberty and Grand Streets. This zone also includes the Liberty/Grand Street Heritage Corridor and contains a number of historically significant properties.

Several building forms are in this district. New infill development shall respect the pattern and scale of the existing urban development. Compact detached houses with small side yards are allowed except on lots fronting Liberty or Grand Streets. Within the more commercial areas of the district, such as Liberty or Grand Streets, the Shopfront and Midrise are the preferred building types.

These commercial, mixed-use, and higher density residential structures will reflect the historic development pattern of the area and capitalize on the cultural assets within the district.



Lot Standards

Buildings within the Downtown Neighborhood District shall comply with the following lot, building height, and building frontage requirements.

	MIN (feet)	MAX (feet)
(A) Lot Width	20	-
(B) Lot Depth	75	-
(C) Front Setback ¹	-	0/10
(D) Side Setback ^{2,3,4}	-	0
(E) Rear Setback ^{5,6}	20	-
(F) Landscaped Area	15%	-
(G) Frontage Occupancy	80%	-
(H) Height ⁷		
Rowhouse & Compact Detached House	2 stories/25 feet	4 stories/50 feet
Shopfront & Midrise	3 stories/35 feet	6 stories/75 feet

1. A maximum of 10 feet may be allowed only if:

- a) For Shopfront, primarily commercially used Midrise, and Civic buildings – the front yard has no parking and is landscaped and used in a manner that enhances the street life by such means as pocket parks or plazas, outdoor dining areas, or public art. No outdoor display of items for sale shall be permitted in the front yard; OR,
- b) For Rowhouses, primarily residential Midrises, and Compact Detached Houses – the entrance feature connects the house to the sidewalk.

2. Lots 100 feet wide or greater may have, but are not required to have, one side yard of 12 feet

3. Compact Detached Houses may have two side yards that are no more than 20 feet combined, no one of which is greater than 15 feet.

4. Rowhouses are allowed to have one side yard no greater than 12 feet and no less than 5 feet.

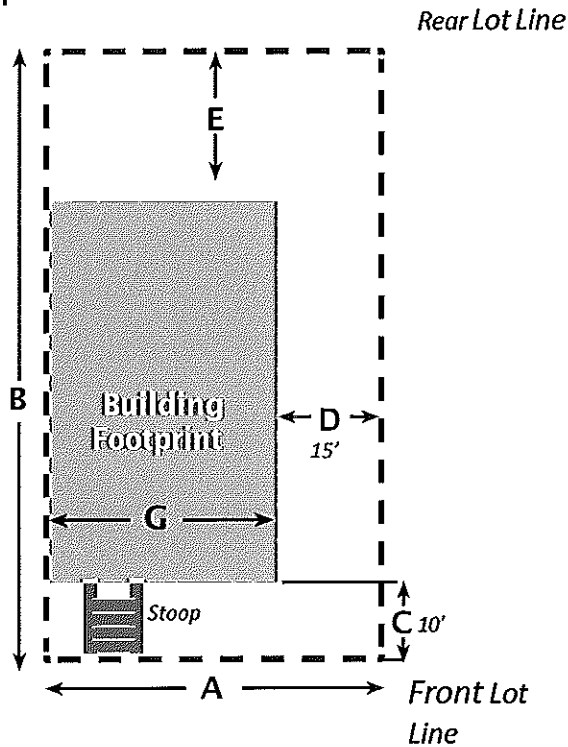
5. If the rear yard is dedicated to the City of Newburgh as all or part of a public parking lot or structure, the minimum setback shall be 5 feet with landscaping within the setback to screen from adjacent uses.

6. Private service alleys are permitted within the rear yard.

7. A 6th story is only allowed if set back from the front façade at least 15 feet.

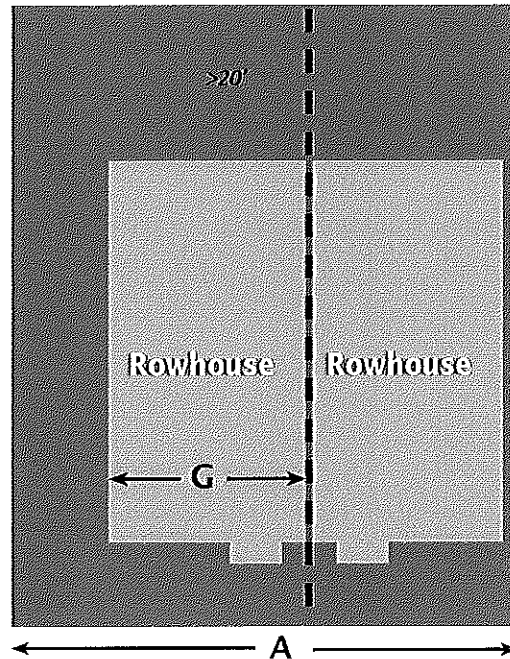
Building Placement Examples

Compact Detached House Placement Example



- Building façade is set back no more than 10 feet from front lot line
- Stoop continues to front lot line
- One side yard of 15 feet provided

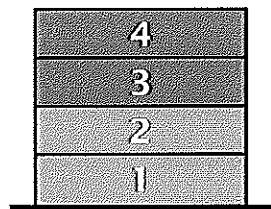
Rowhouse Building Placement Example



- Building façade is set back no more than 10 feet from front lot line
- Stoop connects to sidewalk
- Where possible, building facade aligns with adjoining building
- One side yard on end building of 12 feet allowed

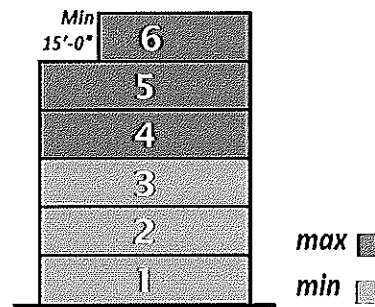
Building Height Diagrams

Rowhouse/Compact Detached House



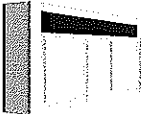
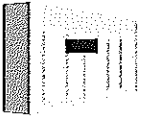
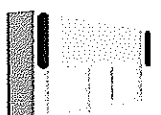
- Minimum 2 stories (25 feet)
- Maximum 4 stories (50 feet)

Shopfront/Midrise



- Minimum 3 stories (35 feet)
- Maximum 6 stories (75 feet)
- 6th story must be setback 15 feet

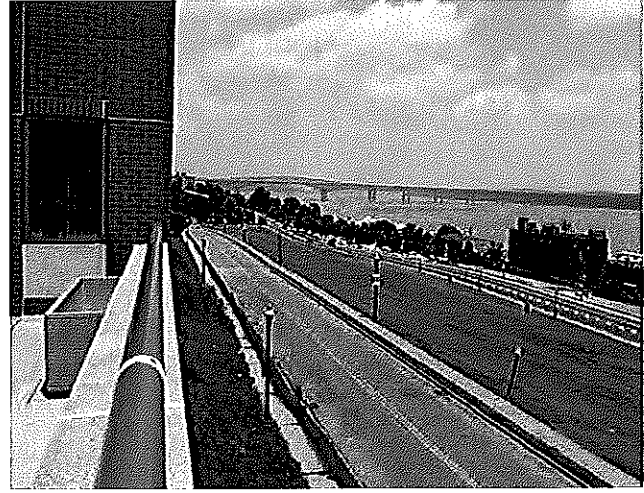
Building & Sign Types

Building Type Sign Type	SHOPFRONT	MIDRISE	ROWHOUSE	COMPACT* DETACHED	CIVIC
					
BAND					
					
BLADE					
					
SHINGLE					
					
AWNING					
					
YARD					
					
MARQUEE**					
					

* Not allowed on lots fronting Liberty or Grand Streets

** Only allowed on the Liberty and Grand Street building frontage.

§300-138 WATERFRONT GATEWAY



The Waterfront Gateway is anchored by institutional uses and civic buildings. Much of the rest of the district is characterized by large undeveloped and under-developed properties, many of which are City-owned.

PURPOSE & INTENT

The primary intent of the Waterfront Gateway District is to maximize the residential and commercial density of new development. New projects in this zone should capitalize on the dramatic views of the Hudson River Valley, while protecting the views of the river from upland as defined in Article XI. It is anticipated that marquis buildings will anchor this district along Broadway and a mix of uses north and south of Broadway will create a center of activity within the City.

This district forms a transition between the Waterfront, the Broadway Corridor, and the Downtown Neighborhood districts. Development should provide inviting public spaces that encourage pedestrian activity. The physical form of buildings is intended to vary within the district. Mid to high-rise buildings are encouraged along Broadway and its surrounding blocks, with shopfronts on the first floor to encourage

pedestrian activity. Higher density residential, mixed-use, and commercial buildings are encouraged in the rest of the district. Creative responses to the opportunities presented by the district's vacant and underutilized blocks are strongly encouraged.



Lot Standards

Buildings within the Waterfront Gateway District shall comply with the following lot, building height, and building frontage requirements.

	MIN (feet)	MAX (feet)
(A) Lot Width	20	-
(B) Lot Depth	75	-
(C) Front Setback ¹	-	0/10
(D) Side Setback ^{2,3}	-	0
(E) Rear Setback ^{4,5}	20	-
(F) Landscaped Area ⁶	10%	-
(G) Frontage Occupancy	80%	-
(H) Height ⁷		
Rowhouse	3 stories/30 feet	4 stories/50 feet
Shopfront & Midrise	5 stories/50 feet	8 stories/95 feet

1. A maximum of 10 feet may be allowed only if:

a) For Shopfront, Midrise, and Civic buildings – the front yard has no parking and is landscaped and used in a manner that enhances the street life by such means as pocket parks or plazas, outdoor dining areas, or public art. No outdoor display of items for sale shall be permitted; OR,

b) For Rowhouses – the entrance feature connects the house to the sidewalk allowed.

2. Lots 100 feet wide or greater may have, but are not required to have, one side yard of 12 feet.

3. Rowhouses are allowed to have one side yard no greater than 12 feet and no less than 5 feet.

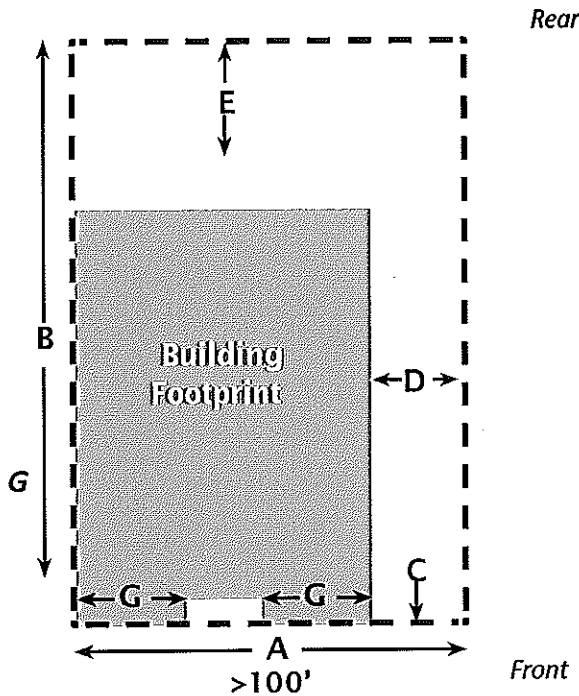
4. If the rear yard is dedicated to the City of Newburgh as all or part of a public parking lot or structure, the minimum setback shall be 5 feet with landscaping within the setback to screen from adjacent uses.

5. Private service alleys are permitted within the rear yard.

6. Lots fronting on Broadway are not required to have a minimum landscaped area.

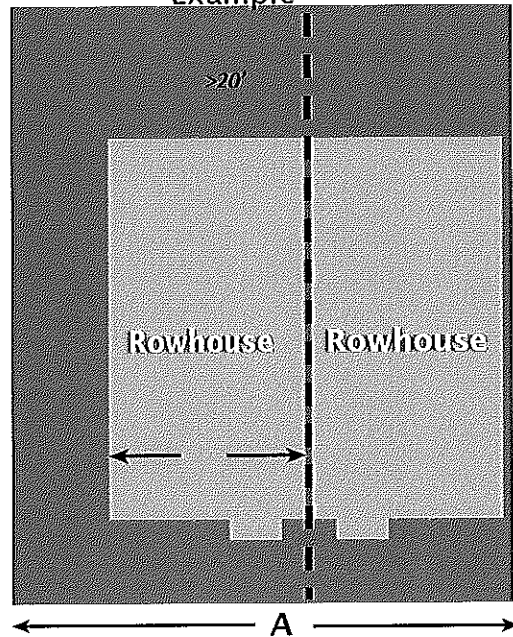
7. An 8th story including parking stories is allowed for buildings set into the hillside only if the story is set back from the front façade at least 15 feet. The building cannot block any viewshed as defined in Article VII.

Building Placement Examples



- Recessed entrance allowed because 80% of building façade is at lot line
- One side yard of 12 feet is allowed because lot width is greater than 100 feet

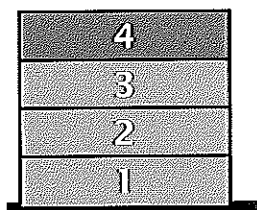
Rowhouse Building Placement Example



- Building façade is set back no more than 10 feet from front lot line
- Stoop connects to sidewalk
- Where possible, building facade aligns with adjoining building
- One side yard on end building of 12 feet allowed

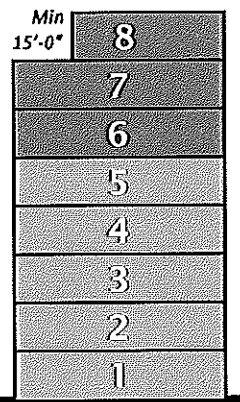
Building Height Diagrams

Rowhouse/Compact Detached House



- Minimum 3 stories (30 feet)
- Maximum 4 stories (50 feet)

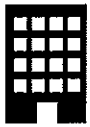
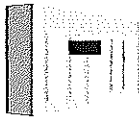
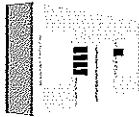
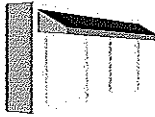
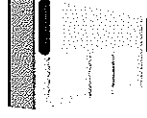
Shopfront/Midrise



■ max
■ min

- Minimum 5 stories (50 feet)
- Maximum 8 stories (95 feet)
- 8th story must be setback 15 feet

Building & Sign Types

Building Type Sign Type	SHOPFRONT	MIDRISE*	ROWHOUSE*		CIVIC
					
BAND					
					
BLADE					
					
SHINGLE					
					
AWNING					
					
YARD					
					
MARQUEE**					
					

*Not allowed for buildings that front Broadway

** Only allowed on the Broadway frontage of buildings.

§300-139 PLANNED WATERFRONT DISTRICT



The waterfront district is currently characterized by large amounts of surface parking, thriving restaurants and marinas, and retail uses. A waterfront walkway has been started and links to a City Park offering beautiful views of the Hudson. The district also contains large undeveloped parcels.

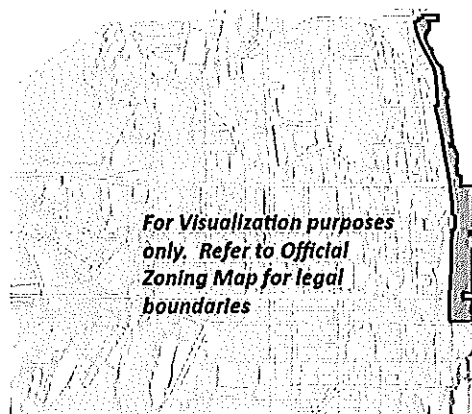
PURPOSE & INTENT

The PWD is established with the goal of revitalizing the waterfront and establishing the City as a regional destination along the Hudson River. Within this district, water-dependent and water-enhanced uses are encouraged. A broad mix of uses, including housing, commercial, cultural, and open space uses are allowed.

Because of the importance of this district to the overall development of the City and because of the large number of vacant and underutilized parcels within the district, all new construction must obtain Site Plan Approval from the Planning Board in accordance with Article XII. Development must also meet open space standards as well as provide public access to the waterfront.

The physical form and orientation of the buildings within the PWD should reflect the importance of the Hudson River to the successful redevelopment of the waterfront and should encourage activation of the waterfront through increased pedestrian

utilization. Shopfront buildings and Rowhouses, along with Civic buildings, are permitted within this district. Parking lots, both structured and surface, should be primarily located adjacent to the railroad tracks. This will allow the parking to be screened from vantage points to the east and west.



Lot Standards

Buildings within the Planned Waterfront District shall comply with the following lot, building height, and building frontage requirements.

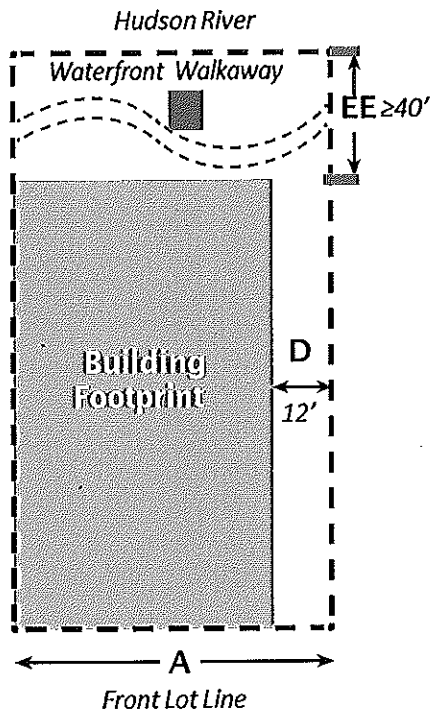
	MIN (feet)	MAX (feet)
(A) Lot Width	20	-
(B) Lot Depth	75	-
(C) Front Setback ¹	-	0/10
(D) Side Setback ²	-	15
(E) Rear Setback	-	-
(EE) Hudson River Setback [*]	40	-
(F) Landscaped Area ³	15%	-
(G) Frontage Occupancy	80%	-
(H) Height ⁴		
Rowhouse	2 stories/25 feet	4 stories/50 feet
Shopfront & Midrise	5 stories/50 feet	6 stories/65 feet

1. A maximum of 10 feet may be allowed only if:

- a) For Shopfront, Midrise, and Civic buildings – the front yard has no parking and is landscaped and used in a manner that enhances the street life by such means as pocket parks or plazas, outdoor dining areas, or public art. No outdoor display of items for sale shall be permitted in the front yard; OR,
 - b) For Rowhouses – the entrance feature connects the house to the sidewalk.
2. If a side yard is provided, it shall be no less than 8 feet and no more than 15 feet.
 3. Lots fronting on Broadway and lots on the north side of Front Street between Broadway and South Street are not required to have a minimum landscaped area.
 4. A 6th story is allowed if set back from the front façade at least 15 feet.

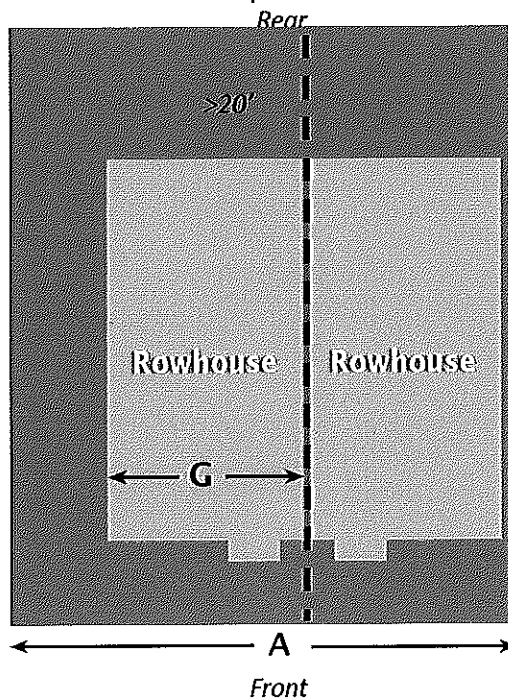
* Hudson River Setback is measured from each point along the shoreline, bulkhead, or stabilized shore, landward. Accessory swimming pools, parking, balconies, and porches are not allowed in the Hudson River Setback. Water-dependent uses and structures may be located in the Hudson River Setback with approval from the Planning Board.

Building Placement Examples



- Hudson River Setback of at least 40 feet
- Waterfront walkway provided in Hudson River setback

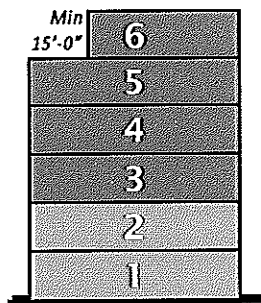
Rowhouse Building Placement Example



- Building façade is set back no more than 10 feet from front lot line
- Stoop connects to sidewalk
- Where possible, building facade aligns with adjoining building

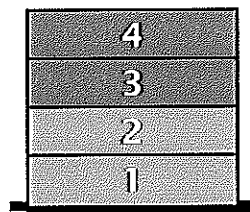
Building Height Diagrams

Shopfront/Midrise



- Minimum 2 stories (25 feet)
- Maximum 6 stories (65 feet)
- 6 story should be setback 15 feet

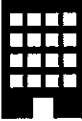
Rowhouse



- Minimum 2 stories (25 feet)
- Maximum 4 stories (50 feet)

Max ■
min ■

Building & Sign Types

Building Type Sign Type	SHOPFRONT	MIDRISE	ROWHOUSE*	CIVIC
BAND				
				
BLADE				
SHINGLE				
AWNING				
YARD				
MARQUEE**				

* Not allowed on Broadway or on the south side of Front Street.

** Only allowed on the Broadway frontage of buildings.

Massing – In order to protect the view corridors to the Hudson River and to reduce the scale of waterfront buildings, an individual building may occupy no more than 100 feet of the dimension of the lot measured parallel to Front Street. Buildings to the north of Broadway and west of Front Street are exempted from this supplementary massing requirement.

Parking – Whenever possible, parking (both surface and structured) should be placed adjacent to the railroad tracks. In this manner, the visibility of the parking can be minimized both from points to the east (downtown) and from pedestrians within the waterfront. Limited on-street parking may be allowed at the discretion of the Planning Board and in consultation with the Department of Public Works. In addition, no parking shall be allowed within the Hudson River Setback.

Open Space

All lots greater than 50,000 square feet in area shall provide maintained open space(s) for the benefit of the residents, clients, and/or general public.

The amount of maintained open space shall equal no less than 10% of the area of all lands not underwater.

The nature, location, and maintenance plans for such open spaces shall be approved by the Planning Board during Site Plan review.

A lot's *Waterfront Area*, may account for no more than 25% of a Site's required Open Space.

On-site open space can be used for passive or active recreation and/or to create, enhance, or preserve important views both into and from the City.

Public Access

This 'Public Access' section summarizes the detailed requirements in Part 3.

Physical Access

Public access to the river's edge shall be provided for all lots having the Hudson River as part of its boundary.

Public access shall consist of:

- A *Waterfront Area* that is open to the public and has a minimum width of 20 feet
- A *Waterfront Walkway* within the *Waterfront Area* that is a minimum of 12 feet wide

Visual Access:

All new construction within the PWD shall preserve views of the Hudson River created by the public streets grid.

All applications for Site Plan Approval shall be evaluated for their impacts to the following scenic views:

- Montgomery and South Streets
- Washington's Headquarters
- Broadway and Colden Street
- Newburgh Public Library
- First and Montgomery Streets
- Bay View Terrace

PART 3: SUPPLEMENTARY STANDARDS

- §300-151 – Building Types**
- §300-152 – Design Standards**
- §300-153 – Signs and Awnings**
- §300-154 – Streetscape Standards**
- §300-155 – Landscape Standards**
- §300-156 – Hudson River Waterfront Access**
- §300-157 – Parking**

The building types defined in this Section are allowed within the BC, DN, WG, and PWD districts. The design standards and regulations that apply to each building type are in addition to those required within each zoning district.

Shopfront Building Type

The façade of the shopfront building type is placed at or close to the front lot line with an entrance generally at sidewalk grade. Pedestrian-oriented retail or office uses are generally located on the ground-floor with upper floor typically designed for residential, hospitality, or employment uses. The shopfront building type is characterized by:

- A high percentage of glazing on the first floor
- A prominent entrance
- First floor architectural articulation, such as a shopfront with cornice, or architecturally emphasized entrance



Shopfront Building Type

Built to front lot line

High degree of transparency on first floor

Architectural articulation between 1st and 2nd floor

Roofline architectural features

Evenly placed windows

Standards

Massing

- Maximum length of building wall along a street shall be 200 feet
- Buildings must have a break in façade at least every 50 feet from the previous break or the end of the building. A façade break may be met through the use of architectural features (such as bay windows, porches, porticos, recessed doorways, etc.), through changes in building material or finish or by other similar means.

Windows

- Street level primary façades
 - Minimum of 60% window coverage
 - Transparent with views into the business
 - Bottom of window shall be between 24 and 32 inches above the sidewalk
- Floors above street level and secondary façades
 - Minimum 30% window coverage for commercial uses
 - Minimum 15% window coverage for residential uses
 - Individual window proportions shall be greater in height than width

- Exterior window guards (e.g. security guards) shall be integrated with the design of the building
- Windows shall be placed in a consistent pattern within the first floor, floors two through the penultimate floor, and the top floor

Entrances

- Main building entrances shall be accentuated – permitted accents include: recessed, canopy, awning, portico, or overhang
- All primary entrances shall be illuminated from above. No up facing lighting is permitted.
- Security door guards shall be integrated with the design of the building

Corner Articulation

- Main entrances to buildings on corner lots should be oriented to the corner and public street fronts
- Main building entrance should be on the primary street
- Massing and architecture of the building should reflect the importance of a corner site and relate to both street frontages

Midrise Building Type

The midrise building is a key characteristic of an urban downtown providing higher density buildings where the building line generally meets the lot line. Midrise buildings may include a vertical mix of uses (such as ground-floor retail or service with upper floors residential, service, or offices), or single-use building (such as residential or office).

Standards

Massing

- Maximum length of building wall along a street shall be 200 feet
- Buildings must have a break in façade at least every 50 feet from the previous break or the end of the building. A façade break may be met through the use of architectural features (such as bay windows, porches, porticos, recessed doorways, etc.), through changes in building material or finish, or by other similar means.

Windows

- Minimum 30% window coverage on first floor
- Minimum 15% window coverage above the first floor
- Individual window proportions shall be greater in height than width
- Exterior window guards (e.g. security guards) shall be integrated with the design of the building
- Windows shall be placed in a consistent pattern within the first floor, floor two through the penultimate floor, and the top floor.

Entrances

- Main building entrances shall be accentuated – permitted accents include: recessed, awning, canopy, portico, or overhang
- Main building entrances should be designed to reflect the primary use of the building. If primarily a residential use, midrises are encouraged to use a stoop, lightwell, or dooryard entrance type (as defined in the 'rowhouse' building type)
- A midrise building may also have a forecourt entrance. A forecourt entrance is when a small courtyard is placed on the front lot line of



Midrise Building Type

Building pulled to front lot line

Some transparency on first floor

Evenly spaced window openings

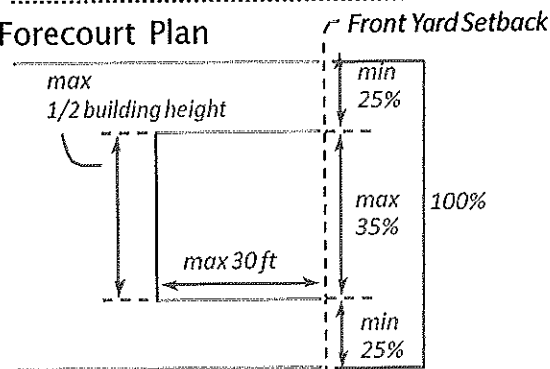
Primary entrances should be accentuated

the building. A forecourt may occupy no more than 35% of the length of the front façade and must be placed in the middle of the building's front façade such that no less than 25% of the length of the front façade is located on either side of the forecourt. The forecourt shall be no more than 30 feet deep and no wider than half of the building's height.

Corner Articulation

- Main entrances to buildings on corner lots should be oriented to the corner and public street fronts
- Main building entrances should be on the primary street
- Massing and architecture of the building should reflect the importance of a corner site and relate to both street frontages

Forecourt Plan



Rowhouse Building Type

- The Rowhouse Building Type is a residential structure typically located on a narrow lot, that shares a party wall with a structure on an adjoining lot. Rowhouses typically range from 2 to 4 stories and are also called townhouses and attached houses. Rowhouses are prominent in the Downtown Neighborhood District in particular, and help provide a broad choice of housing types within the City.
- Rowhouses shall be no more than 30 feet wide and the front façade shall be located near the front lot line



Rowhouse Building Type
Rowhouses with stoop and dooryard entrance type features
All entrance features reach the front lot line
Pedestrian clear width provided next to lot line with
streetscape zone closest to curb

Standards

Windows

- Individual window proportions shall be greater in height than width
- Exterior window guards (e.g. security guards) shall be integrated with the design of the building
- Windows shall be placed in a consistent pattern within the first floor, floors two through the penultimate floor, and the top floor

Entrances

- Rowhouses shall have one of the four entrance types defined below
- Rowhouses shall have their primary entrance on the front façade

Entrance Types

STOOP

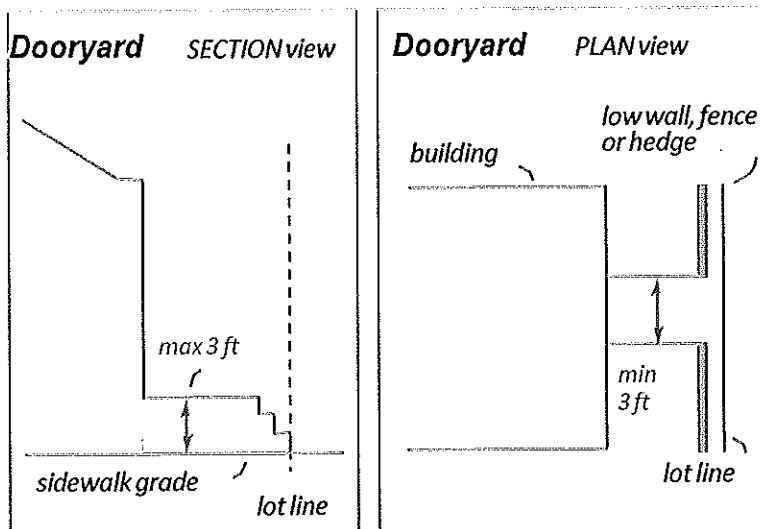


Stoop Entrance Type

Frontage Line defined by low wall, hedge, or fence

- The elevated stoop serves to engage the sidewalk and ensure privacy within the building
- The stairs of the stoop align with, or near to, the lot line
- The stairs to the stoop may be perpendicular or parallel to the sidewalk
- The stoop may have an awning, porch, or portico
- A low wall, fence, or hedge may be provided to define the frontage line

DOORYARD

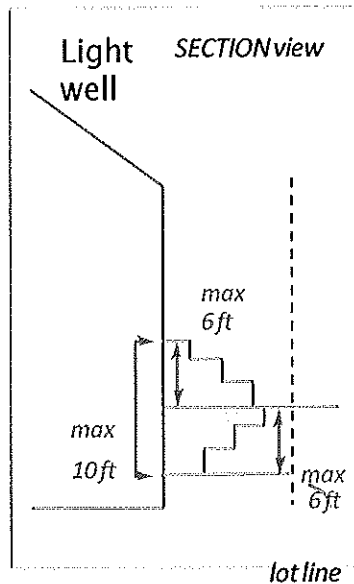


- In the Dooryard Entrance Type:
 - A low wall, fence, or hedge is provided to define the frontage line; and,
 - The main entrance is provided at the same grade as the 'dooryard' that is created.
- Dooryards must be within three vertical feet of the grade of the adjacent sidewalk
- Any stairs that are provided must align with, or near to, the frontage line

LIGHTWELL



Lightwell providing an entrance to the ground floor and basement level.



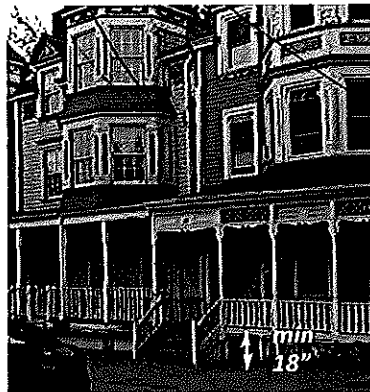
- In the Lightwell Entrance Type, the setback of the main building façade features either an elevated terrace or recessed lightwell
- The Lightwell Entrance Type allows natural sunlight to enter the floor below grade and often serves to allow an outside entrance from the ground floor and the one immediately below
- Neither the top of the terrace or the

bottom of the lightwell shall be more than 6 feet in vertical distance from the sidewalk. In no instance shall the distance between the top of the terrace and the bottom of the lightwell be more than 10 feet.

PORCH



Porch open on two sides and engages building on other two sides



Porch feature shared between multiple rowhouses

- Porches must be a minimum of 18 inches above the sidewalk grade
- Porches must maintain a clear path of travel that is at least three feet wide

Compact Detached House

A compact detached dwelling is located on an urban lot no wider than 56 feet. The maximum individual side yard is 15 feet and two side yards combined may be no more than 20 feet.

Windows

- Individual window proportions shall be greater in height than width
- Exterior window guards (e.g. security guards) shall be integrated with the design of the building
- Windows shall be placed in a consistent pattern within the first floor, floor two through the penultimate floor, and the top floor

Entrances

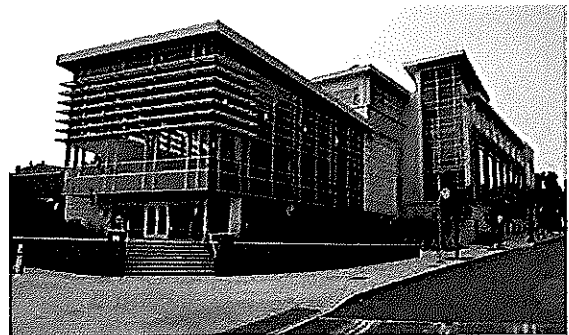
- Main building entrance shall face the street
- Secondary entrance may be provided on the side or rear of the building if facing a side yard at least 5 feet wide or greater, or a rear yard
- Compact Detached Houses shall have one of the four Entrance types allowed for Rowhouses (e.g. Stoop, Dooryard, Lightwell, or Porch)

Massing

- Compact Detached Houses shall be no more than 36 feet wide
- Where possible, the front building façade shall align with neighboring structures

Civic

Owing to its special and public or quasi-public use, the Civic Building Type is designed to stand out from the form of the adjacent area. Civic buildings are often architecturally distinctive buildings that occupy prominent spaces in the community. The Civic Building Type requires a special use permit and site plan approval from the Planning Board in all districts. Civic Buildings do not need to be institutionally or government owned. For example, Civic Buildings could include theaters.



Civic

*Orange County Community College building
Civic building with unique architecture and site design
Capitalizes on site location, orientation to the Hudson River
Prioritizes pedestrian movements*

Design Standards

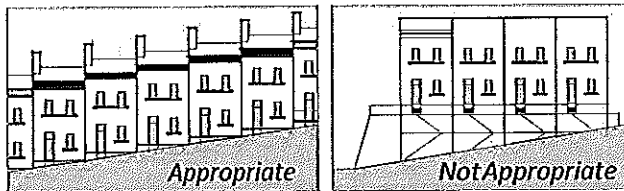
The following design standards shall apply to all of the downtown districts. They are intended to:

- Preserve and enhance the architectural character of the City
- Promote pedestrian access and activity
- Maintain the role of streets as civic and social spaces

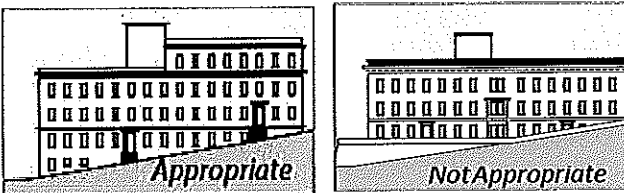
Topography

When topography is altered during construction, the site shall be graded to avoid:

- The creation of retaining walls or blank walls taller than four feet in height along any street frontage
- Mass grading of a site that results in buildings not reflecting the topography of the site



Appropriate mass grading of a site allows narrow footprint buildings to step up and follow the site topography.



Appropriate grading for large footprint buildings addresses the street along the entire frontage and does not create large blank retaining walls or building facades.

Projections and Encroachments

- Architectural building elements, such as balconies, bay windows, open porches, and cornices may encroach up to three feet beyond the front lot line if the bottom of the encroaching element is at least 10 feet above the grade of the sidewalk
- Window or projected air conditioners are not permitted on the front façade
- Flags attached to a building façade are permitted to encroach up to three feet

beyond the front lot line if the base of the pole is at least six feet above the grade of the sidewalk and is angled upward.

Architectural Features

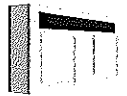
- Windows may not be placed on a building façade that is within 2 feet of an adjacent lot
- Architectural features, such as balconies and bay windows, are encouraged for all building types
- All building types should include a top floor cornice or comparable architectural feature. If the top floor is required to be set back from the front façade of the floor immediately below, the penultimate floor shall also have a cornice or similar architectural feature.
- Architectural features and windows should be continued on all sides of the building that are visible from a street or public parking area. Blank walls should be avoided.
- Mechanical equipment and refuse containers shall be concealed from public view either by being placed to the rear of the building or screened with appropriate landscaping or walls or architecturally compatible rooftop masking

Building Materials

- Building materials for finishes include wood, brick, stucco, stone, or fiber-cement siding and trim
- Vinyl, aluminum, or sheet metal siding or trim and concrete blocks or walls are not allowed as finish material in any district

Primary Façade

- If a building is on the corner, the primary façade of a building is that which faces the primary street
- The primary street is the one on which the primary use of the building is concentrated
- For Shopfront Building Types, the primary street will usually be either Broadway, Liberty, Grand, or Front Streets

	Quantity per Façade	Maximum Area (square foot)	Maximum Height (h)	Maximum Width (feet) (w)
 BAND	1	16	minimum 1 ft; maximum 3 ft	90% of façade
 BLADE	1	8	4	4
 SHINGLE	1	6	3	2
 AWNING	1 per ground- fl door or window	90% of canopy	n/a	Full span of façade
 YARD	1	9	3	3
 MARQUEE	1	36	12	3

Signage

The purpose of these requirements is to promote high-quality, well-designed signs that:

- Clearly advertise the tenant or user
- Enhance the architectural, structural or landscape features of the associated facility
- Enliven the resident and visitor experience
- Contribute to the improvement of the visual environment, expression of local character
- Minimize sign clutter

All new signs erected in the Form-Based Districts shall comply with the regulations in this Section. The regulations in this section are in addition to the signage regulations found in Part 2 of this Article and Chapter 250 of the City Code. Where the regulations in this Chapter conflict with any other signage regulation, the regulations of this Article shall prevail.

General Standards

Historical markers and tablets, memorial signs and plaques, dates of building erection, and emblems installed by governmental agencies are all exempt from these regulations if they are 12 square feet or less.

Changeable Copy signs are permitted on Civic Buildings, schools, Houses of Worship, and buildings occupied by not-for-profit organizations. (Changeable copy signs are those designed to hold copy (letters, numbers, graphics) that can be readily and periodically modified.)

Signs shall be compatible with building design in terms of relative scale, overall size, materials and colors. Signs shall not dominate a building façade or streetscape

Legibility

- Signs shall avoid hard-to-read intricate type-faces, and limit the number of letter styles
- The area of the sign devoted to text shall be limited. Lettering and logos shall not occupy more than seventy-five percent (75%) of the sign face.
- Signs may use symbols and logos
- Signs shall avoid large contiguous areas of blank space

Minimum Ground Clearance (feet)	Depth (Projection from façade) (feet)	Width of Sign	Maximum Text and Graphics Height (inches)	Maximum Projection into ROW (feet)
(cl)	(d)		(t)	(p)
8	1	n/a	18	1
8	4' or 1/3 width of sidewalk, whichever is less	n/a	8	4' or 1/3 width of sidewalk, whichever is less
8	2	n/a	8	2
10	4 feet minimum	n/a	2 ft max text height ; 75% of the awning width max	maximum projection 2 feet from curb
1	n/a	5 inches maximum	75% of sign height max	not allowed
12	3	12 inches maximum	75% of sign width max	3

Location and Size

- Signs shall be designed to relate to the architectural features of the building and to create visual continuity with other shopfronts in the same or adjacent buildings
- When possible, signs shall be placed at or near the public building entrance to indicate accesses
- For the purposes of this sign regulation section only, façade shall mean either a building façade, or that portion of a building façade that is occupied by a single tenant space having a public entrance on the building façade ("Business Façade"). For spaces located interior to a building that do not have direct access to the building façade, the elevation at which public access is provided shall be considered the business façade.

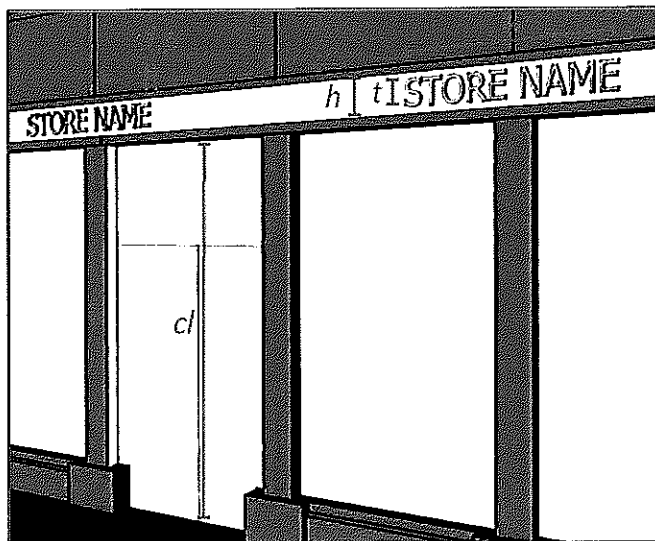
Illumination

- Utilization of a direct source of light (e.g. spotlight) is permitted. The light shall be focused on the sign and shielded to prevent glare.

- Back-lit, solid letters are encouraged
- Individually illuminated letters, either internally illuminated or back-lit (reverse channel), are permitted
- Signs using internally illuminated cabinet with translucent panels ("box signs") are not permitted
- Signs that use blinking or flashing lights shall be prohibited
- Neon signs and electronic reader board signs are prohibited

Materials

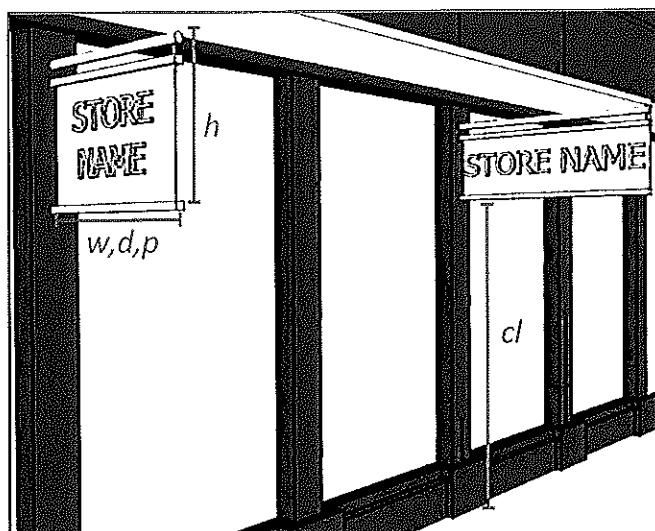
- Sign materials shall be selected with consideration for the architectural design of the building's façade. Permitted materials include wood or PVC that is carved, sandblasted, etched, properly sealed and painted, or stained or metal that is formed, etched, cast, engraved, and properly primed and painted or factory coated to protect against corrosion. Acrylic is also permitted.

BAND**Description**

- Individual cut letters placed directly against the façade or placed on a solid background attached to the façade
- The display surface is parallel to the plane of the building façade
- The sign projects no more than 12 inches from the building façade

General Provisions

- Sign is mounted, not be painted directly on the façade
- No portion of the band sign may extend above the roof line or above a parapet wall of a building with a flat roof
- No portion of a band sign may extend above the lower eave line of a building with a pitched roof
- A band sign cannot cover windows or architectural details

BLADE**Description**

- Mounted perpendicular to primary street facing façade
- Pedestrian-scale lettering, not auto-scaled

General Provisions

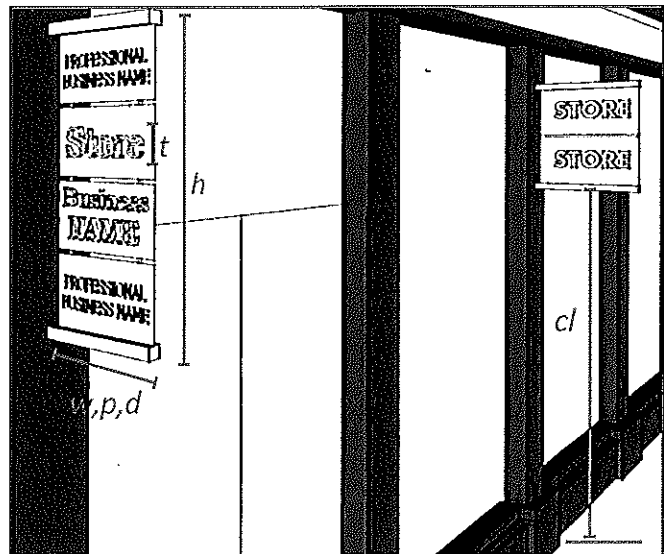
- Must be located at least 25 feet from any other blade or projecting sign
- Top of sign may not be higher than the top of the first floor
- May be mounted only below the second floor
- Shall not have more than two faces

SHINGLE**Description**

- Small projecting sign that hangs from a bracket or support perpendicular to façade
- Located adjacent to, or over, the building entrance
- Pedestrian scale lettering, not auto-scaled.

General Provisions

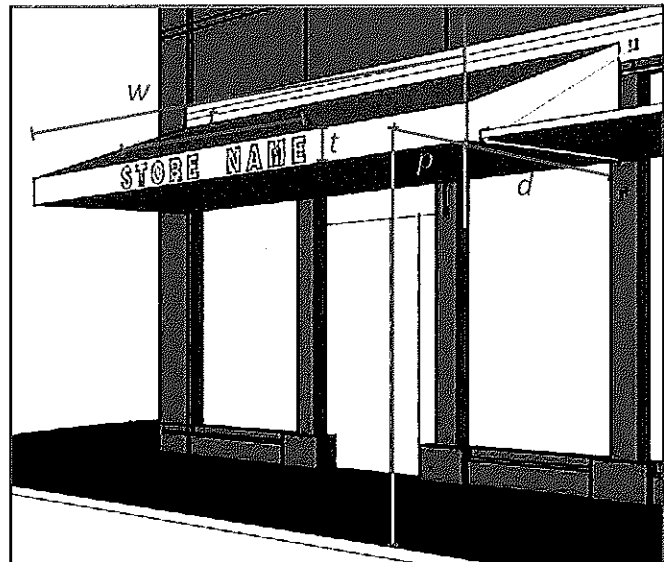
- Hanging bracket must be an integral part of the sign design
- Must be located below the window sills of the second floor
- May not be illuminated

**AWNING****Description**

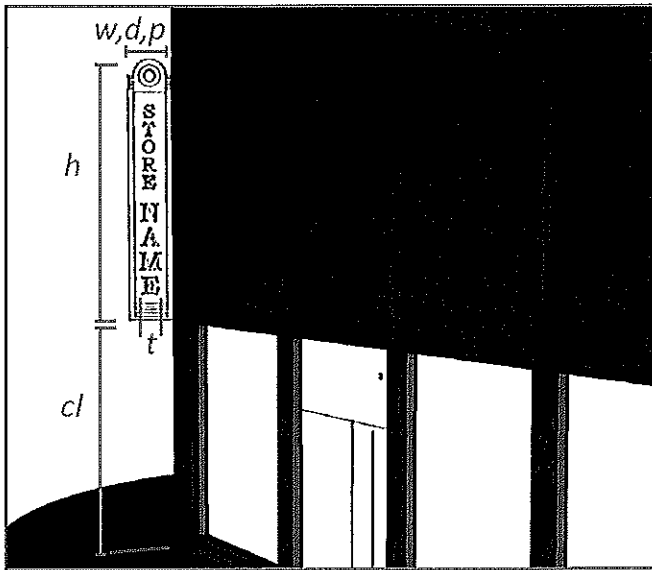
- Lettering, graphics or symbols adhered to awning

General Provisions

- Must be flush with the awning or canopy
- Only awnings or canopies over ground story doors and windows may contain signs
- A maximum of one sign is allowed per vertical awning face
- Internal lighting or back lighting of awning signs is prohibited



MARQUEE



Description

- Large projecting sign
- May be placed at second story or above
- Oriented perpendicular to the façade or at a 45 degree angle to the corner of a building

General Provisions

- Top of sign may not be higher than the top of the building

YARD

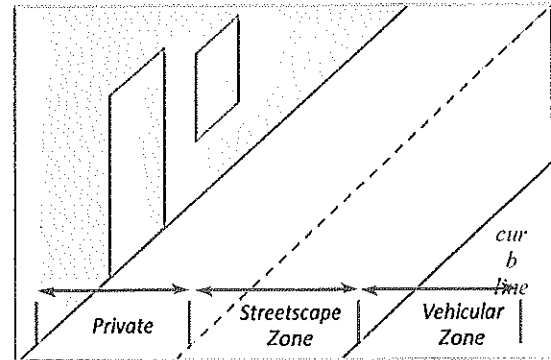
Description



- Freestanding sign attached to the ground by one or more support structures
- Structure may be no higher than 5 feet, measured to top from the ground
- Sign hangs from the bracket or support
- Must be located at least 25 feet from any other yard sign
- Hanging bracket must be an integral part of the sign design

STREETSCAPE STANDARDS

This section addresses the design of the streetscape zone. The streetscape zone is the space between the curbline and property line. The purpose of these regulations is to provide a high quality and consistent pedestrian environment.



STREETSCAPE ZONE

The Streetscape Zone is comprised of three separate areas: the Pedestrian Walkway; the Street Tree/Utility Zone; and the Amenity Zone.

Pedestrian Walkway

The Pedestrian Walkway is that portion of the Streetscape Zone that is devoted to pedestrian movement. The pedestrian walkway is clear of all temporary or permanent obstructions which may impede the flow or circulation of pedestrians. The minimum width and relative location of the pedestrian walkway within the Streetscape Zone varies throughout the Form-Based Districts with the absolute minimum width being 5 feet.

Street Tree and Utility Zone

The street tree and utility zone is the area within the Streetscape zone located immediately adjacent to the curb line.

Wherever possible, canopy trees will be planted within a continuous bed no less than 5 feet wide and 10 feet long. The exposed surface below the tree shall be planted with ground cover or surfaced with permeable pavers or tree grates.

Where large areas of pervious surface treatments are not possible, structural soils shall be utilized to provide beneficial root zone conditions to improve tree health and long term survival.

Permitted elements placed within the street tree and utility zone include:

- Street trees
- Directional signage
- Traffic/parking signage
- Fire hydrants, manholes
- Other public utilities
- Municipal garbage and recycling containers
- Bike racks
- Bus Shelter
- Wayfinding signage

Amenity Zone

The Amenity Zone is that portion of the Streetscape Zone that is accessible to the public, but may also be utilized by private property owners for temporary and incidental amenities that promote the overall pedestrian-orientated goals of the Form-Based Code Districts. When the Amenity Zone is located immediately adjacent to the building façade, a minimum 5 foot wide path shall be provided to each building entrance that is clear of all obstructions.

Permitted elements placed within the amenity zone on a temporary basis:

- Benches or other seating
- Small above ground planters or planted containers
- Foundation planting (i.e. shrubs and ground cover)
- Decorative entry pavers
- Café seating
- Place-making public art
- Bike racks

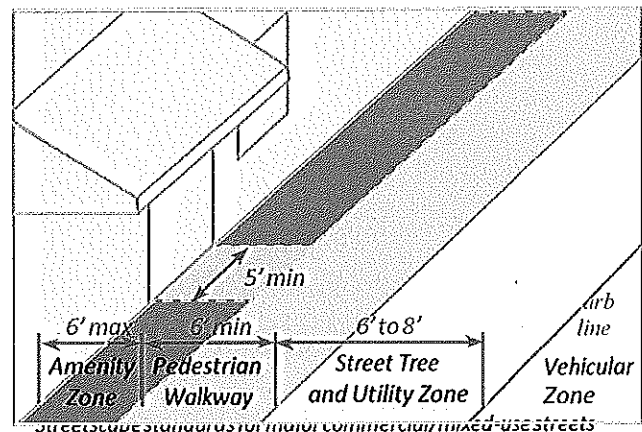
DESIGN STANDARDS FOR STREETSCAPE ZONE

The required width and relative location of the areas within the Streetscape Zone vary by the type of street. There are two main types of streets in the Form-Based Districts, which are characterized by their usage and physical dimensions. They are Commercial/Mixed-Use Streets and Residential Streets.

Commercial / Mixed-Use Streets

Major Commercial/ Mixed-use Streets
Major Commercial/ Mixed-use Streets are characterized by:

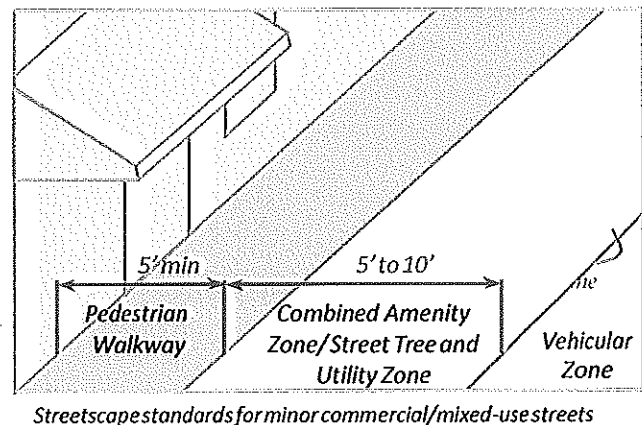
- Width of Public Right-of-Way (property line to property line): +/- 130 feet
- Width of Vehicular Roadway (curb to curb): +/- 90 feet
- Width of Streetscape Zone (curb to property line): +/- 20 feet
- Example: Broadway



Minor Commercial/ Mixed-use Streets

Minor Commercial/ Mixed-use Streets are characterized by:

- Width of Public Right-of-Way (property line to property line): 60 feet to 70 feet
- Width of Vehicular Roadway (curb to curb): 30 feet to 40 feet
- Width of Streetscape Zone (curb to property line): 10 feet to 20 feet
- Example: Liberty Street or Ann Street

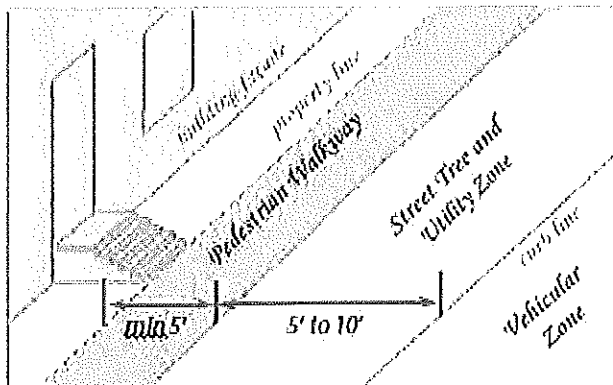


Residential Streets

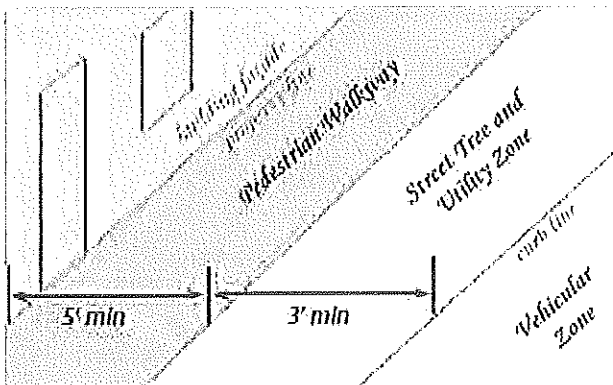
Residential streets within the FBC typically have the following characteristics

- Width of Public Right-of-Way (property line to property line): 36 feet to 60 feet
- Width of Streetscape zone (curb to curb): 20 feet to 36 feet
- Width of Pedestrian Zone (curb to property line): 8 feet to 15 feet
- Example: First Street, Parmenter Street

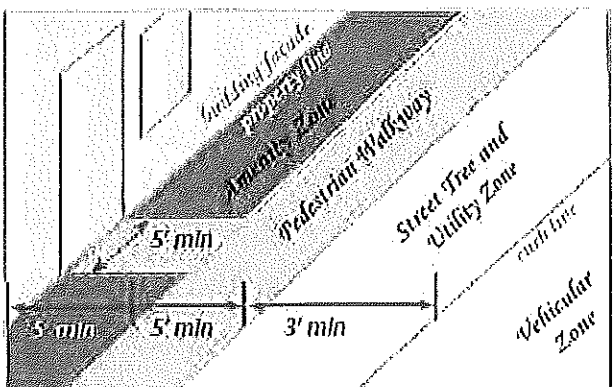
The following Streetscape Standards apply to residential streets within the Form-Based Districts.



These streetscape standards apply to residential streets that primarily feature buildings that are set back from the property line where the Streetscape Zone is approximately 10-15 feet wide. An Amenity Zone is not allowed on this type of Streetscape.



These streetscape standards apply to primarily residential streets where the building façade aligns with, or near to, the lot line and the Streetscape Zone is approximately 8 feet wide. An Amenity Zone is not allowed on this type of Streetscape.



These streetscape standards apply to primarily residential streets where the building façade aligns with, or near to, the lot line and the Streetscape Zone is greater than 10 feet wide. An amenity Zone no wider than 5 feet is permitted adjacent to the building façade, provided the minimum Pedestrian Walkway and Street Tree / Utility Zone dimensions are met and that a minimum 5 foot wide unobstructed path is provided to each building entrance.

Landscape Standards

The following landscape standards apply primarily to the public realm and to projects within the Form-Based Code districts that require a Sidewalk Permit in accordance with Chapter 263 of the City Code. When possible, they should be followed by other projects within the Form-Based Districts.

Landscape Materials

1. All plant species must be native to the region or regionally appropriate as determined by the Conservation Advisory Council.
2. All invasive species, as identified by the United States Forest Service, Cornell Cooperative Extension, or the NYSDEC are prohibited from being planted in the Form-Based districts.
3. Replacement of invasive species with desirable hardwood species is encouraged.
4. All tree and other landscape materials shall meet the American Standard for Nursery Stock standards as published by the American Association of Nurserymen.
5. Tree and other landscape material selected for planting must be free from injury, pests, disease, nutritional disorders or root defects, and must be of good vigor in order to assure a reasonable expectation of survivability.
6. Large and medium canopy tree species shall be a minimum of 12 feet in height and have a caliper of at least 2.5 inches at time of planting.
7. Small canopy tree species should be a minimum of 4 feet in height and have a caliper of at least $\frac{9}{16}$ inches and five or more branches at time of planting.
8. Shrubs shall be a minimum of 18 inches in height and width at time of planting.

Landscape Installation and Maintenance

1. Tree and landscape materials shall be installed according to standards established by the American National Standards Institute (ANSI).
2. Structural soil shall be installed in and

around all tree wells to provide adequate underground volume for root growth. The structural soil should tie into adjacent landscaped areas to provide tree roots access to open soil.

3. Large and medium trees shall not be planted underneath or directly adjacent to overhead powerlines.
4. All plant material shall be maintained in good condition at all times in accordance with standards established by ANSI.
5. All plantings that die or are destroyed must be replaced during the next suitable planting season.
6. Attaching lights, signage, fence rails, and any other items to trees that may result in damage to the tree is prohibited.

Design Requirements for Street Trees

1. Street trees shall help define the boundary between automobile-zones and the streetscape zone.
2. All street trees planted in the streetscape zone are to be limbed up to a minimum of 6 feet.
3. Selection of tree species shall be based upon height, canopy diameter, disease resistance and transparency.
4. Large canopy street trees should be planted approximately every 30 feet.
5. A minimum soil volume of 400 cubic feet per tree is required.
6. To provide adequate underground volume for root growth, structural soil shall be installed under the paved areas around all tree pits of a dimension no less than 5' x 10'.
7. Wherever possible trees shall be planted in continuous tree pits or planting beds to provide optimal environment for root growth
8. Where continuous open-surface planting beds are not possible, structural soil should be used to provide a subsurface connection between tree pits to provide optimal conditions for tree root growth.

Parking and Loading Area Landscaping

These requirements apply to surface parking lots.

1. All parking and loading areas that are visible from the public right-of-way shall be screened with vegetation to minimize the visual impact of parked vehicles.
2. Shrubs and trees shall be installed in all parking lot medians to provide for semi-continuous plantings.
3. Within a surface parking lot each landscape island shall contain a minimum of 1 large canopy tree.

Lot Landscaping and Foundation Plantings

1. All permeable ground surfaces of lots in environments altered from their natural, predevelopment state and not provided for circulation of vehicles, bicycles or pedestrians shall be planted with vegetation or otherwise landscaped.
2. Except when a build-to line or minimum setback makes the provision of foundation plantings impractical, a foundation planting area shall be maintained around all structures. The foundation planting shall incorporate a mixture of trees, shrubs, and ground covers in order to soften the building façade. Foundation plantings shall not be required along any building elevation or portion thereof that contains only service and/or delivery areas that are not visible from any roadway.

List of Recommended Street Trees (adapted from NYC DPR "Tree Planting Standards," April 2008)

Large Trees-Mature Height Greater Than 50 Feet

Scientific Name	Common Name	Comments
<i>Ginkgo biloba</i>	Ginkgo	Male Only - Does Not Bear Fruit
<i>Quercus</i> spp. 'Fastigiata'	Fastigiata Oak	
<i>Liquidambar styraciflua</i>	Sweetgum	Plant Spring Only, lawn pits only
<i>Metasequoia glyptostroboides</i>	Dawn Redwood	
<i>Taxodium distichum</i>	Baldcypress	Ideal For Wet Soils
<i>Tilia cordata</i>	Littleleaf Linden	
<i>Gymnocladus dioica</i>	Coffee	Needs Lots of Space
<i>Gleditsia triacanthos</i> var. <i>inermis</i>	Honeylocust	Tolerates Tough Conditions
<i>Liriodendron tulipifera</i>	Tulip Tree	Tree Does Best In Lawn Pits
<i>Quercus rubra</i>	Northern Red Oak	Plant Spring Only
<i>Quercus bicolor</i>	Swamp White Oak	Plant Spring Only
<i>Quercus imbricaria</i>	Shingle Oak	Plant Spring Only
<i>Quercus palustris</i>	Pin Oak	Needs Large Tree Pit
<i>Quercus phellos</i>	Willow Oak	Plant Spring Only
<i>Tilia americana</i>	American Linden	Partial Shade, Fragrant Flowers
<i>Tilia x euchlora</i>	Crimean Linden	Pest Resistant
<i>Tilia tomentosa</i>	Silver Linden	Fragrant Flowers
<i>Zelkova serrata</i>	Japanese Zelkova	

Medium Trees - Mature Height 35-50 Feet

Scientific Name	Common Name	Comments
<i>Carpinus betulus</i>	European Hornbeam	
<i>Quercus robur</i>	English Oak	Plant Spring Only
<i>Cercidiphyllum japonicum</i>	Katsura Tree	Tree Does Best In Lawn Pits
<i>Corylus colurna</i>	Turkish Filbert	
<i>Nyssa sylvatica</i>	Black Gum	Should only be planted in extremely wet sites
<i>Ostrya virginiana</i>	American Hophornbeam	Plant Spring Only
<i>Quercus acutissima</i>	Sawtooth Oak	Plant Spring Only
<i>Eucommia ulmoides</i>	Hardy Rubber Tree	Tolerates Tough Conditions
<i>Styphnolobium japonicum</i>	Scholar Tree	Tolerates Tough Conditions

Intermediate Trees - Mature Height 25-35 Feet

Scientific Name	Common Name	Comments
<i>Koeleruteria paniculata</i>	Goldenrain tree	Tolerates Tough Conditions
<i>Maackia amurensis</i>	Amur Maackia	

Small Trees - Mature Height Less Than 25 Feet

Scientific Name	Common Name	Comments
<i>Amelanchier canadensis</i>	Serviceberry	
<i>Cercis canadensis</i>	Eastern Redbud	Does Best in Lawn Pits
<i>Carpinus caroliniana</i>	American Hornbeam	Plant Spring Only
<i>Fraxinus 'Leprechaun'</i>	Leprechaun Green Ash	
<i>Malus</i> spp.	Crabapple	
<i>Crataegus</i> spp.	Hawthorn	
<i>Cornus mas</i>	Cornelian Cherry	
<i>Prunus virginiana</i> 'Schubert'	Schubert Cherry	Tolerates Tough Conditions
<i>Syringa reticulata</i>	Japanese Tree Lilac	
<i>Prunus cerasifera</i>	Purpleleaf Plum	
<i>Prunus 'Okame'</i>	Okame Cherry	
<i>Prunus padus</i>	European Birdcherry	
<i>Prunus sargentii</i>	Sargent Cherry	
<i>Prunus serrulata</i> 'Kwanzan'	Japanese Flowering Cherry	
<i>Prunus xyedoensis</i>	Yoshino Cherry	Tree Does Best in Lawn Pits

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Hudson River Waterfront Public Access

The purpose of this section is to:

- Promote and maintain the physical and visual public access to and along the waterfront;
- Create a desirable relationship between waterfront development, public access areas, and the upland communities;
- Protect the natural resources within this environmentally sensitive area.

The requirements of this section apply to all lots within the PWD.

Physical and Visual access to the Hudson River must be provided within the PWD.

Physical Public Access

- Public Access to the river's edge shall be provided on all lots having the Hudson River as part of its boundary. Public access shall consist of:
 - » A Waterfront Area that is open to the public, in accordance with the section below, that is a minimum of 20 feet wide as measured perpendicular from the Hudson River Shoreline
 - » A publicly accessible Waterfront Walkway within the Waterfront Area that provides a minimum clear width of 12 feet
- Waterfront Areas
 - » Waterfront Areas shall be accessible from a public sidewalk, street, public park, or other public place, or from another publicly accessible Waterfront Area, provided that access is provided to the Waterfront Area no less often than every 400 feet from a public place.
 - » Appropriately designed and scaled down lighting, seating, and trash receptacles shall be placed within the Waterfront Area at adequate intervals, as determined by the Planning Board.
 - » Waterfront Areas shall be free of obstructions, except for landscaping, seating, trash receptacles, works of art, lighting, informational kiosks.
 - » Waterfront Areas shall have signage, located at or near the walkway's connection to a public street, sidewalk, or park, that the walkway is "Open to the Public" and ADA-accessible, as well as the hours of operation (as allowed below) and the name and contact phone number of the person designated to maintain the walkway.
 - » Waterfront Areas shall be open to the public from dawn to dusk, except when the adjacent use is commercial in nature, in which case the walkway shall be open until the business is closed. Waterfront Walkways shall be open every day of the year, with the exception of closures necessary for maintenance and for no more than one day each year in order to preserve the private ownership of the area.
 - » Waterfront Areas, including Waterfront Walkways shall be maintained by the property owner. The Property owner shall be required to post a maintenance bond with the Building Department for 125% of the annual cost of maintaining the walkway, as certified by a registered architect or landscape architect. Such bond shall be replaced every five years with a bond equal to 125% of the current cost of maintaining the walkway for one year.
 - » Vehicle access is prohibited within the Waterfront Areas with the exception of emergency and maintenance vehicles.

- Waterfront Walkways Minimum Design Standards. Waterfront Walkways shall:
 - » Be designed in accordance with the Waterfront Design Guidelines, as adopted by the Conservation Advisory Council or the Planning Board (if such guidelines are available)
 - » Have a minimum clear and unobstructed width of 12 feet
 - » Be accessible to persons with physical disabilities as required by the ADA
 - » Connect to the Waterfront Walkways on adjacent lots

Visual Access and Scenic Viewshed Protection

- Construction within the right-of-way of the following mapped streets is expressly prohibited by this statute. The prohibition applies to the right-of-way width from the eastern most terminus of the following streets to the Hudson River shoreline.
 - » Washington Street
 - » Broadway
 - » Second Street
 - » Third Street
 - » Fourth Street
 - » South Street
- All applications for Site Plan Approval shall be evaluated for their impacts to the following scenic views, in accordance with Article XI:
 - » The Dutch Reformed Church
 - » Montgomery and South Streets
 - » Washington's Headquarters
 - » Broadway and Colden Street
 - » Newburgh Public Library
 - » First and Montgomery Streets
 - » Bay View Terrace

Applicability

This section will apply to any new construction and any application requiring Site Plan Approval within the BC, DN, WG, and PWD districts.

General Provisions

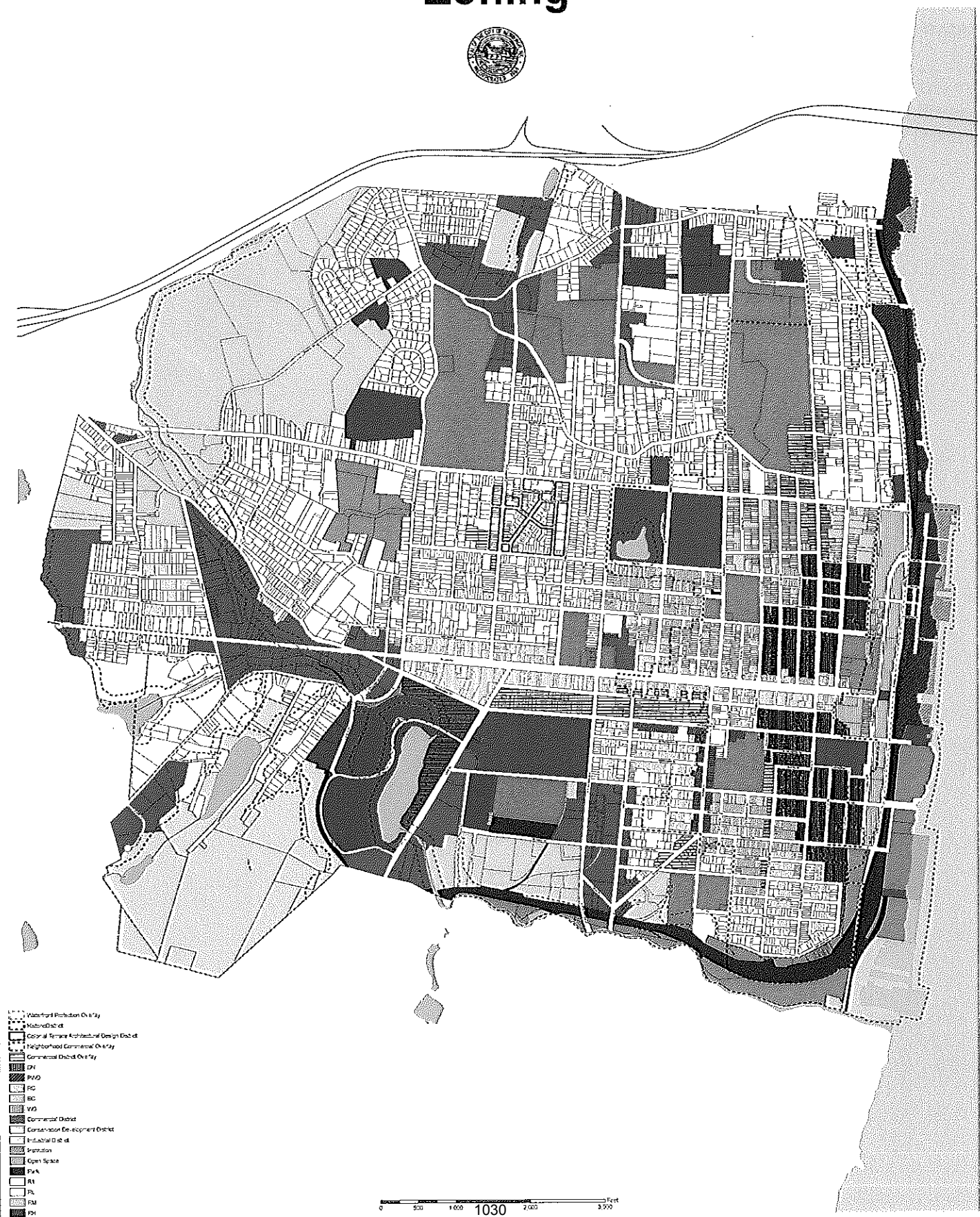
- Off-street parking that is required pursuant to this section shall be the sum total of the parking required for each use on the lot.
- Applicants that wish to provide fewer off-street parking spaces than required by this section may apply to the Planning Board for a Special Parking Permit as described in Article IX.
- Nothing in this section prohibits providing more off-street parking than is required by this section. It is recognized that adequate off-street parking will likely require creative and collaborative solutions.
- Required off-street parking does not need to be provided on the same lot as the use. However, if the parking is not on the same lot, the Applicant must demonstrate that the required parking spaces are available for a period of not less than 10 years for the exclusive use of the Applicant and that the allocated spaces are within 500 feet of the use.
- The size, dimension, and accessibility, including space for maneuvers, of all off-street parking areas shall be approved by the Building Inspector.
- All off-street parking shall be located behind, or to the side, of the principal building, or screened totally from the street.
- The shared use of off-street parking is encouraged by multiple uses, especially when those uses have differing times of peak demand.

Off Street Parking Standards

- Residential and Commercial uses in the BC district. No off-street parking shall be required within the BC district with the exception of Civic buildings or new uses which are parking dependent such as theaters and supermarkets, which during the Special Permit application process, may be required to provide off-street parking in accordance with the "Bulk and Area Table".
- Residential Uses in Other Districts.
 - » No off-street parking shall be required for the residential portion of any building with less than 4 units.
 - » Any building with more than 4 dwelling units must provide off-street parking for those dwelling units at a rate of 1 space for every dwelling unit.
- Non-Residential Uses in the DN, WG, PWD.
 - » Uses Permitted by Right-No Site Plan Required.
 - Off-street parking shall not be required for the first 5,000 square feet of commercially occupied space (or the first 3,000 square feet of space occupied by a restaurant) within an individual building within the DN, WG, and PWD districts.
 - Off-street parking for the portion of the occupied space above the 5,000/3,000 square feet limit set above shall be calculated at the rates set in the "Bulk and Area Table" for the Commercial and Industrial District.
 - » Uses requiring site plan or special use permit.
 - Owing to the unique nature of these uses and of their locations within the City, the off-street parking standards for uses requiring site plan or special use permit approval shall be determined by the Planning Board.

- In determining the amount of off-street parking required, the Planning Board shall consider:
 - *The amount of off-street parking that the use is likely to require, given its size and location in accordance with §300-32 for similar uses.*
 - *The amount and availability of on-street, municipal, or private parking available in the vicinity of the Site (ie, 500 feet).*
 - *The impact that the provision of off-street parking may have on the visual quality of the zoning district.*
- Off-street loading berths shall be provided according to the schedule and regulations in Article X.

City of Newburgh Zoning



0 500 1000 1030 2000 3000 Feet

RESOLUTION NO.: 154 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A
LICENSE AGREEMENT WITH THE NEWBURGH PRESERVATION ASSOCIATION
TO ALLOW ACCESS TO OLD TOWN CEMETERY FOR THE PURPOSE OF
MAKING IMPROVEMENTS IN CONNECTION WITH A VETERANS DAY PROJECT**

WHEREAS, The City of Newburgh owns certain property located at 215 Grand Street, Newburgh, NY, more accurately described as Section 12, Block 1, Lot 12 on the official tax map of the City of Newburgh, also known as Old Town Cemetery; and

WHEREAS, The Newburgh Preservation Association, Inc. has requested access to the Old Town Cemetery in connection with a Veterans Day Project for the purpose of performing maintenance, repairs and making improvements, including but not limited to venting and capping the Robinson Mausoleum, restoring the fencing and original cemetery sign and landscaping, and to conduct educational tours for the students attending public or private schools within the City of Newburgh at no cost to the City; and

WHEREAS, the City Council of the City of Newburgh finds that permitting such access for the purpose of performing such work and making such improvements to the Old Town Cemetery is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into a license agreement, in substantially the same form annexed hereto with such other terms and conditions acceptable to the Corporation Counsel, with The Newburgh Preservation Association, Inc. to allow access to City owned property known as the Old Town Cemetery located at 215 Grand Street, Newburgh, NY for the purpose of repairs, maintenance and improvements to the Old Town Cemetery in connection with a Veterans Day Project.

Councilwoman Angelo moved and Councilwoman Mejia seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

LICENSE AGREEMENT

This Agreement, made this _____ day of _____, two thousand and fifteen, by and between the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as "LICENSOR," and THE NEWBURGH PRESERVATION ASSOCIATION, INC., a not-for-profit corporation, organized under the laws of the State of New York and having its principal office for the transaction of business at P.O. Box 206, Newburgh, New York 12551 as "LICENSEE";

WITNESSETH THAT:

Licensee desires the license or privilege of gaining access to and performing work upon the premises of Licensor on behalf of itself and its employees, agents, volunteers and contractors known as Old Town Cemetery, 215 Grand Street, Newburgh, NY, and more accurately described as Section 12, Block 1, Lot 12 on the official tax map of the City of Newburgh.

AND WHEREAS, Licensor is willing to give said license or privilege on the following terms and conditions:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions hereinafter contained, it is hereby agreed as follows:

First: Licensor hereby gives to Licensee and Licensee's employees, agents, volunteers and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's property located at Old Town Cemetery, 215 Grand Street, in the City of Newburgh, New York, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary, in connection with a Veterans Day Project, for the purposes of and to perform maintenance, repairs and make improvements to property owned by Licensor and used as and for a cemetery and memorial to the original eighteenth and nineteenth century colonial settlers; to maintain, repair and enhance said property, including but not limited to venting and capping the Robinson Mausoleum, restoring the fencing and original cemetery sign, landscaping and any and all other work appurtenant thereto; and to conduct educational tours for the students attending public or private schools within the City of Newburgh.

Second: Licensee shall install, repair and maintain said improvements on said premises in such location and position and as to any such work upon or under property of Licensor in such manner as will be satisfactory to Licensor.

Third: Licensee agrees to do such work and maintain said facilities in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority obtaining any and all permits required thereby.

Fourth: Licensor acknowledges that the enhancements, improvements and repairs to the subject property shall inure to the benefit of both parties, and shall be satisfactory, adequate and sufficient consideration for the License granted hereunder.

Fifth: Licensee hereby agrees to defend, indemnify and hold Licenser harmless against any claims, actions and proceedings brought against Licenser arising out of, in connection with and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall maintain throughout the term of this License public liability insurance naming the Licenser as additional insured in a minimum coverage amount of One Million (\$1,000,000.00) Dollars.

Sixth: This Agreement and the license or privilege hereby given shall expire and terminate upon the earlier of November 11, 2015 or the completion of the work by Licensee and its agents, volunteers, employees and contractors, and the restoration of the property to a clean and orderly state and in the same condition as existed prior to the granting of this license, normal wear and tear excepted.

Seventh: It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties held said premises prior to the granting of this license.

Eighth: Without limitation to the general provisions of this Agreement, it is understood and agreed that said improvements shall be installed in substantially the location and position shown in the attachments hereto, and in accordance with details and specifications as set forth on maps or plans hereto attached and hereby made a part hereof.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By: _____
Michael G. Ciaravino, City Manager
Per Resolution No.

NEWBURGH PRESERVATION ASSOCIATION
LICENSEE

By: _____
Executive Officer

RESOLUTION NO.: 155 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
A LICENSE AGREEMENT WITH VETERANS LEADING THE WAY
TO PERMIT ACCESS TO CITY OWNED PROPERTY
LOCATED AT 41 WISNER AVENUE (SECTION 32, BLOCK 1, LOT 8)
FOR THE PURPOSES OF PERFORMING A SITE ASSESSMENT**

WHEREAS, Veterans Leading the Way has requested that the City of Newburgh allow them access to 41 Wisner Avenue more accurately described as Section 32, Block 1, Lot 8 on the official tax map of the City of Newburgh, for the purposes of performing certain predevelopment activities in connection with a site assessment to determine whether to purchase 41 Wisner Avenue; and

WHEREAS, such access to the properties requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of this resolution; and

WHEREAS, this Council has reviewed such license and has determined that entering into the same would be in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement with Veterans Leading the Way and their contracted agents to allow access to 41 Wisner Avenue Street for the purposes of performing certain predevelopment activities in connection with a site assessment.

Councilwoman Holmes moved and Councilwoman Abrams seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

LICENSE AGREEMENT

This Agreement, made this ____ day of _____, two thousand and fifteen by and between the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as "LICENSOR," and VETERANS LEADING THE WAY, INC., a not-for-profit organization having an address of _____, and their consultants, agents, volunteers and contractors as "LICENSEE";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to and performing work upon the premises of Licensor, on behalf of itself and its employees, volunteers, agents and contractors, known as 41 Wisner Avenue, and more accurately described as Section 32, Block 1, Lot 8 on the official tax map of the City of Newburgh.

AND WHEREAS, Licensor is willing to give said license or privilege on the following terms and conditions:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions hereinafter contained, it is hereby agreed as follows:

First: Licensor hereby gives to Licensee and Licensee's employees, volunteers, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's property located at 41 Wisner Avenue Street in the City of Newburgh, New York, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary, for the purposes of and to perform pre-development tasks in connection with a site assessment on said property owned by Licensor, including but not limited to brush clearing, cleaning, excavating, inspection, structural evaluation, filling, boring, testing, sampling, and any and all other work appurtenant thereto.

Second: Licensee agrees to do such work and perform such tasks in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority, obtaining any and all permits required thereby.

Third: During the term of this Agreement, the parties mutually agree to release and indemnify each other for all claims, damages or expenses resulting from said party's own negligence. It is hereby acknowledged that Licensor is a self-insured municipality.

Fourth: Licensee will perform all work in connection with a site assessment and evaluation of an inactive commercial property, including walk-through inspection, review of City of Newburgh and other records, review of governmental environmental records and data, and other measures relating to environmental testing, underground tanks, potential contamination issues, evaluation of

structures and related tasks in connection with said property. In all contracts by which Licensee retains consultants and contractors to perform these tasks, they shall name City as additional insured under insurance coverage concerning the performance of the tasks referenced herein.

Fifth: This Agreement and the license or privilege hereby given shall expire and terminate upon the completion of the work by Licensee and its agents, employees and contractors, and the restoration of the property to a clean and orderly state and in the same condition as existed prior to the granting of this license, normal wear and tear excepted.

Sixth: It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties held said premises prior to the granting of this license.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By:

Michael G. Ciaravino, City Manager
Per Resolution No. 155-2015

VETERANS LEADING THE WAY

LICENSEE

By:

RESOLUTION NO.: 156 - 2015

OF

JULY 13, 2015

**RESOLUTION SCHEDULING A PUBLIC HEARING FOR AUGUST 10, 2015
TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW RESCINDING THE
LANGUAGE CONTAINED IN CHAPTER 34, ARTICLE I OF THE CODE OF THE
CITY OF NEWBURGH ENTITLED "CODE OF ETHICS" AND AMENDING
CHAPTER 34 TO ENACT A NEW ARTICLE I ENTITLED "CODE OF ETHICS" TO
THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning "A Local Law Rescinding the Language Contained in Chapter 34, Article I of the Code of the City of Newburgh Entitled 'Code of Ethics' and Enacting a New Chapter 34, Article I Entitled 'Code of Ethics'" to the Code of Ordinances of the City of Newburgh"; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 10th day of August, 2015, in the 3rd Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

Councilwoman Mejia moved and Councilwoman Holmes seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

LOCAL LAW NO.: _____ - 2015

OF

_____, 2015

A LOCAL LAW RESCINDING THE LANGUAGE CONTAINED IN
CHAPTER 34, ARTICLE I OF THE CODE OF THE CITY OF NEWBURGH ENTITLED
"CODE OF ETHICS" AND AMENDING CHAPTER 34 TO ENACT A NEW ARTICLE I
ENTITLED "CODE OF ETHICS"

BE IT ENACTED, by the Council of the City of Newburgh, New York that the language contained in Chapter 34, Article I entitled "General Provisions" of the Code of Ordinances of the City of Newburgh be and is hereby repealed and that the same is hereby amended to read as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Rescinding the Language Contained in Chapter 34, Article I of the Code of the City of Newburgh Entitled 'Code of Ethics' and Enacting a New Chapter 34, Article I Entitled 'Code of Ethics'".

SECTION 2 - PURPOSE AND INTENT

WHEREAS, article 18 of the General Municipal Law prohibits the officers and employees of a municipality from having certain conflicts of interest; and

WHEREAS section 806 of the General Municipal Law requires the governing body of each county, city (other than the City of New York), town, village, school district and fire district to adopt a code of ethics that sets forth for the guidance of its officers and employees standards of conduct reasonably expected of them; and

WHEREAS section 806 of the General Municipal Law also authorizes the governing body of any other municipality to adopt such a code of ethics; and

WHEREAS, a code of ethics adopted by the governing body of a municipality must set forth standards of conduct for the guidance of the officers and employees of the municipality with respect to disclosure of interests in legislation before the local governing body, holding of investments in conflict with official duties, private employment in conflict with official duties, future employment, and such other standards as may be deemed advisable;

NOW, THEREFORE, be it resolved that the City Council of the City of Newburgh New York hereby adopts a code of ethics to read as follows:

SECTION 3 - AMENDMENT

The Code of Ordinances of the City of Newburgh is hereby amended to replace Chapter 34 entitled "Code of Ethics", Article I entitled "General Provisions" to read as follows:

ARTICLE I. CODE OF ETHICS OF THE CITY OF NEWBURGH.

§ 34-1 Purpose.

Officers and employees of the City of Newburgh hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The City of Newburgh recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This code of ethics establishes those standards.

§ 34-2 Definitions.

For purposes of this Chapter, the following words and phrases shall have the meaning described in this section:

BOARD - means the governing board of a municipality and any municipal administrative board (e.g. planning board, zoning or board of appeals), commission, or other agency or body comprised of two or more municipal officers or employees.

CODE - means this code of ethics.

INTEREST - means a direct or indirect financial or material benefit, but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the municipality or an area of the municipality, or a lawful class of such residents or taxpayers. A municipal officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization's outstanding stock.

MUNICIPALITY - means City of Newburgh. The word "municipal" refers to the municipality.

MUNICIPAL OFFICER or EMPLOYEE - means a paid or unpaid officer or employee of the City of Newburgh, including, but not limited to, the members of any municipal board.

RELATIVE - means a spouse, parent, step-parent, sibling, step-sibling, sibling's spouse, child, step-child, uncle, aunt, nephew, niece, first cousin, or household member of a municipal officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.

§ 34-3 Applicability.

This code of ethics applies to the officers and employees of the City of Newburgh, and shall supersede any prior municipal code of ethics. The provisions of this code of ethics shall apply in addition to all applicable State and local laws relating to conflicts of interest and ethics including, but not limited to, Article 18 of the General Municipal Law and all rules, regulations, policies and procedures of the City of Newburgh.

§ 344 Prohibition on use of municipal position for personal or private gain.

- A. No municipal officer or employee shall use his or her municipal position or official powers and duties to secure a financial or material benefit for himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.
- B. No municipal officer or employee shall direct or cause any officer or employee of the City to do or perform any service or work outside of public work or employment, or accept any such service or work, nor shall any such officer or employee offer to perform any such service or work for such officer or employee, including participation in an election campaign or contribution to a political committee.
- C. No municipal officer or employee shall request of members of City Council, City staff or department heads that any individual receive preferential consideration in connection with provision of services or any appointment or, by his or her conduct, give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by kinship, rank, position or influence of any party or person.

§ 344.1 Disclosure of interest in legislation and other matters.

- A. Whenever a matter requiring the exercise of discretion comes before a municipal officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest, the municipal officer or employee shall disclose in writing the nature of the interest.
- B. The disclosure shall be made when the matter requiring disclosure first comes before the municipal officer or employee, or when the municipal officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.
- C. In the case of a person serving in an elective office, the disclosure shall be filed with the governing board of the municipality. In all other cases, the disclosure shall be filed with the person's supervisor, or if the person does not have a supervisor, the disclosure shall be filed with the municipal officer, employee or board having the power to appoint to the person's position. In addition, in the case of a person serving on a municipal board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

§ 344.2 Recusal and abstention.

- A. No municipal officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.
- B. In the event that this section prohibits a municipal officer or employee from exercising or performing a power or duty:
 - 1. if the power or duty is vested in a municipal officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or
 - 2. if the power or duty that is vested in a municipal officer individually, then the power or duty shall be exercised or performed by his or her deputy or, if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function.
 - 3. if the power or duty is vested in a municipal employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

§ 344.3 Prohibition inapplicable; disclosure, recusal and abstention not required.

- A. This code's prohibition on use of a municipal position (section 34-4), disclosure requirements (section 34-4.1), and requirements relating to recusal and abstention (section 34-4.2), shall not apply with respect to the following matters:
 - 1. adoption of the municipality's annual budget;
 - 2. any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:
 - (i) all municipal officers or employees;
 - (ii) all residents or taxpayers of the municipality or an area of the municipality; or
 - (iii) the general public; or
 - 3. any matter that does not require the exercise of discretion.
- B. Recusal and abstention shall not be required with respect to any matter:
 - 1. which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by section 34-4.2 of this code;
 - 2. which comes before a municipal officer when the officer would be prohibited from acting by section 34-4.2 of this code and the matter cannot be lawfully delegated to another person.

§ 344.4 Investments in conflict with official duties.

- A. No municipal officer or employee may acquire the following investments:

1. investments that can be reasonably expected to require more than sporadic recusal and abstention under section 344.2 of this code; or
 2. investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.
- B. This section does not prohibit a municipal officer or employee from acquiring any other investments or the following assets:
1. real property located within the municipality and used as his or her personal residence;
 2. less than five percent of the stock of a publicly traded corporation; or
 3. bonds or notes issued by the municipality and acquired more than one year after the date on which the bonds or notes were originally issued.

§ 344.5 Private employment in conflict with official duties.

No municipal officer or employee, during his or her tenure as a municipal officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:

- a. can be reasonably expected to require more than sporadic recusal and abstention pursuant to section 344.2 of this code;
- b. can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a municipal officer or employee;
- c. violates section 805-a(1)(c) or (d) of the General Municipal Law; or
- d. requires representation of a person or organization other than the municipality in connection with litigation, negotiations or any other matter to which the municipality is a party.

§ 344.6 Future employment.

- A. No municipal officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the municipal officer or employee, either individually or as a member of a board, while the matter is pending or within the 30 days following final disposition of the matter.
- B. No municipal officer or employee, for the two-year period after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or comparable organizational unit for which he or she serves.
- C. No municipal officer or employee, at any time after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection

with any particular transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

§ 344.7 Personal representations and claims permitted.

This code shall not be construed as prohibiting a municipal officer or employee from:

- a. representing himself or herself, or his or her spouse or minor children before the municipality; or
- b. asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children.

§ 344.8 Use of municipal resources.

- A. Municipal resources shall be used for lawful municipal purposes. Municipal resources include, but are not limited to, municipal personnel, and the municipality's money, vehicles, equipment, materials, supplies or other property.
- B. No municipal officer or employee may use or permit the use of municipal resources for personal or private purposes, but this provision shall not be construed as prohibiting:
 1. any use of municipal resources authorized by law or municipal policy;
 2. the use of municipal resources for personal or private purposes when provided to a municipal officer or employee as part of his or her compensation; or
 3. the occasional and incidental use during the business day of municipal telephones and computers for necessary personal matters such as family care and changes in work schedule.
- C. No municipal officer or employee shall cause the municipality to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

§ 344.9 Interests in Contracts.

- A. No municipal officer or employee may have an interest in a contract that is prohibited by section 801 of the General Municipal Law.
- B. Every municipal officer and employee shall disclose interests in contracts with the municipality at the time and in the manner required by section 803 of the General Municipal Law.

§ 344.10 Nepotism.

Except as otherwise required by law:

- a. No municipal officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the municipality or a municipal board.

- b. No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.

§ 344.11 Political Solicitations.

- A. No municipal officer or employee shall directly or indirectly compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.
- B. No municipal officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any municipal officer or employee, or an applicant for a position as a municipal officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

§ 344.12 Confidential Information.

No municipal officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties.

§ 344.13 Gifts.

- A. No municipal officer or employee shall directly or indirectly solicit any gift, or accept or receive any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could be reasonably inferred that the gift was intended to influence him or her, or could reasonably be expected to influence him or her, in the performance of his or her official duties or was intended as a reward for any official action on his or her part.
- B.
 - 1. A gift to a municipal officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks municipal action involving the exercise of discretion by or with the participation of the officer or employee.
 - 2. A gift to a municipal officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained municipal action involving the exercise of discretion by or with the participation of the officer or employee during the preceding twelve months.
- C. This section does not prohibit any other gift, including:
 - 1. gifts made to the municipality;

2. gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift;
3. gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;
4. unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;
5. awards and plaques having a value of seventy-five dollars or less which are publicly presented in recognition of service as a municipal officer or employee, or other service to the community; or
6. meals and refreshments provided when a municipal officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

§ 34-5 Board of Ethics.

- A. There is hereby established a board of ethics for the municipality. The board of ethics shall consist of five members, a majority of whom shall not be officers or employees of the municipality, but at least one of whom must be a municipal officer or employee. The members of such board of ethics shall be appointed by the City Council of the City of Newburgh.,
- B. The board of ethics, as constituted at the time of the enactment of this chapter, shall continue in existence. The term of office of each member shall be five years, and the term shall continue until a successor shall be appointed. If a vacancy shall occur other than by expiration of the term, it shall be filled by the appointment of the unexpired term.
- C. A chairperson of the board of ethics shall be selected by a majority vote of the members of the board.
- D. The body shall serve at the pleasure of the City Council. The body shall receive no salary or compensation for their services as members of the board of ethics.
- E. No member shall hold the office of Chair, First Vice Chair, Second Vice Chair, Secretary or Treasurer, or Sargent at Arms in a federal, state or Orange County political party. No more than four members shall be of the same enrolled political party affiliation at the time of their appointment.
- F. Powers and duties of the Board of Ethics. The board of ethics shall have the following powers and duties:
 1. The board of ethics shall render advisory opinions to the officers and employees of the City of Newburgh with respect to article 18 of the General Municipal Law and this code. Such advisory opinions must be rendered pursuant to the written request of any member of the general public, any officer or employee of the City of Newburgh or any member of the board of ethics in accordance with the following procedures:

- a. the complaint must be submitted on a form as prescribed by the board of ethics which shall be available at the Office of the City Clerk and on the City of Newburgh website. The board shall not consider any complaint form which is incomplete;
- b. the complaint must be signed by the complainant and include a current, valid address of the complainant;
- c. the complaint shall be mailed to the Board of Ethics or to Newburgh City Hall, or submitted to the Office of the City Clerk, for filing with the board of ethics;
- d. written receipt of complaints shall be acknowledged within sixty days of receipt of the complaint;
- e. all complaints shall be kept in the confidential records of the board;
- f. no meeting or proceeding or hearing of the board of ethics concerning a possible violation of this chapter shall be open to the public, except upon the written request of the officer of the city or employee, or as required by the provisions of article 7 of the Public Officers Law or by some other state or federal law or regulation;
- g. the board shall render an advisory opinion on all complaints;
- h. should the board determine that there appears to be merit or probable cause in the complaint, it shall send a written invitation to the officer or employee in question to appear at a private meeting of the board to explain the issue in dispute. The invitation shall contain a statement of the facts upon which the board has relied for its determination of probable cause and a statement of the provisions of law allegedly violated. Such city officer or employee shall have a reasonable time to respond either orally or in writing and shall have the right to be represented by counsel or any other person;
- i. if, after consideration of the response of the officer or employee, the board determines that there remains probable cause to believe that a violation has occurred, the board shall hold or direct a hearing to be held on the record to determine whether such violation has occurred or refer the matter to the appropriate department or appointing authority if the city officer or employee is subject to the jurisdiction of any state law or collective bargaining agreement which provides for conduct of disciplinary proceedings. When such matter is referred to such department or appointing authority, the department or appointing authority shall consult with the board before issuing a final decision;
- j. if the board determines, after a hearing or the opportunity for a hearing, that a city officer or employee has violated this local law, it shall, after consultation with the head of the department or appointing authority for the officer or employee, issue an advisory opinion recommending such penalties as provided for by this local law as it deems appropriate to the head of the department or appointing authority. The advisory opinion shall include findings of fact and conclusions of

- law. When a penalty is recommended, the head of the department or the appointing authority shall report to the board what action was taken;
- k. the board's findings, conclusions, advisory opinions and recommendations shall be made public if it is determined that the person who was the subject of the hearing knowingly violated this local law or that it is unreasonable that such person did not know of such violation;
 - l. the board shall maintain an index of all persons found to be in violation of this local law by name, office and date of order. The index and the determination of probable cause and orders in such cases shall be made available for public inspection and copying;
 - m. nothing contained in this section shall prohibit the appointing authority of a city officer or employee from terminating or otherwise disciplining such city officer or employee, where such appointing authority is otherwise authorized to do so; provided, however, that such an action by the appointing officer shall not preclude the board from exercising its powers and duties under this local law with respect to actions of any city officer or employee.
2. The board of ethics shall have the advice of legal counsel employed by the board, or if none, the municipality's legal counsel.
 3. The board of ethics may make recommendations with respect to the drafting and adoption of a code of ethics, or amendments thereto, upon the request of the City of Newburgh.
 4. The board of ethics may accept from the general public or any of its own members or any City officer or employee a complaint or allegation of a violation of this Chapter by a City officer or employee.
 5. The board of ethics shall have the power to issue subpoenas and require the appearances of witnesses to testify under oath and to require the production of books and records and other physical evidence; and following which and as part thereof, make recommendations to the City Council, City Manager, Corporation Counsel and/or other appropriate public officer or agency as to such further action, discipline or other measures as the Board deems fitting and proper.
 6. Receiving and serving as the reviewing agency of all annual letters of disclosure filed by such City officers, officials and employees as are required to do so by this chapter; following the review of such and any further action or investigation arising therefrom, the Board of Ethics shall then convey all such original annual letters of disclosure to the City Clerk whose office shall be the official repository thereof.
 7. Receiving and approving for good cause shown or reasonably denying any application for an extension of time to file the annual letter of disclosure required by this chapter; such approval or denial to be based upon a full and fair consideration of the application and the relevant facts and circumstances; and providing such applicant with the written decision of the Board and the basis thereof.

§ 34-6 Posting and distribution.

- A. The City of Newburgh City Manager must promptly cause a copy of this code, and a copy of any amendment to this code, to be posted publicly and conspicuously in each building under the municipality's control. The code must be posted within ten days following the date on which the code takes effect. An amendment to the code must be posted within ten days following the date on which the amendment takes effect.
- B. The City Manager must promptly cause a copy of this code, including any amendments to the code, to be distributed to every person who is or becomes an officer and employee of the City of Newburgh.
- C. Every municipal officer or employee who receives a copy of this code or an amendment to the code must acknowledge such receipt in writing. Such acknowledgments must be filed with the City Clerk who must maintain such acknowledgments as a public record.
- D. The failure to post this code or an amendment to the code does not affect either the applicability or enforceability of the code or the amendment. The failure of a municipal officer or employee to receive a copy of this code of ethics or an amendment to the code, or to acknowledge receipt thereof in writing, does not affect either the applicability or enforceability of the code or amendment to the code.

§ 34-7 Enforcement.

Any municipal officer or employee who violates this code may be censured, fined, suspended or removed from office or employment in the manner provided by law.

§ 34-8 Severability.

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

SECTION 4 - VALIDITY

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

SECTION 5 - EFFECTIVE DATE

This Local Law and shall be effective upon the filing in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law.

RESOLUTION NO.: 157-2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF
RE-ENTRY FROM A DEED ISSUED TO RUSSELL TURIAK
TO THE PREMISES KNOWN AS 8 CLARK STREET
(SECTION 36, BLOCK 1, LOT 8)**

WHEREAS, on September 11, 1997, the City of Newburgh conveyed property located at 8 Clark Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 36, Block 1, Lot 8, to Russell Turiak; and

WHEREAS, Mr. Turiak, by his attorney, has requested a release of the restrictive covenants contained in said deed; and

WHEREAS, the appropriate departments have reviewed their files and advised that the covenants have been complied with, and recommends such release be granted; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh and its further development to grant such request;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3 and 4 of the aforementioned deed.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

**Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7
ADOPTED**

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 8 Clark Street, Section 36, Block 1, Lot 8, on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3 and 4 in a deed dated September 11, 1997, from the CITY OF NEWBURGH to RUSSELL TURIAK, recorded in the Orange County Clerk's Office on October 28, 1997, in Liber 4654 of Deeds at Page 242 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

THE CITY OF NEWBURGH

STATE OF NEW YORK)
)ss.:
COUNTY OF ORANGE)

RESOLUTION NO.: 158 - 2015

OF

JULY 13, 2015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH, NEW YORK SUPPORTING THE 2015 CONSOLIDATED FUNDING APPLICATION OF SAFE HARBORS OF THE HUDSON, INC. TO THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION FOR AN ENVIRONMENTAL PROTECTION FUND GRANT

WHEREAS, the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) Environmental Protection Fund Grant Program provides funding for the acquisition, planning, development, and improvement of parks, historic properties, and heritage areas located within the physical boundaries of the State of New York; and

WHEREAS, Safe Harbors of the Hudson is applying to OPRHP for a Park Acquisition, Development and Planning Program grant under the Environmental Protection Fund for the development of Safe Harbors Park located at 97-101 Broadway at the southwest corner of Broadway and Liberty Streets, a site located within the territorial jurisdiction of this Council; and

WHEREAS, as a requirement under the rules of this program, Safe Harbors of the Hudson must obtain the endorsement of the City Council of the City of Newburgh in which the project will be located; and

WHEREAS, this program further requires that public access covenants conveyed to New York State for all park development projects undertaken by not-for-profit corporations;

NOW, THEREFORE, BE IT RESOLVED that the City of Newburgh fully supports and endorses the 2015 Consolidated Funding Application of Safe Harbors of the Hudson to the New York State Office of Parks, Recreation and Historic Preservation for an Environmental Protection Fund Grant under the Park Acquisition, Development and Planning Program for the Safe Harbors Park Redevelopment Project within the City of Newburgh.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 159 - 2015

OF

JULY 13, 2015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH, NEW YORK SUPPORTING THE 2015 CONSOLIDATED FUNDING APPLICATION OF THE NEWBURGH COMMUNITY LAND BANK TO THE OFFICE OF COMMUNITY RENEWAL, NEW YORK STATE HOUSING TRUST FUND CORPORATION FOR A NEW YORK MAIN STREET DOWNTOWN STABILIZATION PROGRAM GRANT

WHEREAS, the New York Main Street Downtown Stabilization Program provides funding to assist with environmental remediation and associated construction costs, as well as other innovative approaches to stabilizing and developing downtown, mixed-use buildings; and

WHEREAS, the Newburgh Community Land Bank intends to apply for funding under the New York Main Street Downtown Stabilization Program in an amount not to exceed \$500,000.00 for mixed-use building stabilization and repairs in the Neighborhood Revitalization Area bounded by Dubois Street, Liberty Street, Broadway and First Street to include necessary environmental remediation, essential masonry repairs, roof repairs, and structural stabilization; and

WHEREAS, the Newburgh Community Land Bank is collaborating with Safe Harbors of the Hudson and the City of Newburgh to leverage and maximize the impact of funding on the community and provide economic development and housing opportunities in downtown, mixed-use commercial districts to stimulate reinvestment and sustain downtown and neighborhood revitalization efforts;

NOW, THEREFORE, BE IT RESOLVED, that the City of Newburgh fully supports the 2015 Consolidated Funding application of the Newburgh Community Land Bank to the Office of Community Renewal under the New York Main Street Downtown Stabilization Program to secure state funding for mixed use building stabilization and repairs in the Neighborhood Revitalization Area.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 160 - 2015

OF

JULY 13, 2015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH, NEW YORK SUPPORTING THE 2015 CONSOLIDATED FUNDING APPLICATION OF ST. GEORGE'S EPISCOPAL CHURCH TO THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION FOR AN ENVIRONMENTAL PROTECTION FUND GRANT UNDER THE HISTORIC PROPERTY ACQUISITION, PRESERVATION AND PLANNING PROGRAM

WHEREAS, the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) Environmental Protection Fund Grant Program provides funding to improve, protect, preserve, rehabilitate, restore or acquire properties listed on the State or Federal Register of Historic Places; and

WHEREAS, St. George's Episcopal Church is applying to OPRHP for a Historic Property Acquisition Preservation and Planning Program grant under the Environmental Protection Fund to repair the tower, roof and nave ceiling of the historic building located at 105 Grand Street, a site located within the territorial jurisdiction of this Council; and

WHEREAS, this Council finds that the repair and restoration of St. George's Episcopal Church is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED that the City of Newburgh fully supports and endorses the 2015 Consolidated Funding Application of St. George's Episcopal Church to the New York State Office of Parks, Recreation and Historic Preservation for an Environmental Protection Fund Grant under the Park Acquisition, Development and Planning Program for the preservation of St. George's Episcopal Church located at 105 Grand Street in the City of Newburgh.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 161 - 2015

OF

JULY 13, 2015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH, NEW YORK SUPPORTING THE 2015 CONSOLIDATED FUNDING APPLICATION OF THE NEWBURGH COMMUNITY LAND BANK FOR A NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY – CLEANER, GREENER COMMUNITIES PROGRAM PHASE II IMPLEMENTATION GRANT

WHEREAS, the New York State Energy Research and Development Authority (NYSERDA) Cleaner Greener Communities Program is a competitive grant program designed to encourage communities to develop and implement regional sustainable growth strategies; and

WHEREAS, the Newburgh Community Land Bank seeks funding for a Category 3 -- Community-Scale Sustainability Project for properties located in the area of South Miller Street and First Street and in the right of way to promote green infrastructure, renewable energy and complete streets strategies and project demonstrations in vacant lots in Neighborhood Revitalization Area bounded by Dubois Street, Liberty Street, Broadway and First Street; and

WHEREAS, the Newburgh Community Land Bank intends to leverage other funding to further sustainable neighborhood development as a part of an overall neighborhood redevelopment plan;

NOW, THEREFORE, BE IT RESOLVED, that the City of Newburgh fully supports the 2015 Consolidated Funding application of the Newburgh Community Land Bank to the New York State Energy Research and Development Authority Cleaner Greener Communities Program to secure state funding for innovative and transformational sustainable development in the Neighborhood Revitalization Area.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 162 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR
AND ACCEPT IF AWARDED A NEW YORK STATE DEPARTMENT OF STATE
OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION
RECREATIONAL TRAILS PROGRAM GRANT THROUGH THE
CONSOLIDATED FUNDING APPLICATION PROCESS IN AN AMOUNT
NOT TO EXCEED \$200,000.00 TO DEVELOP A PARK AND
CONSTRUCTION OF TRAILS ALONG THE QUASSAICK CREEK**

WHEREAS, the Orange County Land Trust has awarded the City of Newburgh a grant in the amount of \$50,000.00 for the acquisition of land along the Quassaick Creek; and

WHEREAS, the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) Recreational Trails Programs provides funds to develop and maintain recreational trails for motorized and non-motorized use; and

WHEREAS, the City of Newburgh is a qualified applicant under this OPRHP Recreational Trails Program; and

WHEREAS, the City of Newburgh intends to apply for a grant in the amount of \$200,000.00 with the Orange County Land Trust grant as the required matching funds to construct trails along the Quassaick Creek to provide public access as part of the Quassaick Creek Estuary Preserve; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a New York State Office of Parks, Recreation and Historic Preservation Recreational Trails Program grant through the 2015 Consolidated Funding Application process in an amount not to exceed \$200,000.00 to construct public access trails along the Quassaick Creek; and that the City Manager is authorized to execute all such contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the program funded thereby.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 163 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR
AND ACCEPT IF AWARDED A NEW YORK STATE ENERGY RESEARCH AND
DEVELOPMENT AUTHORITY – CLEANER, GREENER COMMUNITIES PROGRAM
PHASE II IMPLEMENTATION GRANT THROUGH THE
CONSOLIDATED FUNDING APPLICATION PROCESS IN AN AMOUNT
NOT TO EXCEED \$10,000.00 TO DEVELOP SOLAR ENERGY GUIDELINES**

WHEREAS, the New York State Energy Research and Development Authority (NYSERDA) Cleaner Greener Communities Program is a competitive grant program designed to encourage communities to develop and implement regional sustainable growth strategies; and

WHEREAS, the City of Newburgh is a qualified applicant under the NYSERDA Cleaner Greener Communities Program; and

WHEREAS, the City of Newburgh seeks funding to develop solar energy guidelines for City-wide implementation to meet Orange County guidelines and best practices for alternative energy production and to reduce energy costs to the City, homeowners and businesses; and

WHEREAS, such grant funds shall be in an amount not to exceed \$10,000.00 with no City match required; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a New York State Energy Research and Development Authority Cleaner Greener Communities Program grant through the 2015 Consolidated Funding Application process in an amount not to exceed \$10,000.00 with no City match required to fund the development of solar energy guidelines; and that the City Manager is authorized to execute all such contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the program funded thereby.

Councilwoman Angelo moved and Councilwoman Abrams seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 164 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND
ACCEPT IF AWARDED A NEW YORK STATE OFFICE OF PARKS, RECREATION
AND HISTORIC PRESERVATION FOR AN ENVIRONMENTAL PROTECTION
FUND PARK ACQUISITION, DEVELOPMENT AND PLANNING PROGRAM GRANT
IN AN AMOUNT NOT TO EXCEED \$200,000.00
TO DEVELOP PARK LAND AT BROWNS POND**

WHEREAS, the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) Environmental Protection Fund Park Acquisition, Development and Planning Program Grant Program provides funding for the acquisition, planning, development, and improvement of parks, historic properties, and heritage areas located within the physical boundaries of the State of New York; and

WHEREAS, the City of Newburgh is a qualified applicant under this OPRHP Park Acquisition, Development and Planning Program; and

WHEREAS, the City of Newburgh intends to apply for a grant in the amount of \$200,000.00, with no City match required, to develop a public park land and public entrance to Browns Pond including the creation of parking lot, which will require the demolition of the abandoned building on the site; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a New York State Office of Parks, Recreation and Historic Preservation Environmental Protection Fund Park Acquisition, Development and Planning Program grant through the 2015 Consolidated Funding Application process in an amount not to exceed \$200,000.00 to develop public park land at Browns Pond; and that the City Manager is authorized to execute all such contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the program funded thereby.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 165 - 2015

OF

JULY 13, 2015

A RESOLUTION AUTHORIZING ARCADIS/MALCOLM PIRNIE TO ASSIST THE CITY OF NEWBURGH IN APPLYING FOR A NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION GREEN INNOVATION GRANT WITH AN AWARD NOT TO EXCEED \$400,000.00 THROUGH THE CONSOLIDATED FUNDING APPLICATION PROCESS FOR THE CITY HALL GREEN ROOF RENOVATION PROJECT AND FURTHER AUTHORIZING THE CITY MANAGER TO ACCEPT SUCH GRANT FUNDS IF AWARDED

WHEREAS, The Green Innovation Grant Program (GIGP) administered by the New York State Environmental Facilities Corporation (EFC) through the Clean Water State Revolving Fund (CWSRF) provides grants on a competitive basis to projects that improve water quality and demonstrate green stormwater infrastructure in New York; and

WHEREAS, the City of Newburgh is a qualified applicant under the EFC GIGP; and

WHEREAS, Arcadis/Malcolm Pirnie has offered to prepare and submit a Green Innovation Grant application to the Environmental Facilities Corporation through the Consolidated Funding Application process at no cost to the City to fund the City Hall Green Roof Renovations Project which will incorporate green roof components on portions of the building to improve stormwater management at the site; and

WHEREAS, such grant funds shall be in an amount not to exceed \$400,000.00 with a City match in the amount of \$100,000.00 for asbestos abatement, which is not an eligible GIGP cost; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that Arcadis/Malcolm Pirnie be and is hereby authorized to apply for a Green Innovation Grant from the Environmental Facilities Corporation through the Consolidated Funding Application process in an amount not to exceed \$400,000.00; and

BE IT FURTHER RESOLVED, by the City Council that the City Manager be and he is hereby authorized to accept, if awarded, said Green Innovation Grant through the Consolidated Funding Application process; and

BE IT FURTHER RESOLVED, by the City Council that the that the City Manager be and he is hereby authorized to execute all such grant application forms, contracts and documentation and take such further action as may be appropriate and necessary to accept such grant and administer the program funded thereby.

Councilwoman Abrams moved and Councilwoman Holmes seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 166 - 2015

OF

JULY 13, 2015

A RESOLUTION AUTHORIZING ARCADIS/MALCOLM PIRNIE TO ASSIST THE CITY OF NEWBURGH IN APPLYING FOR A NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION WATER QUALITY IMPROVEMENT PROGRAM GRANT WITH AN AWARD NOT TO EXCEED \$500,000.00 THROUGH THE CONSOLIDATED FUNDING APPLICATION PROCESS FOR THE DOWNING PARK POND DRAINAGE IMPROVEMENT PROJECT AND FURTHER AUTHORIZING THE CITY MANAGER TO ACCEPT SUCH GRANT FUNDS IF AWARDED

WHEREAS, the New York State Department of Environmental Conservation Water Quality Improvement Project Program is a competitive state-wide reimbursement grant program open to local governments for projects that directly address documents water quality impairments; and

WHEREAS, the City of Newburgh is a qualified applicant for non-agricultural nonpoint source abatement and control projects under the DEC WQIP Program; and

WHEREAS, Arcadis/Malcolm Pirnie has offered to prepare and submit a WQIP Program grant application through the Consolidated Funding Application process at no cost to the City to fund the Downing Park Pond Drainage Improvement Project through green infrastructure and stormwater retrofits in connection with the City's Long Term Control Plan; and

WHEREAS, such grant funds shall be in an amount not to exceed \$375,000.00 with a twenty-five (25%) percent City match in the amount of \$125,000.00 for a total project cost of \$500,000.00;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that Arcadis/Malcolm Pirnie be and is hereby authorized to apply for a Water Quality Improvement Program Grant from the Department of Environmental Conservation through the Consolidated Funding Application process in an amount not to exceed \$375,000.00; and

BE IT FURTHER RESOLVED, by the City Council that the City Manager be and he is hereby authorized to accept, if awarded, said Water Quality Improvement Program Grant through the Consolidated Funding Application process; and

BE IT FURTHER RESOLVED, by the City Council that the that the City Manager be and he is hereby authorized to execute all such grant application forms, contracts and documentation and take such further action as may be appropriate and necessary to accept such grant and administer the program funded thereby.

Councilwoman Abrams moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 167 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR
AND ACCEPT IF AWARDED A NEW YORK STATE DEPARTMENT OF STATE
LOCAL WATERFRONT REVITALIZATION PROGRAM GRANT THROUGH THE
CONSOLIDATED FUNDING APPLICATION PROCESS
IN AN AMOUNT NOT TO EXCEED \$155,000.00 TO UNDERTAKE
THE RECONSTRUCTION OF COMBINED SEWER OVERFLOW OUTFALL NO. 12**

WHEREAS, the New York State Department of Environmental Conservation requires the City of Newburgh to repair a pipe collapse in Combined Sewer Overflow (CSO) Outfall No. 12 which is damaging property along the Hudson River and is in violation of the City's State Pollutant Discharge Elimination System (SPDES) permit; and

WHEREAS, the New York State Department of State's Local Waterfront Revitalization Program (LWR Program) provides 50/50 matching grants on a competitive basis to eligible villages, towns, cities, and located along New York's coasts or designated inland waterways to revitalize communities and waterfronts through planning, design, and construction projects, with design and construction tied to prior planning; and

WHEREAS, the City of Newburgh is a qualified applicant under this LWR Program; and

WHEREAS, the City of Newburgh has completed the design phase of the reconstruction of CSO No. 12 and the total cost of the reconstruction phase of the project is \$300,000.00; and

WHEREAS, the City has identified the LWR Program for funding to complete the reconstruction project with the match to be derived from the 2015 BAN; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a New York State Department of State Local Waterfront Revitalization Program grant through the 2015 Consolidated Funding Application process in an amount not to exceed \$155,000.00 to fund the Combined Sewer Overflow Outfall No. 12 Reconstruction; and that the City Manager is authorized to execute all such contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the program funded thereby.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 168 – 2015

OF

JULY 13, 2015

A RESOLUTION AUTHORIZING ARCADIS/MALCOLM PIRNIE TO ASSIST THE CITY OF NEWBURGH IN APPLYING FOR A NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION WATER QUALITY IMPROVEMENT PROGRAM GRANT WITH AN AWARD NOT TO EXCEED \$500,000.00 THROUGH THE CONSOLIDATED FUNDING APPLICATION PROCESS FOR THE REGULATOR NO. 2 REPLACEMENT PROJECT AND FURTHER AUTHORIZING THE CITY MANAGER TO ACCEPT SUCH GRANT FUNDS IF AWARDED

WHEREAS, the New York State Department of Environmental Conservation Water Quality Improvement Project Program is a competitive state-wide reimbursement grant program open to local governments for projects that directly address water quality impairments; and

WHEREAS, the City of Newburgh is a qualified applicant for wastewater treatment improvement projects under the DEC WQIP Program; and

WHEREAS, Arcadis/Malcolm Pirnie has offered to prepare and submit a WQIP Program grant application through the Consolidated Funding Application process at no cost to the City to fund the Regulator No. 2 Replacement Project as a wastewater treatment improvement in connection with the City's Long Term Control Plan; and

WHEREAS, such grant funds shall be in an amount not to exceed \$425,000.00 with a fifteen (15%) percent City match in the amount of \$75,000.00 for a total project cost of \$500,000.00;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that Arcadis/Malcolm Pirnie be and is hereby authorized to apply for a Water Quality Improvement Program Grant from the Department of Environmental Conservation through the Consolidated Funding Application process in an amount not to exceed \$425,000.00; and

BE IT FURTHER RESOLVED, by the City Council that the City Manager be and he is hereby authorized to accept, if awarded, said Water Quality Improvement Program Grant through the Consolidated Funding Application process; and

BE IT FURTHER RESOLVED, by the City Council that the that the City Manager be and he is hereby authorized to execute all such grant application forms, contracts and documentation and take such further action as may be appropriate and necessary to accept such grant and administer the program funded thereby.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 169 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR
AND ACCEPT IF AWARDED AN EMPIRE STATE DEVELOPMENT GRANT FROM
THE REGIONAL COUNCIL CAPITAL FUND
THROUGH THE CONSOLIDATED FUNDING APPLICATION PROCESS
IN AN AMOUNT NOT TO EXCEED \$1,800,000.00 TO UNDERTAKE
THE SOUTH WATER STREET SEWER SEPARATION PROJECT**

WHEREAS, the New York State Department of Environmental Conservation requires the City of Newburgh to eliminate illicit sewer discharges into the Hudson River as part of the City's Long Term Control Plan; and

WHEREAS, the New York State Urban Development Corporation d/b/a Empire State Development (ESD) through the Regional Council Capital Fund provides funding which may be used to finance infrastructure investments and capital expenditures for infrastructure projects including transportation, parking garages, water and sewer, communication, and energy generation and distribution; and

WHEREAS, the City of Newburgh is a qualified applicant under the ESD Regional Council Capital Fund; and

WHEREAS, the City of Newburgh has completed the design phase of the South Water Street Sewer Separation Project and the total cost of the construction phase of the project is \$1,800,000.00; and

WHEREAS, the City has identified the ESD Regional Council Capital Fund for funding to complete the construction phase of the South Water Street Sewer Separation Project with the ten (10%) percent match to be derived from the 2015 BAN; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a New York State Urban Development Corporation d/b/a Empire State Development Regional Council Capital Fund grant through the 2015 Consolidated Funding Application process in an amount not to exceed \$1,800,000.00 to fund the South Water Street Sewer Separation Project; and that the City Manager is authorized to execute all such contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the program funded thereby.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 170 - 2015

OF

JULY 13, 2015

A RESOLUTION AUTHORIZING BARTON & LOGUIDICE, D.P.C. TO ASSIST THE CITY OF NEWBURGH IN APPLYING FOR AN ENGINEERING PLANNING GRANT FROM THE ENVIRONMENTAL FACILITIES CORPORATION THROUGH THE CONSOLIDATED FUNDING APPLICATION PROCESS WITH AN AWARD OF UP TO \$125,000.00 TO INVESTIGATE ILLICIT SEWER CONNECTIONS EAST OF LIBERTY STREET WITHIN THE CITY OF NEWBURGH AND FURTHER AUTHORIZING THE CITY MANAGER TO ACCEPT SUCH GRANT FUNDS IF AWARDED

WHEREAS, the City of Newburgh recently has identified certain illicit sewer connections which discharge directly to the City's combined sewer overflows rather than to the City's waste water treatment plant; and

WHEREAS, the City is obligated to further investigate and detect such illicit sewer connections; and

WHEREAS, the New York State Consolidated Funding Application process provides grant funding to support the City's plan to further investigate and detect such illicit sewer connections; and

WHEREAS, Barton & Loguidice, D.P.C. has offered to prepare and submit an engineering planning grant application to the Environmental Facilities Corporation through the Consolidated Funding Application process at no cost to the City for the further investigation and identification of illicit sewer connections east of Liberty Street; and

WHEREAS, such grant funds shall be in an amount not to exceed \$125,000.00; and

WHEREAS, said grant requires a twenty (20%) percent local match, which can be derived from the in-kind services of the City's Engineering and Public Works Departments;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that Barton & Loguidice, D.P.C. be and is hereby authorized to apply for a planning grant through the Consolidated Funding Application process in an amount not to exceed \$125,000.00; and

BE IT FURTHER RESOLVED, by the City Council that the City Manager be and he is hereby authorized to accept, if awarded, said planning grant through the Consolidated Funding Application process; and

BE IT FURTHER RESOLVED, by the City Council that the that the City Manager be and he is hereby authorized to execute all such grant application forms, contracts and documentation and take such further action as may be appropriate and necessary to accept such grant and administer the program funded thereby.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 171 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A
CONTRACT WITH BARTON & LOGUIDICE, D.P.C. FOR PROFESSIONAL
ENGINEERING SERVICES FOR A SANITARY SEWER OVERFLOW
INVESTIGATION WITHIN THE CITY OF NEWBURGH AT A COST NOT TO
EXCEED \$27,840.00**

WHEREAS, by Resolution No. 153-2014 of June 9, 2014, the City Council of the City of Newburgh authorized Barton & Loguidice, D.P.C. to apply for a planning grant through the Consolidated Funding Application process in an amount not to exceed Thirty Thousand (\$30,000.00) Dollars and further authorized the City Manager to accept, if awarded, said planning grant; and

WHEREAS, the City of Newburgh was awarded an Engineering Planning Grant in the amount of \$27,840.00 administered through the New York Clean Water State Revolving Fund for the identification of point source sewage along the City's Hudson River waterfront; and

WHEREAS, , Barton & Loguidice, D.P.C. has prepared a proposal for the scope of professional engineering services necessary to complete the work outlined in grant proposal at a cost not to exceed \$27,840.00; and

WHEREAS, said grant requires a twenty (20%) percent local match in the amount of \$6,960.00, which will be derived from the in-kind services of the City's staff, for a total project cost of \$34,800.00;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that City Manager is hereby authorized to execute an agreement for professional engineering services with Barton & Loguidice, D.P.C. for the scope of work outlined in the proposal dated June 5, 2015 in an amount not to exceed \$27,480.00, with other provisions as Corporation Counsel may require, for the inspection of the City's combined sewer overflows and the identification of point source sewage along the City's Hudson River waterfront.

Councilwoman Abrams moved and Councilwoman Lee seconded that the resolution be adopted.

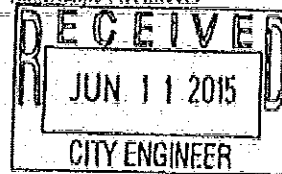
Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

Celebrating over 50 years of service

June 5, 2015

Mr. Jason Morris
City Engineer
City of Newburgh
83 Broadway
Newburgh, New York 12550



Re: Proposal for Sanitary Sewer Overflow Investigation Project
NYSEFC/NYSDEC Wastewater Engineering Planning Study
File: P702.2582

Dear Mr. Morris:

Barton & Loguidice, D.P.C. (B&L) is pleased to have been asked to continue working on this project with the City of Newburgh and is providing this proposal for the completion of a Sanitary Sewer Overflow Investigation. As you are aware, the City of Newburgh was successful with its grant request prepared and submitted on behalf of the City through the Consolidated Funding Application (CFA) process in December 2014. On behalf of everyone at B&L, congratulations!

This award consists of an Engineering Planning Grant of \$27,840, administered by the Clean Water State Revolving Fund (CWSRF) for identification of point source sewage pollution along the City's Hudson River Waterfront. This grant requires that the City provide a 20% minimum local share of the total project cost (i.e., \$6,960 minimum local match and \$34,800 total project cost required to maximize the grant). The grant also requires 20% participation by Minority and/or Women Owned Business Enterprises (M/WBE) for contracted services exceeding \$25,000.

Background:

A sample taken on May 14, 2014 by the Riverkeeper identified elevated levels of enterococcus, a more prominent indicator organism than E-coli; near the Newburgh Boat Launch. Over the years 58% of the samples taken in the vicinity of the Boat Launch have exceeded the EPA guidelines for safe swimming. The latest round of sampling conducted on July 9, 2014 indicate a count of 2420 which is in far excess of the EPA safe swimming guidelines of 60 counts. Upon investigation, the City has identified several properties along the two blocks bounded by Washington Street, Colden Street, Water Street and Renwick Street that were found through dye testing to have sanitary sewer laterals connected directly to the CSO #004 overflow pipe. These direct connections were previously not known to exist. The City has an active project to install a new gravity sanitary sewer and pump station to direct these flows to the Wastewater Treatment Plant and away from CSO #004. Through additional investigations and field testing with dye by the City Engineer and the Building Inspector, additional sanitary sewer overflow (SSO) connections similar to the one described above are suspected to exist.

We understand that the City desires to conduct inspections of the combined sewer system overflows and identify any direct sanitary connections causing sanitary sewer overflows downstream of a Combined Sewer Overflow Regulator. The City desires to conduct prioritized CCTV inspections of overflow pipes from combined sewer regulators to their point of discharge into the Hudson River that the City has yet to investigate.

The experience to **listen.**
The power to **solve.**



Mr. Jason Morris, City Engineer
City of Newburgh
June 5, 2015
Page 2



Eleven (11) CSO pipes currently have yet to be inspected and B&L will work with the City to prioritize the CCTV Inspections and outfalls with the limited amount of funds. These CCTV inspections of the overflow pipes would serve to identify any additional direct connections such as the one found on Water Street.

SCOPE OF SERVICES:

1. Kick off Meeting & Historical Data Review:

Work under this task will include meetings with the City Engineer, City Department of Public Works and Contracted Operations staff to discuss their knowledge of any ongoing concerns and remedies currently being employed to address the needs of the aging sewer infrastructure, including investigative programs or ongoing efforts completed by the City. During the meeting with the City, we would expect to discuss the past work performed; successful measures implemented on an ongoing basis, suspected areas of continually contributing sanitary sewer overflows, records of documented SSO sources and maintenance problem areas. We will obtain and review available documents (i.e., GIS sewer files, sewer mapping, plans/profiles, televising logs/videos, etc.) as necessary within the area of concern.

Review the City's collection system mapping with the City Engineer, DPW Staff and Contracted Operators to confirm pipe sizes, materials, manhole numbering system, and flow directions to the greatest extent possible.

2. GIS Data Collection:

B&L will coordinate with the City GIS Department for the GIS location of the known structures and any identified new structure will be provided to the GIS Department for inclusion into the City's existing GIS database.

3. Closed Circuit Television (CCTV) Inspections of Regulator Overflow Pipes:

Based on our understanding of the project, the City desires to determine the presence of sanitary sewer connections to the combined sewer overflow pipes downstream of a regulator. The City will utilize its own staff to clean out, label and uncover these overflow pipes to facilitate the CCTV. Note that this effort can be part of the City's 20% in-kind services match. Based on our knowledge of the system and review of record mapping, B&L has observed that the following sections of sewer are downstream of regulators to be inspected by CCTV:

CSO	Location	Length to Outfall
1. CSO #001	Southern Interceptor Sewer along South Water St.	1,400 LF
2. CSO #003	Along Renwick St. north of Colden St.	1,200 LF
3. CSO #004	Along South William St. just south of Edward St.	1,180 LF
4. CSO #005	First Street at Intersection with Montgomery St.	1,290 LF
5. CSO #006	Along Second St. South of Grand St.	1,500 LF
6. CSO #007	Fourth Street at Intersection with Front St.	180 LF
8. CSO #009	Broad Street at Intersection with Water St.	3,600 LF
9. CSO #010	Along Nicolli St just north of Hudson St.	460 LF
10. CSO #011	Park Place at Intersection with Montgomery St.	740 LF

Total: 11,550 LF



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****B&L will subcontract the CCTV Services with a certified M/WBE firm. The amount of CCTV completed will depend upon the limited budget available. Prioritization of CSO outfalls to review will be reviewed with the City as all these outfalls likely cannot be inspected with the available limited funds.**

*****CSO #002 has already been CCTV'd as part of the West Trunkline Sewer Improvements Project; and CSO #008 is proposed to be CCTV'd as part of the Liberty & Grand Street Improvements Project.**

B&L staff will be available during the CCTV activities, but it is assumed the City staff will be onsite to identify direct connections of sanitary laterals to these outfalls. Direct connections will be flagged and the City Engineer & Contracted Operator to complete the two (2) hour notification sheet and Report of Non Compliance for submission to the NYSDEC within two (2) hours of discovery of a Direct Connection or Sanitary Sewer Overflow (SSO). Note that this effort can be part of the City's 20% in-kind services match.

These inspections should not only indicate the presence of direct connections, but should also indicate pipe sags, displaced joints and debris, root ball intrusions or other obstacles that would prevent the pipe from flowing freely. It is assumed that no bypass pumping will be necessary to facilitate the CCTV as the work will occur when it is not raining. B&L will subcontract CCTV services with a qualified subcontractor. It is preferred that the contractor use the GRANITE™ software so that these can be directly uploaded into the City's electronic database. All data files will be submitted to the City on a thumb-drive.

4. Draft Sewer Investigative Report:

Combining the information gathered during the tasks above, the B&L team will prepare a draft version of the Sewer Investigative Report for review with the key stakeholders. The report will document the results of the sanitary sewer evaluation activities summarized above. The report will include sewer GIS Maps prepared by the City and updates showing the identified SSO's within the existing sanitary sewer system. Note that this effort can be part of the City's 20% in-kind services match. B&L and the City of Newburgh representatives will then meet to discuss the draft report. Three (3) hard copies and one (1) electronic copy of the Draft Report will be submitted to the City for review.

5. Final Sewer Investigative Report:

Once the Draft Sewer Investigative Report is reviewed and revised based on input from project stakeholders, B&L will develop a presentation that summarizes the results. This information will then be presented during a City Council meeting.

A Final Report will be prepared for presentation to the project stakeholders and the public. It is assumed that attendance at one (1) City Council Meeting or Workshop will be necessary to present the findings of the Final Report. Five (5) hard copies and one (1) electronic copy of the Final Report will be submitted to the City upon completion. Additional copies can be provided at cost.



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6. Regulatory Coordination:

The City will need to coordinate with regulatory agencies and identify applicable regulations pertaining to the work proposed including the April 24, 2009 Guidelines for Sanitary Sewer Overflow Abatement Analysis. Continued correspondence with regulatory staff may be required throughout the duration of the project.

TECHNICAL ASSUMPTIONS

SEQR –The proposed action is defined as a Type II Action in compliance with State Environmental Quality Review (SEQR; 6 NYCRR Part 617). Specifically, Subdivision 6.15(c)(1): maintenance or repair involving no substantial changes in an existing structure or facility.

Wetland Delineation – It is assumed that the sewers are located along public rights-of-way used for travel and no wetlands exist. Should a Wetland Delineation be necessary B&L would complete these as an additional service, under a separate authorization.

Archeological and Threatened/Endangered Species –Similar to other work within public right of ways it is anticipated that no impacts to archeological and/or threatened or endangered species will occur. Should screening or mitigation be is determined necessary B&L would complete these services as an additional service under separate authorization.

Topographic & Boundary Surveying Services are not included. Should these be determined to be necessary to achieve the project goals, B&L would complete these as an additional service under a separate authorization.

Easements Maps and Descriptions –It is assumed that all sewers are within existing sewer easements or right-of-ways. Therefore additional easement procurement has not been included in this proposal.

Subsurface Investigations – It is assumed that no excavation will be required; therefore costs for subsurface investigations have not been included.

SPDES NOI and SWPPP Preparation – It is assumed that no excavation or construction will be required; therefore preparation of a SWPPP or SPDES NOI has not been included.

Sewer Cleaning - It is assumed that all cleaning will be provided by the City. B&L staff to identify structures for cleaning and after the cleaning is confirmed completed by the City; the B&L team will complete the inspection. If it is desired that B&L subcontract these services, B&L would prepare an RFP

for contractors to bid on and then select the lowest cost qualified contractor and they would complete these services. B&L would perform these services as an additional service under a separate authorization.

Municipal Advisor Services - The services Barton & Loguidice proposes to provide DO NOT INCLUDE advice or recommendations with respect to the issuance, structure, timing, terms or any other aspect of municipal securities, municipal derivatives, guaranteed investment contracts or investment strategies. Any opinions, advice, information or recommendations provided by Barton & Loguidice is understood by the parties to be strictly engineering opinions, advice, information or recommendations. Barton & Loguidice is not a "municipal advisor" as defined by 15 U.S.C. 78o-4 or the related rules of the Securities and



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Exchange Commission. The parties to whom this proposal is being provided should determine independently whether they require the services of an municipal advisor.

CWSRF Planning Grant – M/WBE Utilization Compliance

B&L shall comply with provisions of the NYS Environmental Facilities Corporation (EFC) "Required Terms for Contracts and Subcontracts Receiving SRF Financial Assistance", included in the attached "NYSEFC Required Terms" and incorporated into and made a part of this Agreement and all other terms and conditions reasonably required by EFC, as of the date of this agreement.

SCHEDULE

The final Preliminary Engineering Report will be completed within nine (9) months of execution of the grant agreement in accordance with program guidelines.

SERVICES NOT INCLUDED

Additional services will be required to complete a capital improvement project (should the City elect to do so), which are not included as part of this proposal. Tasks specifically not included are as follows:

- Topographic, Boundary & Bathymetric Surveys
- SEQR, environmental impact statement or environmental studies
- Supplemental environmental field work or studies as required by agencies
- Subsurface investigations
- Excavation
- Design, bid, permitting or construction related services

FEE FOR SERVICES

Barton & Loguidice, D.P.C. proposes to provide the Scope of Services described herein for the following fees:

Kickoff Meeting & Historical Data	\$ 1,000 Lump Sum
Subcontracted Closed Circuit Television (CCTV) Allowance	\$18,840 Lump Sum
Sewer Investigative Report	\$ 8,000 Lump Sum
Total:	\$27,840

The fee for services would be a lump sum fee of Twenty Seven Thousand Eight Hundred and Forty Dollars (\$27,840). Billing would be monthly in proportion to the services completed through the date of the invoice.

It is assumed that the 20% City local share requirement of the Grant Funding of \$6,960 will be met through in-kind services to be performed by City staff. In-kind services will include data collection, cleaning of sewers, and public notification to residents and regulatory agencies. It is to be noted that the CCTV services will be subcontracted to a qualified Minority Business Enterprise (MBE) contractor, as our contract is subject to a 20% M/WBE participation goal, which we intend to meet. The project will be completed in accordance with the enclosed "Non-Construction Bid Packet" for the New York State Revolving Fund.





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For the Scope of Services presented above, Barton & Loguidice, D.P.C (B&L) proposes to be compensated on a Lump Sum basis. If additional hours are required, B&L will request the City's authorization under a separate supplement to proceed forward. We will not bill beyond this amount without a change in scope and prior approval of the City Council.

This project will be in accordance with our Standard Terms and Conditions for Professional Engineering Services (copy attached). Authorization of these services may be done by signature below. Please retain one (1) copy for City files and return one (1) to B&L.

We appreciate this opportunity to provide further professional services to the City and look forward to expanding our working relationships with City officials and staff. Should you have any questions or if you would like to discuss the project, please do not hesitate to contact Anthony Eagan or me.

Very truly yours,

BARTON & LOGUIDICE, D.P.C.


Donald H. Fletcher, P.E.
Vice President

ATE/ojf
Encl.

Authorization

Barton & Loguidice, D.P.C. is hereby authorized by the City of Newburgh to proceed with the services described herein in accordance with the Terms and Conditions proposed herein and the attached terms and conditions.

RECOMMENDED BY:

Jason Morris P.E.
City Engineer

Date

APPROVED AS TO FINANCES:

John Aber
City Comptroller

Date



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APPROVED AS TO FORM:

Michelle Kelson
Corporation Council

Date

AUTHORIZED:

Michael Ciaravino
City Manager

Date

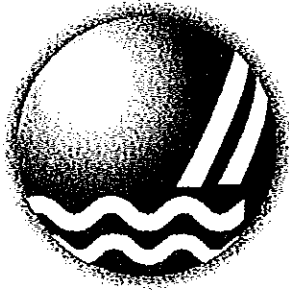




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NYSEFC Required Terms





NY State Revolving Fund
MWBE / EEO / AIS

Bid Packet for

Non-Construction Contracts

Effective October 1, 2014

New York State Environmental Facilities Corporation
625 Broadway, Albany, NY 12207-2997
(800) 882 9721
P: (518) 402-7396 F: (518) 402-7456
www.efc.ny.gov

BID PACKET FOR NON-CONSTRUCTION CONTRACTS

NEW YORK CLEAN WATER and DRINKING WATER STATE REVOLVING FUNDS

Administered by the New York State Environmental Facilities Corporation (EFC)

"Non-Construction Contracts" means any written agreement, and amendment(s) thereto, where the recipient is committed to expend or does expend funds in return for labor, services (including legal, financial, technical, and other professional services), travel, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency.

Contents of Bid Packet

Part 1: REQUIRED CONTRACT LANGUAGE 4

The required contract language to be inserted into all non-construction contracts to satisfy Equal Employment Opportunity (EEO), Disadvantaged Business Enterprise (DBE), Minority & Women Owned Business Enterprise (MWBE), American Iron and Steel (AIS) and some other Clean/Drinking Water State Revolving Fund (SRF) Program requirements

Part 2: GUIDANCE MATERIALS 12

A description of the program requirements as they relate to non-construction contracts funded in whole or in part by the New York State Revolving Funds -- all contracts and subcontracts.

Checklists summarizing important required forms or steps to be completed by the Contractor are included at the end of this section.

Part 3: REQUIRED FORMS 32

Copies of required forms are included at the end of this packet for the Service Provider's use. All forms can be found on the EFC website (www.efc.gov).

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PART 1:

REQUIRED CONTRACT LANGUAGE

This Part 1 is to be inserted in its entirety for ALL non-construction contracts and subcontracts funded in whole or in part with SRF funds.

Check EFC's website (www.efc.ny.gov) for updates.

****Please note that the contractual language in its entirety is not necessarily applicable to all projects. Information is provided in parentheses below each program section within to identify circumstances when certain language is not applicable.****

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REQUIRED TERMS FOR PROJECT CONTRACTS AND SUBCONTRACTS

***** (Applies to all contracts) *****

In accordance with the terms and conditions set forth in Section 5.1 of the Project Finance Agreement, Recipient agrees that the following language will be included in all contracts and subcontracts regarding the Project including but not limited to those relating to construction, engineering, architectural, legal and fiscal services, as required by federal and state laws, regulations, and executive orders applicable to this Project:

Defined Terms:

The term "Bid Packets" means the New York State Revolving Fund (SRF) Bid Packet for Construction Contracts and Bid Packet for Non-Construction Contracts and Service Providers, available at www.efc.ny.gov/.

The term "Service Providers" means those who provide the following: legal, engineering, financial advisory, technical, or other professional services; supplies, commodities, equipment, materials, and travel.

The term "subcontractor", as used in this contract or subcontract, means, and applies to, any individual or business enterprise that has an agreement, purchase order, or any other contractual arrangement with a Service Provider.

The term "EEO policy statement" means a statement of the Service Provider and subcontractor setting forth at least the following:

- (i) A statement that the Service Provider will provide for and promote equal employment opportunity free of discrimination and harassment against any person on the basis of race, color, national origin, age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on contracts relating to the Project.
- (ii) An agreement that all of Service Provider's solicitations or advertisements for employees will state that, in the performance of the contract relating to this Project, all qualified applicants will be provided with equal employment opportunity free of discrimination and harassment against any person on the basis of race, color, national origin, age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law.
- (iii) An agreement to request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate or harass on the basis of race, color, national origin, age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law and that such union or representative will affirmatively cooperate in the implementation of the Service Provider's obligations herein.
- (iv) An agreement to comply with the provisions of the Human Rights Law (Article 15 of the Executive Law), including those relating to non-discrimination on the basis of prior criminal conviction and prior arrest, and with all other State and federal statutory constitutional non-discrimination provisions.

The term "EFC" means the New York State Environmental Facilities Corporation.

The term "EPA" means the United States Environmental Protection Agency.

The term "ESD" means the Empire State Development Corporation - Division of Minority and Women's Business Development.

The term "Recipient" means the party, other than EFC, to a grant agreement or a project finance agreement with EFC through which funds for the payment of amounts due hereunder are being paid in whole or in part.

The term "State" means the State of New York.

The term "Treatment Works Project" means a Clean Water Act (CWA) Section 212 project. Examples include new, expanded or rehabilitated wastewater plants; sludge treatment and disposal facilities including biosolids reuse; collector, trunk and interceptor sewers; sewer rehabilitation and infiltration/inflow correction; municipally-owned sewers and treatment capacity for industrial wastewater; combined sewer overflow (CSO) abatement; stormwater resiliency and pollution abatement; energy initiatives, including energy efficiency and on-site power generator for treatment plants and sewer systems; water treatment plant filter backwash and sludge treatment; water efficiency projects, including conservation and reuse of water; septage hauling and marine vessel pump out/treatment facilities; publically-owned water conservation/reuse devices or systems; and security measures for wastewater treatment plants and sewer systems.

The terms "Nonpoint Source Projects" and "Green Infrastructure Project" mean a CWA Section 319 Project. Examples include green infrastructure projects that manage stormwater, such as constructed wetlands, biofilters, porous pavement and green roofs; waterbody restoration including stream bank stabilization and drainage erosion and sediment control; restoration of riparian vegetation, wetlands and other water bodies; land acquisition or conservation easements for water quality protection; stormwater management facilities, such as street sweepers and catch basin vacuum vehicles, sediment traps and basins; and capping and closure of municipal solid waste landfills, landfill reclamation, landfill leachate collection, storage and treatment of landfill gas collection and control systems.

The term "Estuary Management Program Project" means a CWA Section 320 Project. Examples include projects necessary to implement the EPA-approved Estuary Conservation and Management Plans for the New York-New Jersey Harbor, Peconic Bay, and Long Island Sound Estuaries.

EEO AND MWBE LANGUAGE, GOALS AND OTHER PROGRAM REQUIREMENTS

*****(Applies to all contracts)*****

Interpretation:

This contract is subject to Article 15-A of the Executive Law (Article 15-A) and 5 NYCRR 140-145 (the Regulations) and shall be considered a State Contract as defined therein. If any of the terms herein conflict with Article 15-A or the Regulations, such law and regulations shall supersede these requirements.

Representations and Acknowledgements of Service Provider:

The Service Provider acknowledges that funds for the payment of amounts due under this contract are being provided in whole or in part subject to the terms and conditions of a grant agreement or a project finance agreement with EFC.

The Service Provider represents that it has submitted an EEO policy statement, an EEO Workforce Staffing Plan for Service Provider (Non-construction) Contracts, and an MWBE Utilization Plan (prime Service Providers only), prior to the execution of this contract.

Suspension/Debarment - The Service Provider is not a debarred or suspended party under 2 CFR Part 180, 2 CFR Part 1532 and 40 CFR Part 32. Further, neither the Service Provider nor any of its subcontractors have contracted with, or will contract with, any debarred or suspended party under the foregoing regulations or with any party that has been determined to be ineligible to bid under Section 316 of the Executive Law.

Equal Employment Opportunity (EEO), Affirmative Action, MWBE and Other Covenants:

Service Provider and subcontractor shall comply with all federal and state laws, regulations, and executive orders applicable to this Project, and shall provide such documentation, including periodic reports, as may be requested from time to time and as set forth in guidance documentation available at www.efc.ny.gov/, including but not limited to the Bid Packets.

With respect to this contract, the Service Provider and subcontractor shall undertake or continue existing programs of affirmative action and equal employment opportunity to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, color, national origin (including limited English proficiency), age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

MWBE PROGRAM

****Applies to all:** (1) Service Provider Contracts greater than \$25,000
 (2) Contracts that are initially under this thresholds but subsequent change orders or contract amendments increased the contract value above \$25,000
 (3) Change orders greater than \$25,000**

MWBE Goals - The Service Provider agrees to pursue MWBE goals in effect at the time of execution of this contract. The MWBE goals shall be applied to the total amount being funded pursuant to the grant agreement or project finance agreement with EFC.

10/1/2012 – Present	MWBE Combined Goal*
All counties	20%

*May be any combination of MBE and/or WBE participation

Service Provider shall solicit participation of MWBE firms (including subcontractors, consultants and service providers) for SRF-funded projects in accordance with the aforementioned goals. The Service Provider must submit sufficient documentation to demonstrate good faith efforts to provide opportunities for MWBE participation for work related to the SRF-funded project in the event respective goals are not achieved. Guidance pertaining to documentation of good faith efforts is set forth in the Bid Packet.

The Service Provider agrees that for purposes of providing meaningful participation by MWBEs on the contract and achieving the goals, Service Provider will reference the directory of New York State Certified MWBEs found at the following internet address: <http://www.ny.newnycontracts.com/>.

Subcontractors who in turn subcontract work shall also comply with MWBE requirements for that contract.

MWBE Utilization Plan (MWBE Utilization Plan requirements apply to Service Provider. MWBE Utilization Plans are submitted to the SRF Recipient's minority business officer (MBO) prior to execution of a contract.) – Each Service Provider shall prepare an MWBE Utilization Plan, and any subsequent revisions or amendments thereto, that provides information describing MBEs and WBEs to be utilized at various times during the performance of this contract. The MWBE Utilization Plan shall identify the Service Provider's proposed MBE and WBE utilization for this contract and the MWBE participation goals established for this contract by EFC. The MBEs and WBEs identified in the MWBE Utilization Plan must be certified by, or have applied, for certification from ESD.

In the event that the Service Provider's approved MWBE Utilization Plan does not propose achievement of the MWBE participation goals for this contract, the Service Provider shall complete a waiver request as hereinafter referenced.

Submission – Within 30 days of execution of this contract, the Service Provider shall submit to the Recipient copies of all signed subcontracts, agreements, and/or purchase orders referred to in the MWBE Utilization Plan.

Compliance – The Service Provider agrees to adhere to its approved MWBE Utilization Plan for the
The SRF Bid Packet
SRF Construction Contracts

Revision Date: 10/1/2014

participation of MWBEs on this contract pursuant to their respective MWBE goals.

Waivers – If the Service Provider's application of good faith efforts does not result in the utilization of MBE and/or WBE firms to achieve the aforementioned goals then, prior to execution of a contract, the Service Provider shall complete the waiver request portion of the MWBE Utilization Plan and submit it to the Recipient. The Service Provider is entitled to receive a written notice of acceptance or denial within 20 days of receipt. Upon receipt of a notice of deficiency from the Recipient, the Service Provider shall respond with a written remedy to such notice within 7 days. Such response may include a request for a total or partial waiver of the aforementioned goals.

The Service Provider shall comply with the requirements set forth in the Bid Packets regarding waivers.

Required Reports – MWBE Monthly Report – The Service Provider agrees to submit a report to the Recipient by the 3rd business day following the end of each month over the term of this contract documenting the payment made and the progress towards achievement of the MWBE goals of this contract.

EEO PROGRAM

*** (Applies to all Service Provider Contracts and Subcontracts) ***

EEO Workforce Staffing Plan

All Service Providers and their subcontractors shall submit an acceptable EEO Workforce Staffing Plan setting forth the anticipated work force to be utilized on such contract or, where required, information on the Service Provider's total work force, including apprentices, broken down by specific ethnic background, gender and Federal occupational categories or other appropriate categories specified by the Recipient. The EEO Workforce Staffing Plan is submitted to the Recipient prior to execution of a contract.

Required Reports - EEO Workforce Utilization Reports

During the term of this contract, the Service Provider and subcontractor shall update and provide notice to the Recipient of any changes to the previously submitted Staffing Plan in the form of an EEO Workforce Utilization Report. The Service Provider shall submit this information on a quarterly basis during the term of this contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The EEO Workforce Utilization Report must be submitted to report this information. In the event a Service Provider and subcontractor's workforce does not change within the Quarterly period, the Service Provider shall notify the Recipient in writing.

DISADVANTAGED BUSINESS ENTERPRISES

*** (Applies to all contracts) ***

The Service Provider and subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Service Provider and subcontractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Service Provider and subcontractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies. Service Providers and subcontractors shall comply with the requirements set forth in the Bid Packets regarding Disadvantaged Business Enterprises.

REMEDIES

*** (Applies to all contracts) ***

Upon a determination by the Recipient of the Service Provider's non-responsiveness, non-responsibility or

breach as a result of a failure to comply with the requirements of Article 15-A and the Regulations, the Recipient may withhold funds under this contract or take such other actions, impose liquidated damages or commence enforcement proceedings as set forth herein or as otherwise allowed by law or in equity.

If the Service Provider or subcontractor fails to submit to Recipient an EEO policy statement consistent with the provisions set forth in clauses (i), (ii), (iii) and (iv) of the definition thereof and within the timeframe required therefor, Recipient may declare this contract to be null and void.

The Service Provider and subcontractor agree that a failure to submit and/or adhere to its EEO policy statement, EEO Workforce Staffing Plan for Service Provider (Non-construction) Contracts, and an MWBE Utilization Plan, and any other required periodic reports, shall constitute a material breach of the terms of this contract, entitling Recipient to any remedy provided herein, including but not limited to, a finding of Service Provider non-responsiveness.

Liquidated or Other Damages - If it has been determined by the Recipient or NYSEFC that the Service Provider is not in compliance with the requirements herein or refuses to comply with such requirements, or if the Service Provider is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Service Provider shall be obligated to pay to Recipient liquidated damages or other appropriate damages as determined by the Recipient or EFC, in accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13

Liquidated damages shall be calculated as an amount not to exceed the difference between:

1. All sums identified for payment to MWBEs had the Service Provider achieved the contractual MWBE goals; and
2. All sums actually paid to MWBEs for work performed or materials supplied under this contract.

In the event a determination has been made by the Recipient or EFC which requires the payment of liquidated damages and such identified sums have not been withheld, the Service Provider shall pay such liquidated damages to the Recipient within sixty (60) days after they are assessed unless prior to the expiration of such sixtieth day, the Service Provider has filed a complaint with ESD pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if the Director of ESD renders a decision in favor of the Recipient.

RESTRICTIONS ON LOBBYING

***** (Applies to all contracts greater than \$100,000) *****

The Service Provider and subcontractor executing a contract in excess of \$100,000 agree to provide to the Recipient an executed Certification For Contracts, Grants, Loans, and Cooperative Agreements 40 CFR 34, in the form attached hereto, consistent with the requirements of 40 CFR Part 34.

AMERICAN IRON AND STEEL (AIS) REQUIREMENT

***** (Applies only to Equipment and Material Supplier contracts) *****

The Service Provider acknowledges to and for the benefit of the Recipient of the Clean Water State Revolving Fund (CWSRF) or the Drinking Water State Revolving Fund (DWSRF) financial assistance ("Purchaser") that the Service Provider understands the goods and services under this Agreement are being funded with monies made available by the New York State Environmental Facilities Corporation (EFC) through the CWSRF or the DWSRF and that such funding is subject to certain statutory restrictions requiring that certain iron and steel products used in the project be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Service Provider pursuant to this Agreement.

The Service Provider hereby represents and warrants that:

- (a) the Service Provider has reviewed and understands the American Iron and Steel Requirement,
- (b) all of the iron and steel products covered by the American Iron and Steel Requirement used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and
- (c) the Service Provider will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Recipient.

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Service Provider shall permit the Recipient to recover as damages against the Service Provider any loss, expense, or cost (including without limitation attorney's fees) incurred by the Recipient resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EFC or any damages owed to the EFC by the Recipient). While the Service Provider has no direct contractual privity with the EFC, as a lender to the Recipient for the funding of this project, the Recipient and the Service Provider agree that the EFC is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the EFC.

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PART 2:

GUIDANCE MATERIALS

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INTRODUCTION

A description of requirements as they relate to non-construction contracts funded in whole or in part by the New York State Revolving Funds:

Applicability:

This guidance applies to Service Provider (Non-Construction) contracts are written agreements where the SRF recipient (Recipient) commits to expend funds for services (including legal, engineering, financial advisory or other professional services, and labor); supplies; commodities; equipment; materials; and travel, or any combination thereof.

Purpose of Documents:

This guidance is designed to complement the required contract language as set forth in Part 1 -- Required Contract Language, by providing additional information intended to assist SRF Recipients and bidders in complying with EEO, MWBE, and other requirements of the SRF programs, including:

- New York State Executive Law, Article 15-A and New York Code of Rules and Regulations, Title 5 (5 NYCRR) Parts 140-145 (Regulations of the Commissioner of Economic Development)
- 40 Code of Federal Regulations (CFR) Part 33 – “Participation by Disadvantaged Business Enterprises in US EPA Programs”
- Restrictions on Lobbying

Service Providers are required to engage in procurement practices that will provide opportunities for meaningful participation of minority and women-owned business enterprises (MWBE) in providing labor, travel, equipment, materials, supplies, services (including legal, financial, engineering or other professional services), or any combination of the above, and practices to encourage the employment of minorities and women in the workforce.

Failure to report on EEO participation or to meet all the requirements of MWBE & DBE regulations in a timely manner may result in withholding of disbursements of SRF funds or other remedies as cited in the SRF financing agreement. This may affect the Service Provider's payments. If this is a project with a not-for-profit entity, please contact EFC for appropriate guidance.

Reference the EFC website to ensure the most recent forms and language. (<http://www.efc.ny.gov/>)

The New York State Environmental Facilities Corporation (EFC) implements the New York State Revolving Fund (SRF) for both Clean Water and Drinking Water projects. This guidance outlines the activities that must be performed by each Service Provider on an SRF funded project in order to comply with federal and New York State laws and regulations.

SECTION 1 EQUAL EMPLOYMENT OPPORTUNITY

*** (Applies to all contracts) ***

A. WORKFORCE DIVERSITY

Service Providers are required to document their efforts to meet EEO goals for the employment of minorities and women on all SRF funded projects on the EEO Workforce Utilization Report. The United States Department of Labor (DOL) has established EEO goals for employment of minority and women. The goals are available on EFC's website in the Prime Contractor Folder.

B. EEO POLICY STATEMENT

The EEO Policy Statement is documentation of a Service Provider's policy of non-discrimination in accordance with federal and state laws. The EEO Policy Statement must: be submitted to the Recipient's minority business officer (MBO) as part of any bid proposal; include language as defined above (see Required Terms for Project Contracts and Subcontracts – EEO Policy Statement definition); and be signed by each potential bidder.

The EEO Policy Statement can be found in the required forms section of this document and on EFC's website.

C. EEO WORKFORCE STAFFING PLAN

With the Bid, or when offering services, each Service Provider shall submit to the SRF Recipient an EEO Workforce Staffing Plan estimating the anticipated work force to be utilized on the project. The EEO Workforce Staffing Plan shall include information on the Service Provider's total work force, including apprentices, broken down by specific ethnic background, gender and Federal occupational categories.

Blank EEO Workforce Staffing Plans are found in the Required Forms section of this document and on EFC's website.

D. EEO WORKFORCE UTILIZATION REPORTS

Upon the execution of the contract and monthly thereafter, the Service Provider shall submit to the Recipient's MBO an EEO Workforce Utilization Report that documents the actual labor hours worked by ALL Service Provider AND subcontractor employees during the prior month period, on activities related to the contract, broken down by specific ethnic background, gender, and Federal occupational categories or other appropriate categories specified by the Recipient.

The EEO Workforce Utilization Report is part of the MWBE Monthly Report forms. Both the EEO Workforce Utilization Report and MWBE Monthly Report are found on the EFC website in the Prime Contractor folder.

All EEO Workforce Utilization Reports submitted by the Service Provider and subcontractor must reflect a separation of the workforce utilized in the performance of this contract from the Service Provider or subcontractor's total workforce. The EEO Workforce Utilization Report must indicate that the information provided relates to the actual workforce utilized. If the Service Provider or subcontractor fails to separate the workforce to be utilized on this contract from the total workforce as determined by Recipient, the Service Provider shall submit the EEO Workforce Utilization Report and indicate that the information provided is the Service Provider or subcontractor's total workforce during the subject time frame, not limited to work specifically under a particular contract.

SECTION 2 MINORITY & WOMEN-OWNED BUSINESS ENTERPRISE and DISADVANTAGED BUSINESS ENTERPRISE

**** (DBE Applies to all contracts**

MWBE Applies to all: (1) Service Provider Contracts greater than \$25,000
(2) Projects that are initially under this thresholds but subsequent contract amendments increased the contract value above \$25,000
(3) Change orders greater than \$25,000)**

A. MWBE REQUIREMENTS

Recipients, Service Provider and subcontractors must comply with New York State Executive Law, Article 15-A and New York Code of Rules and Regulations, Title 5 (5 NYCRR) Parts 140-145 (Regulations of the Commissioner of Economic Development).

Non-construction contracts, for the purposes of SRF MWBE compliance, are written agreements between an SRF Recipient and a Service Provider (or subcontractor) whereby the SRF Recipient commits to expend funds for the services (i.e. legal, engineering, financial advisory or other professional services, and labor); supplies; commodities; equipment; materials; and travel, or combination thereof in support of an SRF financed project.

Amendments or change orders for such non-construction contracts with a value greater than \$25,000 may be subject to MWBE requirements as well. The Service Provider is to seek additional MWBE participation for the additional value of the contract unless EFC determines otherwise.

If contracts with a value of \$25,000 or less have subsequent change orders or amendments that bring the total contract value to greater than \$25,000, the full value of the contract will then be subject to MWBE requirements.

B. MWBE PARTICIPATION GOALS (FAIR SHARE OBJECTIVES)

Based on the report, "The State of Minority and Women-Owned Business Enterprise: Evidence of New York, April 29, 2010" (NYS Disparity Study), there is a demonstrated availability of MWBEs throughout New York State. Service Providers are required to solicit participation of MWBE firms (including subcontractors, consultants, and service providers) for SRF funded projects.

MWBE participation goals will be based on the execution date of each respective contract, unless MWBE participation goals have been otherwise specified in an executed SRF grant agreement or project finance agreement.

10/1/2012 – Present	MWBE Combined Goal*
All counties	20%

*May be any combination of MBE and/or WBE participation

10/1/2011 – 9/30/2012	MWBE Combined Goal*
All counties	10%

*May be any combination of MBE and/or WBE participation

10/13/2010 – 9/30/2011	MBE Goals	WBE Goals
All other counties non-NYC	8.8%	8.8%
New York City and Long Island Region (Bronx, Brooklyn, Manhattan, Queens, Staten Island, Nassau, Suffolk)	18.8%	20.5%

C. RECEIVING CREDIT UNDER THE EFC MWBE PROGRAM

To receive MWBE participation credit, Service Provider that have been identified in an approved MWBE Utilization Plan (See Subsection D1 below for more information) must be certified as an MBE or WBE by the Division of Minority and Women's Business Development, Empire State

Development Corporation (ESDC). Conditional credit will be given for firms that have applications pending with ESDC.

Prime Service Providers that are certified MWBE firms will receive credit for MWBE participation.

A list of firms certified in New York State can be found on the ESD website at <http://www.ny.newnycontracts.com>. Searches can be performed by the business name and commodity code or business description.

D. NON-CONSTRUCTION CONTRACTOR'S MWBE RESPONSIBILITIES

At the Time of Bid (if applicable):

The completed forms listed below shall be part of the official bid submission by each competing Service Provider:

- **EPA Form 6100-3 "DBE Subcontractor Performance Form"**
Each potential bidder shall complete this form and submit it to the MBO for each MWBE firm contacted during the bid or proposal preparation process, and make reasonable efforts to obtain signatures from the MBEs and WBEs contacted. This form shall be completed by each potential subcontractor and submitted to the MBO as part of the bid submission.
- **EPA Form 6100-4 "DBE Subcontractor Utilization Form"**
This form shall be completed by each potential bidder and submitted to the MBO as part of the bid submission. On this form, each bidder offers their estimated plan for MBE and WBE utilization for their contract.

NOTE: The EEO Policy Statement should be completed and submitted at this time.

Prior to Award of the Contract:

- **EPA Form 6100-2 "DBE Subcontractor Participation Form"**
Distribute the form to MWBE Subcontractors who are listed on the 6100-4 form. Submit documented proof (e.g. email, letter, certified mail receipt) to the MBO that the 6100-2 form was sent to the MWBE Subcontractors. (See Part 3: Required Forms)

After Award of the Contract:

Each prime Service Provider is obligated to seek MWBE participation and document their good faith efforts to meet MWBE goals.

1. MWBE Utilization Plan (UP)

- a. **Due Date:** MWBE UPs are required to be submitted to the MBO no later than the date of execution of the contract.
- b. **Preparation:** Each Service Provider shall prepare an MWBE UP that provides information describing MBEs and WBEs to be utilized during the term of the contract. The MWBE UP will reflect the EFC MWBE goals that apply to the contract as well as the Service Provider's anticipated MWBE participation. The Service Provider will transmit the completed MWBE UP form, with all pages filled out, to the MBO. Blank MWBE UP forms are available on the EFC website.

MWBE UP revisions should be submitted to the MBO, with the next monthly report. When an MWBE UP is revised due to execution of a change order, the change order should be submitted to the MBO with the revised MWBE UP.

- c. **NYS Certified:** The MBEs and WBEs identified in the MWBE UP must be certified by, or have applied for certification from:

Empire State Development Corporation
 Division of Minority and Women's Business Development
 625 Broadway
 Albany, New York 12245
 Phone: 1-800-782-8639
<http://www.ny.newnycontracts.com>

- d. **Supplier Credit:** Credit for MBE/WBE participation shall be granted for MWBE firms performing a commercially useful business function according to custom and practice in the industry.

"Commercially useful functions" normally include:

- i. Providing technical assistance to a purchaser prior to a purchase, during installation, and after the supplies or equipment are placed in service;
- ii. Manufacturing or being the first tier below the manufacturer of supplies or equipment; or
- iii. Providing functions other than merely accepting and referring requests for supplies or equipment to another party for direct shipment to a Service Provider.
- iv. Being responsible for ordering, negotiating price, and determining quality and quantity of materials and supplies.

MBE/WBE goal crediting:

- i. For MWBE suppliers who are manufacturers, fabricators, or official manufacturer's representatives who are warehousing such goods, up to 100% of the MBE/WBE objective may be credited.
 - ii. No credit will be granted for MBEs and/or WBEs that do not provide a commercially useful function
- e. **Waiver Request:** If the Service Provider's application of good faith efforts does not result in the utilization of MBE and/or WBE firms to achieve the aforementioned goals or a specialty equipment/service waiver is requested, the Service Provider shall complete the waiver request portion of the MWBE Utilization Plan, attach appropriate documentation, and submit it to the MBO. **See Section F for more information.**
- f. **MWBE Utilization Plan Acceptance vs. Notice of Deficiency:** The MBO will evaluate a completed MWBE UP. Upon review and application of the requirements set forth in this guidance, if the MBO finds the UP acceptable, they will forward to EFC for review. If the MBO finds the UP insufficient, they will work with the Service Provider to address deficiencies before submitting to EFC for review. A written notice of acceptance or denial will be issued by EFC within 20 business days of receipt of the UP. Upon notice of deficiency to the Service Provider from either the MBO or EFC, the Service Provider shall respond with a written remedy to such notice within seven (7) business days.

In coordination with the MBO, EFC will accept a UP upon consideration of many factors, including the following:

- i. The UP indicates that the MWBE proposed goals for the project will be achieved;
- ii. A prime Service Provider, who is a certified MBE or WBE, will be credited for up to 100% of the category of their certification. However, good faith efforts to seek participation in the other category are required;
- iii. Adequate documentation to demonstrate good faith effort and/or support a specialty equipment/services waiver as described in Section D2.

- g. **UP Acceptance:** Within 10 days of the final acceptance of a MWBE Utilization Plan or Waiver Request, EFC will post the approved MWBE Utilization Plan or Waiver Request on the EFC website.
- h. **Conditional UP:** In coordination with the MBO, EFC may issue conditional acceptance of Utilization Plans pending submission of additional documentation that demonstrates there will be an increase in MWBE participation.
- i. **Revisions of the MWBE Utilization Plans:** If project conditions change such that the information submitted in the approved MWBE UP is no longer valid, the Service Provider shall indicate the changes to the MBO in the next monthly report. At EFC's discretion, a completely revised MWBE UP form and good faith effort documentation may be required to be submitted.
- j. **Projects Co-Funded with other state/federal agencies:** In the event EFC is providing financial assistance to a project that is also financially supported by other state/federal agencies, EFC may defer to the MBE and WBE participation goals and established by those agencies.

2. Good Faith Effort Documentation

Prime Service Providers shall maintain documentation of their efforts to solicit participation of MWBE firms for SRF-funded projects in an effort to meet the appropriate goals. In the event respective goals are not achieved, the Service Provider must submit sufficient documentation to demonstrate good faith efforts have been made to provide opportunities to certified MWBE firms to participate in SRF-funded projects.

Examples of documentation of good faith efforts are set forth below:

- Information on the scope of work related to the contract and specific steps taken to reasonably structure the scope of work to break out tasks or equipment needs for the purpose of providing opportunities for subcontracting with or obtaining supplies or services from MBEs or WBEs.
- Printed screenshots of the directory of Certified Minority and Women Owned Businesses (MWBE directory) on ESD's website on a statewide basis, if appropriate, for both MBEs and WBEs that provide the services or equipment necessary for the contract. Contact the MBO for assistance in performing a proper search including identifying a sufficient number of solicitations to show that good faith effort was made.
- Copies of timely solicitations and documentation that the Service Provider offered relevant plans, specifications, or other related materials to MBE and WBE firms on ESD's MWBE directory to participate in the work, with the responses.

The Service Provider is to offer sufficient advance notice proportional to the size and complexity of the contract to enable MBEs and WBEs to prepare an informed response to the solicitations for participation as a subcontractor or supplier. The solicitations and responses are required to be documented in a log to be submitted in the case where the goal is not met. The log should consist of the list of MBE and WBE firms solicited, their contact information, the type of work they were solicited to perform (or equipment to provide), how the solicitation was made (fax, phone, email) and the contact information, the contacts name and the outcome. If a bid was received, the bid price should also be included in the log. See a sample log entry below:

Date	MWBE Type	Company	Scope of work	Contact Name	Phone/Email	Solicitation Format	MWBE Response	Negotiation Required?	Selected? If not, Explain

If no response was received to an initial solicitation, at least one follow-up solicitation should be made in a different format than the first, e.g. fax followed by phone call. Any bids received from non-MWBE firms should also be tracked on the log.

Submit the EPA 6100-3 and 6100-4 forms that are required as part of all bids or proposals. A properly completed EPA 6100-3 form is good indication of a contact to an MWBE and their response to the contact. If solicitations do not result in obtaining sufficient participation of MWBE firms due to non-responsiveness, please contact the MBO or EFC MWBE representative for support.

- Copies of any advertisements of sufficient duration to effectively seek participation of certified MBE and WBEs timely published in appropriate general circulation, trade and MWBE oriented publications, together with listing and dates of publication of such advertisements. EFC recommends the use of the Contract Reporter that is free to all Service Providers - <https://www.nyscr.ny.gov/>. A log should be kept of the responses to the ads, similar to the log for MWBE firm solicitation and should include the non-MWBE firms that responded and the bid prices. Any negotiations should be documented in the log.
- Documents demonstrating that insufficient MBEs or WBEs are reasonably available to perform the work. Based on the NYS Disparity Study, there is a presumption of MBE and WBE statewide availability, unless information is submitted indicating otherwise.
- A written demonstration that the Service Provider offered to make up any inability to meet the project MWBE participation goals in other contracts and/or agreements performed by the Service Providers on another SRF funded project.
- The date of pre-bid, pre-award, or other meetings scheduled by the Recipient, if any, and the contact information of any MBEs and WBEs who attended and are capable of performing work on the project.
- Any other information or documentation that demonstrates the Service Provider conducted good faith efforts to provide opportunities for MWBE participation in their work. For instance, prime Service Provider and MBOs should develop a list of MWBE firms that have expressed interest in working on SRF funded projects
- The use of certified Disadvantaged Business Enterprises (DBE), Small Business Administration (SBA), and Veteran-Owned Small Businesses (VOSB) may be considered as a demonstration of Good Faith Efforts.

3. Subcontract Agreements

The Service Provider shall submit copies of all legally signed subcontracts, agreements, and purchase orders that are referred to in the MWBE Utilization Plan to the MBO within 30 days of their execution. These subcontracts and/or purchase orders must include the following information:

- a. Actual dollar amount of the subcontract;
- b. A job description of the work to be performed by the subcontractor;
- c. Signatures of both parties;
- d. Date of execution;
- e. MWBE language (included in this bid packet); and
- f. A signed EEO Policy Statement Agreement (See Required Forms).

NOTE: Purchase orders must be sent with copies of both sides of cancelled checks.

4. Monthly Reports

The Service Provider must submit monthly MWBE payment reports supplemented with proof of payment to the MBO. Blank monthly report forms are available on EFC's website or from the MBO. Monthly reports should be submitted to the MBO within 3 business days after the end of each month being reported.

As part of the Monthly Report, the Service Provider must provide documentation to the MBO that subcontractors have been paid within 30 days of receipt of payment from the Recipient.

The final monthly payment report must reflect all Utilization Plan revisions and all change orders.

5. Other Service Provider Responsibilities

- a. Continue good faith efforts to seek opportunities for MBE and WBE participation even if proposed goals have been achieved. In addition, any revisions to an MWBE Utilization Plan must be documented in the next monthly report to the MBO for approval.
- b. Provide written notification to the MBO and EFC of any termination of an MBE or WBE subcontractor. This should be reported as part of the revised MWBE Utilization Plan or in a monthly report.
- c. Provide timely and complete responses to inquiries from either the MBO or EFC staff as requested.
- d. Make all MWBE documents and records available upon request to EFC staff, the MBO, or their authorized representatives.
- e. Manage the project in a manner that creates meaningful opportunities for participation by MBEs and WBEs.
- f. Provide programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination on the basis of race, color, national origin (including limited English provision), age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law.

Additional guidance and requirements pertaining to the preparation and submission of the MWBE Utilization Plans can be found in the Part 1: Required Contract Language.

NOTE: Failure by the Service Provider to receive acceptance of the MWBE Utilization Plan by the Recipient or EFC may result in withholding of progress payments. Such withholding of progress payments shall not relieve the Service Provider of any contract requirements including the completion of the project within the specified contract time.

E. SUBCONTRACTOR'S MWBE RESPONSIBILITIES

Subcontractors are those individuals or business enterprises that contract directly with Service Providers. Subcontractors should:

1. Maintain their MWBE certifications, and notify the Service Provider and MBO of any change in their certification status.
2. Respond promptly to solicitation requests by completing and submitting bid information in a timely manner.

3. Maintain business records that should include, but not be limited to, contracts/agreements, records of receipts, correspondence, purchase orders, and canceled checks.
4. Complete and submit the EPA Form 6100-3 "DBE Subcontractor Performance Form" to the Service Provider prior to submission of the bid (if applicable). Provide a receipt of EPA Form 6100-2 "DBE Subcontractor Participation Form" to the Service Provider prior to award of contract.
5. Ensure that a required EEO Policy Statement is included in each subcontract. Additionally, signed versions of each subcontract should be sent to the MBO within 30 days of execution.
6. Provide programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination on the basis of race, color, national origin (including limited English provision), age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law.
7. Notify the MBO and EFC when contract problems arise, such as non-payment for services or when the subcontractor is not employed as described in the MWBE Utilization Plan.
8. Perform the subcontracted scope of work in a professional and timely manner.

F. WAIVER REQUESTS

Each Service Provider is required to create meaningful opportunities for certified MWBE participation and to offer the MWBE certified firms a fair share of their work. After making good faith efforts to create meaningful opportunities, a Service Provider may find that it is not possible to meet the MWBE goals. In that case, the Service Provider shall request a waiver from the goals.

Even if an MWBE waiver is granted, EEO information must still be submitted. The EEO information is submitted as part of the Monthly Report.

1. **Preparation:** The Service Provider shall complete the waiver request portion of the MWBE Utilization Plan and submit it to the MBO along with adequate good faith effort documentation and a letter explaining why the waiver is necessary.
2. **Waiver Review:** The MBO and EFC will review each waiver request based on the good faith effort criteria presented above and the documentation submitted with the waiver request. EFC will not issue any automatic waivers from MWBE responsibilities. A full or partial waiver from the MWBE goals can be requested.
3. **Specialty Equipment/Service Waiver:** A specialty equipment/service waiver may be granted in cases where:
 - a. equipment is made by only one non-MWBE manufacturer,
 - b. the technical contract specifications call for equipment that is not available through an MWBE supplier;
 - c. the equipment is constructed on site by specially trained non-MWBE labor;
 - d. the service is not available through an MWBE (such as work done by National Grid);
 - e. the service is proprietary in nature (such as use of certain computer software necessary for control systems); or
 - f. the service cannot be subcontracted (such as litigation services).

If the contract includes specialty equipment or services, and documentation is submitted demonstrating that there are no MBE/WBE firms capable of completing this portion of the contract, the specialty amount of the contract may be deducted from the total contract

amount to determine the MWBE Eligible Amount and the goals would be applied to the MWBE Eligible Amount. This determination is made at the discretion of the MBO and EFC.

Example:

\$200,000	-	\$50,000	=	\$150,000
(Contract)		(Specialty equipment/service)		(MWBE Eligible Amount)

The MWBE goal is applied to the remaining balance.

A request for this specialty equipment/service deduction can be completed by filling out section two of the MWBE Utilization Plan and submitting it to the MBO. The request must include a copy of the page from the contract where the equipment/ service is described and the cost of each item. Additional documentation may be requested by the MBO or EFC.

G. PROTESTS/COMPLAINTS

Subcontractors or Service Providers who have any concerns, issues, or complaints regarding the implementation of the SRF MWBE/EEO Program, or wish to protest should do so in writing to the project MBO and EFC. The MBO, in consultation with EFC, will review the circumstances described in the submission, investigate to develop additional information, if warranted, and determine whether action is required. If the subcontractor believes the issue has not been resolved to their satisfaction, they may appeal in writing to EFC for consideration.

H. WASTE, FRAUD AND ABUSE

Subcontractors, contractors, Service Provider, or Recipients who know of or suspect any instances of waste, fraud, or abuse within the MWBE & EEO Program should notify the project MBO and EFC immediately. Additionally, suspected fraud activity should be reported to the EPA – Office of Inspector General Hotline at (888) 546-8740, the New York State Office of Inspector General at (800) 367-4448, or the ESD Compliance Office at (212) 803-3268.

I. REMEDIES

If a Recipient makes a determination that a Service Provider has been non-responsive, is non-responsible, or is in breach as a result of a failure to comply with the program requirements discussed in Part 1: Required Contract Language, Recipient may withhold funds under the contract or take such other actions, impose liquidated damages or commence enforcement proceedings.

If a Service Provider or subcontractor fails to submit to Recipient an EEO policy statement within the required timeframe, Recipient may declare the contract to be null and void.

A failure to submit and/or adhere to an EEO policy statement and an MWBE Utilization Plan, and any other required reports, shall constitute a material breach of the terms of the contract between the Service Provider and Recipient, and justify a finding of Service Provider non-responsiveness.

SECTION 3 RESTRICTIONS ON LOBBYING

***** (Applies to contracts greater than \$100,000) *****

Each Service Provider and subcontractor which has a contract with Recipient exceeding \$100,000 shall provide to the Recipient an executed certification on the form provided, that it will not expend appropriated federal funds to pay any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, officer or employee of Congress or any employee of any Member of Congress in accordance with the provisions of 40 CFR Part 34, and to maintain such certification for their own records.

*The SRF Bid Packet
SRF Construction Contracts*

Revision Date: 10/1/2014

SECTION 4 AIS REQUIREMENTS

***** (Applies only to Equipment and Materials Supplier contracts) *****

American Iron and Steel (AIS) requirements apply to any federally funded construction contract that meets all of the following conditions:

- For the construction, alteration, maintenance, or repair of public water system or treatment works;
- That execute a financial assistance agreement with the NYS Environmental Facilities Corporation (EFC) after January 17, 2014 for assistance through either the Clean Water State Revolving Fund (CWSRF) or the Drinking Water State Revolving Fund (DWSRF), and
- Did not have the project plans and specifications submitted for review by a NYS agency on or before January 17, 2014 and approved by a NYS agency before April 15, 2014.

The following activities must be implemented by each Service Provider on an SRF funded project in order to maintain compliance with the AIS program. These contractual obligations are included in the contract language in Part 1: Required Contract Language and expanded upon below.

A. DEFINITIONS

It is required that all of the iron and steel products used in the project are produced in the United States. The term **"iron and steel products"** means the following products made primarily of iron or steel that is permanently incorporated into the public water system or treatment works:

Lined or unlined pipes or fittings
 Manhole Covers
 Municipal Castings (defined below);
 Hydrants
 Tanks
 Flanges
 Pipe clamps and restraints
 Valves
 Structural steel
 Reinforced precast concrete
 Construction materials (defined below)

For one of the listed products to be considered subject to the AIS requirement, it must be made of greater than 50% iron and steel, measured by material cost.

Municipal castings – cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure. They are typically made of grey or ductile iron, or steel. Examples of municipal castings are:

Access Hatches	Inlets
Ballast Screen	Junction Boxes
Benches (Iron or Steel)	Lampposts
Bollards	Manhole Covers, Rings and
Cast Bases	Frames, Risers
Cast Iron Hinged Hatches	Meter Boxes
Cast Iron Riser Rings	Service Boxes
Catch Basin Inlet	Steel Hinged Hatches
Cleanout/Monument Boxes	Square and Rectangular
Construction Covers and Frames	Steel Riser Rings
Curb and Corner Guards	Trash receptacles
Curb Openings	Tree Grates
Detectable Warning Plates	Tree Guards
Downspout Shoes (Boot, Inlet)	Trench Grates
Drainage Grates, Frames and Curb	Valve Boxes, Covers and Risers
Inlets	

Construction Materials – articles, materials, or supplies made primarily of iron and steel that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered “structural steel”. This includes, but is not limited to, the following products:

Wire rod	Fasteners (i.e.,	Roofing
Bar	nuts and	Ductwork
Angle	bolts)	Surface drains
Concrete	Welding rods	Cable hanging
Reinforcing	Decking	systems
bar	Grating	Manhole steps
Wire	Rollings	Fencing and
Wire cloth	Stairs	fence tubing
Wire rope and	Access ramps	Guardrails
Cables	Fire escapes	Doors
Tubing	Ladders	Stationary
Framing	Wall panels	screens
Joists	Dome	
Trusses	structures	

NOT Considered Construction Materials: Mechanical and electrical components, equipment and systems are not considered construction materials. Mechanical equipment is typically that which has motorized parts and/or is powered by a motor. Electrical equipment is typically any machine powered by electricity and includes components that are part of the electrical distribution system.

The following examples (including their appurtenances necessary for their intended use and operation) are NOT considered construction materials:

Pumps	Membrane bioreactor systems
Motors	Membrane filtration systems
Gear reducers	Filters
Drives (including variable frequency drives (VFDs))	Clarifiers and clarifier mechanisms
Electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators),	Rakes
Mixers	Grinders
Gates	Disinfection systems
Motorized screens (such as traveling screens)	Presses (including belt presses)
Blowers/aeration equipment	Conveyors, cranes
Compressors	HVAC (excluding ductwork)
Meters	Water heaters
Sensors	Heat exchangers
Controls and switches	Generators
SCADA	Cabinetry and housings (such as electrical boxes/enclosures)
Metal office furniture	Lighting fixtures
Shelving	Electrical conduit
Laboratory equipment	Emergency life systems
Analytical instrumentation	
Dewatering equipment	

B. CERTIFICATION

Each Service Provider that has a contract with the Recipient shall provide to the Recipient an executed certification on the form provided, that the iron and steel products and/or materials used on this project are in full compliance with the American Iron and Steel requirements in accordance with the provisions of the Consolidated Appropriations Act, and to maintain such certification for their own records.

It is recommended that a step certification process is used, in which each handler (supplier, fabricator, manufacturer, processor, etc) of the iron and steel products certifies that their step in the process was domestically performed. Each time a step in the manufacturing process takes place, the manufacturer delivers its work along with a certification of its origin.

A certification typically includes:

- a. the name of the manufacturer
- b. the location of the manufacturing facility where the product or process took place (not its headquarters)
- c. a description of the product or item being delivered
- d. a signature by a manufacturer's responsible party

These certifications should be collected and maintained by Recipients.

Alternatively, the final manufacturer that delivers the iron or steel product to the worksite, vendor, or Service Provider, may provide a certification asserting that all manufacturing processes occurred in the US. While this type of certification may be acceptable, it may not provide the same degree of assurance. Additional documentation may be needed if the certification is lacking important information.

C. WAIVER REQUESTS

The EPA is allowed to issue waivers from the AIS requirements when:

- The application of the AIS requirements would be inconsistent with the public interest;
- Iron and steel products are not produced in the US in sufficient and reasonably available quantities and of a satisfactory quality; or
- Inclusion of iron and steel products produced in the US will increase the cost of the overall project by more than 25 percent.

AIS waivers can be product-specific, project-specific, regional, or nationwide. Waiver requests can only be submitted by either EFC or DOH to EPA, and only EPA can approve an AIS waiver. If the Service Provider is considering requesting an AIS waiver, documentation as described in the EPA guidance should be developed and submitted to the EFC or DOH Project Engineer. See EFC's website for EPA guidance.

1. Waiver Documentation:

The Service Provider shall complete the waiver request to the Recipient along with adequate good faith effort documentation. Waiver requests should include the following information:

- a. Description of the foreign and domestic construction materials
- b. Unit of measure
- c. Quantity
- d. Price
- e. Time of delivery or availability
- f. Location of the construction project
- g. Name and address of the proposed supplier

- h. A detailed justification for the use of foreign construction materials

For **Cost Waiver Requests**, the Service Provider should compare the overall cost of the project with domestic iron and steel products to overall cost of the project with foreign iron and steel products. Relevant excerpts from the bid documents used by the Service Providers to complete the comparison, as well as supporting documentation indicating that the Service Providers made a reasonable survey of the market, such as a description of the process for identifying suppliers and a list of contacted suppliers may be used.

For **Availability Waiver Requests**, the request must include the following supporting documentation necessary to demonstrate the availability, quantity and/or quality of the materials for which the waiver is requested:

- a. Supplier information or pricing information from a reasonable number of domestic suppliers indicating availability/delivery date for construction materials
- b. Documentation of the assistance recipient's efforts to find available domestic sources, such as a description of the process for identifying suppliers and a list of contacted suppliers
- c. Project schedule
- d. Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of construction materials

Availability Waiver Requests should include a statement from the prime Service Provider and/or supplier confirming the non-availability of the domestic construction materials for which the waiver is sought.

2. Waiver Review:

The Recipient and EFC will review each waiver request based on the criteria presented above and the documentation submitted with the waiver request. EFC will submit waiver request directly to EPA for final approval of submission. Granting a waiver is a three-step process:

- a. Posting – After receiving an application for waiver of the AIS requirements, EPA will publish the request on its website for 15 days and receive informal comment.
- b. Evaluation – EPA will review the application to determine whether the application properly and adequately documents and justifies the statutory basis cited for the waiver to make a determination.
- c. Determination – In the event that EPA finds that adequate documentation and justification has been submitted, the EPA may grant a waiver to the Recipient. The Recipient should keep a copy of the signed waiver in its project files.

D. DE MINIMIS WAIVER

The AIS de minimis waiver allows that incidental iron and steel components that are tracked in a certain manner are exempt for the AIS requirements. Items that can be subject to the de minimis waiver must be:

- 1. Essential, but incidental to the construction
- 2. Incorporated into the physical structure of the project. and
- 3. Often are low cost and procured in bulk.

Examples items eligible for de minimis tracking include: washers, screws, nuts, bolts, fasteners, miscellaneous wire, corner bead, ancillary tubing, etc.

Examples of items that are NOT incidental and cannot be considered for de minimis tracking include: process fittings, tees, elbows, flanges, brackets, valves, sewer or water pipes for distribution, treatment or storage tanks, large structural support systems, etc.

To comply with the de minimis waiver, all items that are waived must meet the above criteria and must be 5% or less of the total cost of materials incorporated into the project. This can be measured on a project basis, or on a contract-by-contract basis, as long as the cost of the tracked de minimis iron and steel items is 5% or less of the total material cost of materials incorporated into the project.

Service Providers should prepare a record, in spreadsheet form, which tracks the cost of all materials incorporated into the project. This spreadsheet can be either project specific or contract specific. If contract specific, a material tracking record for each construction contract should be prepared and items that are subject to the AIS de minimis waiver highlighted. There should be a clear calculation available to indicate that the cost of the de minimis iron and steel items is 5% or less of the total cost of all materials.

E. INSPECTIONS

EFC or DOH can be expected to conduct occasional site inspections that will include a review of AIS documentation for the project. Items that will be reviewed during these inspections include:

1. AIS certifications from vendors, suppliers, or manufacturers;
2. Contract and subcontracts to verify that the AIS contractual language has been included; and
3. The lists of the incidental iron and steel project components that are claimed under the AIS de minimis waiver.

F. BEST PRACTICES

The following Best Practices are suggestions and recommendations for the Service Provider to remain in compliance with the AIS program. The EFC can be contacted directly with any questions regarding compliance.

1. The Service Provider should carefully review the plans and specifications prepared to identify iron and steel products (as defined previously in Section 5.A) used in each project and incorporate American-made iron and steel at the time of bid.
2. The Service Provider should acquire product certifications from all suppliers and manufacturers for iron and steel products verifying that the products used in the project are American-made. These certifications should be kept on file for the duration of the project and provided to the SRF Recipient.
3. The product/manufacture certifications should be submitted with each equipment/material submittal to the Recipient and/or Engineer. The Service Provider should retain all delivery slips, certifications and approved submittals in their file for the duration of the project.

EEO PROGRAM CHECKLIST

The EEO program is required of all contracts.

The following forms must be completed and submitted to the Recipient. Refer to the applicable sections in the Guidance for further information.

At the Time of Bid:

Guidance Reference

☐ EEO Policy Statement

Section 1.B

☐ EEO Workforce Staffing Plan

Section 1.C

After Contract Award:

☐ EEO Utilization Report

Section 1.D

MWBE and DBE PROGRAM CHECKLIST

Service Providers must comply with the MWBE program if "yes" is answered for ANY of the following questions. The DBE program is required of all contracts.

Yes No

- ☐ ☐ The Service Provider contract greater than \$25,000.
- ☐ ☐ The initial Service Provider contract was \$25,000 or less, but a subsequent change order increased the total contracted value over \$25,000.
- ☐ ☐ A contract amendment was approved that is greater than \$25,000.
- ☐ ☐ A partial or full waiver was not approved by the EFC.

If you answered YES to any of the above, then the following MWBE forms must be completed and submitted to the Recipient. The DBE forms are required of all contracts that are bid. Refer to the applicable sections in the Guidance for further information.

At the Time of Bid:

Guidance Reference

- | | |
|--|-------------|
| ☐ EPA Form 6100-3: "DBE Subcontractor Performance Form" | Section 2.D |
| ☐ EPA Form 6100-4: "DBE Subcontractor Utilization Form" | Section 2.D |

Prior to Contract Award

- | | |
|--|-------------|
| ☐ EPA Form 6100-2: "DBE Subcontractor Participation Form" | Section 2.D |
|--|-------------|

After Contract Award

- | | |
|---|---------------|
| ☐ MWBE Utilization Plan and/or Waiver Request and any revisions subsequent to approval | Section 2.D.1 |
| ☐ Good Faith Effort Documentation (if submitting a waiver) | Section 2.D.2 |
| ☐ All executed subcontracts, agreements and purchase orders | Section 2.D.3 |
| ☐ Proof of payment to MWBE firms | Section 2.D.4 |
| ☐ Monthly MWBE Reports | Section 2.D.4 |

AMERICAN IRON AND STEEL (AIS) REQUIREMENTS CHECKLIST

Service Providers must comply with the AIS program if "yes" is answered for ALL of the following questions.

Yes No

- ☐ ☐ As part of your scope of services you are supplying the Recipient with construction materials or equipment to be installed as part of this project.
- ☐ ☐ This project involves the construction, alteration, maintenance, or repair of a public water system (DWSRF) or treatment works (CWSRF). Examples of treatment works include but are not limited to collection systems, pump stations, and wastewater treatment plants (see Definitions).
- ☐ ☐ A financing assistance agreement with the NYS Environmental Facilities Corporation (EFC) was executed after January 17, 2014 for assistance through either the Clean Water State Revolving Fund (CWSRF) or the Drinking Water State Revolving Fund (DWSRF).
- ☐ ☐ The project did not have the project plans and specifications submitted for review by a NYS agency on or before January 17, 2014 and approved by a NYS agency before April 15, 2014.

If you answered YES to all of the above, then the following forms must be completed and submitted to the Recipient. Refer to the applicable sections in the Guidance for further information.

After Contract Award

Guidance Reference

- ☐ AIS Compliance Certifications for all applicable iron and steel products

Section 4.B

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PART 3:
REQUIRED FORMS
FOR NON-CONSTRUCTION CONTRACTS

All required forms can be found on the EFC website (www.efc.ny.gov)

The following SRF forms are provided and may be required. Please refer to the Guidance Section Checklists to determine which forms are applicable to your project.

	Guidance Reference
☐ EEO Policy Statement	Section 1.B
☐ EEO Staffing Plan (form available online only)	Section 1.C
☐ EEO Workforce Utilization Report (form available online only)	Section 1.D
☐ MWBE Utilization Plan and/or Waiver Request (form available online only)	Section 2.D.1
☐ MWBE Monthly Report Form (form available online only)	Section 2.D.4
☐ EPA Form 6100-2 "DBE Subcontractor Participation Form"	Section 2.D
☐ EPA Form 6100-3 "DBE Subcontractor Performance Form"	Section 2.D
☐ EPA Form 6100-4 "DBE Subcontractor Utilization Form"	Section 2.D
☐ Lobbying Certification (Certification for Contracts, Grants, Loans, and Cooperative Agreements 40 CFR 34)	Section 3

**AGREEMENT TO ABIDE BY EQUAL EMPLOYMENT OPPORTUNITY
POLICY STATEMENT REQUIREMENTS
NEW YORK STATE REVOLVING FUND (SRF)**

I, Donald H. Field, am the authorized representative of Barker & Leavitt.
I hereby certify that Barker & Leavitt will abide by the equal employment
opportunity (EEO) policy statement provisions outlined below.

- (i) A statement that the contractor will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status against any employee or applicant for employment; will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on contracts relating to the Project.
- (ii) An agreement that all of contractor's solicitations or advertisements for employees will state that, in the performance of the contract relating to this Project, all qualified applicants will be afforded equal employment opportunities without discrimination on the basis of race, creed, color, national origin, sex, age, disability or marital status.
- (iii) An agreement to request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein.
- (iv) An agreement to comply with the provisions of the Human Rights Law (Article 15 of the Executive Law), including those relating to non-discrimination on the basis of prior criminal conviction and prior arrest, and with all other State and federal statutory constitutional non-discrimination provisions.

Blank EEO Policy Statements are available at www.efc.ny.gov/mwbe, if needed.

If contractor fails to submit to Recipient an EEO policy statement consistent with the provisions set forth above in clauses (i), (ii), (iii) and (iv) and within the timeframe required thereof, Recipient may declare this contract to be null and void.

X Donald H. Field

Contractor/Service Provider Representative

Once completed, please provide to the Prime Contractor and/or the community MBO:

**Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Participation Form**

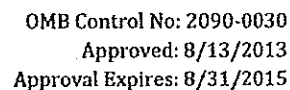
An EPA Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE¹ subcontractor² the opportunity to describe work received and/or report any concerns regarding the EPA-funded project (e.g., in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the EPA DBE Coordinator at any time during the project period of performance.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Received from the Prime Contractor Involving Construction, Services , Equipment or Supplies	Amount Received by Prime Contractor

¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

² Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



Please use the space below to report any concerns regarding the above EPA-funded project:

[illegible]

Subcontractor Signature	Print Name
Title	Date

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies-Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

**Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Performance Form**

This form is intended to capture the DBE¹ subcontractor's² description of work to be performed and the price of the work submitted to the prime contractor. An EPA Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractors bid or proposal package.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item-Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services, Equipment or Supplies	Price of Work Submitted to the Prime Contractor
DBE Certified By: ☐ DOT ☐ SBA ☐ Other: _____		Meets/ exceeds EPA certification standards? ☐ YES ☐ NO ☐ Unknown

¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

² Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



OMB Control No: 2090-0030
Approved: 8/13/2013
Approval Expires: 8/31/2015

**Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Performance Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

Prime Contractor Signature	Print Name
Title	Date

Subcontractor Signature	Print Name
Title	Date

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

**Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Utilization Form**

This form is intended to capture the prime contractor's actual and/or anticipated use of identified certified DBE¹ subcontractors² and the estimated dollar amount of each subcontract. An EPA Financial Assistance Agreement Recipient must require its prime contractors to complete this form and include it in the bid or proposal package. Prime contractors should also maintain a copy of this form on file.

Prime Contractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Issuing/Funding Entity:			

I have identified potential DBE certified subcontractors	___ YES	___ NO	
If yes, please complete the table below. If no, please explain:			
Subcontractor Name/ Company Name	Company Address/ Phone/ Email	Est. Dollar Amt	Currently DBE Certified?

Continue on back if needed

¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

² Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



OMB Control No: 2090-0030

Approved: 8/13/2013

Approval Expires: 8/31/2015

**Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Utilization Form**

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Prime Contractor Signature	Print Name
Title	Date

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

CERTIFICATION
FOR
CONTRACTS, GRANTS, LOANS, AND
COOPERATIVE AGREEMENTS
40 CFR 34

SRF Project No.: 41391

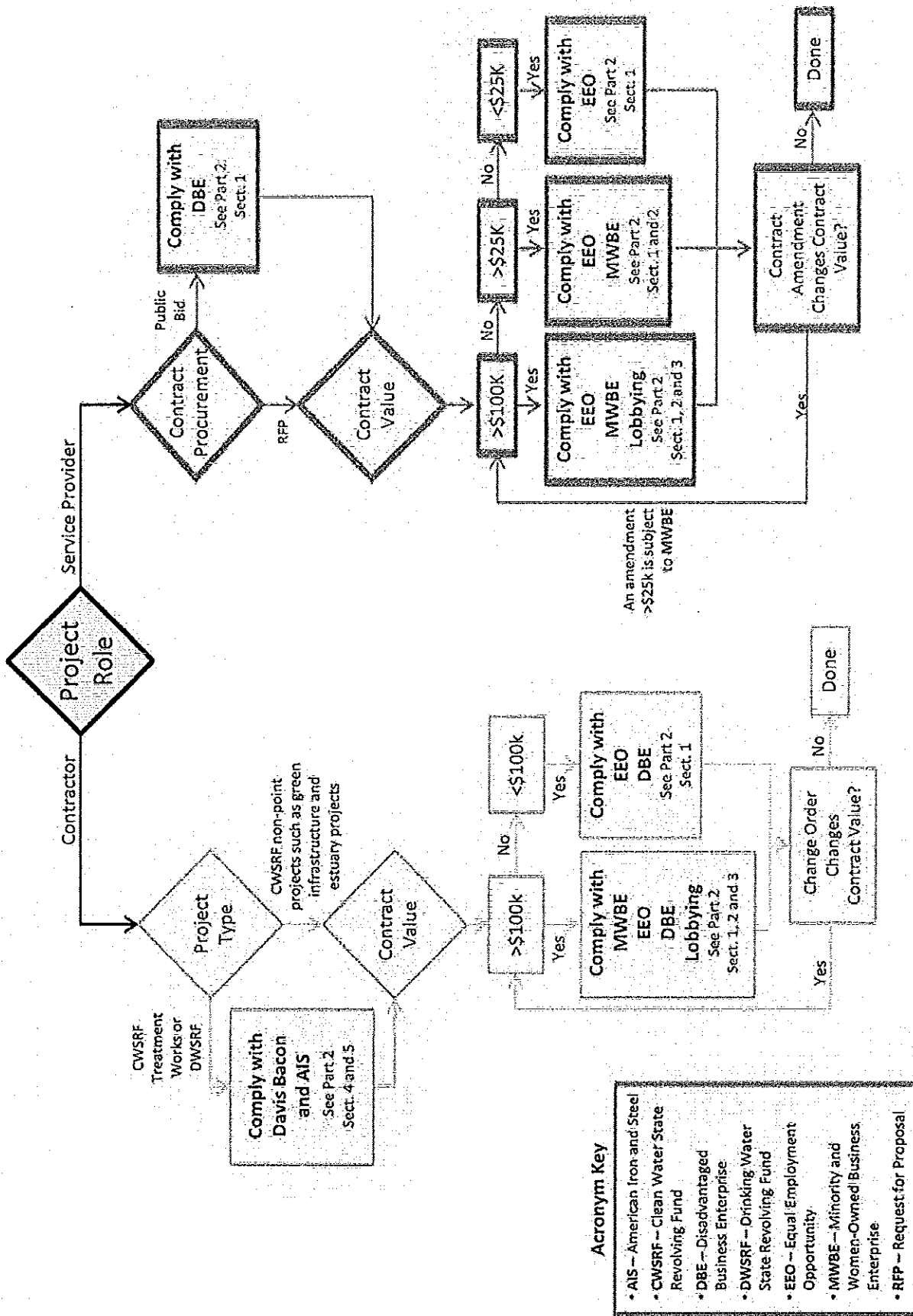
The undersigned each certify, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grant, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By: [Signature]
Name: Donald H. Stahle
Title: Vice President
Date: June 4, 2015
Contract ID: _____

SRF Program Decision Tree



Mr. Jason Morris, City Engineer
City of Newburgh
May 29, 2015
Page 9



B&L Terms and Conditions



STANDARD TERMS AND CONDITIONS
for
PROFESSIONAL ENGINEERING SERVICES
provided by
BARTON & LOGUIDICE, D.P.C. ("ENGINEER")

The OWNER and the ENGINEER, for themselves, their successors and assigns, have mutually agreed and do agree with each other as follows:

1.0 Basic Agreement

Engineer shall provide, or cause to be provided, the services set forth in the proposal to which these terms and conditions are attached (PROPOSAL), and Owner shall pay Engineer for such Services as set forth in PROPOSAL. The PROPOSAL, in conjunction with these terms and conditions, is referred to herein as "Agreement".

2.0 Payment Procedures

Engineer will prepare a monthly invoice in accordance with Engineer's standard invoicing practices and submit the invoice to Owner. Invoices are due and payable within 30 days of the date of the invoice. If Owner fails to make any payment due Engineer for services and expenses within 30 days after the date of Engineer's invoice, the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges.

3.0 Additional Services

If mutually agreed by Owner and Engineer, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth in the PROPOSAL if requested by the Owner. Owner shall pay Engineer for such additional services as follows: (1) as mutually agreed by Owner and Engineer, or (2) an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any.

4.0 Termination

If Engineer's services related to the project are terminated for any reason, Engineer shall be compensated for time plus reasonable expenses associated with demobilizing personnel and equipment, and, if requested in writing by the OWNER, for completion of tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

5.0 Controlling Law

This Agreement is to be governed by the law of the state in which the Project is located.

6.0 Successors, Assigns, and Beneficiaries

Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted herein the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party. In respect of all covenants, agreements, and obligations of this Agreement, neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

7.0 General Considerations

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Engineer and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. Engineer shall not at any time supervise, direct, or have control over any contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.

C. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor.

D. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by Engineer.

E. All design documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.

F. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer pursuant to the PROPOSAL, whichever is greater.

H. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials) except as may be specifically defined in the Scope of Services. If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

I. The services to be provided by Barton & Loguidice under this Agreement DO NOT INCLUDE advice or recommendations with respect to the issuance, structure, timing, terms or any other aspect of municipal securities, municipal derivatives, guaranteed investment contracts or investment strategies. Any opinions, advice, information or recommendations provided by Barton & Loguidice are understood by the parties to this Agreement to be strictly *engineering* opinions, advice, information or recommendations. Barton & Loguidice is not a "municipal advisor" as defined by 15 U.S.C. 78o-4 or the related rules of the Securities and Exchange Commission. The other parties to this Agreement should determine independently whether they require the services of a municipal advisor.

8.0 Dispute Resolution

Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice by either party of the existence of the dispute. If the parties fail to resolve a dispute through negotiation then Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation by a mutually acceptable mediator. Owner and Engineer agree to participate in the mediation process in good faith and to share the cost of the mediation equally. The process shall be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction.

9.0 Accrual of Claims

All causes of action between the parties to this Agreement including those pertaining to acts, failures to act, failures to perform in accordance with the obligations of the Agreement or failures to perform in accordance with the standard of care shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts, failures to act or failures to perform occurring prior to Substantial Completion, or the date of issuance of the Notice of Acceptability of Work for acts, failures to act or failures to perform occurring after Substantial Completion.

10.0 Total Agreement

This Agreement constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

RESOLUTION NO.: 172 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE EXECUTION OF A CHANGE ORDER
IN THE AMOUNT OF \$55,100.00 WITH AMSTAR OF WESTERN NEW YORK INC.
IN CONNECTION WITH THE ELLIS AVENUE AND BRADY AVENUE
WATER STORAGE TANKS REHABILITATION PROJECT**

WHEREAS, by Resolution No. 268-2014 of October 27, 2014, the City Council of the City of Newburgh awarded a bid to and authorized the execution of a General Construction contract with Amstar of Western New York, Inc. for the Ellis Avenue and Brady Avenue Water Storage Tanks Rehabilitation Project (the "Project") at a cost of \$743,000.00; and

WHEREAS, additional Project work was performed on the interior columns and the concrete foundations of the tanks, which could not have been identified during until after the tanks were dewatered and the bituminous coatings removed; and

WHEREAS, Change Order No. 1 for the additional Project work was submitted, which also contains a credit to the City for proposed Project work which was not required, for a net cost of additional services in the amount of \$55,100.00 and total Project cost of \$798,100.00; and

WHEREAS, funding for the additional Project work contained in Change Order No. 1 shall be derived from the 2012 Bond; and

WHEREAS, this Council finds that authorizing the City Manager to execute Change Order No. 1 to the General Construction contract for the Project is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute Change Order No. 1 to the General Construction contract with Amstar of Western New York, Inc. for the Ellis Avenue and Brady Avenue Water Storage Tanks Rehabilitation Project.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

BARTON & LOGUIDICE, D.P.C.
280 Broadway, Suite 12
Newburgh, New York 12550

CHANGE ORDER NO.: 1
DATE: June 26, 2015
B&L FILE NO.: 1352.002.001
PROJECT: Rehabilitation of Ellis Avenue & Brady Avenue
Water Storage Tanks
Contract 2A -- General Construction
OWNER: City of Newburgh
CONTRACTOR: Amstar of Western NY, Inc
825 Rein Road
Cheektowaga, NY 14225

AUTHORIZATION IS HEREBY GRANTED FOR THE FOLLOWING CHANGES:

Description and Reason of Change Order:

The following changes to the work under the above reference Contract:

1. An extra work allowance of \$10,000 was included within the Contract to address any spots on the existing tanks which required spot repairs. The allowance was to be applied toward additional work as may be authorized by the Owner. This was included to address any welding associated with the Tank Repairs. No such repairs were required, so this item credits this back to the City.
2. An additive bid item for pit filling, as necessary for the interior columns of Ellis Avenue Water Tank was included within the contract. No such pit filling of the interior columns will be necessary, so this item credits this back to the City.
3. There are 16 columns within the interior of the tank, It was unclear how many there were during the inspection conducted with a water filled tank. Record plans were unavailable and the Inspection Report refers to "13?". After the Tank was dewatered and entry gained into the tank, there were found to be 16 columns. In addition, during the inspection, it was noted that it appeared that 5-foot of the interior columns needed to be repaired. Over the course of the three years since the inspection, the area of the interior columns expanded by 3-feet to 8 feet. The costs included in this item cover the additional work for the three columns as well as the additional three (3) feet on each column.

4. Upon removal of the existing bituminous coating around the circumference of the tank, the concrete foundation was found to be in significantly poor condition. Due to the costs associated with utilizing the specified repair material, a value engineered cost saving repair was developed. The concrete around the tank requires repair work before the contractor can apply the CIM coating. SIKA topping product 122 is proposed to provide a new smooth top on the foundation with a 2 inch slope away from the tank around 340 lf of area to direct rainwater away from the tank/foundation interface.

Change Order Cost:

Item 1.	(\$10,000.00	Credit to the City)
Item 2.	(\$ 1,900.00	Credit to the City)
Item 3.	\$39,000.00	Credit to the Contractor
Item 4.	\$28,000.00	Credit to the Contractor
	\$55,100.00	Credit to the Contractor

See attached supporting documentation for additional details.

Original Contract Amount	\$743,100.00
Change Order No. 1	\$ 55,100.00
Revised Total Contract Amount	\$798,100.00

All the work will be in accordance with the applicable provisions of the Contract Documents.

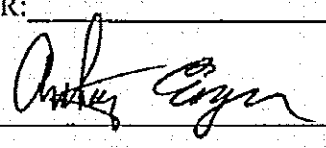
APPROVALS:

OWNER: _____

DATE: _____

CONTRACTOR: _____

DATE: _____

ENGINEER:  _____

DATE: 6/26/15

RESOLUTION NO.: 173-2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
AN AMENDMENT TO THE STREET LIGHTING AUTHORITY ORDER
WITH CH ENERGY GROUP, INC.**

WHEREAS, it has become necessary to amend the Street Lighting Authority Order entered into with Central Hudson Gas & Electric Corporation n/k/a CH Energy Group, Inc., providing for the installation of a HPS5800 lamp on pole number 40294 located on Grand Street Cemetery and an installation of a HPS16000 lamp on pole number 1744 on Grand Street; and

WHEREAS, there will be a cost to the City of Newburgh of \$26.25 per quarterly period for this change;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the attached amendment to the Street Lighting Authority Order.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

CENTRAL HUDSON GAS & ELECTRIC CORPORATION
610 LITTLE BRITAIN ROAD
NEW WINDSOR, NY 12553-6114
(845) 452-2700

STREET LIGHTING AUTHORITY ORDER

PAGE 1

CITY OF NEWBURGH
83 BROADWAY
NEWBURGH NY 12550

ORDER NO.: H8-03375
ACCOUNT NO.: 8411-2080-00
DATE: 06/09/15

TO CENTRAL HUDSON GAS & ELECTRIC CORPORATION:

YOU ARE HEREBY AUTHORIZED TO MAKE CHANGES SPECIFIED BELOW TO THE STREET LIGHTING
SERVICE FOR THE CITY LGTG _____, IN ACCORDANCE
WITH A RESOLUTION DULY ADOPTED AS PROVIDED BY LAW BY THE _____ (COUNCIL/BOARD)
OF THE _____ OF _____ AT A MEETING HELD ON _____, 20__ AS FOLLOWS

ACTION:

INSTALL

OR REMOVE	TYP & SIZE OF LAMP	POLE NO	RATE **	MAP & GRID	LOCATION	DATE COMPLETE	ADJ AMT
INSTALL	HPS 5800	40294	A		GRAND ST CEMETARY		12.43
INSTALL	HPS 16000	1744	A		GRAND ST		13.82

INS 70 W ON PL#40294 & 150 PL#N1744

- ** A. COMPANY OWNED AND MAINTAINED; ANNUAL OR SEASONAL SERVICE
- ** B. CUSTOMER OWNED/COMPANY MAINTAINED
- ** C. CUSTOMER OWNED/CUSTOMER MAINTAINED

THESE CHANGES ARE SUBJECT TO THE TERMS OF THE EXISTING STREET LIGHTING SERVICE
CLASSIFICATIONS. DOES NOT INCLUDE THE COST OF ELECTRICITY.

MUNICIPALITY _____ BY _____

_____, 20__ TITLE _____

W.O.NO. _____ DATE WORK COMPLETED _____ BY _____

RESOLUTION NO.: 174 - 2015

OF

JULY 13, 2015

**A RESOLUTION TO AUTHORIZE THE EXECUTION OF A CHANGE ORDER
IN THE AMOUNT OF \$36,590.40 WITH ENTERPRISE NETWORK RESOLUTIONS
CONTRACTING, LLC IN CONNECTION WITH SITE COVER INSTALLATION AT
THE FORMER PROVAN FORD SITE LOCATED AT 210 MILL STREET**

WHEREAS, by Resolution No. 286-2014 of November 24, 2014, the City Council of the City of Newburgh awarded a bid and authorized the City Manager to execute a contract with Enterprise Network Resolutions Contracting, LLC (ENRC) for the site cover installation at the former Provan Ford Site located at 210 Mill Street at a cost of \$148,962.50; and

WHEREAS, ENRC has submitted a change order in the amount of \$36,590.40 for additional costs related to the installation of a demarcation barrier; and

WHEREAS, funding for the cost of the work covered by the change order shall be derived from the budget line H1.1440.0215.5400.2010; and

WHEREAS, a portion of such expenditure shall be reimbursed by the Department of Environmental Conservation in accordance with the Environmental Restoration Program;

WHEREAS, this Council finds that authorizing the City Manager to execute a change order for the site cover installation;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute a change order to the site cover installation contract at the former Provan Ford Site located at 210 Mill Street with Enterprise Network Resolutions Contracting LLC in the amount of \$36,590.40.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

REQUEST FOR CHANGE ORDER (RCO) FORM

CONTRACT: Soil Excavation and Disposal at the Former Provan Ford Site

CONTRACTOR Enterprise Network Resolutions Contracting, LLC

CONTRACTOR REPRESENTATIVE SUBMITTING RCO Bill Rosenberger

Date RCO submitted: 7/8/2015

Submitted to: First Environment, Inc.

Description of Change Requested:

Pursuant to the request of the New York State Department of Environmental Conservation (NYSDEC), and in accordance with the Record of Decision (ROD) dated March 2005, the entire site must be covered by a demarcation barrier.

Reason for Change:

Since the installation of the demarcation barrier was not included as part of the original bid, a change order is being requested to account for the purchase and installation of a demarcation barrier. The proposed demarcation barrier will consist of high visible orange netting (Product Number DN 075). See attached for netting specifications.

Bid Items affected by Change:

None.

Impacts on Item and Overall Schedules:

None. There will be no impact to the project schedule or the proposed timeframe for the completion of the project.

Cost of Change (attached supporting Documentation):

See attached for ENRC cost breakdown and demarcation barrier specification.

Approval of Change Needed by (date): 7/13/2015

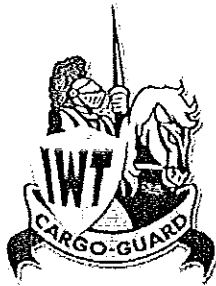
Change: Approved/Not Approved



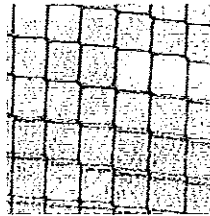
ENGINEER's Representative

07/10/2015
Date

Reason for Approval/Disapproval



High Visible Orange Demarcation Netting

	DN 075 High Visible Orange Demarcation Netting	DN 025 High Visible Orange Demarcation Netting
Master Roll Width	168" or 204"	168" or 204"
Strands per Inch	1.3 x 1.4	4 x 4
Mesh Opening	3/4" 	1/4" 
Weight (lbs/1000ft ²)	2.2	4.0
Construction	Extruded Polypropylene Grid	Extruded Polypropylene Grid
Polypropylene Resin Specifications	polypropylene with orange colorant	polypropylene with orange colorant
Melt Temperature	323°F (161°C)	323°F (161°C)
Softening Point	305°F (152°C)	305°F (152°C)
Heat Deflection Temperature	194°F (90°C)	194°F (90°C)
Glass Transition Temperature	32°F (0°C)	32°F (0°C)

* Polypropylene products produced for some filtration applications are manufactured to comply with FDA regulations for food contact. The regulation compliance is product number dependent.

* Product is not UV stabilized so they will lose tensile strength with prolonged exposure to sunlight. However, they don't "degrade" in the sense that they disappear or return to some natural state

Morris, Jason

From: Bennett, William B (DEC) <william.bennett@dec.ny.gov>
Sent: Thursday, July 09, 2015 3:22 PM
To: Daniel D. Lattanzi; Morris, Jason
Cc: Crosby, David (DEC)
Subject: RE: Provan Ford Submittals Review

The cost is acceptable on the condition that the contract between the city and ENRC is adhered to.

From: Daniel D. Lattanzi [mailto:ddl@firstenvironment.com]
Sent: Thursday, July 09, 2015 1:57 PM
To: Bennett, William B (DEC); Morris, Jason
Cc: Crosby, David (DEC)
Subject: RE: Provan Ford Submittals Review

Bill,

Thanks for your response. Thanks for providing direction regarding the submittal of a formal change order; however, First Environment provided the cost breakdown for your review in order to determine if the proposed cost is acceptable. If this dollar amount (\$0.24/sf, or a total of \$36,590.40) is acceptable, the Request for Change Order (RCO) Form will be submitted immediately.

Thanks,

Dan

From: Bennett, William B (DEC) [mailto:william.bennett@dec.ny.gov]
Sent: Thursday, July 09, 2015 1:29 PM
To: Morris, Jason; Daniel D. Lattanzi
Cc: Crosby, David (DEC)
Subject: RE: Provan Ford Submittals Review

The change order procedures outlined in the contract between the city and ENRC must be adhered to. The actual total cost of materials and labor must be shown in the change order as well as the contractor mark-up which is constrained by the conditions of the contract. The area of the site subject to the demarcation layer is well established and not going to change, therefore the change order should be based on a lump sum cost as outlined above. The Department will review the change order once it is completed.

From: Morris, Jason [mailto:JMorris@cityofnewburgh-ny.gov]
Sent: Thursday, July 09, 2015 1:22 PM
To: 'Daniel D. Lattanzi'; Bennett, William B (DEC)
Cc: Crosby, David (DEC)
Subject: RE: Provan Ford Submittals Review

RESOLUTION NO.: 175 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND
ACCEPT IF AWARDED A GRANT FROM THE ORANGE COUNTY YOUTH
BUREAU IN THE AMOUNT OF \$32,743.00 REQUIRING NO CITY MATCH
FOR THE RECREATION DEPARTMENT TO FUND
YOUTH SOCCER & BASKETBALL PROGRAMS IN THE CITY OF NEWBURGH**

WHEREAS, the City of Newburgh Recreation Department has advised that funding is available through the Orange County Youth Bureau; and

WHEREAS, such grant shall provide funding to conduct youth soccer and basketball programs in the City of Newburgh; and

WHEREAS, no City matching funds are required; and

WHEREAS, this Council has determined that applying for and accepting said grant if awarded is in the best interests of the City of Newburgh and its youth;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a grant from the Orange County Youth Bureau in the amount of \$32,743.00 requiring no City match for the Recreation Department to fund youth soccer and basketball programs in the City of Newburgh; and to execute all necessary documents to receive and comply with the terms of such grant and to carry out the program funded thereby.

Councilwoman Abrams moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes -- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy -- 7

ADOPTED

RESOLUTION NO.: 176 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT A PROPOSAL AND EXECUTE A CONTRACT
WITH NOVUSOLUTIONS FOR THE PURCHASE
OF MEETING AND AGENDA MANAGEMENT SOFTWARE**

WHEREAS, the City of Newburgh wishes to purchase meeting and agenda management software; and

WHEREAS, NovusAgenda is an electronic solution designed to create, approve and track items for future and past City Council meetings; and

WHEREAS, NovusAgenda will reduce internal staff labor by processing individual items electronically and track all requests, reducing paper and copy costs; and

WHEREAS, Novusolutions has submitted a proposal for the NovusAgenda software, a copy of which is annexed hereto, including installation and training, at an initial cost of Eight Thousand Seven Hundred (\$8,700.00) Dollars for the first year and Seven Thousand Nine Hundred Fifty (\$7,950.00) Dollars for the second and third years; and

WHEREAS, funding for such software, installation and training shall be derived from A.1410.0448, City Clerk, Other Services; and

WHEREAS, this Council has determined that purchasing such software is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept a proposal and execute a contract, including terms and conditions as may be required by the Corporation Counsel, with Novusolutions to provide for the purchase of meeting and agenda management software.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

NovusAGENDA

Meeting Management Solution

Presented to: Newburgh City

DATE: 10-22-14

Manufactured By:


Novusolutions

10012 N. Dale Mabry Hwy

Suite 115

Tampa, FL 33618

Presented By:

Byron Gillin

bgillin@novusolutions.com

800-274-5624 x703

Pricing Proposal

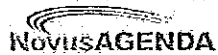


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EXECUTIVE SUMMARY

Government organizations today are being forced to do more with less in regard to their public meeting documents. States are enforcing Open Meeting Laws to accommodate the changing technical environment of your area. Your public demands information and transparency relevant to their family and business. Your board demands meeting materials be up to date and easy to research previously discussed issues in order to be better prepared for your upcoming public meetings. How can government organizations meet all of these demands with the limited funding you have available?

We recommend that integrated meeting and agenda management software be implemented across your organization! NovusAGENDA is an electronic solution designed to create, approve and track items for upcoming and past board meetings. Whether your organization is adding an agenda item, like the approval for a new employee benefit offering or the construction of a baseball field, NovusAGENDA will provide the controlled, well-organized systematic solution to truly make your organization paperless. With the NovusAGENDA foundation in place internally, your board members and public can now access the information they need on demand at any time from any device!

NovusAGENDA will reduce your internal staff labor of processing individual items and back up material by over 50% while eliminating all paper and copy costs your organization currently has budgeted for this part of your business. The savings does not stop there! If board members wish to go electronic, distribution and printing costs will also be eliminated as well as a reduction in research time bringing the full power of electronic data access to the fingertips of each board member. Tools for the board member include:

- Logging in through a secure username and password on any device (i.e., iPads, etc)!
- Viewing agendas and all materials well before the meeting
- Viewing specific items along with support material including Closed Session Items
- Making secure personal private comments on any item for their own purposes
- Researching past Agenda, Minutes and Personal Private Comments.
- Real time analytics on spending patterns and goal tracking

The savings continue during your meeting as NovusAGENDA has all the tools to automate the creation of your minutes, track and record voting, motions, and much more, such as video streaming indexed for you and your public. NovusAGENDA's unique reporting module empowers your administrators with the data from your meetings to make data-driven decisions for the organization and track your progress along the way.

Novusolutions award winning staff brings over 13 years of experience working with hundreds of government NovusAGENDA clients across the country. Our support team will be an extension to your organization to offload all software management, training, and support, so you can focus on providing the public and board the transparency they demand. *NovusAGENDA is the one comprehensive solution to make paperless meetings easy!*



INSTALLATION

Our Cloud Computing partner is Amazon Cloud based Web Services, <http://aws.amazon.com/>. They offer world class cloud computing solutions with full 24 X 7 backup and reliable infrastructure designed for today's complex computing challenges.

Amazon Hosting

NovusAGENDA Application runs on EC2 servers.

<http://aws.amazon.com/ec2/>

Backups are run daily and stored on Amazon S3

<http://aws.amazon.com/s3/>

This option allows you to outsource the hosting of the software to Novusolutions. This is by far the most popular option in today's environment.

Self Hosting is available if needed. Contact us for more information.

DEPLOYMENT SERVICES

Standard services are required for deployment and included in the pricing and support.

Included Standard Deployment Services	
Configured Item Details	This screen is configured to add fields to our standard from required by your organization. This form is used to create items and can vary based on meeting type. YOU can have one item details page for planning and another for council meetings.
Configured Public Agendas	The public agenda is configured to mimic your current layouts. Agenda layout can vary based on meeting type.
Configured Minutes Page Set	The page set includes draft and final minutes layout. Minutes layout can vary based on meeting type.
Custom Workflows	Workflows can be pre-configured allowing users to simply submit items to named workflows which are then built for them automatically. Workflows can vary based on meeting type.

Pricing Proposal



Solution Overview	This session is with key staff including Board Clerk, IT staff assigned to support the software and key Board Clerk staff. The session involves a complete system overview and workflow building session. This session is delivered prior to any other training so key staff are very familiar with the solution and the workflows are correct prior to staff training.
PDF converter	Attachments and agenda packets are converted to one single PDF file. PDF layout mimics the lay out of the minutes and agenda for that meeting type. We can also add page tamping to the PDF automatically.
Video Services	Do you already video record your meetings? If so, NovusAGENDA will offer you two meetings per month to be uploaded and streamed to the public off our servers <u>at no additional cost</u> . You take your existing video and simply upload it to our servers. Once it is converted, you can link clients to that video stream off your meeting. If you are looking for indexing or are starting from scratch and would like to record your meetings, please see our Video Service Considerations Section.

90 DAY PILOT PROGRAM

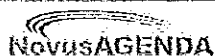
Novusolutions has agreed to offer you a 90 day pilot program of NovusAGENDA to confirm the cost and efficiency savings. Novusolutions is confident that NovusAGENDA will exceed expectations, eliminate paper, and improve the business process of agenda creation and meeting management. There will be no cost for the 90 day duration of this pilot.

Upon successful implementation of the pilot, you will then agree to continue using NovusAGENDA for the Pricing outlined below. However unlikely, if NovusAGENDA does not satisfy your needs, then no commitment is required and the service will be turned off.

The Approval Page of this document will need to be signed prior to beginning this agreement. This will allow Novusolutions to dedicate the resources to begin the project.

- You provide us copies of Agenda, minutes and departments with staff listings within 5 days of project start. In addition we can discuss your item review process as well in that first 5 days.
- We will fully deploy, train and test NovusAGENDA within 20 days of receiving your information.

Pricing Proposal



- You run for 60 days or up to a total of 90 days from project start to test the software in an actual meeting.
- Pilot program covers one meeting body but you can add others once you agree to move forward.

PRICING

All pricing includes an unlimited use license enabling support for as many meeting types as you need at no added license costs. There are no user licenses either. "Unlimited use" means unlimited use with NovusAGENDA.

NOVUSAGENDA SOFTWARE PRICING

Item	Pricing (Annually)
NovusAGENDA	\$7,950
NovusMEETING	Included
NovusBOARDVIEW	Included
NovusREPORTING	Included
Board and Committee management (Term Tracking)	Included
Video Integration	Included
Video Services	See Video Services Considerations
Laserfiche integration	Included. Contact us if integration required with other tools
Total Annual Cost	\$7,950
Option In Meeting Tools (Voting, etc.)	Additional \$600 annually



NOVUSAGENDA TRAINING PRICING

Standard training services are required for deployment.

Standard Remote Training Services	Description
Administrator Training	This is remote training to train one or two system administrators on managing user rights in NovusAGENDA. This class is delivered remotely using web meeting technology managed by Novusolutions.
Board Clerk Training	Training including meeting management, agenda preparation, minutes and system oversight. Delivered remotely using web meeting.
User Training	Training includes creating items, copying old items to new meeting and item submission and approval process. Delivered remotely using web meeting.
Board Training	Training includes viewing agendas, minutes, and all documentation for upcoming meetings, making private notes, researching past meeting information and notes, and analyzing reports and meeting data. Voting can be added if the voting module is in place.
Web Based Training	Web-based training videos for all staff to view on demand via Internet. Videos include: • User training • Board Clerk Training • Board Training • Admin Training
Total One Time Cost	\$750

Pricing Proposal



OPTIONAL TRAINING SERVICES

Additional remote training – Included for new releases and refresher training. If retraining is needed due to turnover or other issues we also include a Web-Based Training Portal and regularly scheduled Client Webinars.

Optional Onsite training - \$2,450 per day includes travel, 2-day minimum.

PRICING SUMMARY FOR NOVUSAGENDA

	One Time Fee	Annual Fee	TOTAL
NovusAGENDA	\$750 for Remote Training	\$7,950	\$8,700
Add On Options:			
In Meeting Tools (Electronic Voting, Request to Speak, In Meeting Public Display, Item highlight for board)		\$600	
Laserfiche Integration maintenance (Included Year 1. Billed beginning Year 2)		\$600	
Onsite Installation (Only needed if Active Directory Integration is required)	\$3,450		
Onsite Training (Not required as unlimited remote training options included)	\$2,450 per day including travel. 2 day Minimum.		

Pricing Proposal



TOTAL INVESTMENT YEAR 1 \$8,700

NovusAGENDA Including:

- Remote Training

TOTAL INVESTMENT YEAR 2 \$7,950

NovusAGENDA

TOTAL INVESTMENT YEAR 3 \$7,950

NovusAGENDA

There are NO long term contracts to sign with NovusAGENDA.

Payment Terms – Payment is due at the end of the successful pilot term.

VIDEO STREAMING SERVICES CONSIDERATIONS

The pricing above includes the option for clients to upload the existing video of their meetings to our servers and create a link to those videos on their agendas and minutes in NovusAGENDA (limit of 2 meetings a month). However, many clients require additional video services. NovusAGENDA provides state of the art video streaming technology and services completely hands-free! Contact us for pricing on hardware and the video streaming services that best fit your needs. These video services can be added at any time!

PROPOSAL TERMS AND CONDITIONS

LIMITATION OF LIABILITY

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER UNDER THIS LICENSE AGREEMENT FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES, LOSS OF DATA, LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION OR LOSS OF BUSINESS INFORMATION ARISING OUT OF THE USE OF OR INABILITY TO USE THE NOVUSAGENDA SOFTWARE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE MAXIMUM LIABILITY UNDER THIS AGREEMENT IS THE TOTAL VALUE OF THE ANNUAL CONTRACT.

OWNERSHIP OF DATA

The client owns all data stored in their NovusAGENDA data base from the instant you touch the keyboard. In the event the client terminates service or NovusAGENDA ceases business operations the data will be sent to your organization along with database schema to make the data accessible. All data is stored in an MSSQL database and also can be accessible on demand anytime by using the included NovusAGENDA Reporting Module.

PRICE TERMS



The pricing in this proposal is set for three years. Even though there is no contract or commitment to sign with NovusAGENDA, we want our clients to have budget security on this project. If a price increase is needed for any reason, the client will be notified more than a budget year in advance of the increase and would be no more than the CPI (Consumer Price Index) for the period.

Services are billed annually. All invoices are due within 30 days of issue date.

PAYMENT TERMS

NovusAGENDA is proud of our client retention rates. Therefore we do not require clients to sign long term contracts. All projects are billed annually to eliminate the high cost of invoicing, processing, and collections from both the vendor and the clients end every month. If the client cancels at any time, any unused funds would be returned. A 30 day notice is required.

If monthly billing is attractive to the client, there will be no charge if a credit or procurement card is used. Automatic electronic drafts or deposits are also fine. If traditional invoices and collections need to be instituted, a 5% fee will be added to cover this expense.

INSURANCE

Novusolutions carries full insurance and can offer certificate of insurance with your organization named on it at no cost. If your organization requires further insurance endorsements added costs may be charged to cover the cost of those documents because carriers charge added fees for those services.

The COI we provide will cover General, Automotive and Umbrella Liability plus Workers Compensation coverage.

OTHER TERMS

NovusAGENDA is offered with a free pilot program so additional performance bonds or other such instruments are not needed to insure successful delivery. No payments are required until clients complete the pilot cycle.

NovusAGENDA carries commercial general liability insurance of \$1,000,000 that should be more than enough to cover risk for this SaaS solution. The cost for any additional insurance or bonds required by a client will be passed onto the client.

In lieu of escrow accounts NovusAGENDA will agree to provide a full unlimited use licensed copy of the software to any client in the event NovusAGENDA ceases operations.

All data is backed up in our Amazon cloud daily and kept in redundant locations. If clients require copies of data backups these can be provided quarterly at an additional fee. Contact NovusAGENDA sales team for costs.

Pricing Proposal



APPROVAL PAGE

We require your signature on the approval page listed below. Once that has been signed and sent back to Novusolutions we will assign your project manager. If you choose to issue a purchase order you may attach it to these documents or send it in under separate cover.

You can email to sales@novusolutions.com or :

Mail to: Novusolutions, 10012 N Dale Mabry Hwy, Suite 115, Tampa, Florida 33618-4425

Fax to: 954-337-0761 Attn: Sales

APPROVAL PAGE

Newburgh City hereby agrees to proceed with the project, initiating with the Pilot project described above and, following a successful Pilot cloud implementation, will move forward with NovusAGENDA. If the pilot is not successful, there is no cost or obligation.

In order to proceed with the Pilot implementation, this Authorization must be signed, which will initiate assignment of personnel to begin the Pilot project. After the successful pilot, please choose which option you will prefer to deploy (not binding as you can change your mind).

OPTIONAL COMPONENTS: Please check any options to be included.

- ☐ NovusAGENDA in Meeting Tools (Voting, request to speak, etc.)
- ☐ NovusAGENDA Video (Hardware may need to be purchased based on Package chosen)

The Pilot duration will be 90 days and will include the deployment, training, and consultation and test meeting(s).

Signature _____

Date _____

Printed Signature _____

Purchase Order Number _____ (optional)

Invoice Address: _____

Accounts payable contact: _____

Phone: _____

E-mail: _____

RESOLUTION NO.: 177 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO APPLY FOR AND ACCEPT IF AWARDED A GRANT FROM THE
UNITED STATES DEPARTMENT OF JUSTICE FOR THE
COPS HIRING PROGRAM TO PROMOTE COMMUNITY POLICING
IN AN AMOUNT NOT TO EXCEED \$1,068,048.24
WITH A TWENTY FIVE PERCENT LOCAL CASH MATCH REQUIRED**

WHEREAS, the City of Newburgh Police Department performs many duties and offers a variety of services to promote public safety and health; and

WHEREAS, the City of Newburgh Police Department has identified the community policing model as an effective crime prevention tool; and

WHEREAS, the United States Department of Justice has established the COPS Hiring Program (CHP) as a competitive grant program that provides funding directly to law enforcement agencies to increase their community policing and crime prevention efforts; and

WHEREAS, the CHP establishes funding in the amount of \$125,000.00 per officer position based on current entry level salaries and benefits and provides 36 month funding of four (4) additional police officers and requires a twenty five (25%) percent match but includes a 12 month retention at the end of the grant period; and

WHEREAS, the City's request for grant funds under the CHP will not exceed \$1,068,048.24; and

WHEREAS, this Council has determined that applying for and acceptance of such grant is in the best interests of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a grant from the United States Department of Justice for the COPS Hiring Program to promote community policing, in an amount not to exceed \$1,068,048.24, with a twenty five (25%) percent local cash match required; and that the City Manager is authorized to execute all such contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the program funded thereby.

Councilwoman Abrams moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 178 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT WITH KEY GOVERNMENT FINANCE, INC.
FOR THE PURCHASE OF A CISCO UNIFIED COMMUNICATIONS TELEPHONE
SYSTEM FOR THE CITY GOVERNMENT OF THE CITY OF NEWBURGH**

WHEREAS, the government offices of the City of Newburgh require the provision of effective and cost-competitive telephone communications services, including but not limited to telephones, voice gateways, IP paging and emergency notification services, routers and network switches; and

WHEREAS, Key Government Finance, Inc. will provide assessment, configuration, design, implementation, project management and training for all hardware and software as part of the agreement; and

WHEREAS, the term of such agreement shall be five years at zero percent interest financing, with payments to be made annually, and the City will own the equipment at the end of the term; and

WHEREAS, such agreement includes maintenance for the equipment for a period of three years, with an anticipated annual cost of approximately Eleven Thousand (\$11,000.00) Dollars per year after the initial three year term; and

WHEREAS, telephone communications systems have been funded under the 2015 budget and shall be derived from budget line A.9785.0600; and

WHEREAS, this Council has determined that entering into such agreement is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into an agreement with Key Government Finance, Inc., subject to terms and conditions as may be required by Counsel, for the purchase of a Cisco Unified Communications telephone system for the City Government of the City of Newburgh.

Councilwoman Lee moved and Councilwoman Abrams seconded that the resolution be adopted.

Ayes -- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy -- 7

ADOPTED



CISCO CAPITAL FINANCING OPTION

July 7, 2015

**Quote Expires:

August 6, 2015

City of Newburgh

EQUIPMENT

FINANCE OPTION:

The financing will be completed by Key Government Finance, Cisco Systems Capital's financing partner for government and education customers. Payments due under the financing will be made directly to Key Government Finance, Inc.

LESSOR:

Key Government Finance, Inc.

LESSEE:

City of Newburgh

EQUIPMENT:

Cisco Systems Products

5 Year Project Summary	
Cisco Hardware/Software	\$1,839,931.83
SmartNet	\$1,558.60
Professional Services	\$1,660,711.00
Software	\$1,337,020.20
TOTAL AMOUNT TO BE FINANCED	\$5,397,222.02

FINANCING

STRUCTURE:

This is a tax-exempt state and municipal government financing with the title to the equipment passing to lessee. This is a net financing under which Lessee pays all costs, including insurance, maintenance and taxes, for the term of the financing. At the end of the financing term the equipment can be purchased for \$1

5 Years Annual in Advance

Amount to be Financed	Interest Rate	Annual Payments	Payment Due Date	Payment Factor(*)	Pmts / Year	Term	Total Incentive Discount	DSA/Short Pay
\$197,879.05	0.00%	\$39,575.81	10/15/15	0.2000000	1	5 Years	\$25,722.02	25,722.02
		\$39,575.81	10/15/16					
		\$39,575.81	10/15/17					
		\$39,575.81	10/15/18					
		\$39,575.81	10/15/19					

*Assumes a lease/escrow funding on 07/15/2015

**NTT program- \$0 payments, 0% interest for first 3 months

(*) The payment factor expresses the payment as a percentage of the Equipment Cost. To calculate the periodic lease payment for any Equipment Cost, multiply the payment factor by the Equipment Cost.

RATE INDEX:

The interest rate provided above is based on current market rates as of the date of this proposal, and will be subject to change based on market conditions as of the time of closing. After closing the interest rate will be fixed for the term of the financing.

APPROVAL:

The financing contemplated by this proposal is subject to the execution and delivery of all appropriate documents (in form satisfactory to Lessor), including without limitation, to the extent applicable, the Master Lease Agreement, any Schedule, financing statements, legal opinion or other documents or agreements reasonably required by Lessor. This proposal, until credit approved, serves as a quotation, not a commitment by Key Government Finance to provide credit. Final acceptance of this proposal is subject to credit, collateral and essential use review and approval by Lessor.

The interest rate quoted herein assumes that the interest component of the Payments is exempt from federal income tax. Lessor will provide a taxable financing proposal if it is determined that the financing will not qualify for tax-exempt interest rates.

CONTACT:

Contact your financing representative with any questions:

Randy Thomas
Cisco Systems Capital
508-930-7688

Daisy Stephenson- US State & Local Government Inside Sales Account Manager
Key Government Finance, a Cisco Systems Capital Partner
PH: 720-304-1598

Ranthoma@Cisco.com

elisabeth.stephenson@key.com

NOTES:

The rates provided above are based on a minimum funding amount of \$50,000. If total to be funded will be less than \$50,000 please contact us for a revised Proposal.

In Association with Key Government Finance, Inc.
1000 South McCain Blvd
Superior, CO 80027

RESOLUTION NO.: 179 - 2015

OF

JULY 13, 2015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH, NEW YORK CALLING ON KEYCORP TO KEEP OPEN THE KEY BANK BRANCH LOCATED AT 78 BROADWAY IN THE CITY OF NEWBURGH, NEW YORK

WHEREAS, KeyCorp maintains a Key Bank branch at 78 Broadway in the City of Newburgh, New York and which is the only bank located in the City which is located in and services the City residents east of Robinson Avenue; and

WHEREAS, this is the same area that includes Census Tracks Four and Five and has a very high ratio of minority residents; and

WHEREAS, many City residents who lack personal transportation rely on the convenience and service offered by having a Key Bank branch office located on lower Broadway in the City of Newburgh; and

WHEREAS, a KeyBank branch office on lower Broadway is an important economic engine for the City of Newburgh, drawing people who work and conduct business in the City of Newburgh so that the closing of the City of Newburgh KeyBank branch would deal a major economic blow to the City of Newburgh; and

WHEREAS, KeyCorp has proposed closing the City of Newburgh KeyBank branch office located on lower Broadway; and

WHEREAS, this Council finds that having the KeyBank branch office on lower Broadway in the City of Newburgh is a necessity for the residents of the City of Newburgh and the people who work and conduct business in the City of Newburgh and attend classes at SUNY Orange who rely on the convenience of the proximity of the City of Newburgh KeyBank branch office to their homes and places of employment without the expense of traveling or finding public transportation to other banks at the west end of the City of Newburgh or outside the City of Newburgh to obtain services and complete their business transactions;

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Newburgh is committed to retaining the KeyBank branch office at 78 Broadway in the City of Newburgh for the convenience of not only its own residents east of Robinson Avenue but also for those individuals and businesses who frequently use its services.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 180 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A PAYMENT OF CLAIM
WITH CHRISTOPHER BAUM IN THE AMOUNT OF \$3,967.93**

WHEREAS, Christopher Baum brought a claim against the City of Newburgh; and

WHEREAS, the parties have reached an agreement for the payment of the claim in an amount not to exceed Three Thousand Nine Hundred Sixty-Seven and 93/100 (\$3,967.93) Dollars in exchange for a release to resolve all claims among them; and

WHEREAS, this Council has determined it to be in the best interests of the City of Newburgh to settle the matter for the amount agreed to by the parties;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to settle the claim of Christopher Baum in an amount not to exceed Three Thousand Nine Hundred Sixty-Seven and 93/100 (\$3,967.93) Dollars and that the City Manager and the Corporation Counsel be and hereby are authorized to execute documents as the City's attorney may require, to effectuate the settlement as herein described.

Councilwoman Lee moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 181 - 2015

OF

JULY 13, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A PAYMENT OF CLAIM
WITH MARGARET FAYO IN THE AMOUNT OF \$5,000.00**

WHEREAS, Margaret Fayó brought a claim against the City of Newburgh; and

WHEREAS, the parties have reached an agreement for the payment of the claim in the amount of Five Thousand and 00/100 (\$5,000.00) Dollars in exchange for a release to resolve all claims among them; and

WHEREAS, this Council has determined it to be in the best interests of the City of Newburgh to settle the matter for the amount agreed to by the parties;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to settle the claim of Margaret Fayó in the total amount of Five Thousand and 00/100 (\$5,000.00) Dollars and that the City Manager and the Corporation Counsel be and hereby are authorized to execute documents as the City's attorney may require, to effectuate the settlement as herein described.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 182 - 2015

OF

JULY 13, 2015

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
ADOPTING THE CITY OF NEWBURGH CAPITAL PLAN FOR 2015-2018**

WHEREAS, by Resolution No. 240-2013 of November 25, 2013, the City Council of the City of Newburgh City of Newburgh Policy for Long and Short Term Borrowing for Capital Purchases; and

WHEREAS, City Departments completed a Five Year Capital Plan and prioritized a Three Year Capital Plan based on projects critical to the health and safety of the community and mandates from Federal, State and Local Regulatory agencies; and

WHEREAS, a 2015 Capital Plan was proposed to the City Council identifying projects which could be financed by the sale of bond anticipation notes in the amount of \$8 million; and

WHEREAS, this Council has reviewed the 2015 Capital Plan and finds that proceeding with the financing and implementation of said Plan is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh hereby approves the 2015 Capital Plan as proposed and further authorizes the City Manager and the City Comptroller to take appropriate action to secure financing and to implement the 2015 Capital Plan.

Councilwoman Mejia said that she scheduled a Ward 1 meeting to discuss the Capital Plan so if they approve it now will there be a chance to make additional entries or suggestions?

John Aber, City Comptroller, said that approving now just gives him the authority to start working with our outside Bond Counsel and take care of the legal documents with which still have to go through the Council. It can be tweaked up until the time they vote yes on the specific items.

Councilman Brown said that he sort of has a problem with the Capital Plan and he knows that staff worked hard on trying to prepare it but we are spending eight million dollars and none of that is going to generate any kind of revenue or income for the City. Some improvements, yes, but if we are going to spend that much money we should try to have some kind of income to go towards debt service and some things that would increase the quality of life for City residents. He thinks they should take a step back and have a little

more discussion about what the Council thinks eight million dollars would be best spent on as opposed to what is being proposed.

Mayor Kennedy suggested they put that discussion on their next Work Session because they should discuss what could be revenue generating and increase the quality of life.

Councilwoman Lee asked what the eight million dollars is being used for.

John Aber, City Comptroller said it covers health and safety such as the sewer lines and demolition of city owned buildings that are in danger of falling down. It also covers needed work at both Washington Lake and Brown's Pond and replacing four police vehicles but the majority of it is for the anticipated sewer work.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia – 5

Nays – Councilman Brown, Mayor Kennedy - 1

ADOPTED

RESOLUTION NO.: 183 - 2015

OF

JULY 13, 2015

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
SUPPORTING THE APPOINTMENT OF DANIEL CAMERON AS POLICE CHIEF
OF THE CITY OF NEWBURGH POLICE DEPARTMENT**

WHEREAS, Daniel Cameron has been a dedicated sworn police officer of the City of Newburgh for 18 years rising to the position of lieutenant; and

WHEREAS, Daniel Cameron has been effectively and efficiently performing the duties of Police Chief of the City of Newburgh Police Department since January 9, 2015; and

WHEREAS, this Council wishes to see Daniel Cameron continue to perform the duties of Police Chief; the same being in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh hereby supports the appointment by the City Manager of Daniel Cameron as Police Chief of City of Newburgh Police Department.

Councilwoman Abrams pointed out that this resolution simply says that they as a Council are in support of the appointment. They have heard tonight that this is the will of the people so she would be alright with tweaking that in any way necessary to get this passed and make sure that he become the Police Chief. She is not wed to any particular method of doing this and she just found out that he has to pass a test anyway so she is in favor of supporting the appointment.

Councilwoman Angelo said that she has known Dan Cameron for eighteen years but she is not sure how this resolution is on the table tonight because they haven't discussed it. She wishes that there was a loophole because she and the entire Council admires and respects him so they have to find a way to get him in as Chief.

Councilman Brown said that everyone at this table would echo what Councilwoman Angelo just said because they all love Dan and they think he's doing an excellent job but any resolution put before this Council needs to be discussed at a Work Session so he would like to make a motion to table this until the next Work Session for discussion.

Councilwoman Lee doesn't think it should be tabled. Maybe she doesn't have a voice with this City Council but she thinks that they should look at last Thursday's Work Session because she certainly talked about the appointment of the Police Chief. If she remembers correctly, there were many comments made including Mayor Kennedy who said that she

would support the appointment of Police Chief Cameron. She told everyone to go back to Thursday's Work Session and they will see that there was discussion and she doesn't know how they all forgot. There was discussion and she thinks they should not table this but move on and support the hiring of Chief Cameron.

Councilwoman Abrams asked our Corporation Counsel if she is correct in her belief that we don't actually need to legally bring resolutions up at a Work Session. They recently just started doing that at Councilman Brown's suggestion so they haven't been bringing stuff to the table unless it has been discussed at a Work Session but is that the law?

Corporation Counsel, Michelle Kelson said that Resolution #2-2014 dated January 13, 2014 adopted the rules and order of procedure for the City Council and it is a long standing rule of the Council. She read Rule III D. which says, *"No resolution, ordinance or local law may be introduced at a meeting unless the resolution, ordinance or local law has been considered at a work session prior to the Council meeting or is listed on the written Agenda for said meeting. Notwithstanding the foregoing, by majority vote, an item not discussed at work session or appearing on the written Agenda may be introduced, considered, and vote upon"*. So there is a procedure if the Council wishes to do that.

Mayor Kennedy stated that what the rule says is that the first vote would have to be an agreement to put it on the Agenda since it was not on the Work Session. There has been a motion and a second to table this until the next meeting so they can discuss all of the various issues involved and they are having discussion on the table.

Corporation Counsel said that a motion on the table would be tantamount to a motion to add it to the Agenda or not add it so it would serve the same purpose. If the table succeeds, you are not putting it on the Agenda. If the table fails, it stays on the Agenda.

Councilwoman Mejia told Chief Cameron that he has the support of the community and she hates to get caught up around personalities. She is looking to the City Manager to make a decision and bring it forth to the Council. She said it is so unfair to have them and our community go through this. It's like when parents are getting a Divorce and you put the kid in the middle and ask them who they want to live with. This is not the position we should be in. For her this is coupling every sort of multiple resolution that were discussed on different agendas into one lump that is getting personified in our current Acting Police Chief and from her perspective that is not fair and she is uncomfortable with that.

City Manager, Michael Ciaravino said that they spoke about this at the last Executive Session and he is interested in moving this forward in a way that continues to maintain cohesion amongst our legislative body. He could do this unilaterally and interpret the statute by grandfathering in Dan Cameron when it doesn't apply to him but if he takes that approach he believes that there will be consequences that are potentially politically destructive given the history of the City of Newburgh and the way in which things will go downhill from there. He is sensitive to the history of turnover and having a new City Manager every two years on average in the history of this community so he is trying to move in a way that is with Council rather than in opposition. He is also tracking the comments

about other appointments he has made and the communication that supposedly was lacking so he is doing this with an abundance of caution and dialogue. He could speak very clearly on who he would like to be our next Police Chief but he doesn't want to do that.

Councilwoman Mejia told the City Manager that she respects and appreciates that because it speaks to the tone and the character that she feels this Council wants to set. To have discussion about this resolution she feels takes them to a whole new level that she is not comfortable with.

Councilwoman Lee asked if they are going to make a decision or not on the table.

Mayor Kennedy said that they are still having discussion on the table and wanted to say ditto to Councilwoman Mejia's comments because this is a very difficult conversation to be having. We have a City Charter rule that has to be looked at and we are in the middle of an interviewing process but everyone on this Council believes in what our current Chief is doing. The statistics and the community back that up and she is taking all of that in as input. They now have to take that input, look at these resolutions carefully and decide what they need to do so she is going to vote to table it for tonight but also commit that by the next Work Session they have something worked out. She added that she wants to make sure that this is back on the Agenda for their next meeting because it must get resolved.

Councilman Brown moved and Councilwoman Holmes seconded that the resolution be tabled.

Ayes – Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Mayor Kennedy – 4

Nays – Councilwoman Abrams, Councilwoman Lee, Councilwoman Mejia – 3

TABLED

NEW BUSINESS

RESOLUTION NO.: 184 - 2015

OF

JULY 13, 2015

**RESOLUTION SCHEDULING A PUBLIC HEARING
FOR AUGUST 10, 2015 TO HEAR PUBLIC COMMENT
CONCERNING A LOCAL LAW AMENDING CITY CHARTER SECTION C3.12
ENTITLED "RESIDENCY REQUIREMENTS"
OF THE CODE OF THE CITY OF NEWBURGH**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning "A Local Law Amending City Charter Section C3.12 entitled 'Residency Requirements' of the Code of the City of Newburgh"; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 10th day of August, 2015, in the 3rd Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

Mayor Kennedy said that this is a change to the rule.

Councilwoman Holmes asked if this goes along with the previous resolution.

Councilman Brown asked why we need a public hearing to change a resolution that didn't need a public hearing.

Corporation Counsel, Michelle Kelson said that a resolution doesn't require a public hearing and resolution #183-2015 was drafted as a resolution of support from the Council. She was asked to do that by Councilwoman Lee and the City Manager but it doesn't require a public hearing. The resolution under New Business is a proposal in the form of a draft local law to address what is potentially the barrier to the residency requirement. In order to move that process forward, a local law does require a public hearing. She suggested that if they want further discussion they should just table the whole thing and they will have an opportunity to review all of it at the next Work Session.

Mayor Kennedy said that this is a motion to schedule a public hearing but if we don't make the motion we can't have the public hearing at the next meeting and then we can't really make a decision. She sees what the change in the law is and it is two sections so she would like to have a motion on the table right now to allow this particular resolution to be discussed here tonight.

Councilman Brown suggested that they just do a motion to table and if it doesn't table then they can discuss it. Just like Corporation Counsel said this should be on the next Work Session for discussion because these two resolution coincide with each other.

Mayor Kennedy said that they can't have a public hearing unless you schedule one.

Corporation Counsel said that they could schedule a public hearing at their August meeting for their September meeting. She is hearing that people are confused and rightfully so and that they would like to have a full and complete discussion to work out a solution. The local law that is proposed is only one solution and if they are that concerned about it then the public hearing can be held in September.

Councilwoman Mejia said she doesn't want to feel like she is doing a double talk about the city residency requirement. This was one of the legislations that they discussed the beginning of this year and they have been talking about it since 2014. There are sections to it and if that is what needs to be amended then there are waivers and exceptions that were included around what they feel is of importance. They had a whole discussion last year about the importance of hiring City of Newburgh residents and making sure that people had employment and that the people in the leadership positions live and breathe in the City of Newburgh. This was adding an extra layer of comfort that the department heads live in the City of Newburgh as well. She goes back to her statement of throwing the baby out with the bathwater and she is concerned that they are mixing apples and oranges when they are having these discussions. To her the city residency requirement remains important as they need to hire city residents. The conversation on resolution #183-15 and city residency requirements in her view are totally different. There is a huge section there about waivers and exceptions so she doesn't understand what they are doing the public hearing for.

Mayor Kennedy said to Councilman Brown's point that they need to discuss all of this so she needs a motion to table it and talk about it at their next Work Session.

Corporation Counsel, Michelle Kelson said that if they are not prepared to act on this tonight and they would like to discuss it further then the appropriate motion is to table.

Councilwoman Brown said that in his opinion there was a public hearing tonight as we heard from a number of residents and what their positions are. He doesn't think that they will hear anything different if they schedule one so he would like to make a motion to table.

Councilman Brown moved and Councilwoman Holmes seconded that the resolution be tabled.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes – 4

Nays – Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 3

TABLED

NEW BUSINESS

Councilwoman Lee said that she was introducing a motion from the floor for working families. Given that there has been so much talk about employing people and bringing jobs to the City of Newburgh through initiatives and we have so many working families here she is introducing a Working Families Resolution of the City Council of the City of Newburgh supporting the establishment of the First Source Employment Initiative. *(She submitted and read the attached resolution).*

RESOLUTION NO.: _____, 2013
OF
July 13, 2015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
SUPPORTING ESTABLISHMENT OF THE
FIRST SOURCE EMPLOYMENT INITIATIVE

WHEREAS, the City of Newburgh values a strong and diverse local economy which provides jobs and training opportunities for City residents; and

WHEREAS, the City of Newburgh wishes to stimulate economic development and job creation in the City of Newburgh with an emphasis on hiring City residents; and

WHEREAS, unemployment and lack of job opportunities are one of the most pressing and insidious problems facing our City, with 37% of eligible people not in the labor force; and

WHEREAS, the City's Master Plan Plan-It Newburgh advocates the creation of new opportunities that support hiring locally; and

WHEREAS, the City participates in various land developments either through the disposition of City owned land and/or the provision of tax incentives; and

WHEREAS, the City hires numerous firms to provide various services for the City;

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Newburgh hereby authorizes drafting of legislation to codify the FIRST SOURCE EMPLOYMENT INITIATIVE, with such legislation to include:

- 1.) For real estate projects involving City owned land or projects which secure a PILOT or other real estate tax incentive, a requirement that 30% of all new jobs created by the project are reserved for City residents;
- 2.) For contractual agreements for services, develop a sliding scale (based on the amount of the contract) for the number of jobs that need to be awarded to Newburgh residents;
- 3.) For all projects and agreements, mandate coordination with private partners to create an individualized job training program for each project or agreement;
- 4.) For all bids and proposals issued by the City, inclusion of specific requirements for hiring City residents as part of those projects or agreements.

Councilwoman Lee said that she is introducing this plan in this Election year so the City Council can decide and everyone can see what their interest is with working families. She asked for a second.

Mayor Kennedy said that she can't introduce something.

Councilwoman said, *"Yes I can. I can introduce it from the floor, Mayor Kennedy. That's what I did. I can introduce it from the floor. We went over this"*.

Mayor Kennedy asked if there was a second. Having had no second on this motion it is not entered on the floor.

Councilwoman Lee said, *"Thank you and please make sure that the Working Families Party gets a copy of this initiative. I appreciate your non vote and you fall into the trap every time. Thank you so much"*.

There being no further new business this portion of the meeting was closed

PUBLIC COMMENTS

Yaakov Sullivan, City of Newburgh said that the Council has discussed this evening a lot of issues dealing with quality of life, environmental issues and resolutions dealing with improving the aesthetics of the City. He suggested that the City place a bike rack in front of City Hall as a symbolic gesture in terms of quality of life issues. He all suggested that all members of the City Council perhaps one day a week get to City Hall by either riding a bike or walking. That way each one of them will set an example of being committed to those quality of life issues. This would also give them an opportunity to interact with some of their constituents.

Everett Smith, The Sentinel, said that he heard a second test is being considered for police officers in the City of Newburgh. He listened to the City Manager speak about marketing but unless there is a strong police force all the marketing he does will not make a difference. He asked them if they want the stagnation of the City as it has been for decades to continue or do they want to turn it around which has been started with Chief Cameron. He was very disturbed when he heard about the retesting because there were five hundred and forty five young people who applied to be City of Newburgh police officers that took that test. They each paid \$50.00, which totals about \$27,250.00 that was collected when they really only wanted City residents. That wasn't very fair to those five hundred and forty five applicants. As an example, he said that there is a young man who volunteers for Habitat for Humanity and has been working with Safe Harbors cleaning up the City. He is a Graduate of N.F.A. but because he lives three quarters of a mile from the border of the City of Newburgh he is not on that resident list and can't be hired. There is another young man whose parents are both police officers elsewhere and he wanted to be a City of Newburgh Police Officer but he did not get accepted because he lives in New Windsor. So because of that the City lost out because he has earned a pretty good reputation as a patrolman in the Town of New Windsor. He urged them not to have another test and to accept these five hundred and forty five young people who already took the test and go through that list.

Kippy Boyle, City of Newburgh said that the Malcolm Pirnie Company was a favored company by a former City Engineer who is now employed by Barton & Loguidice. They have both been the *go to* local companies for a long time and she believes that just as when there is an audit of the city or organizations you are only allowed to use the same Auditors for a certain length of time so she thinks that these programs need to be opened up to other companies. Not that these are not good companies but she thinks that we are narrowing our potential. She added that she would like to volunteer to assist Councilwoman Holmes in getting whatever the next steps are to get the light on Marine Drive and Colden Street that was supposed to have been installed a long time ago. She said that they want to make sure that they get to meet with the landscape architect from the Department of Transportation so that they can select the kind of light that they want there. She asked hypothetically if a citizen could be arrested for breaking and entering if they go onto their own property because they

have spent twelve million dollars cleaning up the Consolidated Iron Site and she wants to get on to her own property and she is sure that most of the people in the audience would like it to be open to the public too.

Kevin Lujan, Beacon Street, in the Heights, said in regard to resolution #179-2015 that he heard Councilwoman Angelo and Mayor Kennedy speak about how they want to have a Bank that is close by and in walking distance which he totally agrees with. He, however, liked Councilwoman Abrams suggestion to work with Banks that are interested in staying and that want to work with the community. We need a Bank that is going to stay here for the long haul and this Bank has proven that they want to leave so why would we beg for them to stay? We need to get a Federal Credit Union or a Bank that is going to stay with us because that is what we need. Resolution #183-15 has been talked about a lot tonight and out of forty resolutions it has caused the most hostility amongst the Council yet they have a community standing before them saying that they want this Chief here. They know that this is a City Manager decision and the people are talking and telling the City Manager that if he does not hire Chief Cameron then they are going to be disappointed.

Alexandra Dubroff, Hudson Valley Coordinator for New Yorkers Against Gun Violence said that she was here back in early May to speak about a proposed Firearms Safe Storage Ordinance. She just wanted to follow up and let the Council know that on August 3rd in Albany they will be passing a Safe Storage Ordinance so she submitted a copy of that proposed ordinance for the Council to review and added that this is something that might work for Newburgh. (*copy attached*) She noted that one thing that is not on this is that they have added a six month grace period after the ordinance has passed to allow New Yorkers Against Gun Violence and the local police community to get the word out by educating people and she will be handing out gun locks. She told the Council to please reach out to her with any questions or concerns and they would really love to see this ordinance pass because it reduces suicides, accidental shootings and stolen guns which are used in crimes. She wanted to echo the sentiments of everyone here tonight who have sung the praises of Acting Chief Dan Cameron. He has been amazing for them as an organization and he has been open to working in any way possible to make his constituents safer.

Vern Bell, Town of Newburgh and a member of Exodus Newburgh Extension said that she is here again with an update on "*Ban the Box*". The question is what is on the Newburgh employment application that inquires if a person has been convicted of any crime in the last seven years. She listened carefully to the Work Session last Thursday where this was discussed and she appreciates some of the concerns expressed by Council members like the wish for better clarity in the wording and the wish to protect the City from the possibility of pedophiles or felons being employed if this question is removed or postponed. She also understands the wish to have input from the police department, community residents and the City Manager so it seems like now it is going to be a process and at the next Work Session they will look at the draft of the Human Resources Report to see if it sheds some light. She is pleased to see the broadening in scope so that the City is protected by this but she encouraged them to broaden it further because the fact is that mass incarceration in America today has reached catastrophic proportions and is drawn along shockingly racial lines of

poor people especially Blacks, Latinos and Immigrants making the percentage of those with a criminal record roughly twenty-five percent of those that show up in background checks. We have a high number in the City of Newburgh attempting to restart their lives and this crime in humanity has come about due to a system that has been designed to favor White and wealthy people which goes back to the founding of our Country. Yes, removing the question is a feel good issue because it is the right thing to do and those who have turned their lives around deserve this fair chance. She urged the Council to keep both goals in mind to protect the community and find a way to remove or postpone the question joining with more than a hundred Counties, Cities and States across the United States including Buffalo, Syracuse, New York City and Yonkers who do this already.

Dr. Benilda Armstead-Jones, City of Newburgh said that they have heard a lot of Scripture here tonight and she thinks it's the Book Ezekiel where she has preached a Sermon about Dry Bones and wishes to speak about something that has become very personal to her. Some years ago under the administration of City Manager, Jean Ann McGrane bones were extricated from beneath the City Court and a number of people on her Committee made proposals that were presented and agreed upon by the established City Council. She wants to know, "*Where are we*"? Let's not forget that there is something called dignity and we as people are also judged by the manner in which we treat the remains of our dead. She, Father Bill and others by law were in the graves for every human remain that was extricated and it wasn't pretty. There were proposals that were made and voted on by Council so what are we going to do about those Black folks that were used for various studies? They were taken out of Newburgh and have been gone since.

Mayor Kennedy told Dr. Armstead-Jones that she knows this is an important topic and we do need to solve this problem.

Dr. Armstead-Jones said that something needs to be done. How long are we not going to address this? It has been years.

Roxie Royal, City of Newburgh agreed with a comment that Councilwoman Mejia made that they are dealing with apples and oranges in the decision of the Police Chief. Chief Cameron is doing a wonderful job here and she likes what he is doing, she likes him as a person, she likes his ideas and his vision. We are talking about jobs and positions for the residents of the City of Newburgh so if we live two to three miles outside the City and we want to work here what's wrong with moving two to three miles into the City and pay our taxes? Maybe she's wrong but we are dealing with apples and oranges because we made a ruling that if you want to have these jobs then you have to be a resident of the City of Newburgh. We have been telling people coming here that they have to be a resident to work here so we have to come together and make another decision. She added that she is a representative of NAACP here in the City of Newburgh and in the coming weeks they will be having events on Fridays at Billy Joes Ribworks, 26 Front Street starting on July 24th from 6:00 P.M. to 8:30 P.M. Donations are \$25.00 in advance and she encouraged everyone to go down and join them.

There being no further comments this portion of the meeting was closed.

Council Member Fahey introduced the following:

LOCAL LAW A – 2014 (Amended 7/6/15)

**A LOCAL LAW AMENDING ARTICLE II (FIREARMS AND AMMUNITION)
OF CHAPTER 193 (FIREARMS AND AMMUNITION) TO REQUIRE SAFE STORAGE
OF FIREARMS**

BE IT ENACTED by the Common Council of the City of Albany as follows:

Section 1. Article II of Chapter 193 of the Code of the City of Albany shall be amended to read as follows:

ARTICLE II
STORAGE AND DISPLAY OF FIREARMS AND AMMUNITION
~~FIREARMS AND AMMUNITION~~

§ 193-6. Purpose.

The Common Council hereby finds that the storage, possession and display of firearms and the storage, possession, display and sale of ammunition in the City of Albany require the regulation thereof in the public interest, convenience and necessity. In addition, the presence of an unsecured, easily accessible loaded weapon in the home increases the likelihood of death or injury from accidents or impulsive acts. Guns left unattended in the home should be kept locked or stored securely to prevent access by children and others who should not have access to them. Gun owners are responsible for keeping their firearms from falling into the hands of children and other unauthorized individuals.

§ 193-7. Definitions.

Unless otherwise expressly stated, whenever used in this article, the following words shall have the meanings given to them by this section. When used herein:

AMMUNITION -- Any projectile commonly known as a "bullet" or "shell."

FIREARM -- Any weapon from which a shot is discharged by force of an explosive, or a weapon which acts by force of gunpowder, and shall include any weapon capable of being loaded with powder, ball or ammunition, and shall include any weapon which is otherwise capable of being loaded with powder, ball or ammunition, whether completed, assembled or from which any part or piece has been removed therefrom.

PERSON -- Any person, firm, partnership, association, corporation, company or organization of any kind.

SAFE STORAGE DEPOSITORY – A safe or other secure container which, when locked, is incapable of being opened without the key, combination or other unlocking mechanism and is

capable of preventing an unauthorized person from obtaining access to and possession of the weapon contained therein.

§ 193-8. Storage.

A. Firearms and ammunition for sale shall be kept secured at all times when the place in which they are held for sale is not open for business. The manner in which the firearms and ammunition are to be secured must be approved by both the Chief of Police and the Chief of the Fire Department upon receipt of appropriate application for such approval. Such approval shall in no case be unreasonably withheld.

B. No person who owns or is custodian of a weapon shall store or otherwise leave such weapon out of his or her immediate possession or control without having first securely locked such weapon in an appropriate safe storage depository, which when locked, is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon contained therein, or rendered it incapable of being fired by use of a gun locking device appropriate to that weapon. The regulations provided for herein shall not apply to personal possession, use or ownership of firearms or ammunition therefor.

§ 193-9. Sale of ammunition and firearms.

A. Ammunition shall only be sold to persons possessing a valid firearms license, when a license is required for the type of firearm for which the ammunition is used. When purchasing any other type of ammunition, where a firearms license would not be required for the type of ammunition being purchased, a driver's license shall be required. A record shall be kept by the dealer of each sale of ammunition which shall show the type, caliber and quantity of ammunition sold, the name and address of the person receiving the same, the caliber, make, model, manufacturer's name and serial number of the firearm for which the purchaser is purchasing ammunition, the date and time of the transaction, and the identifying number of the firearms or driver's license. Such record shall be maintained for 10 years and shall be made available to state and local enforcement agencies upon request.

B. Every person engaged in the retail business of selling weapons shall post a notice in the place where such weapons are displayed or delivered to the purchaser conspicuously stating, in no smaller than 24 point type and on no smaller than 8 ½ x 11 paper stating in bold print the following warning:

WARNING: RESPONSIBLE FIREARM STORAGE IS THE LAW IN THE CITY OF ALBANY. FIREARMS MUST BE STORED IN A SAFE OR OTHER SECURE CONTAINER WHICH, WHEN LOCKED, IS INCAPABLE OF BEING OPENED WITHOUT THE KEY, COMBINATION OR OTHER UNLOCKING MECHANISM AND IS CAPABLE OF PREVENTING AN UNAUTHORIZED PERSON FROM OBTAINING ACCESS TO AND POSSESSION OF THE WEAPON CONTAINED THEREIN, OR IS RENDERED INCAPABLE OF BEING FIRED BY USE OF A GUN LOCKING DEVICE APPROPRIATE TO THAT WEAPON. LEAVING FIREARMS ACCESSIBLE TO A CHILD OR

UNAUTHORIZED PERSON MAY SUBJECT YOU TO IMPRISONMENT, FINE, OR BOTH. YOU MAY ALSO FACE ADDITIONAL CRIMINAL PENALTIES IF THE FIREARM IS USED BY ANOTHER NEGLIGENTLY AND CIVIL LIABILITY.

§ 193-10. Report of theft or loss to Police Department.

Any theft or loss of ammunition or firearms from a storage vault, safe storage depository, or otherwise shall be reported immediately to the Police Department of the City of Albany.

§ 193-11. Declaration of state of emergency by Mayor.

In the event of disaster, riots, catastrophe, insurrection, war or acts of war and at which time the Mayor of the City of Albany or the Acting Mayor shall declare a state of emergency, then and in that event ~~he~~ the Mayor or Acting Mayor may order such additional security measures as he may deem advisable.

§ 193-12. Penalties for offenses.

Any person who shall violate or shall neglect or refuse to comply with this article or any provisions thereof, upon a first offense, shall be guilty of a violation and upon conviction thereof, shall be punishable by a fine not exceeding \$250 or by imprisonment not exceeding 15 days. Upon a second offense or when a first offense results in injury or death, the offender shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment, and each day of violation shall constitute a separate offense and be subject to punishment as such.

Section 2. This local law shall take effect January 1, 2016 and after final passage, public hearing and filing with the Secretary of State.

COUNCIL COMMENTS

Councilwoman Abrams congratulated Kylen Kelly who graduated from N.F.A. a few weeks ago and who now at the age of 17 is teaching Computer Programming at Marist College and has also joined the Marine Reserves. She also congratulated Alice Hlidkova who is just starting Grad School at Carnegie Mellon where she is majoring in Public Administration.

Councilwoman Angelo said that every year they have the Festival at the Armory but this year they booked a Rodeo for that weekend. They checked the land down at Consolidated Iron but decided it might not be safe so they are going to have it at Delano-Hitch Park. She said that she attended the meetings with the skateboarders but now it's 2015 and a promise was made to these kids that a Park was going to be built this year. She asked if the City Manager could look into that because the kids really had their hearts set on this. She added that she was looking at the residency rule and maybe she is wrong but under exceptions she read what it says, *"Notwithstanding any provisions of this Section to the contrary, any person holding an officer position of the City as of January 12, 2015 and who was not a resident of the City as of that date, shall not be required to comply with the requirements of this Section"*. She asked if she is reading this right.

Corporation Counsel, Michelle Kelson said that is the original legislation.

Councilwoman Angelo said that she was reading it to mean that the Chief was covered but maybe she read it wrong.

Mayor Kennedy said that those are the things that they have to discuss because there are so many ways to look at this.

Councilman Brown said that he thinks they need to start a phone or letter writing campaign to Key Bank to force them to stay until they either find a buyer or some other alternative to replace them at that location. It's important to keep a Bank within a community that's in walking distance and it costs \$5.00 for a cab which many people don't have. In regard to resolutions that came up tonight about the Police Chief, he said that if you see him move in a position where you think that he is not for a particular resolution then you need to think twice about him. He bases his decision on the facts, understanding and knowledge of the resolutions and the situation so if he is moving in one direction or another then he must have some additional information that moves him in that direction. Any time residents come to the microphone he hears them and at times he has changed his position on certain topics but this time they can't because he has additional information which leads him to where he is now. At the end of the day they are the Council and four votes gets it. So if four votes pass to change this resolution then he will have to accept that but at this point he has to stand by his original vote which is yes to City residents. It is a bigger picture than just someone living in the City as a Police Chief or Department Head. You have to think of the

economic impact of someone living here whether they are renting or paying a mortgage that money goes back into the City coffers which is really important. That is part of the resolution that most people don't see but he does. He thinks that Dan Cameron is doing a wonderful job and you couldn't ask for someone to do better but at this point there is a process in place that they need to complete. If they don't get what they are looking for out of that process then they will look to change the resolution but not until then. He thanked everyone for coming and wished them a good night.

Councilwoman Holmes thanked everyone for coming tonight and she thinks that somehow they are going to have to work this out and they are in the process of interviewing so she is not sure what is going to happen. She told Chief Cameron that she supports him and he is doing a wonderful job. She is not the decision maker and being that they are interviewing she doesn't think it would be fair to the other candidates just to make this appointment. He has a lot of support here but this decision is not hers. She thanked Jim Williams and Steve Kaufman for this weekends Wounded Warrior Sale and added that she is not aware of a second police test for the police officers.

City Manager, Michael Ciaravino said that our city resident list was exhausted with the last round of hires so the decision on the table is do we schedule another Civil Service Exam for city residents or do we now go to the non-resident list that has some four hundred names on it? He would like to have the opportunity to speak about this in Executive Session.

Councilwoman Holmes continued that in regard to Ms. Boyle's comments they will have to speak with the City Engineer, Jason Morris about the light and to Dr. Jones she noted that is her Ward and invited her to talk with the City Manager to find out where that is.

Councilwoman Lee thanked everyone for coming out but she also wanted to thank the public for their cards and condolences that she received regarding the death of her sister. She appreciates what they did and wished to say thank you on behalf of her family. She said a special thank you to Senator Bill Larkin and former Councilmember Christine Bello who went out of their way to get in touch with her. The morning of the Funeral was the Job Fair so it was bittersweet but four hundred people showed up, one hundred and fifty were hired and three joined the Military. She is still receiving e-mails from city residents asking for another Job Fair so she is planning to cosponsor another one. It was unfortunate that she had to leave at 9:30 a.m. to go to her sister's funeral but her sister had told her that the Job Fair was going to be wonderful and she knew that people were going to show up so she knew that going to the Job Fair and then going to the Funeral service was the right thing to do. She noted that it was a great experience to see her sister's grandchildren and great-grandchildren and for them to be able to look at her and still see their grandmother and great-grandmother because they look so much alike. She introduced the resolution from the floor because she wants the Council to not just talk about bringing jobs to the City of Newburgh. It is important that our residents know that we want them employed and this is a way of stimulating the economy. She wants a residency requirement but she also wants people who live here to be hired and that hasn't happened with the exception of a few people

who get hired because of who they know and that has been the practice throughout this City for cons. Most people don't get a job here and she would like it to be a requirement that city residents are given a priority. She noted that there is a resident in the audience who has a Master's Degree in Public Administration and we need to put people to work. We need to not be so bent on not hiring because you don't like the idea of the resolution or the person delivering the message. She is going to take the message out and it will be the message that she delivers over the next three or four months. Families have to come first in this City and if they can't then everyone on the Council has to leave. They have to put families first and put people to work so she will be having a Press Conference about jobs and what the City can do to bring jobs and she will cosponsor another Jobs Initiative. She will keep going until she stops breathing or moves because it is just not fair that city residents don't get the opportunity to work unless you make so much noise that the Unions can't tolerate it and they put you to work to keep you from talking. We have to employ everybody so this is an employ Newburgh movement. It's going to continue and be in your face and you're not going to like it but we need people here to be hired. It's time to start having a real discussion about what we think we are doing. It's time to hire people who live here and if we can't find someone who lives here then we need to look at someone who does not live here. That's what we need to do and we're not doing it not even for menial jobs. She sat and listened to a discussion about George Garrison hiring and we walk away from the table but nothing happens and yet people are homeless. She made it a point not to rent because she doesn't want to live in her house with anybody but she couldn't sit and watch the homelessness so eventually she let someone rent her apartment. This has to stop because people are literally living on the street with no place to go because they have lost their jobs, they are walking away from their houses and the Council says that they are not going to hire locally because they don't like Gay? How stupid, ignorant, ugly, despicable and disgusting that they can't even consider hiring people who live here to do menial jobs. Jobs that that you wouldn't even give your friends to do yet many people who have sat at this table have hired their friends. Half of the people at City Hall have the same last name. Many have forced George Garrison to hire their friends or their children. Enough with the buddy system. Hire people and give them jobs and stop treating them as if they don't deserve a job in the city that they live in. If you want to stimulate the economy, don't give them a house. There is no sense in giving them a house if you didn't give them a job. Start with something basic and increase the minimum wage that you give out. Instead of employing people, when you do, at \$10.00 per hour give them \$15.00 per hour so that they have an option off of Welfare. This incredible hatred doesn't do anything but give her fuel so they can go on hating and disliking her and saying no to everything that she introduces but she is only going to introduce it time and time again. She will be in their faces and she doesn't care if they like it because it's time to start taking care of the people who live here. Family members working in the City of Newburgh, taking property and giving it to their families and then taking the equity out of it and giving it back to the City. Enough. No more pimping. These days are done. The days of stealing from the City are over. They can sit here and talk about what they don't know happened at the Work Session if they want because it doesn't matter to her. They talked about hiring Dan Cameron and he is the only Police Chief that they are not getting a lot of flak about. Everyone is telling the City Manager that it's his responsibility to hire him. She said yes, the Mayor said yes,

Karen Mejia said yes, everybody else said yes so hire him. She told the City Manager to take a stand even if it's going to cost him and he might be surprised who might decide to support him if he took a stand to hire him. He might find that people think he has guts but right now none of them look good. If you think she's preaching, they haven't seen anything yet. Wait until she takes her show to the street corner and starts calling them out by name. She thanked everyone for coming out.

Councilwoman Mejia thanked everyone for coming and sticking it out. On July 21st at 6:00 p.m. there will be a Ward meeting at the Newburgh Free Library which is open to everyone. Mr. Aber will be there talking about the Capital Plan and the tweaking that they would like to see as a community be done before that final vote happens. Another event planned is the Candlelight Vigil for a Cleaner Hudson which they are doing jointly with the City of Beacon on July 23rd at Unico Park at 7:30 p.m. This is to put continued pressure on General Electric to clean the PCB's out of our water system. She noted that she has flyers for this event and it is on the Website in English, Spanish and French so she asked for help in getting the word out.

Mayor Kennedy said that they need to move forward on this Skate Park and had hoped that they would have started construction by now. For future reference they need to start organizing their construction projects in January by getting bids out so that we are ready to go to construction in June. This governmental slogging through things makes it take forever to get anything done. It's very frustrating that we are in year three and we haven't started the Skate Park or gotten it done. She thanked Life Stations and Leslie Haskin because they are doing a fantastic job in this City. The Job Fair that they put on was one of the best that she has been to. She is not sure that one hundred and fifty people were hired because she looked at the statistics the other day and doesn't believe that's the right number but it was a good number. One of the things that maybe Councilman Lee doesn't know about is that she has been meeting with the Governor's Community, Opportunity, Reinvestment Initiative and they are now in the take action phase about getting jobs in the City of Newburgh. She said that it's not just about getting jobs; it's about getting people to stay in those jobs. Chris Knasiak worked for nearly three weeks to get someone to accept a job in the Steam Pipe Fitters Union but could not find anyone. We have an initiative with the Governor's Office and with the County to identify about two hundred people right now that are willing to go into the construction trades. We have to find those people and those jobs are being exported right now out to other States. There is a commitment for a six month transportation project to help people buy cars. These are like \$30.00 per hour jobs so they would be able get a car and there will also be some coaching to help. There is a whole initiative going on to put this together to find good paying jobs for City of Newburgh people and the idea is to find people who are willing to be there on time and show up every day. What they need now is help to identify those people and Chris Knasiak can testify that she has worked hard to identify people but has had to struggle. This is a bigger problem than just saying to hire local people and there is a whole bunch of services that they are trying to put together to make this actually work. They have all kinds of people to put together the programs so that we can not only get them jobs but make sure that they stay on the job and are successful down the road. Because someone doesn't support a particular initiative

claiming that they are not supportive of the general idea is simply a false statement. She has been working on this initiative for almost a year in terms of putting together a plan that actually works and that will get good jobs for people and keep them in jobs. She knows that there is another Job Fair planned for September which will be focused on reentry. There are a lot of people coming out of incarceration who are ready to do the job and to keep them from being re-incarcerated we need to find them jobs that will help them succeed. Exodus and Recap are working hard to put together a process and a program for that to happen so just know that there are efforts going on to really help our people move forward and be successful. In terms of this issue with the bones that were under the Courthouse, she knows that is something that has languished so they need to get together with the City Manager to find out where it went. With the turnover of the City Manager some things got lost and they are just uncovering some of that stuff. She told Ms. Kelson that she would like to work with her to update this "*Ban the Box*" legislation by using legislation from Yonkers or wherever to address the interview process to insure that it follows through. So many cities and States have done this already so there is no reason for us not to move forward with this issue. It gives people a fair chance to get a job and stay with it. In regard to the Civil Service Test, she requested that they hold back at least this year and then decide about. When we have that many people taking a test and we take their money and then tell them that they didn't have a chance it's not fair. If that's the condition then they should have been told never mind taking the test if they don't live in the City of Newburgh. We have some games going on too where people move into an apartment long enough to get through the Academy and then they move out of the City. We need to focus on getting the best people and from her point of view she would rather see a much racially diverse force whether they live outside or inside the City. She cares about the fact that our police force represents the people who live in this City whether they live in or out. She thinks that they need to skip the test for this year and give other people a chance that have put their money down, passed the test, have good grades and could make a good officer because we have to be fair.

There being no further business to come before the Council the meeting adjourned at 10:50 p.m.

LORENE VITEK
CITY CLERK