

A regular meeting of the City Council of the City of Newburgh was held on Monday, September 13, 2021 at 7:00 PM in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

Moment of Silence / Momento de Silencio

Mayor Harvey asked for a Moment of Silence followed by the Pledge of Allegiance.

Pledge of Allegiance / Juramento a la Alianza

Roll Call / Lista de Asistencia

Present: Mayor Harvey; presiding, Councilman Grice (arrived after roll at 7:19 p.m.), Councilwoman Mejia (arrived after roll at 7:50 p.m.), Councilwoman Monteverde, Councilman Shakur, Councilman Sklarz, Councilwoman Sofokles - 7

COMMUNICATIONS

Approval of the minutes from the City Council meeting of August 9, 2021 / Aprobacion del Acta de la Reunion General del Consejo del 9 de Agosto de 2021

Councilman Sklarz moved and Councilman Shakur seconded.

Ayes: Monteverde, Shakur, Sklarz, Sofokles, Harvey - 5

Carried

PRESENTATIONS

Certificates of Recognition for Hook Elite Boxing Club Students

Mayor Harvey noted that no one was in attendance from the Hook Elite Boxing Club tonight so he will accept the Certificates of Recognition on their behalf and reschedule for the next meeting in September. Mr. Lee and the Hook Elite Boxing Organization has been winning championships all over the Country as well as internationally and they have caught the attention of some serious promoters. Elijah Williams will be boxing at the end of October for the first time as a professional boxer here in the City of Newburgh along with some celebrity boxers so it's going to be a nice event. He encouraged everyone to come out to support this event and the Hook Elite Boxing Club.



City Manager's Update

Newburgh City Council Meeting

Monday, September 13, 2021



Novel Coronavirus (COVID-19)

For more information

Hotline: 1-888-364-3065

www.health.ny.gov/diseases/communicable/coronavirus

Testing data last

New York State Department of Health COVID-19 Tracker

Statewide

Total Persons Tested
16,278,869

Total Tested 9/06
83,316

Total Tested Positive
2,292,760

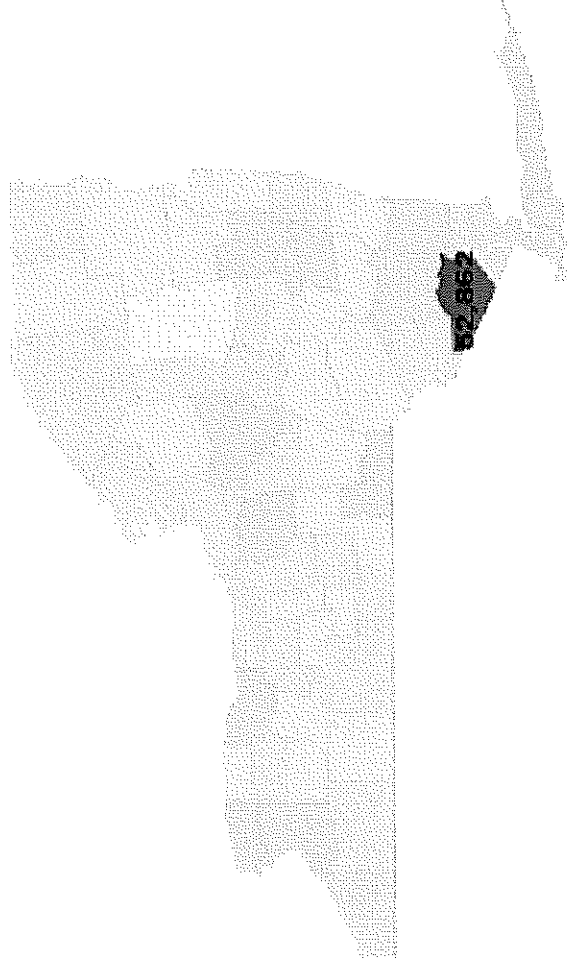
Sex Distribution of Positive Cases

Male 3% 48.0% Unknown 1.2%

New Positives 9/06
3,322

Persons Tested Positive by County

1



Click Count
Click Again

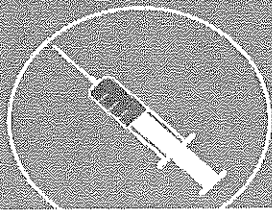
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Putnam
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Saratoga
Schenectady
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Seneca
St. Lawrence
Steuben
Suffolk
Sullivan
Tioga
Tompkins

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FAQs &



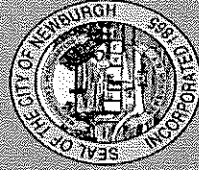
COMPLIMENTARY RIDES
TO **VACCINE SITES**

City of Newburgh Residents
get **FREE RIDES** to your
COVID-19 Vaccination

Appointment

CALL: 845-569-7420

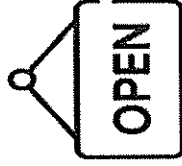
- Must be City of Newburgh Resident
- Must have proof of confirmed vaccination appointment
- Appointment must be <30 miles from Newburgh (SUNY Orange Middletown & Ulster Fairgrounds in New Paltz)
- 24 hours notice required
- Pick-up/ Drop-off Newburgh only, no stops allowed
- Ambulette service available



Funded by City of Newburgh, QDBE-CVI, Community Development Block Grant, Catus Act Funding

COVID-19 Vaccine Did You Know?

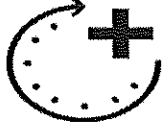
NYS has **FOUR** ways to make the **COVID-19 vaccine** accessible and available to **every** New Yorker.



Walk-in
appointments are
available at state-operated
vaccination sites for first
dose appointments.



**4 Hours of Paid Leave
Per Shot**
All NYS public and private
employees are granted up
to four hours of excused paid
leave per shot. This cannot
be charged against any
other leave the employee
has earned or accrued.



**Any Recovery Time Needed
Following Vaccination
is Covered Under
NYS Paid Sick Leave Law**
If you experience side effects
from the vaccine, taking sick
time to recover is covered
under New York's Paid Sick
Leave Law.



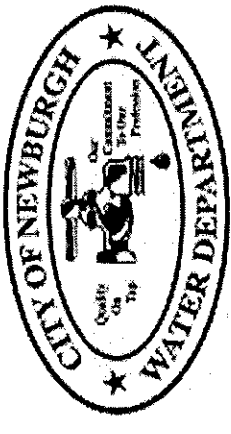
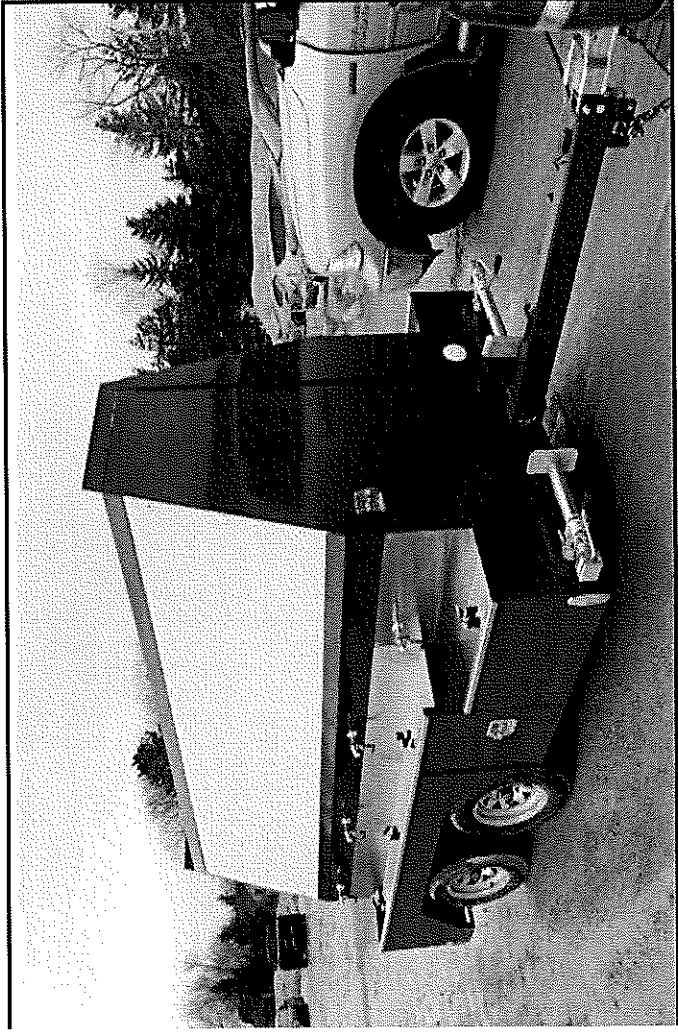
**In-Home Vaccine
Available**
<https://covid19.ny.gov/district-to-schedule-vaccine>



**VACCINATE
NEW YORK**

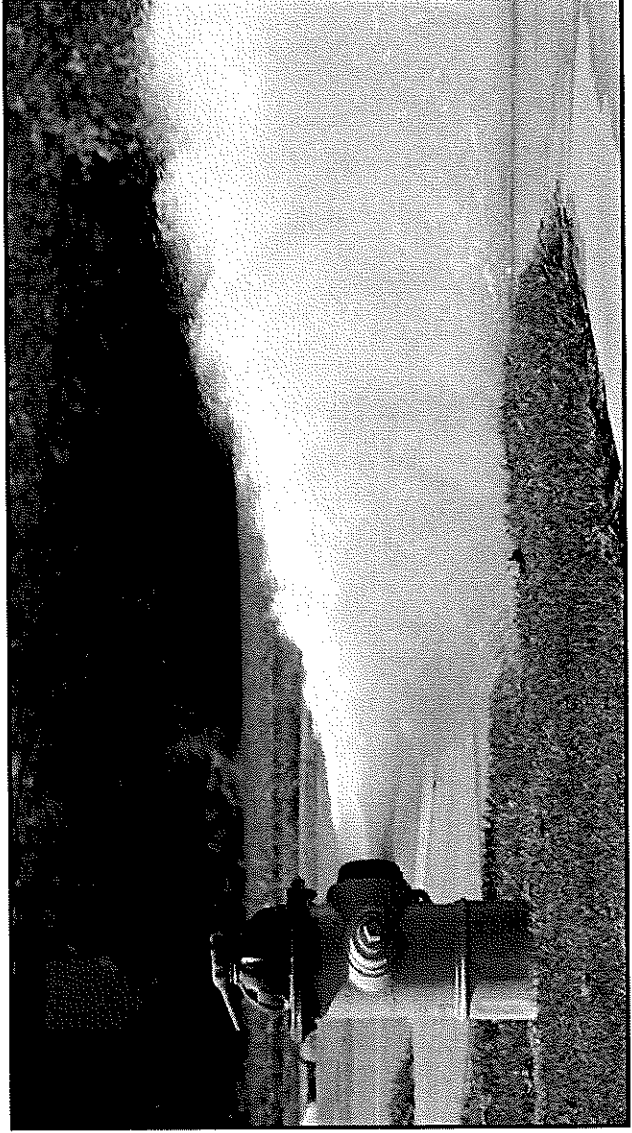


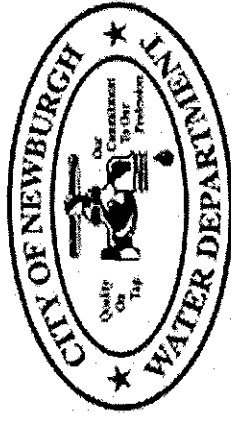
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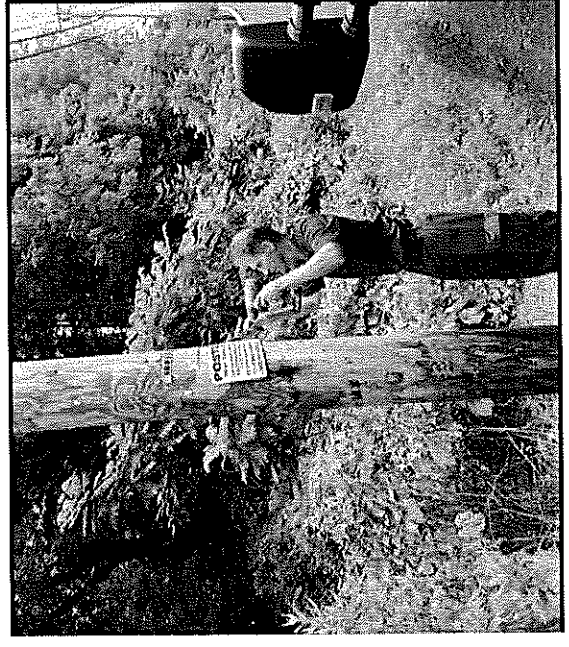
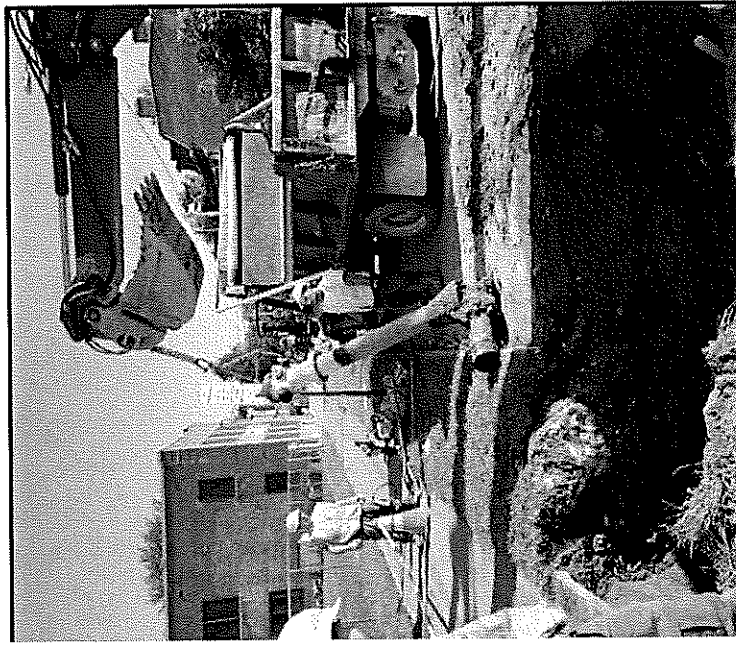
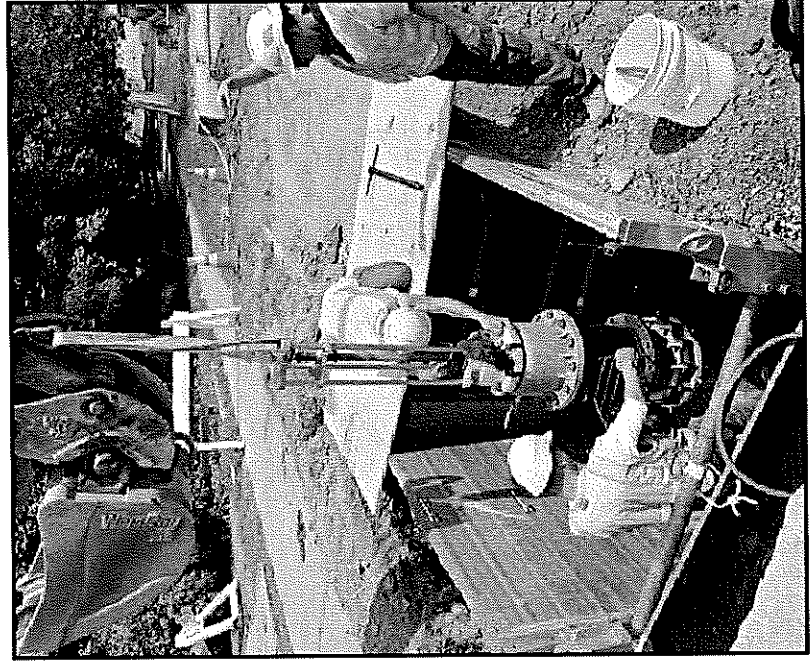
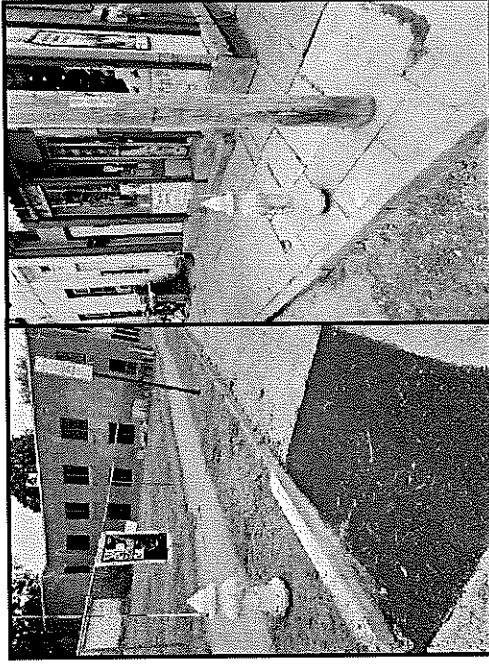
- Hydrant Trailer Ordered & Shipped
- Fall Hydrant Flushing & Inspection

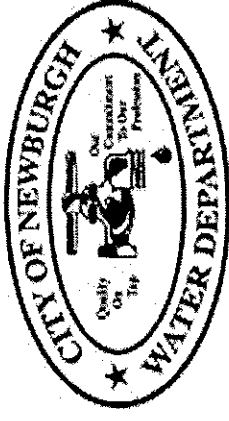




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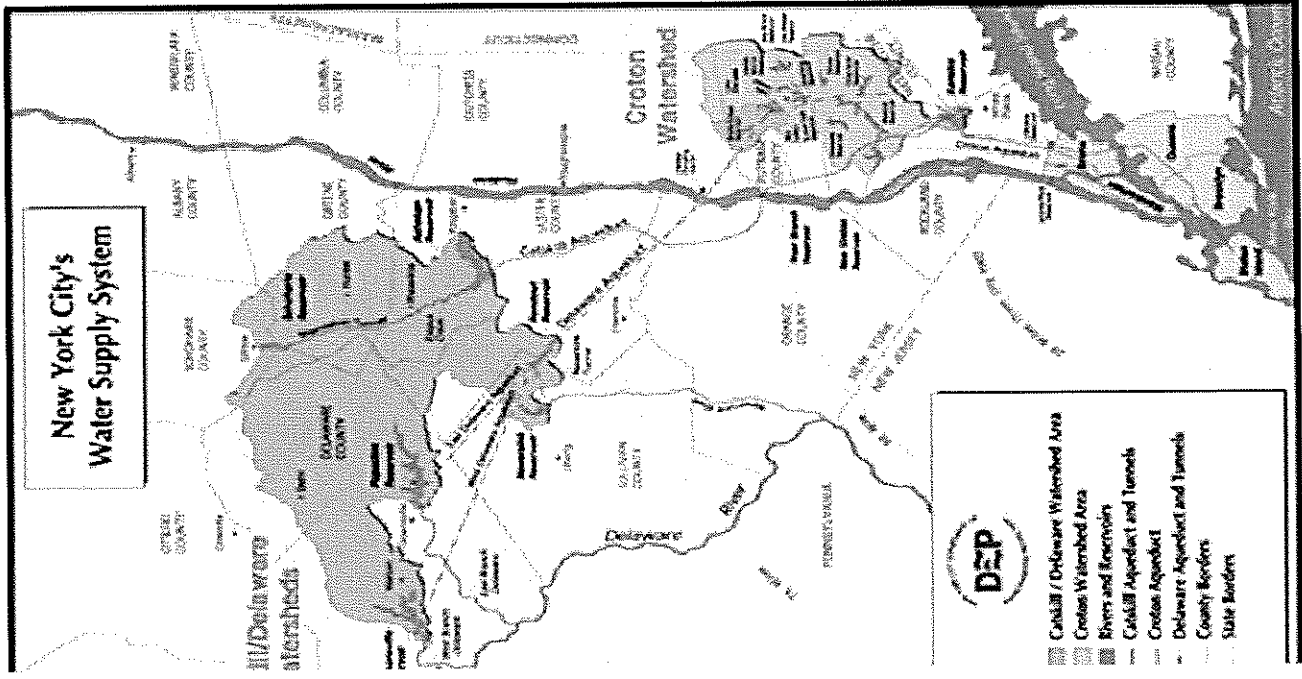
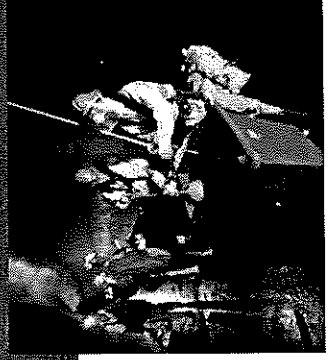
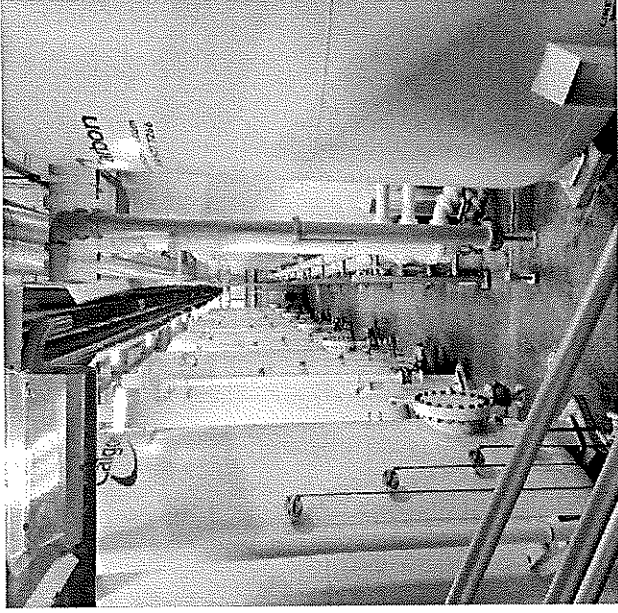
- Two NEW hydrants installed
- New Watershed signs Postec
- Prep work for Lake St. Bridge





Catskill Aqueduct Shutdown

- 15 Week Catskill Aqueduct Sr

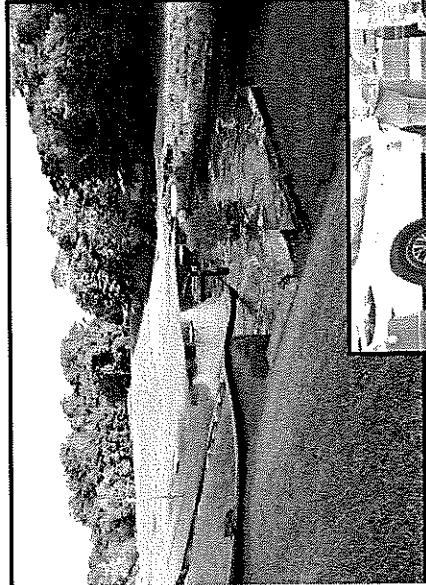
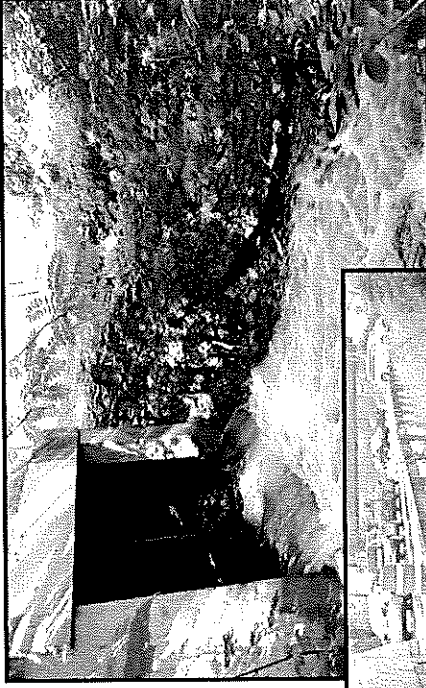


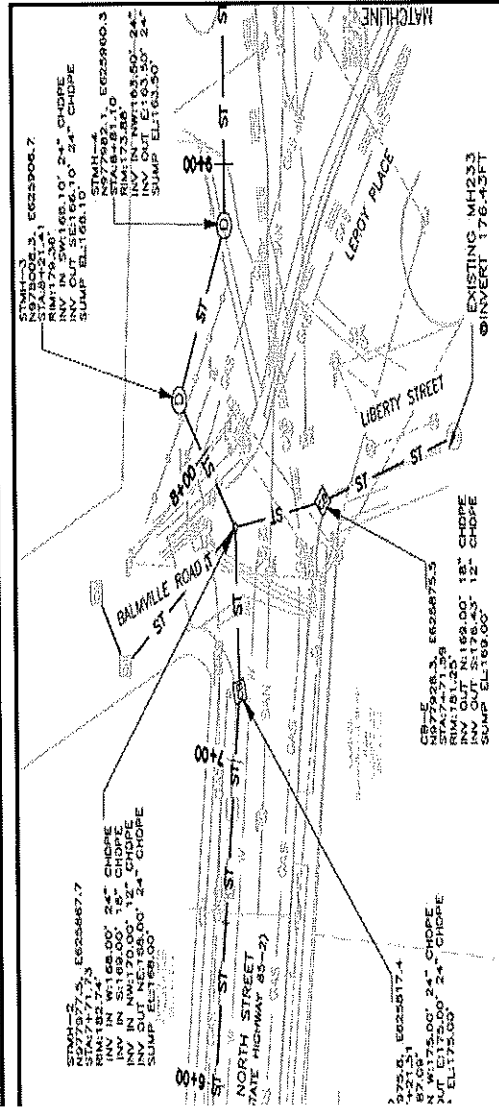
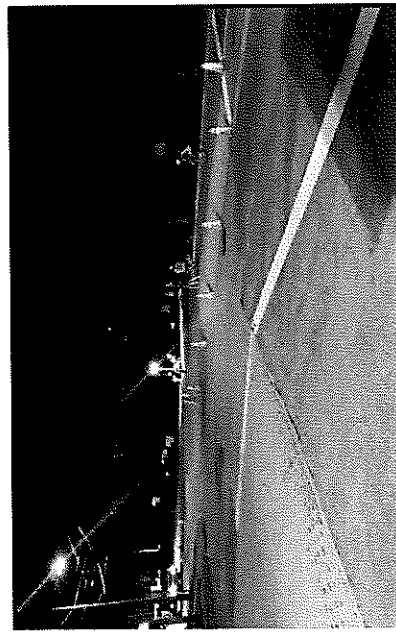


Hurricane Ida

➤ Inspections of following major infrastructure:

- Water
- Sewers
- Bridges
- Dams





- Ground penetrating radar scan conducted
- Determined locations & depths of utilities
- Bid advertisement TBA early 2022

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- Determined locations & depths of utilities
- Bid advertisement TBA early 2022

Vastewater Treatment Plant COVID Testing

STEVEN M. NEHRADS
COUNTY EXECUTIVE



COUNTY OF ORANGE
DEPARTMENT OF HEALTH
OFFICE OF THE COMMISSIONER

CHRISTOPHER ERICSON, MPH
DEPUTY COMMISSIONER

August 27, 2021

Dear Municipal Leader:

Thank you for being part of the Orange County Wastewater SARS-CoV-2 detection program. As was mentioned on our municipal phone call and discussed on our follow up phone call on August 16th, the purpose of this surveillance program is to detect and identify wastewater at your treatment plant and have them analyzed for SARS-CoV-2. Sewage SARS-CoV-2 virus surveillance can be an early indicator of changes in COVID-19 burden in a community.

This surveillance program has been piloted in several areas throughout the country including some colleges in New York State and in the City of Newburgh municipal sewage plant. The Center for Disease Control has a webpage with more information about the program and some studies that have been conducted. To learn more, please visit: www.cdc.gov/surveillance/surveillance.html

Attached is the address of the Sewage Treatment Plant that had been selected in your community with a Wastewater Sample Collection and Transport procedures for your operators to follow. We will be bringing you the sampling containers on Monday.

At this point we are expecting that your operators will conduct sampling two times per week. These samples should be collected on Tuesdays and Thursdays and sent directly to the laboratory with the sampling collection kit we will be providing to you according to the attached guidelines. The initial specimen collection is scheduled to be on Tuesday August 31st.

Thank you for your participation in this important program and for your time and attention. Should you have any questions regarding this program, please feel free to contact me.

Sincerely,

Christopher Erickson, MPH
Deputy Commissioner

124 Main Street, Goshen, New York 10904-4560 202-20233 (ext 1047) 2024
www.nyc.gov/health/covid19

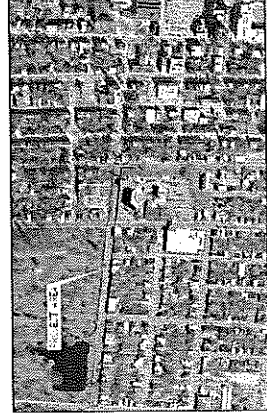


Bid No. 11.21 New [Outlet at Downing [and Third Street Stormsewer Proje

CITY OF NEWBURGH
ORANGE COUNTY, NEW YORK

NEW DRAIN OUTLET AT DOWNING P AND THIRD STREET STORM SEWE

GENERAL CONSTRUCTION
BID NO. 11.21
CW SRF PROJECT NO. C3-7332-11-00
AUGUST 2021



PROJECT LOCATION
4311.042

BID NO. 11.21	
ITEM NO.	DESCRIPTION
1	GENERAL CONSTRUCTION
2	NEW DRAIN OUTLET AT DOWNING P AND THIRD STREET STORM SEWE
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APPROVED FOR
ARCADIS OF NEW YORK, INC.

LEGAL ENTITY: ARCADIS OF NEW YORK, INC.

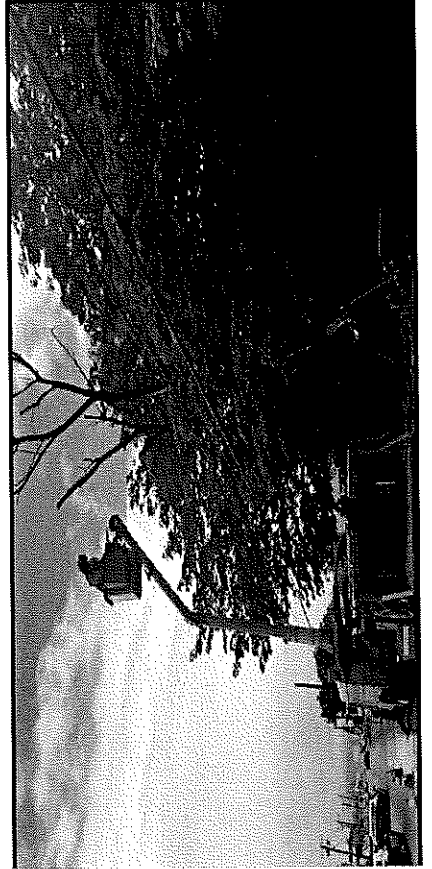
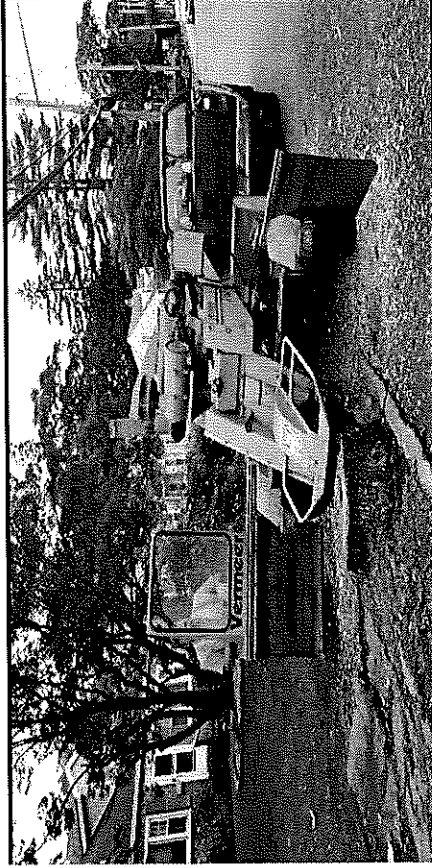
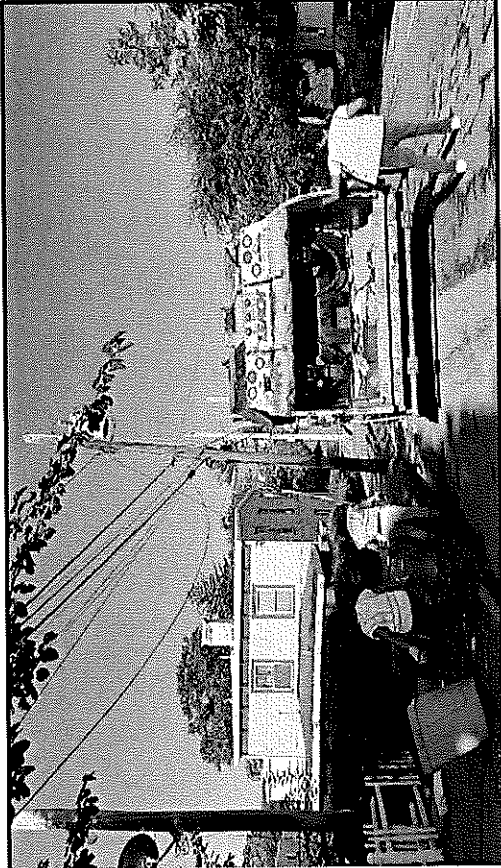
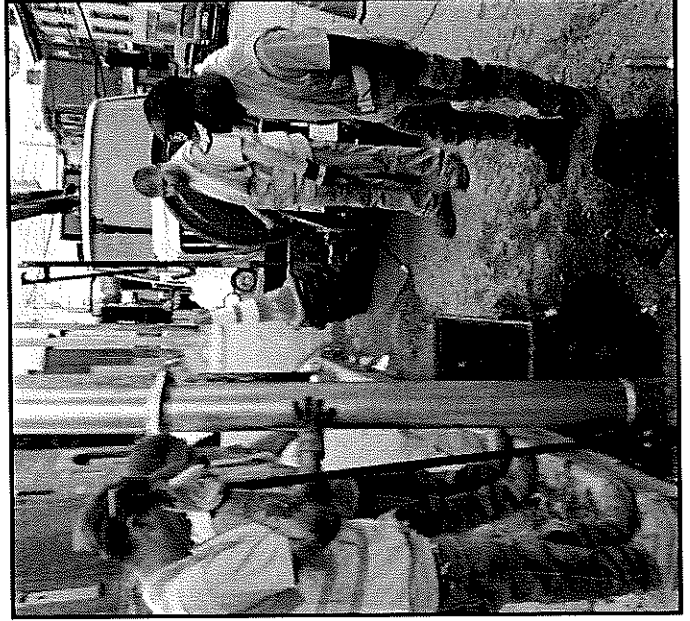
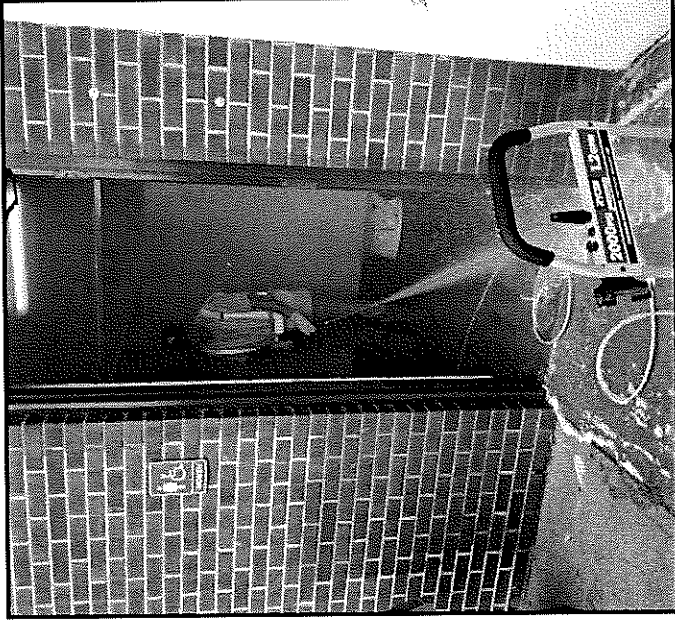


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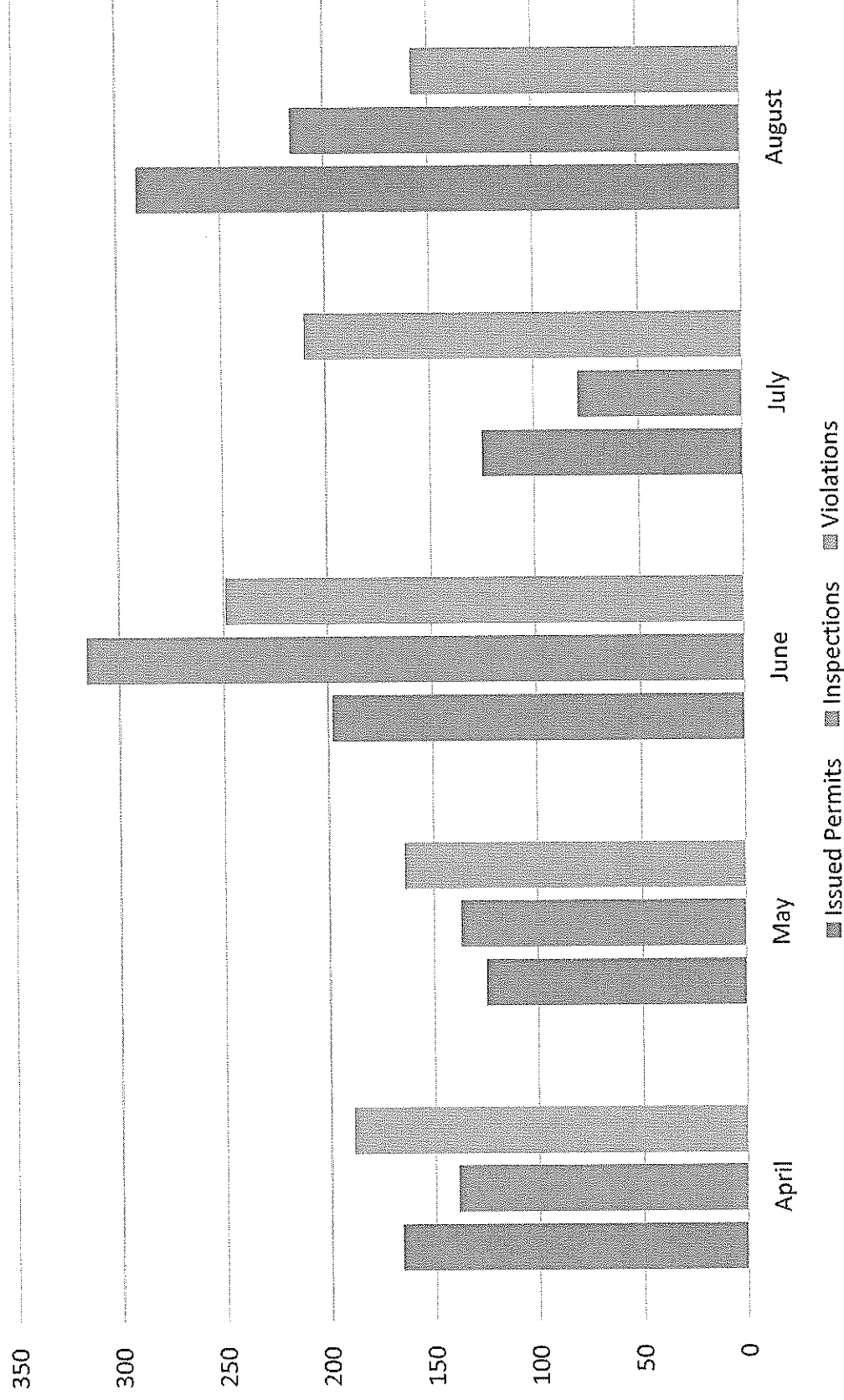
August

- Mayor's Clean Street Sweep Initiative kickoff
- Storm Sewer Line
- Hazardous Tree Re

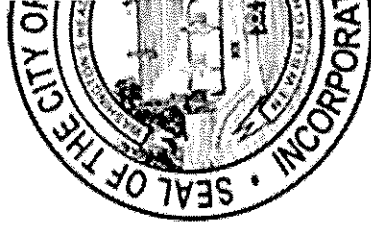


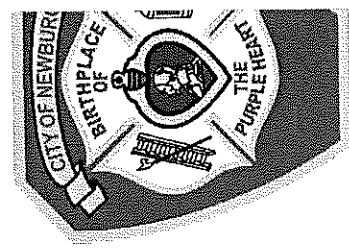
Quantitative Progress on Codes: Permits, Inspections & Violations

Issued Permits, Inspections, Violations



- 290 Perr
- 216 Insp
- 158 Viol.





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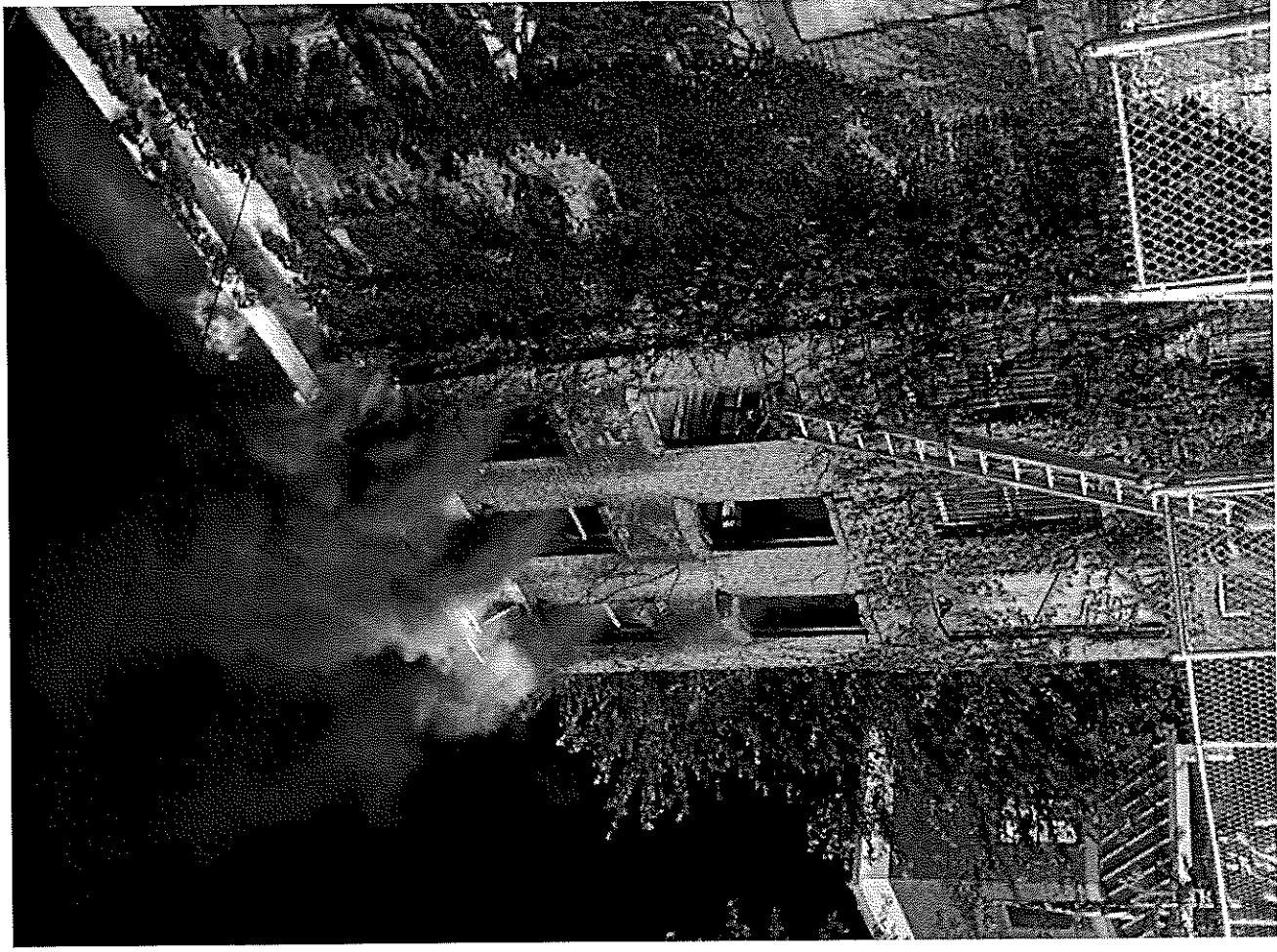
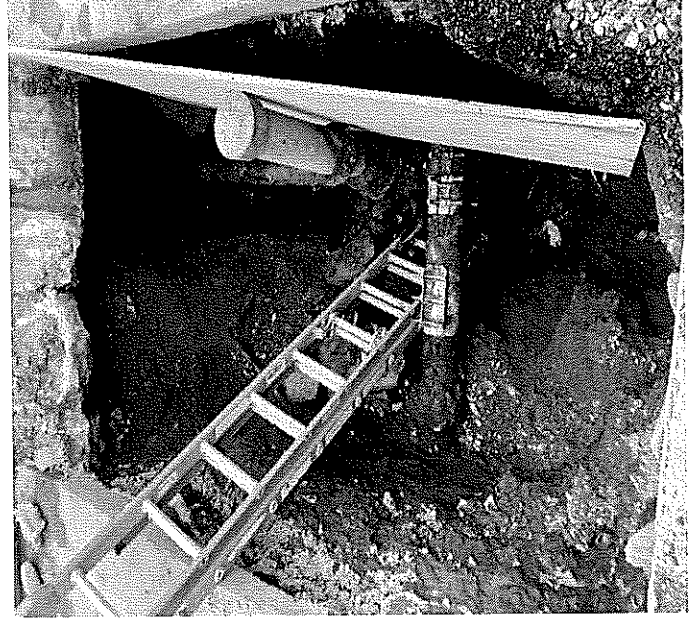
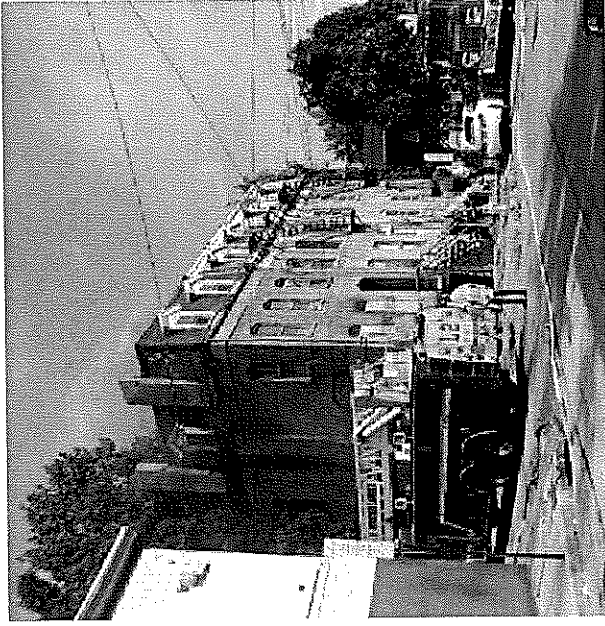
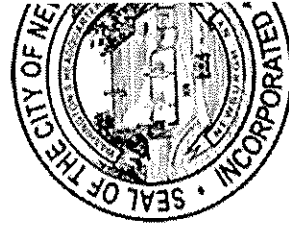
Fire in Struct

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Requests for Assista

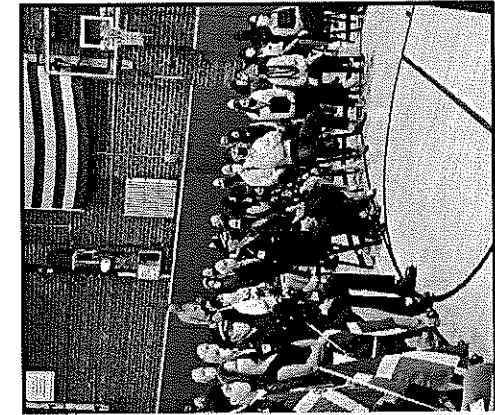
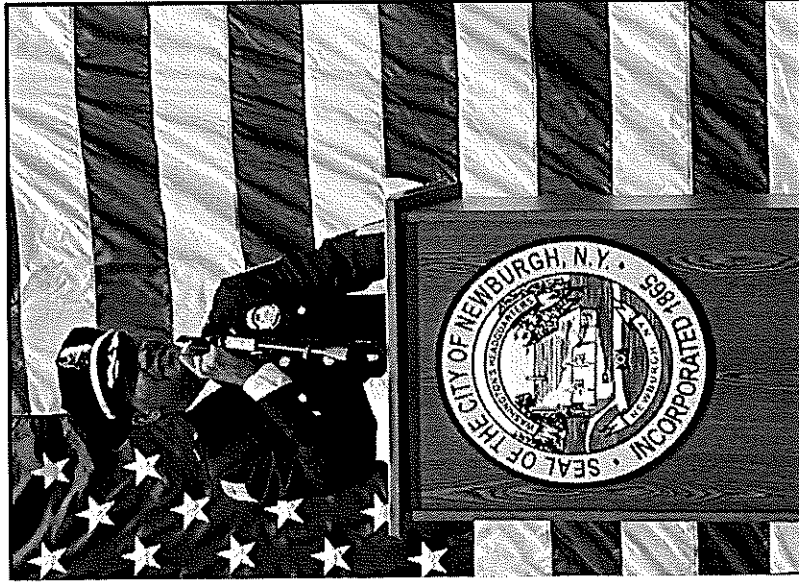
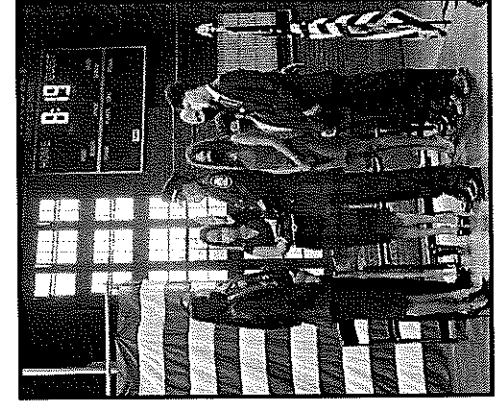
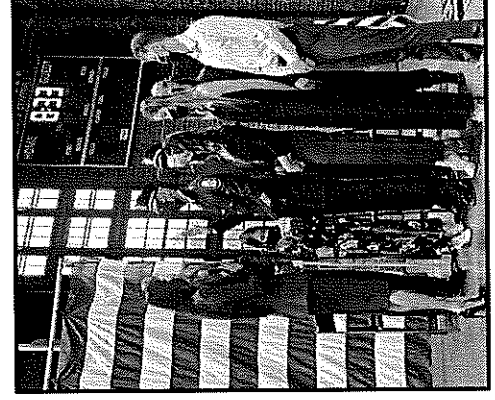
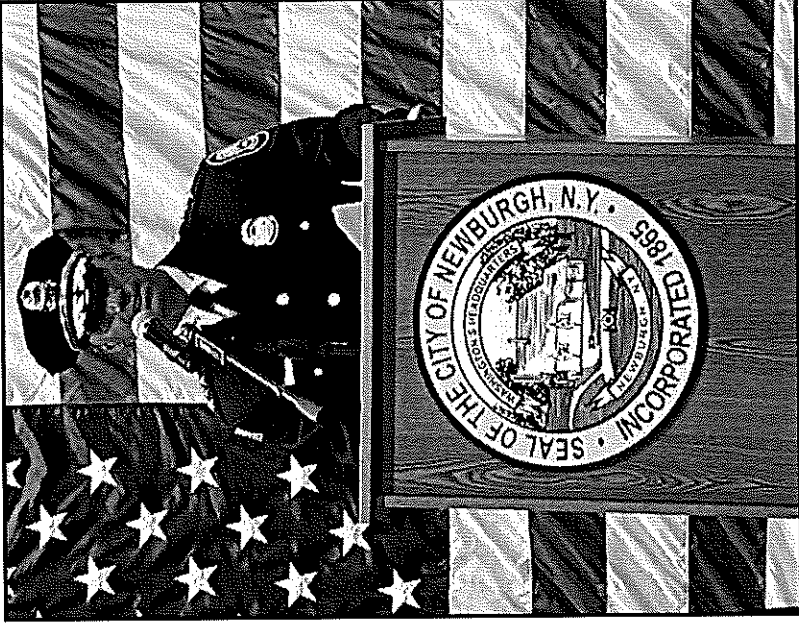
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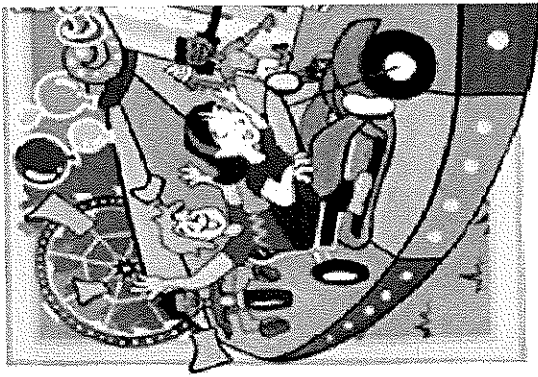
Boat Rescues w/ Mutua



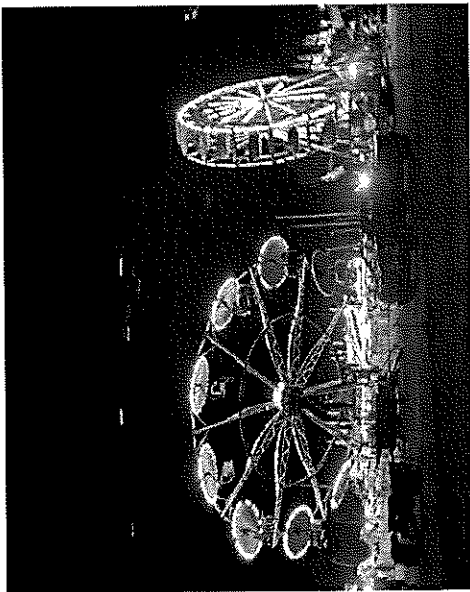
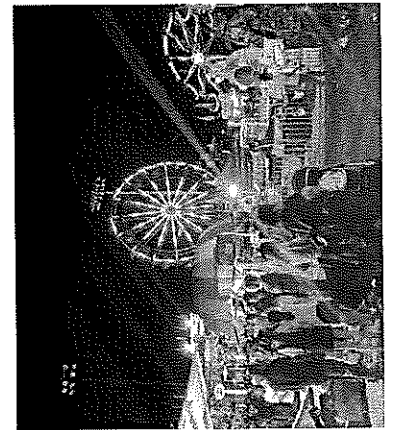
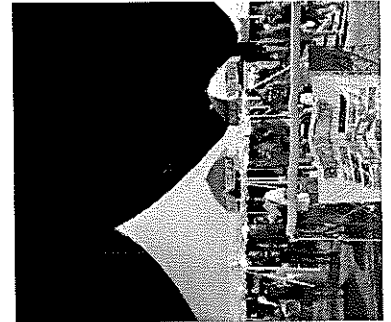
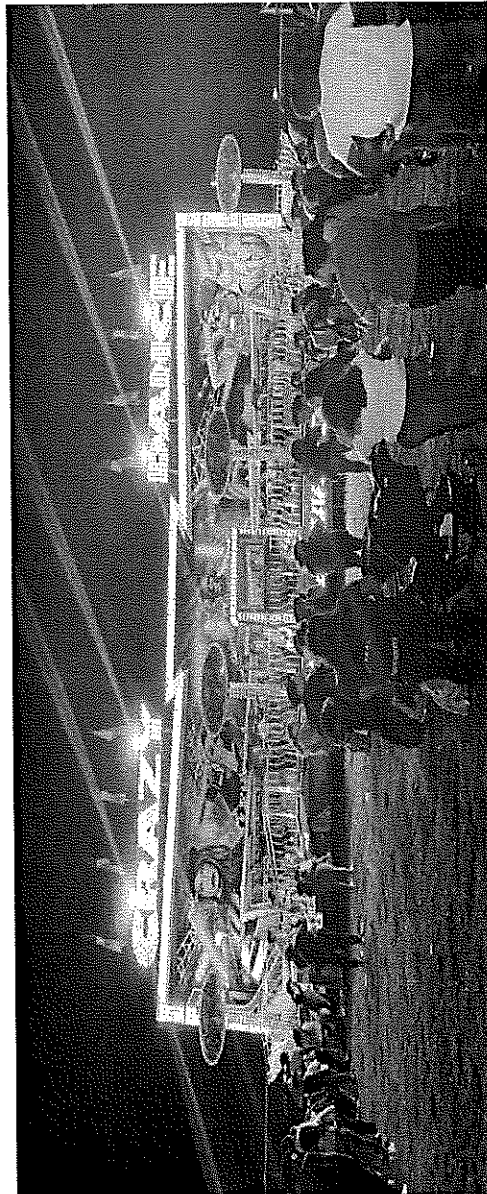
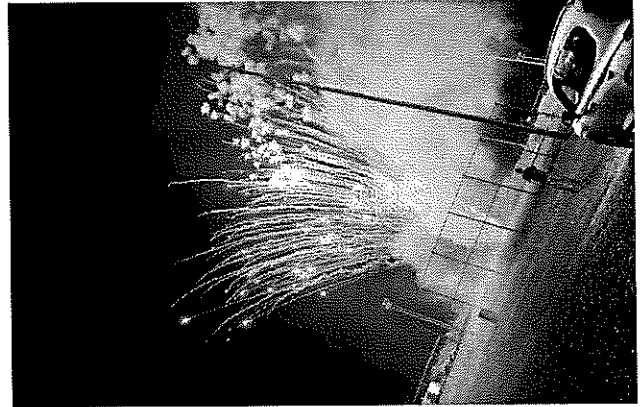
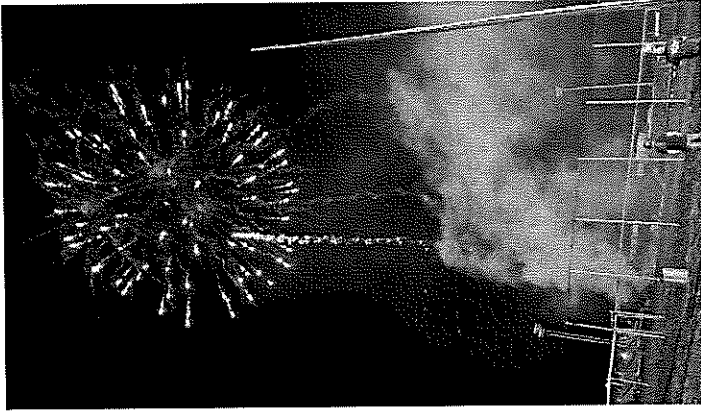


Welcoming Police Commissioner Jose Gomere & Police Chief Anthony Gera





★ ★ 32nd Annual
NEWBURGH INTER
FESTIVAL



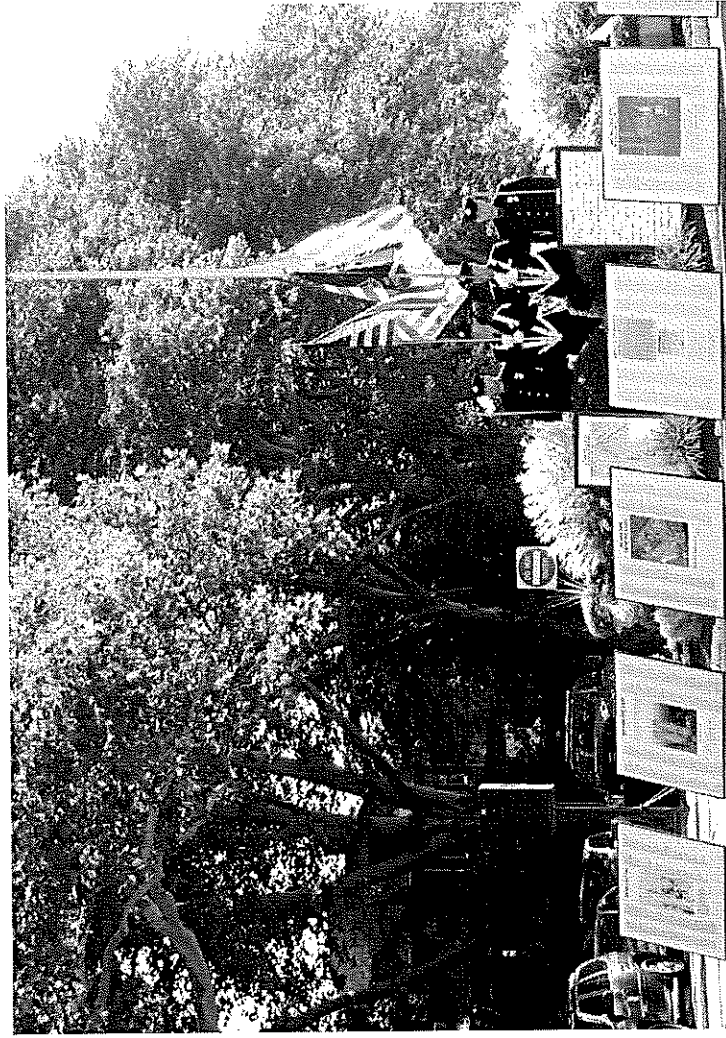
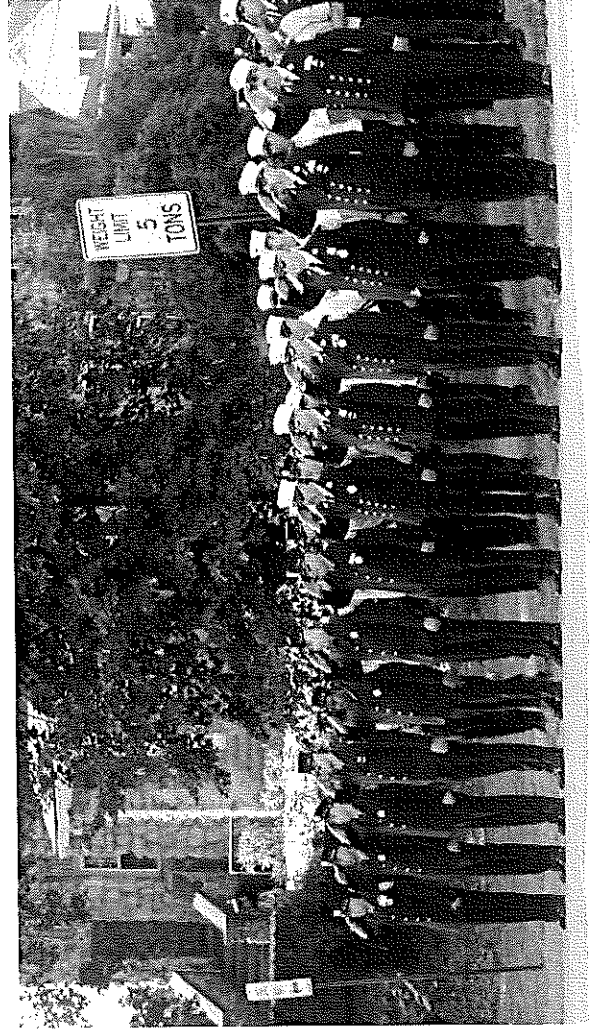
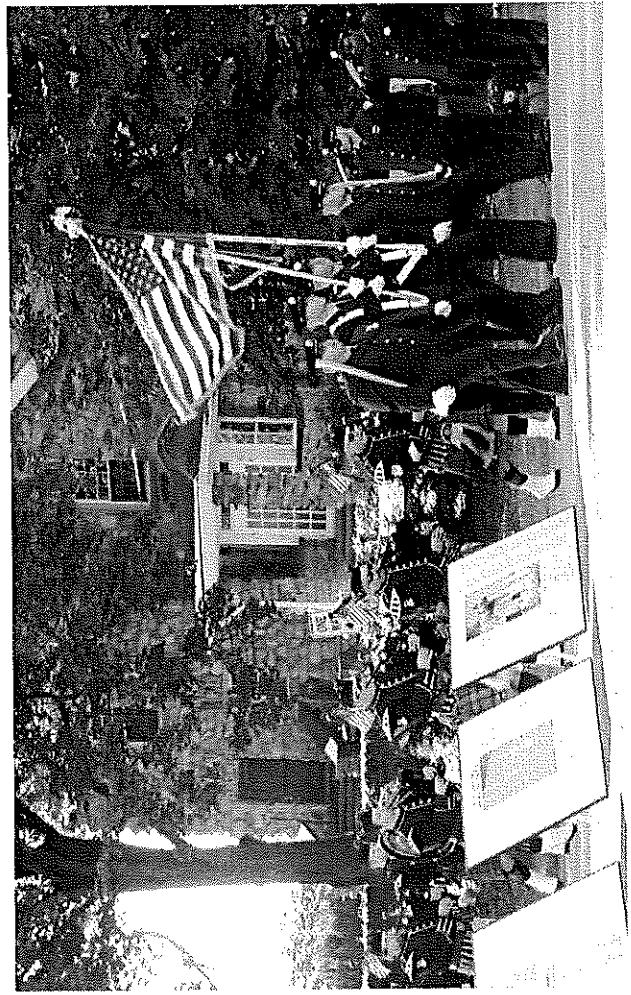
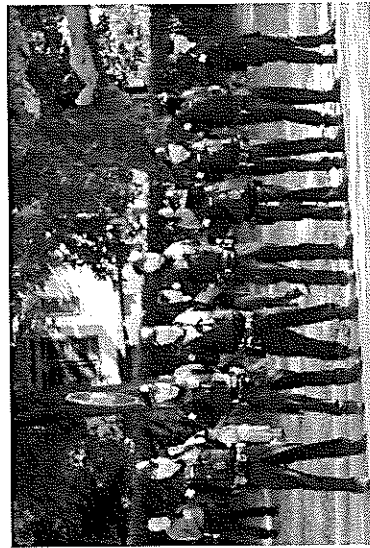
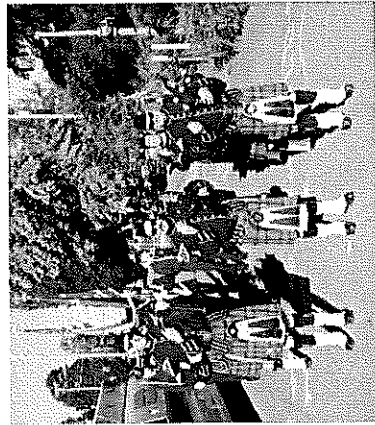
CITY OF
NEWBURGH



RECREATION

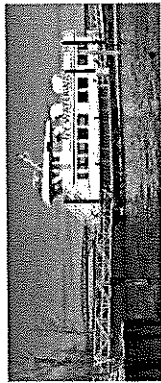


September 11 Remembrance Day

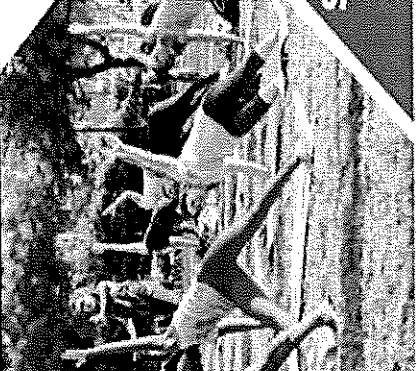


Community Updates

Newburgh - Beacon Ferry



Boards Committees Councils



SEPTEMBER SCHEDULE

OUTDOOR FITNESS CLASSES



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☒ CodeRED Emergency

☒ Urgent Alerts

☒ City News

☒ Community News

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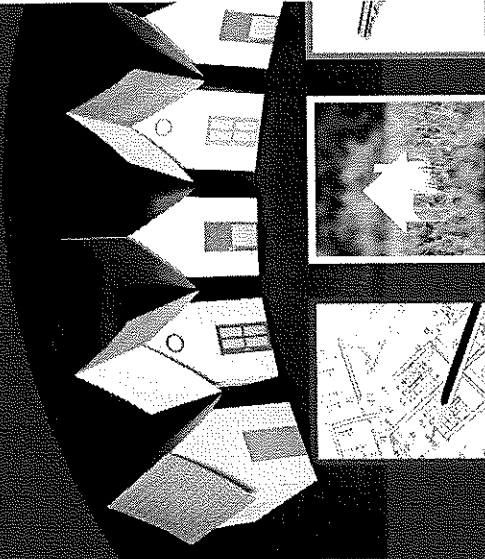
State _____

Zip _____

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EMERGENCY RENTAL ASSISTANCE PROGRAM



Mondays from 11 a.m. to 12 p.m.
MAIN LIBRARY

The Emergency Rental Assistance Program assists tenants behind on their rent that have experienced financial hardship due to COVID-19 and are at risk of homelessness or financial instability. In addition, the program can provide tenants with assistance and assistance with unpaid utility bills.



NEWBURGH FREE LIBRARY | 114 Canal Street | NEWBURGH, NY 12551-3001 | 516-584-6666 | www.cityofnewburgh-ny.gov

The Mayor called for a Public Hearing that was advertised for this meeting to receive public comments concerning the proposed Local Law enacting chapter 287 to the Code of Ordinances of the City of Newburgh entitled "Vehicles, Off-Road".

Michelle Kelson, Corporation Counsel explained that there are certain types of motorized wheel devices that are not legal to be driven on public roadways in New York State. They are usually described as dirt bikes, all-terrain vehicles (ATV's) and utility terrain vehicles (UTV's) which can't be registered with Motor Vehicles in New York State so they are not permitted on public roadways. We seem to have an issue with those types of motorized devices being ridden on our public streets which are dangerous to the lawful vehicles on the roadways, the pedestrians and cyclists. To try to step up the enforcement of keeping those types of motorized devices off of our public streets we have a local law that will restrict the use of those devices and prohibit them on our public roadways and private property without permission from the owner. If there are continued violations, there can be fines or penalties for violating the local law and the devices can be impounded by the City with a fee for redemption.

Aiden Grice, City of Newburgh said that he loves dirt bikes. He thinks that we should give a higher fine for people who are doing things that are not good and a lower fine to the people who are just riding a dirt bike that is unregistered. He also thinks we should have a safer place for people to ride instead of on the streets because they have nowhere else to ride.

Ray Harvey, City of Newburgh said he agrees with that comment. If you are going to take something away then we need a safe place for them to ride. He would rather see them riding dirt bikes and four wheelers than causing havoc in the City. If you take that away from them, what's left? The youth are our future so we need to start acting like the leaders that we say we are and provide them with a safe place to ride.

Ms. Boyd, Prospect Street said she also agrees with the other comments. This problem is happening all over and if they are grown men they should be fined but if they are young then the parents should be hit with a fine. She witnessed someone going down a road the opposite way where a child was almost hurt and could have been killed. She sees them texting and not wearing helmets so what's going to happen is that the City will be sued. We have to give the younger kids something to do but the older kids know better.

Deborah Danzy, Lake Street said we have grown men riding around like they are teenagers and someone is going to get hurt. There are no speed bumps so someone is going to end up in the lake. They need to patrol the development and give these young people a place to ride.

Gabrielle Hill, City of Newburgh said that this City has always been a bike town and maybe the people riding these vehicles don't know the difference. Before we take the punitive approach maybe we should have some educational classes and since we have new leadership in place it would be a great way to engage the community. She doesn't like people to talk about her behind her back and none of the people we are talking about are here tonight so just to be fair we should get the information out and be very clear about where those vehicles are and are not legal as well as where they can be used before giving

out tickets. What we don't want is more arrests and incarcerations and we want them to be safe so let's be proactive and think about a program that we can put in place to educate our young people no matter how old they are. After we have exhausted all of that and if the behavior continues then take the next step.

Tom Roberts, City of Newburgh, agrees with most of the comments and that these are grown men flying up and down the street. He has seen people almost get hit with these motorcycles and ATV's driving on the sidewalks and doing wheelies. He asked why the streets lights on Broadway can't be controlled so that when one turns green the other turns red and then they can't gain any speed. He understands the young people have to be taught but something has to be done about the grown men weaving in and out of traffic.

Carla Johnson, S. Miller St. said that perhaps along the train tracks by the river we could open up an area and charge a fee to ride and instead of giving out fines maybe they could do some community service in the City. Give them some trails to ride on that are safe.

Mayor Harvey said that it's his understanding that no one mentioned incarceration. There would be fines and bikes could be confiscated. No one mentioned anything about incarceration. Am I correct?

Michelle Kelson, Corporation Counsel, said that generally offenses are characterized by penalty of a fine or imprisonment not to exceed fifteen days or both but you could take out the imprisonment penalty and just leave a monetary fine and impoundment.

Councilman Grice said he is torn because his son owns a dirt bike and they try to do the right thing in their neighborhood. At the same time he has to think about what's in the best interest of everyone here in the City of Newburgh and how to keep them safe. If the bike is stolen then they need to be charged and in his mind the only way that a Police Officer can find that out is by stopping that person and doing an investigation. He would like there to be less adversarial police interaction with the community as much as possible but in some situations we need police intervention. He likes the idea of a safe place and community service but he would probably pass it as is and make adjustments as we go along.

Councilwoman Monteverde said that this is a tricky thing and it has become a bit of a nuisance. In the Heights grown men are riding on the streets where kids are playing and people are walking their dogs and they just don't care. She's afraid that someday someone is going to get hurt and these are grown men so if you want to ride a bike then get it registered. We don't have a place for them ride but there are trails outside of the City. We have to think about everyone in the community and their safety. If they don't get the bike registered then they are just setting a bad example for the young kids.

Councilman Shakur said it was firecrackers one year, loud music another year and now its dirt bikes. They are always talking about what kids are doing in our community and about grown men. If he remembers correctly grown men enslaved us, took our language and took everything from us. Let's talk about being grown and taking charge of our City. Stop talking about what our kids are doing and what we are not doing. We keep going after our kids. Music one year, dirt bikes this year BB guns another so stop selling the stuff and making it available in our community and go after the corporations but stop going after our kids. One Councilmember was talking about his language but it's not his language because his language was taken from him. Don't keep talking about what we are doing and

misusing and just give us our stuff back.

Councilman Sklarz agrees with Ms. Danzy that this is mostly grown men that we are worried about. We see them riding these dirt bikes and ATV's on the sidewalks every day and people have to dodge out of the way. This is an urban area and we are densely populated so it is dangerous to have these kinds of vehicles operated unsafely. We need this local law to control some of it and the goal is not to put anyone in jail but to change the behavior so the people in our City are safe walking on the streets.

Councilwoman Sofokles said that when she was a kid they had minibikes and go-karts but they road them behind schools and never on the streets. They are breaking the law. She has an ATV that is licensed and insured and she would never think of riding it on the street. We have to follow the law which is what we need to teach our young people and some of the adults. It's called safety and following the law. She sees them going up and down Broadway every day and there is going to be a tragedy. We are working on trying to find a place where the kids can go and we don't have to charge them. We are trying to find some City owned property for them to ride their minibikes because they can't continue doing it on the streets.

Mayor Harvey agrees with Carla Johnson tonight in the sense that he has been talking to DPW and the Water Department to look at sites where we can provide an alternative. We considered a trail near Washington Lake but we are concerned about water contamination. There is a path down near the People's Park that goes over to the Rowing Club's Ward Brothers Park. It is a walking trail right now but these are a couple options and it's going to take some collaboration with the City to figure out how to engineer that. If we can do this he feels it is worth looking into. Another option is that in Middletown they have a racetrack for dirt bikes and car racing. Public safety is always our number one priority and we don't want anyone in the elderly community or our children getting hurt on the streets or sidewalks so we want to be proactive instead of reactive.

There being no further comments this public hearing was closed.

COMMENTS FROM THE PUBLIC REGARDING AGENDA AND GENERAL MATTERS OF CITY BUSINESS

Aiden Grice, City of Newburgh said it would be hard for these grown men to go all the way to Middletown because some of them don't have transportation. We would have to find a way to transport those bikes or just get something here instead of going all the way to Middletown.

A City of Newburgh resident, 11 Grand St. agrees that we need to find a solution or alternative for that situation. Perhaps these men cannot afford registration or insurance. She is here for Good Cause Eviction because she thinks we have enough problems and we don't need to add a homeless problem to our City so we need to push this through as

quickly as possible so we don't become a forgotten city.

Carla Johnson, City of Newburgh said she wanted to talk about Good Cause. Before COVID she went to Albany to fight for bills to be passed. Some were passed and they had something at the Armory with Senators where they were making all of these changes but things are still really bad here in the City of Newburgh. Rent used to be \$850.00 but now it's \$1600.00 and just to live on Lander Street it's \$2500.00 which is terrible. We need Good Cause here for so many reasons but first we need to start fixing codes. There is a homeless man sleeping on her block and winter is coming soon so where is he going to go? There are going to be a lot of evictions coming and with the kids back in school they won't do well because they won't get good sleep. She supports Good Cause because there are going to be a lot of homeless people here in the City of Newburgh and the landlords are putting people out. This is a crisis here in the City of Newburgh.

Cheryl Brown, Middletown said she left this area because her rent went from \$1100.00 to \$1300.00 and then all the way up to \$1700.00 which is not affordable under Section 8 standards. The people who are working and are on Section 8 are forced to make side deals with the landlords to move someplace decent or live in an apartment that is rat and roach infested with mold. Something needs to be done because we are stuck in a situation where we can't do anything.

Mr. Acosta said he owns a Barber Shop around the corner and as a small business owner COVID has affected them a lot. Many businesses were forced to close down but luckily he was not one of them. When New York State allowed businesses to reopen Liberty Street began to thrive again and then after a month of reopening the City gave us a one week notice that the street was going to be closed and that the work would take no longer than three months. It has been over five months now and although we have a new beautiful sidewalk the consideration of their livelihoods and safety of their clients has been neglected. He has e-mailed the City Manager, Planner and City Council with no response. He is disappointed about how the City handled this situation and neglected the business owners. Moving forward he hopes they have a better line of communication with the City starting with getting lights at the Skate Park. He has been asking for lights for three years with no response. He spoke with the Park Manager but he shot down all of his ideas about how to get funding for it. He has kids come in to his shop asking where to go to play soccer, basketball or football and he points them to the Town of Newburgh or New Windsor because the City of Newburgh has nothing. He doesn't know who to try to call or reach out to because he gets no response.

Sue Young, 128 Liberty Street said in regard to the construction on Liberty Street that the City was gracious enough to grant the contractors an extension until September 30th and right after that it was nine days that they did no work on that street. They removed their equipment and went somewhere else on the City's extension. Should they come to the City for another extension and they have to grant it then penalize them. Don't keep giving them time because it's hurting us. The brand new trees are dying. Who is going to water them? Not me. She has heard that the contractor is supposed to take care of the trees but they have provided little water. When they withdraw from the lot next to her building, she needs assurances that the lot will be put back in the condition it was and that water will not run into her basement. She fought for years to get the previous owners of that lot to grade it in such a way that the water would run away from her building and now she is afraid it will go

back to the way it was and she will have further water damage in her building because of it. Learn from your experiences and listen to what the people on Liberty Street have said about this. Should this ever happen again where you are going to impact a neighborhood, block or street please talk to them first.

Mark Sanchez Potter, City of Newburgh said that he supports Good Cause Eviction.

Housing is a human right and our City is facing a housing crises. To remedy this the Council must act in the best interest of people who rent. Every major city on Earth has strong tenant protection and rent stabilization and it is time Newburgh joins these cities and passes Good Cause Eviction. It would allow individuals the chance to live a dignified life and if we truly believe that housing is a human right then that means that individuals who rent must be protected from arbitrary evictions and increases in the rent. It is also his hope that New York State will pass Good Cause at the State level so he thanked the Council for expressing their support of it and hopes they put it on the agenda for the next meeting for a vote.

Jewel Martin said she is homeless and she is tired of Newburgh talking about people coming from the outside buying all of these buildings and the rent going up. What do you expect when renovation costs are high? Newburgh has been like this for years. Where are the social service agencies that could have bought these abandoned buildings and renovated them for poor and low income people? She has approached several of the Council members about her situation and one in particular said they would help her or try to get her the help she needs. Most of these Social Service agencies such as Newburgh Ministry, Exodus and Recap know about State and Federal funding but Independent Living is the only one that actually has an apartment complex. As far as the Police, she is tired of hearing people ask why the State Troopers are here because we need them. She is glad to see Cops doing their job because they help her to be safe. She is tired of the nonsense and for getting on the people from the outside who want to improve Newburgh.

Schnekwa McNeil, City of Newburgh said she has spoken before about the many accidents that occur at Johnston and First Street and today she is asking for a Stop Sign there. She saw a dirt bike collide with a truck there and it's a near miss every day so please address that as soon as possible. She is also asking for Children at Play Signs and a speed bump to slow people down. Renovations are also being done and we have people coming with big equipment and trucks that are just left on the street and this is in the way of the residents who live on those streets who already have parking issues so someone needs to monitor that. Lastly she added that she supports the Good Cause Eviction as well.

A City of Newburgh resident agreed that we have tractor trailers parking on the streets and they do not belong on residential blocks. We need the Council to send out letters to all of the owners of these trucks because we don't need these additional obstructions. We need to make sure that Rupco is accountable for hiring. We are letting these people once again come into our City to build but are any of our young men and women getting any jobs or training? We also need to make sure that Rupco is giving out affordable housing. We can't let someone come in and monopolize the City. She supports Good Cause because no one wants to worry about not having a roof over their head. We need to start looking at the Hotel on Broadway because back in 2018 she told the Council that they need to start investigation this person who also owns the Gas Station next to the Hotel. He is making money off the City of Newburgh and throwing people out when the checks are done so he needs to be investigated. We also need more building code enforcement officers because

we have home owners who are not up to code with their homes. She supports the Good Cause Eviction because people are living in horrible conditions and the landlords are getting away with it.

Tyrone Hall, City of Newburgh said his dog, a blue nose Pitbull named Smoke was taken and put down because he didn't have \$970.00 to get him out of impound. There were several shootings and he doesn't know if anyone got arrested but the Police took his dog.

Mayor Harvey said they will follow up on that.

Gabrielle Hill, City of Newburgh said that in regard to resolution #213-2021 that she supports this project because for the past several years it has employed our youth ages sixteen to twenty-four giving them an opportunity to participate in some creative work and to be an asset to our community. We need to continue giving our youth positive outlets to grow and develop. On safety she mentioned the importance for a study at the intersection of Broadway and Chambers Street. We are at the point where we are planning a demonstration because we need to get the attention of whoever is in charge. When people are crossing that crosswalk cars are not slowing down. Some Officers have also been caught going through that intersection as well so let's talk about safety all around. That intersection is dangerous so it's time to take a look at it and do something about it. We don't want to wait until there is an accident or a fatality there to take action. She supports Good Cause because children and families need the stability of a good home. Children are having a hard enough time as it is and not knowing where they will sleep at night is detrimental to their well-being.

Deborah Danzy, City of Newburgh said she was canvassing the community near First Street from Dubois Street to City Terrace to find out how many residents are aware of the Emergency Rent Assistant Program and she was shocked to find out that Ward One knows nothing about it so they helped five people sign up. We have to get the word out. She knows they have information at the Library but that's downtown and these people are located mid-town so they need to be notified. Let the people know what is available. She noted that the City of Newburgh is going to have an after school special with Calvary Church on October 6th and there will be more info to follow.

Peter Frase, Courtney Avenue reiterated what others have said that the City Council should pass Good Cause Eviction because housing is a human right. This is a small step and it won't end homelessness or the affordability crisis and it won't stop people from being evicted but it will stop them from being evicted for unjust reasons or retaliation. He is not a tenant or landlord but he knows that his friends and neighbors need those protections right now. He wants to live in a city where people have housing stability and are not in fear of eviction or losing the roof over their head. Where landlords and developers don't feel like they can look at the Hudson Valley as an opportunity to make a quick buck by displacing people. Albany did it and other cities in the Hudson Valley will do it so he urged the City Council to pass Good Cause Eviction too.

Giselle Martinez, City of Newburgh said she supports Good Cause Eviction. She was at the Work Session and thanked the Council for their time and consideration because this will allow tenants to have safer living conditions and to address quality of life concerns without fear of retaliation. This added protection to tenants would prohibit unjustifiable

reasons for evictions that create housing instability while also helping first time homeowners and landlords compete in the market. In our current housing crisis we should have laws to protect our community and prevent displacement. This benefits everyone in our community while allowing us to protect our most vulnerable. She thanked Councilman Grice for working on this and bringing it to the City Council. She respectfully requested that this be put on the agenda. She added her expression of gratitude for the Council introducing Indigenous Peoples Day especially Councilwoman Monteverde because it's very important that we start teaching our history and acknowledge the land we are on especially from the Lenape Tribe. She thanked the City of Newburgh for making great strides in equality and diversity.

Michelle Basch, City of Newburgh said she would like to clarify the purpose, details and benefits of the Historic District and the ARC. This is from the City of Newburgh Code and the Index Design Guidelines for Newburgh's East End Historic District. Paragraph 300-36 - 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 federal-state-local preservation partnership. Under this program the Secretary of the Interior certifies local governments as CLG's if they meet several requirements developed by the National Park Service and the State Historic Preservation Office (SHPO). To maintain CLG status the City must adhere to requirements which include maintenance of a local historic preservation commission. The ARC shall consist of seven members to be appointed by the City Manager and all should have demonstrated significant interest in and commitment to the field of historic preservation or architecture. Paragraph 300-38 - The ARC shall exercise aesthetic judgement. The index standards for typical alterations from the Design Guidelines for Newburgh's east end Historic District are painting, staining, re-siding, re-roofing, window replacements, door replacements, masonry, porch installation, security features, secondary buildings, sheds & trash bins. There are also indications for design standards for additions, new buildings and site modifications. The benefits are federal historic rehabilitation tax credits and property tax abatements. The City benefits from the funds available to certified local governments if the city follows the guidelines. Federal investment tax credit programs for income producing properties are eligible for twenty percent federal income tax credit. New York State Historic homeownership rehabilitation credit, State Income Tax credit equal to twenty percent of qualified rehabilitation. The Historic District is financially beneficial to the City of Newburgh's coffers, residential homeowners and developers. The ARC Board is the recognized shepherd of the City of Newburgh's Historic District and its architectural resources. She noted that she is Chairperson for the ARC.

Kate Flanagan, City of Newburgh and ARC member said she wants to see diverse participation at all levels of local government including volunteer boards like the ARC. She encouraged everyone and our elected representatives and City leaders to share information about the vacancies on City Boards. These are volunteer Boards and they only work if everyone participates. If someone is interested, help them get the information they need to apply. The ARC is just one avenue for participation and it's important to preserve the historic character of our buildings for everyone. This is not just for the people who are developing or who own buildings here. While the ARC is limited to the historic preservation of our architecture, there is a clear and urgent need for meaningful action on issues related to housing, racial and economic justice and community development. We

need a community that builds power and prosperity for everyone and that work starts with civic participation. Please encourage residents to fill those vacancies. As a renter in the City she echoes her support for Good Cause Eviction and for dignity and housing for all.

Brahvan Ranga, political coordinator of For the Many formerly known as Nobody Leave Mid-Hudson said he is in support of the Good Cause Eviction Law. There is nothing further that he can say to convince this Council and this community of the need for this legislation. The most powerful tool to do that is the stories from real tenants, homeowners and community members that you have been hearing throughout the evening. He wanted to recognize all of the tenants who are not here tonight because they have stories they want to share but are afraid to do so because of the fear of reprisals from their landlords. By passing this legislation you are giving those tenants who are afraid to speak a voice in their community. He thanked all of the community members who have made their voices heard in support of Good Cause and the Council, particularly Councilman Grice, for introducing and considering this legislation. Passing tenant protection laws is hard. There are a lot of wealthy and powerful people who make money off of oppressing tenants and by considering this legislation this Council has demonstrated incredible courage. He thanked the Council again and encouraged them to bring Good Cause Eviction forward and advance it through the process. He noted how special it is that this community has come together to affirm fundamental tenants' rights.

Renee, community organizer with For the Many formerly known as Nobody Leaves Mid-Hudson and City of Newburgh resident said he has lived in about fifteen different apartments and houses in his twenty-eight years of life. Listening to everyone talk tonight he noted that we have some outstanding youth here in the City of Newburgh but we have lost our fair share of young great minds because of bad landlords or rental conditions. We have a room full of people here tonight and a lot of them don't live in the best conditions but don't want to speak because they are afraid of retaliation. They don't understand this protection so we need to show them what is possible when we come together. He knows that the Council is very much in favor of passing Good Cause Eviction and having more protection for tenants so it's important right now to push this process along and pass it as fast as we can. Please put this on the agenda and listen to the community.

Tom Roberts, City of Newburgh said that Jewel is his friend and a wonderful human being but she is homeless so is there anyone on the City Council who can help her? She has tried calling some numbers but hasn't heard back from anyone. He talked to the Council about the street sign in the middle of Broadway a year or two ago and you put a police car out there for one week and now the same thing is going on. Why is that not being reinforced? He has seen many people almost get hit there so he hopes the new Police Chief or Commissioner can get something done with that. He is finding more and more drug addicts sleeping on the street on lower Broadway. One person who lives at Safe Harbors stumbles into traffic so there has to be something we can do about this. Lastly, why can't we control the city lights so they aren't all green at the same time as this would slow people down.

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

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA AND GENERAL MATTERS OF CITY BUSINESS

Councilman Grice said there has been a lot to digest tonight and we will have to make some adjustments on the Hook Elite presentation. He was one of the elected officials that spoke to the young lady as they grew up together and he knew her family. Giselle Martinez did not give herself credit but we have been working diligently for the past few months on bringing this Good Cause Eviction to City Council. Making sure that all of the questions asked were answered and that we had our facts so that has taken up a lot of our time and hopefully will get passed. As for Recap, Rupco and some other agencies that were mentioned they are independent agencies that work on their own and we work closely with them. We can, however, certainly talk to them to make sure they are being proactive and calling people back. It bothers him that the work on Liberty Street has taken longer than expected and this is the second time he heard about them taking off to do work somewhere else. It also bothers him that trees are dying and the possibility of water in the basement. We were told that the businesses were alerted in advance so that is something that should be rectified in the future. He is a fan of Stop Signs at every corner, Children at Play Signs and the green and red light one, two, three. We need to over communicate the Rental Assistance Program and as far as the Boards he appreciates everyone on them as he knows how hard they work. We do need volunteers and diversity on all of those Boards and we do support small businesses and understand what's going on.

Councilwoman Mejia said she was running a little late so did not get to hear what was probably very informative conversation around the dirt bike legislation so she will have to go back and look at that recording. What she did hear from the public comments in terms of input and feedback comes down to enforcement, follow through and project management. People were asking about Stop Signs, enforcement of parking regulations, enforcement around construction sites as well as holding both landlords and tenants accountable for living conditions. She hopes this Council and the Executive Office continue to move forward and have conversations with budget season coming up to share and communicate with our taxpayers as to how we are going to enforce our budget and what will go into each of those areas especially around enforcement and project management. The Good Cause Eviction is a no brainer. It's part of the housing report that was done and as she stated on Thursday it needs to be passed this year before the moratorium runs out.

Councilwoman Monteverde said it was wonderful to hear from the community tonight and she is saddened that some tenants are in fear of coming out to speak in public about their living conditions. Nobody should be afraid to speak out or of losing their housing because it's a basic human right. Good Cause Eviction is a no brainer so she is ready to vote on it and is in support of it. We need to do a lot of education because people need to know their rights and she would be happy to talk with them about that. She thanked Ms. Martinez and the Democratic Committee for bringing Indigenous Peoples Day to her attention and we are moving forward with that resolution as it should have been done a long time ago. Indigenous Peoples Day is to celebrate and honor the past, present and future of Native peoples throughout the United States and acknowledge the legacy of colonialism which has devastated Indigenous communities. The day honors the history, cultures and contributions of the Native American people. For Native Americans Columbus Day has long been hurtful and it congers the violent history of five hundred years of colonial oppression at the hands of European explorers and those who settled here. A history whose ramifications and

wounds still run deep so for her celebrating Columbus Day has always been a hard thing because she never really acknowledged it or felt like it was a holiday. It was a very sad day so she is happy to have the Council's support on this resolution. She was at the Liberty Street Sidewalk Project today and the trees are going to die because they have not been watered. These are trees that we spent money on to have planted there so it doesn't make sense to her that they are not being taken care of. The sidewalks look beautiful but why is this taking so long? If we are going to move forward with any more of these projects then we have to communicate with the businesses in that community. Our businesses on that street are suffering so shame on us for not communicating better and for not managing that project.

Councilman Sklarz thanked everyone who spoke tonight especially those who spoke about Good Cause Evictions. He told Councilman Grice that his son did a great job speaking tonight and he acknowledged Ms. Martinez for the work she did on the resolution tonight for Indigenous Peoples Day. He was happy to represent the Council yesterday at the Walk for Housing and although it was hot it was good to see people out walking to support the housing efforts. The good news about trees is that the Newburgh Conservancy Program is planting a lot of trees throughout the City and we will be voting on something tonight that will definitely help change the landscape of the City. He added that Giving Day is close to his heart and it helps about two hundred and fifty to three hundred and fifty families each month by giving out food and household items. They are celebrating their tenth anniversary this year and the next Giving Day will be this Friday at 9:00 a.m. at the Newburgh Armory Unity Center.

Councilwoman Sofokles thanked everyone for their input tonight and everything Councilwoman Monteverde said was on her list so say so she isn't going to reiterate. She supports Good Cause and everything she spoke about.

Mayor Harvey thanked everyone for coming out tonight. He agrees with his colleagues in terms of the Good Cause Eviction legislation and said he is very much in support of that. He reiterated that we are in a housing crises that we are fully aware of which is why this Council passed a resolution about a year and a half ago to fund a study on housing. The Leviticus Study is readily available to the public and we are constantly referring to that study and digesting it. We are getting recommendations from that study and the legal team that was very much involved with that so he thanked the ARC Chairperson and member for coming tonight. He noted that there is an ARC meeting tomorrow and he encouraged everyone to go. For Good Cause Eviction it's important to see how our Boards function and he knows some important people are going before the ARC tomorrow including the Newburgh Ministry concerning the homeless matter in our City. The last meeting the ARC had was very contentious because the Newburgh Ministry may triple its capacity so they are trying to do what they need to do to create more decent housing for the homeless. They are just one organization and there are others who want to be part of resolving the homeless issue in our City and we want to rectify that along with the other housing matters so we support Good Cause Evictions. Keep in mind where the jurisdiction lies which is as the State level. We can vote on a Good Cause Eviction resolution and pass it but it depends on what happens in Albany. We will continue to get the word out about the Emergency Rental Assistance and we have a great partner with Legal Services of the Hudson Valley to assist those who are in need of legal representation on housing. He added that there was an extension to the Eviction Moratorium until he believes January so no one should be getting evicted between now and the end of 2021.

CITY MANAGER'S REPORT

Resolution No. 204 - 2021 - Transfer Funds for Paving

Councilman Grice moved and Councilwoman Sofokles seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

Resolution No. 205 - 2021 - Proposal with Ryan Biggs Clark Davis Engineering Concrete Assessment at WWTP

Councilwoman Sofokles moved and Councilman Sklarz seconded.

Ayes: Grice, Mejia, Monteverde, Sklarz, Sofokles, Harvey - 6

Nays: Shakur-1

Adopted

Resolution No. 206 - 2021 - Budget Transfer to Cover Cost Increases for the Land Use Boards

Councilman Sklarz moved and Councilman Grice seconded.

Ayes: Grice, Mejia, Monteverde, Sklarz, Sofokles, Harvey - 6

Nays: Shakur-1

Adopted

Resolution No. 207 - 2021 - 32nd International Festival - Carnival Ride Contract

Councilwoman Sofokles moved and Councilman Sklarz seconded.

Ayes: Grice, Mejia, Monteverde, Sklarz, Sofokles, Harvey - 6

Nays: Shakur-1

Adopted

Resolution No. 208 - 2021 - 32nd International Festival - Fireworks Contract

Councilwoman Sofokles moved and Councilman Sklarz seconded.

Ayes: Grice, Mejia, Monteverde, Sklarz, Sofokles, Harvey - 6

Nays: Shakur-1

Adopted

Resolution No. 209 - 2021 - 32nd International Festival - Entertainment Agreements

Councilman Sklarz moved and Councilwoman Sofokles seconded.

Ayes: Grice, Mejia, Monteverde, Sklarz, Sofokles, Harvey - 6

Nays: Shakur-1

Adopted

Resolution No. 210 - 2021 - to Schedule a 2nd Public Hearing and Schedule Opening a 2nd 30-Day Public Comment Period for the FY2022 Community Development Block Grant (CDBG) Annual Action Plan (AAP)

Councilwoman Sofokles moved and Councilman Grice seconded.

Ayes: Grice, Mejia, Monteverde, Sklarz, Sofokles, Harvey - 6

Nays: Shakur-1

Adopted

Resolution No. 211 - 2021 - Greater Newburgh Parks Conservancy - License Agreement for plantings on City properties

Councilwoman Mejia said that in light of the conversations we had about the trees on Liberty Street she wants a foot note on this agreement and to have a discussion with the Greater Newburgh Parks Conservancy about the maintenance and watering of any plantings.

Mayor Harvey wished to reiterate that comment and he believes it was Councilwoman Monteverde who spoke about project management so we have to look at who is overseeing these projects and who will hold these contractors accountable. We have to follow up with whatever needs to be done and make it clear. He doesn't think anyone would intentionally neglect these new trees that have been planted because when these construction projects happen the objective is to beautify our City and move it forward but somehow we have had a breakdown in communication.

Councilwoman Monteverde said that in the past when trees were planted in the Heights it was well organized and they were watered every day to ensure they wouldn't die and they are thriving today. If we are going to plant trees then we need to have a well thought out plan.

Councilwoman Sofokles said that in Downing Park when we plant trees we have a plan and make sure they get watered. We recently planted two trees on the Third Street side and they are doing very well because we always have a plan on how they are going to be watered.

Michelle Kelson, Corporation Counsel said for the record that the Licensing Agreement requires that the Licensee submit a plan that includes a plan for maintenance.

Councilwoman Sofokles asked, what happened on Liberty Street?

Ms. Kelson replied that Liberty Street is a different kind of Project. A completely different project.

Councilwoman Sofokles asked who was responsible for watering them. We don't know.

**Councilman Sklarz moved and Councilwoman Mejia seconded.
Ayes: Grice, Mejia, Monteverde, Sklarz, Sofokles, Harvey - 6
Nays: Shakur-1
Adopted**

Resolution No. 212 - 2021 - Choice Films License Agreement - 104 South Lander Street

**Councilman Sklarz moved and Councilwoman Sofokles seconded.
Ayes: Grice, Mejia, Monteverde, Sklarz, Sofokles, Harvey - 6**

Nays: Shakur-1

Adopted

Resolution No. 213 - 2021 - NCPP Delano Hitch Public Art Installation - License Agreement

Councilman Sklarz moved and Councilman Grice seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

Resolution No. 214 - 2021 - Apply for and Accept if Awarded a \$20mm Downtown Revitalization Initiative (DRI) Grant from Empire State Development

Councilwoman Monteverde said that she will support this and would like to get a copy of the final proposal.

Councilman Grice said he supports this and thinks we have a very good chance.

Mayor Harvey thanked the City Council, City Manager, Allie Church and her team, the Planning Department and the Mayors Strategic Economic and Development Committee. He wanted to thank everyone involved as he knows there has been lot of work and discussion on this so he appreciates all of the input. He also feels that we have a strong chance.

Councilwoman Sofokles moved and Councilman Grice seconded.

Ayes: Grice, Mejia, Monteverde, Sklarz, Sofokles, Harvey - 6

Nays: Shakur-1

Adopted

Resolution No. 215 - 2021 - Indigenous Peoples Day

Councilwoman Monteverde moved and Councilman Sklarz seconded.

Ayes: Grice, Mejia, Monteverde, Sklarz, Sofokles, Harvey - 6

Nays: Shakur-1

Adopted

Ordinance No. 5 - 2021 - Adding Subsection 110-9(C) entitled "Revocation" to Chapter 110 "Mass Gathering and Public Events"

Councilwoman Sofokles moved and Councilwoman Mejia seconded.

Ayes: Grice, Mejia, Monteverde, Sklarz, Sofokles, Harvey - 6

Nays: Shakur-1

Adopted

Resolution No. 216 - 2021 - Scheduling a Public Hearing Concerning Local Law amending Chapter 276 "Tobacco" to change Chapter title to "Tobacco and Marihuana" and amend Article II "Outdoor Smoking"

Councilman Sklarz moved and Councilman Grice seconded.

Ayes: Grice, Mejia, Monteverde, Sklarz, Sofokles - 5

Nays: Shakur, Harvey-2

Resolution No. 217 - 2021 - Authorizing a Payment of Claim

Councilwoman Sofokles moved and Councilwoman Monteverde seconded.

Ayes: Grice, Mejia, Monteverde, Sklarz, Sofokles, Harvey - 6

Nays: Shakur-1

Adopted

NEW BUSINESS

Councilwoman Monteverde said that the Arts Commission Chair reached out to her to ask the public if they would consider volunteering for the Arts & Cultural Commission. Anyone who lives or works in the City of Newburgh is eligible and applications are hoped for from all walks of life and not just the arts. The Commission works to foster a vibrant cultural life in Newburgh and to promote the City's artistic and cultural activities in creative industry for all residents and visitors. The Commission advises the City on matters of art and culture and it develops strategies and recommends priorities to the City. It acts as a liaison between the City and the arts and cultural community and it creates and sponsors public art projects and cultural events, encourages cultural tourism and economic impact of the arts and works to strengthen arts and education accessibility and participation. Anyone who would like to be on the Arts Commission and have a say with what is going on in the arts community should submit a letter of interest.

Councilwoman Sofokles said that the Newburgh Urban Farm is going to have an event at Downing Park on September 25th and we will be feeding the community with the food that has been grown. What they are doing at the new greenhouses is amazing so she thanked the kids and volunteers involved.

There being no further new business to discuss this portion of the meeting was closed.

OLD BUSINESS

Mayor Harvey said now that we have new leadership in our Police Department he would like to add to the next Work Session a report from the Technology Department on our Video Surveillance Program. It has been brought to his attention that there is an uptick in violent crimes and back in 2016 the Video Surveillance Program was one of the first things he pushed for so we could help our Police Department especially being understaffed. With recent events and a double homicide almost happening last week he thinks we need a report on that to see if we need to add more funding for additional cameras. Also we need full implementation on the License Plate Reader Program (LPR) because we need to track who is entering and leaving our City and what they are bringing in and taking out. We don't have a gun manufacturer here in our City but somehow these violent guns are hitting our streets.

There being no further old business to discuss this portion of the meeting was closed.

FURTHER COMMENTS FROM THE COUNCIL

Councilman Grice thanked Councilwoman Sofokles for the information about the Newburgh Urban Farm and noted that one of his children is a volunteer there so he is very happy about that. A young man spoke earlier about his dog being taken away and we understand that dogs can be considered family members so that is something to look into but he also understand that dogs need licenses and other things. We passed legislation at the last Council meeting about certain types of trucks being parked in the wrong place so that should also be look at. He thanked Fire Chief Spinelli and the Fire Department for all of the hard work they do every day and for the 9/11 Event which was awesome. He also thanked Chief Geraci, Commissioner Gomez and the Police Department for the hard work they do day in and day out but especially on 9/11. It is Budget season so please come out to listen. The first phase is just a wish list and it's not set in stone so please come to the hearings and attend other committee meetings because we value their input.

Councilwoman Mejia thanked Corporation Counsel for sharing that there is a post-planting tree management plan that is associated with the Greater Newburgh Parks Conservancy because that is good to know. It should be a best practice anytime we do a planting to mimic the successful maintenance of tree plantings before being put in the ground. This Thursday there will be a live streaming with the environmental justice fellows and it will be done in Spanish with a link circulated. She missed the City Manager's COVID19 update and it still bothers that we have not been able to drill down the stats to our own data because she feels it's going to be important going forward as we try to manage COVID19 and this new strand.

Councilwoman Monteverde said that the 9/11 Event on Saturday was very moving. She thanked Chief Spinelli for organizing that and Chief Geraci for his comments which were very moving. There are a lot of events going on in the City and the Baseball Team, Red Storm also did something for 9/11 and won so she gave them a shout out. Next week we start the Budget hearings and she looks forward to hearing everyone's asks so hopefully we can balance this Budget and work everything into it.

Councilman Shakur said good night.

Councilman Sklarz thanked everyone for coming out tonight and wished everyone a good night.

Councilwoman Sofokles said that on Saturday she was with her son who became a NY Detective and the reason he became a police officer in the first place was because of 9/11.

Mayor Harvey said he has the Certificates of Appreciation for Hook Elite Boxing and he will give them the option of rescheduling for the next meeting. He announced earlier that there will be a boxing event on October 30th at 5:00 p.m. at the Newburgh Armory Unity Center and tickets are on sale now. It is important that we support this organization because they do great work with our young people and this is going to be a huge event. Elijah Williams will be debuting as a pro fighter that night and it's important for us to get behind our young people especially when they are doing good things to advance themselves.

ADJOURNMENT

There being no further business to come before the Council the meeting adjourned at 9:26 p.m.

**LORENE VITEK
CITY CLERK**

RESOLUTION NO.: 204 - 2021

OF

SEPTEMBER 13, 2021

RESOLUTION AMENDING RESOLUTION NO: 282-2020, THE 2021 BUDGET FOR
THE CITY OF NEWBURGH, NEW YORK TO TRANSFER \$360,000.00
FROM APPROPRIATED FUND BALANCE
TO DPW - STREETS & BRIDGES - STREET PAVING

WHEREAS, an amendment to the 2021 Budget is necessary to fund expenses related to additional approved street paving; the same being in the best interest of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that Resolution No.: 282-2020, the 2021 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.0000.0599.1000.0000 Appropriated Fund Balance	<u>\$360,000.00</u>	
A.5110.0412 DPW - Streets & Bridges - Street Paving		<u>\$360,000.00</u>
TOTAL:	\$360,000.00	\$360,000.00

RESOLUTION NO.: 205 - 2021

OF

SEPTEMBER 13, 2021

A RESOLUTION ACCEPTING A PROPOSAL AND AUTHORIZING
THE CITY MANAGER TO EXECUTE A CONTRACT WITH
RYAN BIGGS CLARK DAVIS ENGINEERING & SURVEYING, D.P.C.
FOR PROFESSIONAL ENGINEERING SERVICES
FOR A CONCRETE CONDITION ASSESSMENT OF
THE AERATION TANKS AT THE WASTEWATER TREATMENT PLANT
IN AN AMOUNT NOT TO EXCEED \$28,000.00

WHEREAS, as the City of Newburgh continues to assess the existing conditions and plan for future improvement projects at the Wastewater Treatment Plant ("WWTP"), it is prudent to evaluate the condition of the 6 aeration tanks located at the WWTP; and

WHEREAS, the City solicited and received a proposal from Ryan Biggs Clark Davis Engineering & Surveying, D.P.C. for professional engineering services for a concrete condition assessment of the aeration tanks at the WWTP; and

WHEREAS, such engineering services shall include a complete a structural investigation and condition assessment of the aeration tanks through visual observation and non-destructive evaluation of the condition of the existing concrete tank structures and preparation of a report of findings and recommendations; and

WHEREAS, the cost of such proposal shall not exceed \$28,000.00 and the funds shall be derived from G.8130.0200; and

WHEREAS, this Council finds that entering into a contract with Ryan Biggs Clark Davis Engineering & Surveying, D.P.C. based on the foregoing 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 accept a proposal and execute a contract with Ryan Biggs Clark Davis Engineering & Surveying, D.P.C., for professional engineering services for a concrete condition assessment of the aeration tanks at the City of Newburgh Wastewater Treatment Plant in an amount not to exceed \$28,000.00.

RESOLUTION NO.: 206 - 2021

OF

SEPTEMBER 13, 2021

RESOLUTION AMENDING RESOLUTION NO: 282-2020, THE 2021 BUDGET FOR
THE CITY OF NEWBURGH, NEW YORK TO TRANSFER \$10,000.00 FROM
PLANNING AND DEVELOPMENT TO THE LAND USE BOARDS
FOR THE COST OF LEGAL NOTICES

WHEREAS, an amendment to the 2021 Budget is necessary to fund expenses related to legal notices that the City's land use boards are required to publish in connection with applications submitted for review; the same being in the best interest of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that Resolution No.: 282-2020, the 2021 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.8684.0101 Planning & Development – Salary	<u>\$10,000.00</u>	
A.8010.0462 Zoning Board – Legal Notices		\$2,000.00
A.8021.0462 Planning Board – Legal Notices		\$ 500.00
A.8041.0462 Architectural Review Commission – Legal Notices		<u>\$7,500.00</u>
TOTAL:	\$10,000.00	\$10,000.00

RESOLUTION NO.: 207 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION AUTHORIZING THE AWARD OF A BID
AND EXECUTION OF A CONTRACT WITH SHAMROCK SHOWS, INC.
FOR AMUSEMENT RIDES, ATTRACTIONS AND CONCESSIONS AT
THE CITY OF NEWBURGH ANNUAL INTERNATIONAL FESTIVAL**

WHEREAS, the City of Newburgh's Annual International Festival was held on Friday, September 3, 2021 through Monday, September 6, 2021, respectively, at the Delano-Hitch Recreation Park; and

WHEREAS, the City of Newburgh issued a Request for Proposals for Carnival Rides, Concessions and Amusements for the City of Newburgh's Annual International Festival; and

WHEREAS, one (1) proposal was duly received and opened; and

WHEREAS, Shamrock Shows, Inc. was the only bidder; and

WHEREAS, the City Council has determined it to be in the best interests of the City of Newburgh to enter into a contract with Shamrock Shows, Inc. provide Carnival Rides, Concessions and Amusements for the City of Newburgh's Annual International Festival;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the bid for Carnival Rides, Concessions and Amusements be and is hereby awarded to Shamrock Shows, Inc.; and

BE IT FURTHER RESOLVED, that the City Manager be and he is hereby authorized to execute and enter into a contract, in substantially the same form as attached hereto with such other terms and conditions as Corporation Counsel may require, on behalf of the City of Newburgh with Shamrock Shows, Inc.

REQUEST FOR PROPOSALS

RFP #14.21

CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS
FOR THE
32ND ANNUAL INTERNATIONAL FESTIVAL

Overview: The City of Newburgh, New York is seeking proposals from qualified carnival ride and amusement companies (hereinafter referred to as "Ride Company") to provide carnival rides, concessions and amusement services for the 32nd Annual International Festival. This year, the International Festival will be held over the Labor Day weekend at the Delano-Hitch Recreation Park on Washington Street in the City of Newburgh. With numerous vendors and live entertainment scheduled, this festival typically draws several thousand people over the weekend.

The 2021 festival runs for four (4) consecutive days from Friday, September 3, 2021 through Monday, September 6, 2021. The festival will kick off Friday, September 3, 2021 beginning at 5:00 P.M. (Eastern Time) and ending its operation at 10:00 P.M. on Labor Day, Monday, September 6, 2021.

1.0 GENERAL

- A. Taxes. The City of Newburgh is exempt from Federal Excise Taxes and the New York State Sales Tax.
- B. Iran Divestment Act. By submission of a Proposal in response to this solicitation or by assuming the responsibility of a contract awarded hereunder, Respondent (or any assignee hereinafter referred to as "Bidder" or "Vendor") certifies that it is not listed on the "Entities Determined To Be Non-Responsive Bidders/Offerors Pursuant to The New York State Iran Divestment Act of 2012" list ("Prohibited Entities List") posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Respondent is advised that should it seek to renew or extend a contract awarded in response to the solicitation, it must provide the same certification at the time the contract is renewed or extended.

The City of Newburgh reserves the right to reject any Proposal from an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

The signature on the Proposal Information Form will be considered certification that the Respondent is in compliance with all aspects of this regulation.

- C. Non-Collusion Bidding Affidavit. The City requires that a Non-Collusive Bidding

RFP FOR CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS
CITY OF NEWBURGH, NEW YORK

Affidavit be submitted with all bids pursuant to its authority according to the Section 103-d of the State of New York Finance Law. This Non-Collusive Bidding Affidavit, made part of the Proposer Information Form, must be executed in **blue ink** by the member, officer or employee of the Bidder who makes the final decision on prices and the amount quoted in the bid.

Bid rigging and other efforts to restrain competition and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the Bidder with responsibilities for the preparation, approval or submission of the bid.

If a bid is submitted by a joint venture, each party to the venture must be identified in the bid documents, and a Non-Collusive Bidding Affidavit must be submitted separately on behalf of each party.

Failure to provide a Non-Collusive Bidding Affidavit in compliance with these instructions will result in disqualification of the bid.

2.0 SUBMISSION OF PROPOSALS

- A. Qualified individuals and/or Ride Companies shall submit their original Proposal, *plus one copy*, to City Comptroller, Janice Gaston City of Newburgh, 83 Broadway-4th Floor, Newburgh, New York, 12550, **on or before** 4:00 P.M., (*Eastern Time*), Thursday, August 26, 2021. Late submissions will not be accepted.
- B. Proposals shall be delivered to the City Comptrollers' office located in City Hall, 83 Broadway, 4th Floor, Newburgh, New York, 12550 by hand, mail or the other courier type services. Facsimile or electronic mail submittals will not be accepted.
- C. Proposals must be in a sealed envelope indicating both the company name and the words **"RFP for International Festival"** *clearly marked* on the outer envelope.
- D. The front cover of the Proposal shall clearly indicate firm name, address, telephone number(s), email address, if available, and the designated contact person's name.
- E. All signatures, with the exception of a Notary Public, must be signed in **blue ink**.
- F. Forms provided must be completed and submitted with Proposal in original form.
- G. Respondents shall submit one (1) original *plus one* (1) electronic copy of their Proposal to the City Comptroller as indicated in the aforementioned, *Section 2.A*.

RFP FOR CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS
CITY OF NEWBURGH, NEW YORK

3.0 CONTENTS OF PROPOSALS

Proposals must contain and indicate compliance of the following information which shall be outlined in the order read below:

- A. The Ride Company shall provide the City with a Proposal outlining the number and type of carnival rides, amusements and concessions to be provided during the 2021 International Festival.
- B. The Ride Company must secure and maintain all proper policies of insurance coverage, co-insuring the City of Newburgh, NY, in scope and amount satisfactory to City, and must be properly permitted by the Orange County Health Department and otherwise as required by law.
- C. The Ride Company shall provide amusements, concessions and carnival rides at no cost to the City of Newburgh.
- D. The Ride Company shall propose to pay the City of Newburgh a set percentage of their entire proceeds over the total and complete duration of the Festival in said Proposal.
- E. The Ride Company shall provide such amusements, concessions and carnival rides with their own source of power and electricity.
- F. The Ride Company shall provide a set number of advertising posters at no cost to the City which shall be distributed by the City of Newburgh. The Ride Company shall propose the set number of posters in said Proposal.
- G. The Ride Company must supply tickets at no cost to the City of Newburgh.
- H. The Ride Company shall be fully responsible to provide all personnel.
- I. The Ride Company shall be responsible for maintenance and cleanliness of the immediate concession and amusement ride areas at all times.
- J. The successful Ride Company **must** provide a written accounting of the daily proceeds earned to the designated City of Newburgh representative (*To Be Determined*) at the conclusion of festival operations **each and every evening**.
- K. The successful Ride Company shall pay the City of Newburgh *at the end of each festival evening* the amount due to the City based on the accounting of proceeds earned and on the percentage proposed and awarded there from.
- L. Completed forms signed in **blue ink** by an officer of the Ride Company as provided in this RFP on pages 6 and 7 - *Proposer Information Form* and *Non-Collusion Bidding Affidavit*. These two (2) original documents **must be included** in the original Proposal when submitted. Proposals shall be appropriately marked *original* and *copy* prior to submission.
- M. Failure to comply with any of the stipulations specified in this RFP shall remove the Ride Company from consideration of any or all future City of Newburgh events.

RFP FOR CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS
CITY OF NEWBURGH, NEW YORK

4.0 TIME OF PERFORMANCE

- A. Festival Setup and Tear-Down Period. The successful Ride Company must begin setup at the Newburgh Recreation designated field, no earlier than Wednesday, September 1, 2021 at 12:00 P.M. The successful Ride Company must have all equipment removed from said location no later than 12:00 P.M. on Wednesday, September 8, 2021.
- B. Hours of Festival Operations. The successful Ride Company must have all personnel, rides and concessions ready to operate on the first day no later than 5:00 P.M. (Eastern Time) on Friday, September 3, 2021 and shall cease operations promptly at 11:00 P.M. that night.

Ride Company is responsible for all personnel, rides and concessions ready for carnival operations commencing at 12:00 P.M. for each of the remaining days: Saturday, September 4, 2021; Sunday, September 5, 2021; and, Monday, September 6, 2021.

Ride Company shall cease operations promptly at 11:00 P.M. on Friday, September 3, 2021; Saturday, September 4, 2021; and, Sunday, September 5, 2021.

Ride Company shall cease operations at end of Festival on Monday, September 6, 2021 promptly at 10:00 P.M., unless otherwise directed by a City of Newburgh official or designated representative.

5.0 QUESTIONS

Questions regarding this Request for Proposal (RFP) must be submitted in writing electronically to the attention of City Comptroller Janice Gaston no later than 4:00 P.M., (Eastern Time), Thursday August 19, 2021 to: jgaston@cityofnewburgh-ny.gov

6.0 WITHDRAWAL OF PROPOSAL

Proposals shall not be withdrawn for a period of forty-five (45) days subsequent to the submission deadline without the consent of the City of Newburgh Comptroller.

7.0 RIGHT TO REJECT/AWARD PROPOSAL

The City of Newburgh reserves the right to reject any and all Proposals. Contract award may be subject to approval by the Council of the City of Newburgh.

“AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER”

RFP FOR CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS
CITY OF NEWBURGH, NEW YORK

PROPOSER INFORMATION FORM

REQUEST FOR PROPOSALS

RFP #14.21

OPERATION OF CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS
FOR THE
32ND ANNUAL INTERNATIONAL FESTIVAL
CITY OF NEWBURGH, NEW YORK

I (We) hereby propose services for the operations of carnival rides, concessions and amusements for the City of Newburgh, New York as requested by the City in accordance with the RFP solicitation. By signing and submitting this Proposer Information Form for consideration by the City of Newburgh, I (We) acknowledge that I (We) have read, understand and agree to all aspects of the requirements of this RFP as presented without reservation or alteration.

COMPANY NAME _____

ADDRESS _____

PHONE NO. _____ FAX NO. _____

EMERGENCY TEL: _____ CONTACT: _____

EMAIL ADDRESS _____

TAX I.D. NUMBER _____

SUBMITTED BY _____
Signature in **BLUE Ink**

NAME/TITLE _____

DATED _____

RFP FOR CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS
CITY OF NEWBURGH, NEW YORK

THIS AFFIDAVIT MUST BE COMPLETED BY ALL BIDDERS

RESOLUTION NO.: 208 - 2021

OF

SEPTEMBER 13, 2021

A RESOLUTION AUTHORIZING THE CITY MANATER TO ACCEPT A PROPOSAL
AND EXECUTE A CONTRACT IN THE AMOUNT OF \$9,925.00
WITH FIREWORKS EXTRAVAGANZA
TO PROVIDE FOR A FIREWORKS DISPLAY AT
THE CITY OF NEWBURGH ANNUAL INTERNATIONAL FESTIVAL

WHEREAS, the City of Newburgh has received a proposal from Fireworks Extravaganza to provide a fireworks display on September 6, 2021 with a rain date of September 7, 2021 for the 2021 International Festival at a cost of \$9,925.00; and

WHEREAS, the City Council has determined that accepting the Fireworks Extravaganza proposal is 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 is hereby authorized to accept the proposal and execute a contract in substantially the same form as annexed hereto with other provisions as Corporation Counsel may require, with Fireworks Extravaganza for a fireworks display at the 32nd Annual International Festival at a cost of \$9,925.00.

RESOLUTION NO.: 209 - 2021

OF

SEPTEMBER 13, 2021

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AGREEMENTS WITH VARIOUS PARTIES
TO PROVIDE PERFORMING ARTS AND RELATED SERVICES
IN CONNECTION WITH THE CITY OF NEWBURGH
ANNUAL INTERNATIONAL FESTIVAL

WHEREAS, the City of Newburgh's Annual International Festival was held on Friday, September 3, 2021 through Monday, September 6, 2021, respectively, at the Delano-Hitch Recreation Park; and

WHEREAS, it is appropriate and necessary to authorize the City Manager to enter into agreements by which performing artists, production services and necessary equipment and facilities shall be provided; and

WHEREAS, there is funding available in Trust and Agency Account for the International Festival and in the 2021 City budget; and

WHEREAS, such agreements shall not exceed the funds in the Trust and Agency Account and the 2021 Budget; and

WHEREAS, this Council has determined that entering into agreements in connection with the 2021 Annual International Festival is in the best interests of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby authorizes the City Manager to enter into agreements with terms and conditions as Corporation Counsel may require, with the performing artists and providers of related necessary services in connection with the 2021 Annual International Festival.

RESOLUTION NO.: 210 - 2021

OF

SEPTEMBER 13, 2021

A RESOLUTION OPENING A SECOND 30-DAY PUBLIC COMMENT PERIOD AND
SCHEDULING A SECOND PUBLIC HEARING FOR SEPTEMBER 27, 2021
TO RECEIVE PUBLIC COMMENT ON THE CITY OF NEWBURGH'S
PROPOSED ACTIONS WITH RESPECT TO
THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE
ANNUAL ACTION PLAN FOR FISCAL YEAR 2022

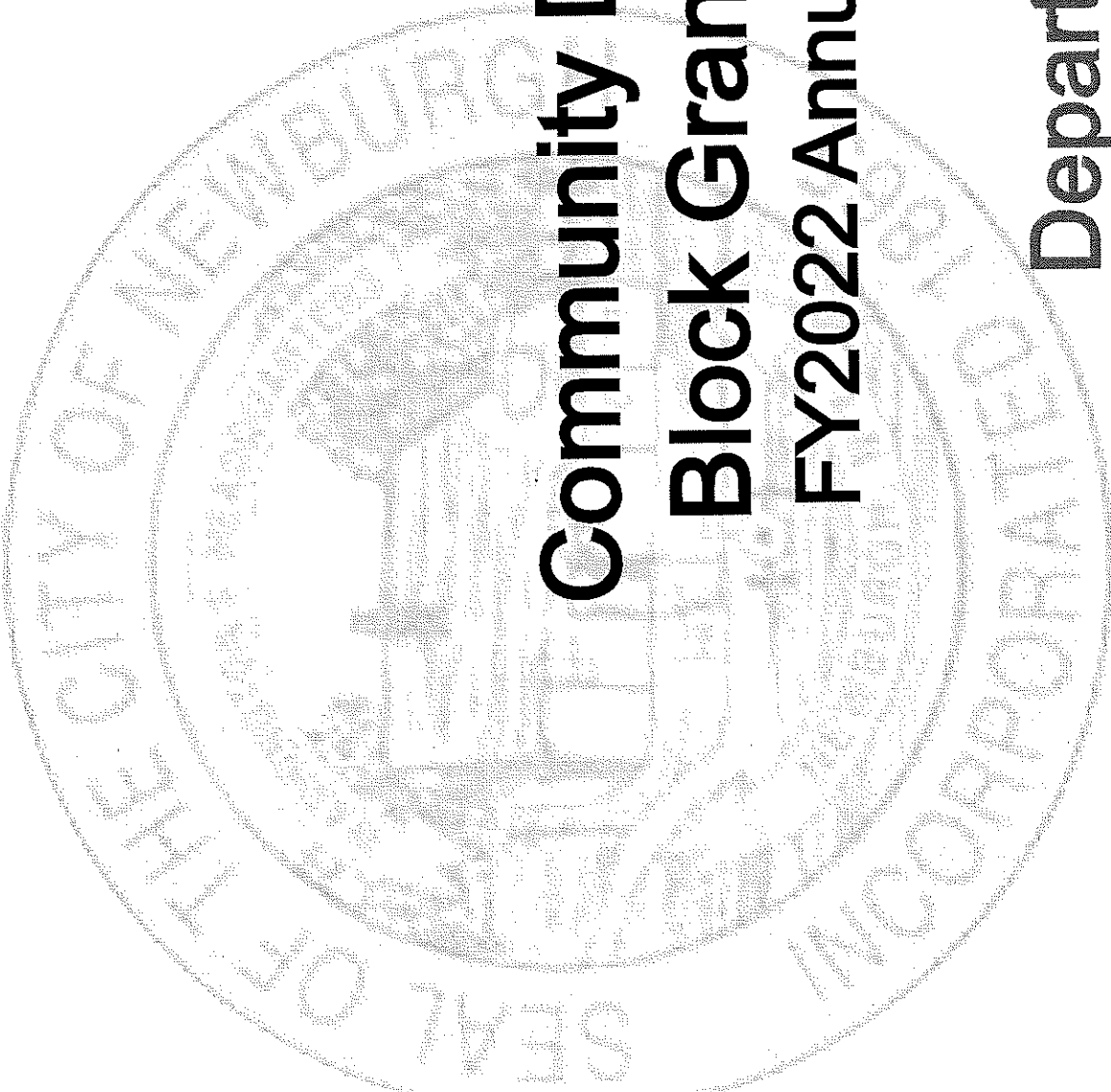
WHEREAS, the City of Newburgh has prepared a five-year Consolidated Housing and Community Development Strategy and Plan in accordance with the planning requirements of the Housing and Community Development Act of 1974 and applicable regulations; and

WHEREAS, the City is now preparing a one-year Annual Action Plan for FY 2022 in order to implement various elements of the strategies identified in its Consolidated Plan and must satisfy all statutory requirements, including those related to citizen participation; and

WHEREAS the City has convened and completed a public hearing and 30-day public comment period on its proposed one-year Annual Action Plan for FY 2022 and continues to solicit citizen participation in the preparation of same;

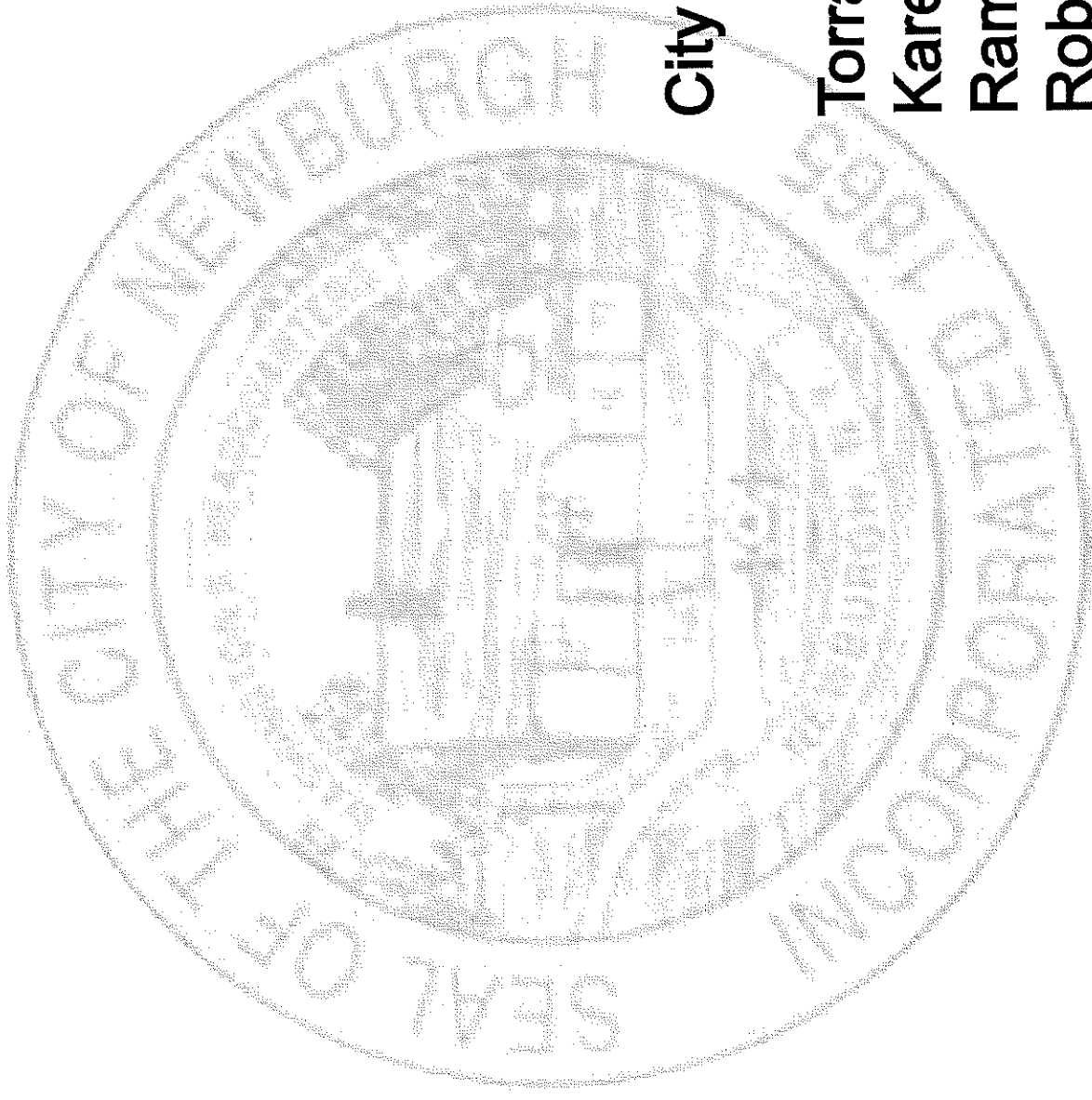
NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the time for citizen participation is continued by opening a second 30-day period beginning on September 28, 2021 and closing on October 28, 2021 to receive public comment on the City of Newburgh's proposed actions with respect to the Community Development Block Grant Program for the FY 2022 Annual Action Plan; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a second public hearing to receive comments regarding the housing and community development needs of the City of Newburgh and to hear public comment on the City of Newburgh's one-year Annual Action Plan for FY 2022; 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 27th day of September, 2021, in the third floor Council Chambers located at 83 Broadway, City Hall, Newburgh, New York.

The seal of the City of Newburg, Incorporated, is a circular emblem. It features a central shield with a landscape scene, including a building and a body of water. The shield is surrounded by a circular border containing the text "CITY OF NEWBURG" at the top and "INCORPORATED" at the bottom. The seal is rendered in a light, faded gray tone.

Community Development Block Grant (“CDBG”) FY2022 Annual Action Plan

**Department of Planning &
Development
June, 2021**



City of Newburgh City Council:

Torrance Harvey, Mayor

Karen Mejia, Ward 1

Ramona Monteverde, Ward 2

Robert Sklarz, Ward 3

Patty Sofokles, Ward 4

Anthony Grice, At-Large

Omari Shakur, At-Large

City of Newburgh Community Development Goals - Refresher

- Economic Development without Displacement.
- Enhance outreach and communications with the community.
- Support a climate that values diversity, rewards independence, nourishes creativity, and brings all of us together.

Successful community building requires reestablishing trust, which takes time, patience, outreach and communication.



“CDBG” - Brief Primer

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

- Community Development Block Grant (CDBG) - Administered by the U.S. Department of Housing and Urban Development (HUD)
- Allocated to local and state governments on a formula basis.
- The City of Newburgh is under the Orange County Consortium (Orange County, City of Newburgh, City of Middletown).
- The City of Newburgh is required to prepare and submit a Consolidated Plan that establishes goals for the use of CDBG funds. The new City of Newburgh Consolidated Plan: FY2020-FY2024
- Projects MUST be consistent with national priorities for CDBG:
 - Activities that benefit low- and moderate-income people;
 - The prevention or elimination of slums or blight; or
 - Community development activities to address an urgent threat to health or safety.

Proposed FY2022 CDBG Projects/Funding

Projects Funded through Entitlement Grant	Priority Need Addressed	Project Name	Proposed Activities (Examples)	% Project increase, if HUD allocation greater than proposed (approx.)		% Project decrease, if HUD allocation less than proposed (approx.)	
				Project Funding	proposed (approx.)	HUD allocation less than proposed (approx.)	proposed (approx.)
Housing	Housing	Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	\$230,000.00	No Increase		10%
			Home Repair Assistance Program, performed through a City of Newburgh Housing Partner.	\$50,000.00	25%		10%
Infrastructure Improvements	Infrastructure Improvements	Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	\$300,000.00	25%		25%
			Public Accessibility Improvements to City of Newburgh Buildings.	\$40,000.00	25%		20%
Economic Development	Economic Development	Economic Development	Examples of Economic Development Activities: Business Façade and signage, Workforce Training.	\$75,000.00	15%		10%
			Public Service Activity, Subject to 15% Annual Allocation Cap, Examples of Activities: Summer Film Festival, Health Outreach Initiatives, National Night Out (Activities Subject to City of Newburgh operational approval).	\$25,000.00	10%		20%
Administration	Administration	Administration	Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	\$135,000.00	No Increase		5%
			Proposed Total FY2022 Allocation	\$855,000.00			

Contingency Funding

If the actual annual allocation amount exceeds the proposed estimate, the project budgets will increase by:

Projects Funded through Entitlement Grant	Priority Need Addressed	Project Name	Proposed Activities (Examples)	% Project increase, if HUD allocation greater than proposed (approx.)
Housing	Housing	Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	No Increase
	Housing	Housing	Home Repair Assistance Program, performed through a City of Newburgh Housing Partner.	25%
	Infrastructure Improvements	Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	25%
	Infrastructure Improvements	Public Facility Improvements	Public Accessibility Improvements to City of Newburgh Buildings.	25%
Economic Development	Economic Development	Economic Development	Examples of Economic Development Activities: Business Façade and signage, Workforce Training.	15%
Quality of Life Improvements	Neighborhood Services	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap, Examples of Activities: Summer Film Festival, Health Outreach Initiatives, National Night Out (Activities Subject to City of Newburgh operational approval).	10%
Administration	Administration	Administration	Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	No Increase

Contingency Funding

If the actual annual allocation amount is less than the proposed estimate, the project budgets will decrease by:

Projects Funded through Entitlement Grant	Priority Need Addressed	Project Name	Proposed Activities (Examples)	% Project decrease, if HUD allocation less than proposed (approx.)
	Housing	Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	10%
	Housing	Housing	Home Repair Assistance Program, performed through a City of Newburgh Housing Partner.	10%
	Infrastructure Improvements	Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	25%
	Infrastructure Improvements	Public Facility Improvements	Public Accessibility Improvements to City of Newburgh Buildings.	20%
	Economic Development	Economic Development	Examples of Economic Development Activities: Business Façade and signage, Workforce Training.	10%
	Quality of Life Improvements	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap, Examples of Activities: Summer Film Festival, Health Outreach Initiatives, National Night Out (Activities Subject to City of Newburgh operational approval).	20%
	Administration	Administration	Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	5%

Project: Housing

Proposed Activities:

- In Rem Property Program
- Homeowner Repair Assistance Program
(Implemented by City of Newburgh
Housing Partner)

Proposed Housing Activity: In Rem Property Program

Budget: \$230,000.00

Description:

- Activity staffed by 2 full-time Department of Public Works employees and 1 employee of the Planning & Development Department dedicated to the in rem program.
- Provides maintenance and security of vacant properties. Keeps properties habitable, neighborhoods looking good, maintains/increases property values.

Proposed Housing Activity: Home Repair Assistance Program

Budget: \$50,000.00

Description:

- Funding for Light Home Repair Assistance Program for Low/Moderate Income City of Newburgh Homeowners.* Implemented through City of Newburgh Housing Partner.

* Light repairs, such as railings, steps, etc.

Proposed Infrastructure Improvements

Activity: Curb Ramp and Sidewalk

Upgrades

Budget: \$300,000.00

Description:

- Funding to continue funding Curb Ramp & Sidewalk Improvements project.

Proposed Infrastructure Improvements

Activity: Public Facility Improvements

Budget: \$40,000.00

Description:

- Funding for Public Accessibility Improvements to City of Newburgh Buildings.

Proposed Economic Development Activity:

Business Assistance

Budget: \$75,000.00

Description:

- Funding for business assistance such as Business Façade and Signage grants, Workforce Training.

Proposed Quality of Life Activity: Neighborhood Services

Budget: \$25,000.00

Description (Anticipated Services):

- 2022 Summer Film Festival
- Health Outreach Initiative
- National Night Out

Important: Public Service Activity, subject to 15% Annual Allocation Cap.

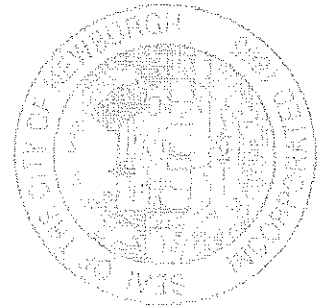
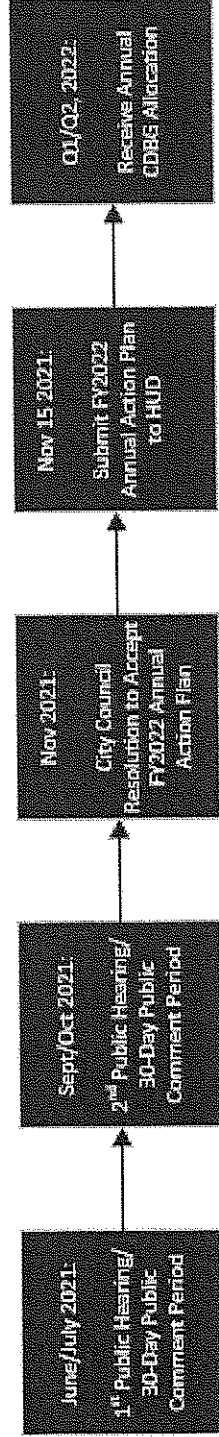
Proposed Activity: Administration

Budget: \$135,000.00

Description:

- Funding for program administration, staff salary and benefits, language translation services, program operating costs (including mailings), program trainings/conference.

FY2022 CDBG AAP Timeline



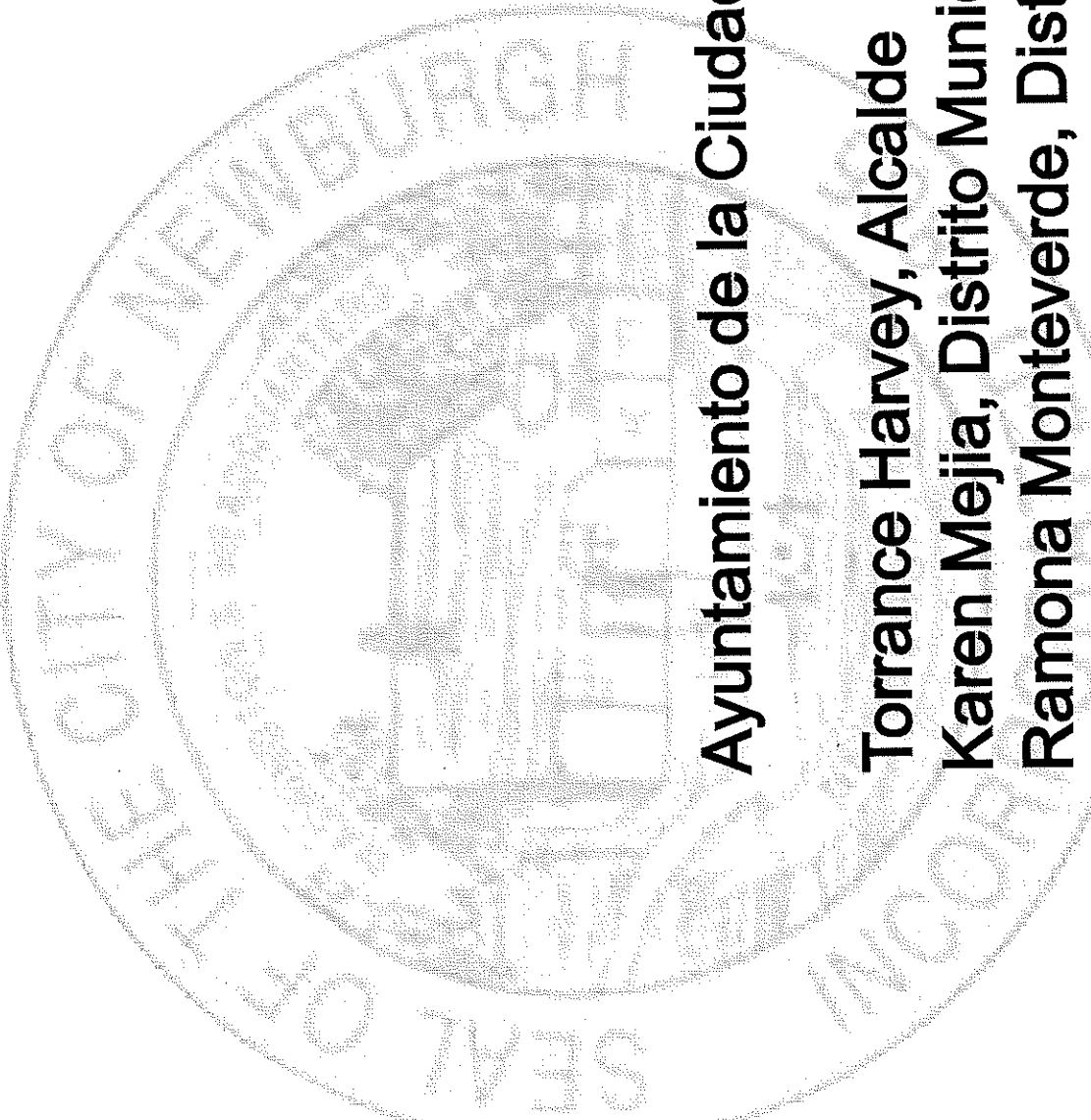
FY 2022 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECTS TIMELINE



Subvención en Bloque para el Desarrollo de la Comunidad ("CDBG")

Año Fiscal-2022 Plan Anual de Acción

Departamento de Planeamiento y Desarrollo Junio de 2021

The seal of the City of Newburgh is a circular emblem. It features a central shield with a landscape scene, including a building and a body of water. The shield is surrounded by a circular border containing the text "SEAL OF THE CITY OF NEWBURGH" at the top and "INCORPORATED 1784" at the bottom.

Ayuntamiento de la Ciudad de Newburgh:

Torrance Harvey, Alcalde

Karen Mejia, Distrito Municipal 1

Ramona Monteverde, Distrito Municipal 2

Robert Sklarz, Distrito Municipal 3

Patty Sofokles, Distrito Municipal 4

Anthony Grice, Representante Independiente

Omari Shakur, Representante Independiente

Metas para el Desarrollo Comunitario de la Ciudad de Newburgh - Actualización

- Desarrollo Económico sin Desplazamiento.
- Mejorar el alcance y comunicaciones con la comunidad.
- Apoyar un ambiente que valore la diversidad, recompense la independencia, alimente la creatividad, y nos reúna a todos.

El éxito de la construcción de una comunidad requiere reestablecer la confianza; lo que lleva tiempo, paciencia, comunicación y la inclusión de todos.



“CDBG” – Breve Introducción

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

- Subvención en Bloque para el Desarrollo de la Comunidad (CDBG) - Administrado por el Departamento de Vivienda y Desarrollo Urbano de Estados Unidos (HUD).
- Adjudicado a los gobiernos locales y estatales sobre la base de una fórmula.
- La Ciudad de Newburgh está bajo el Consorcio del Condado de Orange (Condado de Orange, Ciudad de Newburgh, Ciudad de Middletown).
- Se requiere que la Ciudad de Newburgh prepare y presente un Plan General que establezca metas para el uso de los fondos CDBG. El nuevo Plan General de la Ciudad de Newburgh: Año Fiscal-2020 - Año Fiscal-2024.
- Los proyectos DEBEN ser consistentes con las prioridades nacionales del CDBG:
 - Actividades que beneficien a las personas de bajos-o-moderados ingresos;
 - La prevención o eliminación de barriadas precarias o barrios arruinados; o
 - Las actividades de desarrollo de la comunidad que abarquen las amenazas urgentes a la salud o seguridad.

Propuesta: Año Fiscal-2022 CDBG

Proyectos/Financiación

Proyectos Financiados a través de una Adjudicación de Subvención por Derecho (Entitlement)	Necesidad Prioritaria Abordada	Nombre del Proyecto	Actividades Propuestas [Ejemplos]	Fondos del Proyecto	% de Incremento del Proyecto, si la adjudicación de HUD es mayor a la propuesta (aprox.)	% de Disminución del Proyecto, si la adjudicación de HUD es menor a la propuesta (aprox.)
	Vivienda	Vivienda	En-Efecto Programa de Propiedades: Para continuar financiando los salarios/beneficios de 3 Empleados de la Ciudad de Newburgh. Además financiar los materiales necesarios para mantener las propiedades en ejecución hipotecaria, como ser, palas quitanieve, recortadoras de hierba, cerraduras/llaves.	\$230,000.00	Sin Incremento	10%
	Vivienda	Vivienda	Programa de Asistencia a Reparaciones en los Hogares, desempeñado a través de una Organización para la Vivienda Asociada con la Ciudad de Newburgh.	\$50,000.00	25%	10%
	Mejoramientos de Infraestructura	Mejoramientos de Infraestructura	Para continuar la financiación del proyecto de Mejoramiento de Aceras y Rampas en Bordillos.	\$300,000.00	25%	25%
	Mejoramientos de Infraestructura	Mejoramientos de Instalaciones Públicas	Mejoramientos del Acceso Público a Edificios de la Ciudad de Newburgh	\$40,000.00	25%	20%
	Desarrollo Económico	Desarrollo Económico	Ejemplos de Actividades para Desarrollo Económico: Fachadas y Carteles de Negocios, Entrenamiento del Personal.	\$75,000.00	15%	10%
	Mejoramientos de Calidad de Vida	Servicios a los Barrios	Actividad de Servicio Público, Sujeta a un Límite de 15% de Adjudicación Anual. Ejemplos de Actividades: Festival de Cine de Verano, Iniciativas de Extensión Comunitaria para la Salud, Noche Nacional de Salida (Sujeta a la aprobación de las operaciones de la Ciudad de Newburgh).	\$25,000.00	10%	20%
	Administración	Administración	Programa de Administración, Salario y Beneficios del Personal, servicios de traducción, costes de operación del programa (incluyendo correos), entrenamientos del programa/conferencias.	\$135,000.00	No Increase	5%
			Adjudicación Total Propuesta para el Año Fiscal 2022	\$855,000.00		

Financiación de Contingencia

Si el monto de la actual adjudicación anual excede el estimado propuesto, el presupuesto del proyecto se incrementará en:

Proyectos Financiados a través de una Adjudicación de Subvención por Derecho (entitlement)	Necesidad Prioritaria Abordada	Nombre del Proyecto	Actividades Propuestas (Ejemplos)	% de Incremento del proyecto, si la adjudicación de HUD es mayor a la propuesta (aprox.)
Vivienda	Vivienda	Vivienda	En-Efecto Programa de Propiedades: Para continuar financiando los salarios/beneficios de 3 Empleados de la Ciudad de Newburgh. Además, financiar los fondos para los materiales necesarios para mantener las propiedades en ejecución hipotecaria, como ser, palas quitanieve, recortadoras de hierba, cerraduras/llaves.	Sin incremento
Vivienda	Vivienda	Vivienda	Programa de Asistencia para Reparación de Hogares, desempeñado a través de una Organización para la Vivienda Asociada con la Ciudad de Newburgh.	25%
Mejoramientos de Infraestructura	Mejoramientos de Infraestructura	Mejoramientos de Infraestructura	Para continuar la financiación del proyecto de Mejoramiento de Aceras y Rampas en Bordillos.	25%
Mejoramientos de Infraestructura	Mejoramientos de Infraestructura	Mejoramiento de Instalaciones Públicas	Mejoramiento de Accesos a Edificios Públicos de la Ciudad de Newburgh.	25%
Desarrollo Económico	Desarrollo Económico	Desarrollo Económico	Ejemplos de Actividades de Desarrollo Económico: Fachadas y Carteles de Negocios, Entrenamiento de Fuerzas de Trabajo.	15%
Mejoramientos de Calidad de Vida	Mejoramientos de Calidad de Vida	Servicios en los Barrios	Actividades de Servicio Público, Sujetas a Límite de 15% de Adjudicación Anual. Ejemplos de Actividades: Festival de Cine de Verano, Iniciativas de Extensión Comunitaria de Salud, Noche Nacional de Salida (Actividades Sujetas a la aprobación operativa de la Ciudad de Newburgh).	10%
Administración	Administración	Administración	Administración del Programa, Salario y Beneficios del Personal, servicios de traducción de lenguaje, costes de operación del programa (incluyendo correo), programas de entrenamientos/conferencia.	Sin incremento

Financiación de Contingencia

Si el monto de la actual adjudicación anual es menor al estimado
propuesto, el presupuesto del proyecto se disminuirá en:

Proyectos Financiados a través de una Adjudicación de Subvención por Derecho (Entitlement)	Necesidad Prioritaria Abordada	Nombre del Proyecto	Actividades Propuestas (Ejemplos)	% Disminución del proyecto, si la adjudicación de HUD es menor a la propuesta (aprox.)
Vivienda	Vivienda	Vivienda	En-Efecto Programa de Propiedades: Para continuar financiando los salarios/beneficios de 3 Empleados de la Ciudad de Newburgh. Además, financiar los materiales necesarios para el mantenimiento de propiedades en ejecución hipotecaria, como ser palas quitanieve, recortadoras de hierba, cerraduras/llaves.	10%
Vivienda	Vivienda	Vivienda	Programa de Asistencia a la Reparación de Hogares, desempeñado a través de una Organización para la Vivienda Asociada con la Ciudad de Newburgh.	10%
Mejoramiento de Infraestructuras	Mejoramiento de Infraestructuras	Mejoramiento de Infraestructuras	Para continuar financiando el proyecto de mejoramiento de Aceras y Rampas en Bordillos.	25%
Mejoramiento de Infraestructuras	Mejoramiento de Infraestructuras	Mejoramiento de Instalaciones Públicas	Mejoramiento de Accesos a los Edificios Públicos de la Ciudad de Newburgh.	20%
Desarrollo Económico	Desarrollo Económico	Desarrollo Económico	Ejemplos de Actividades de Desarrollo Económico: Fachadas y Carteles de Negocios, Entrenamiento del Personal.	10%
Mejoramiento de la Calidad de Vida	Mejoramiento de la Calidad de Vida	Servicios en los Barrios	Actividades de Servicios Públicos, Sujeto a Límite de 15% de Adjudicación Anual, Ejemplos de Actividades: Festival de Cine de Verano, iniciativas de Extensión Comunitaria de Salud, Noche Nacional de Salida (Actividades Sujetas a la aprobación operativa de la Ciudad de Newburgh).	20%
Administración	Administración	Administración	Administración del Programa, Salario y Beneficios del Personal, servicios de traducción de lenguaje, costes de operación del programa (incluyendo correo), programa de entrenamientos/conferencia.	5%

Proyecto: Vivienda

Actividades Propuestas:

- En-Efecto Programa de Propiedades
- Programa de Asistencia al Propietario para la Reparación de su Hogar (Implementado por una Organización para la Vivienda Asociada con la Ciudad de Newburgh)

Actividad de Vivienda Propuesta: En-Efecto Programa de Propiedades

Presupuesto: \$230,000.00

Descripción:

- Actividad desempeñada por 2 empleados a tiempo completo del Departamento de Obras Públicas y 1 empleado de Planeamiento y Desarrollo dedicado al programa en-efecto.
- Provee mantenimiento y seguridad a las propiedades vacantes. Mantiene las propiedades habitables, el buen aspecto de los barrios, mantiene/incrementa el valor de las propiedades.

Actividad de Vivienda Propuesta: Programa de Asistencia para la Reparación de Hogares

Presupuesto: \$50,000.00

Descripción:

- Financiación del Programa de Asistencia para Reparaciones Menores del Hogar para propietarios de Bajos/Moderados Ingresos de la Ciudad de Newburgh.* Implementado a través de una Organización para la Vivienda Asociada con la Ciudad de Newburgh.

* Reparaciones menores, como ser, pasamanos, escalones, etc.

Actividad Propuesta para Mejoramiento de Infraestructura: Mejoramiento de Aceras y Rampas en Bordillos.

Presupuesto: \$300,000.00

Descripción:

- Fondos para continuar la financiación del proyecto de Mejoramiento de Aceras y Rampas en Bordillos.

Actividad Propuesta de Mejoramientos de
Infraestructura: Mejoramientos de
Instalaciones Públicas

Presupuesto: \$40,000.00

Descripción:

- Mejoramiento del Acceso Público a los Edificios de la Ciudad de Newburgh.

Actividad de Desarrollo Económico

Propuesta: Asistencia a Negocios

Presupuesto: \$75,000.00

Descripción:

- Financiación para la asistencia a negocios, como ser, subvenciones para Fachadas y Carteles, Entrenamiento a Fuerzas de Trabajo.

Actividad Propuesta para Calidad de Vida: Servicios en los Barrios

Presupuesto: \$25,000.00

Descripción (Servicios Anticipados):

- 2022 Festival de Cine de Verano
- Iniciativa de Extensión Comunitaria de Salud
- Noche Nacional de Salida

Importante: La Actividad de Servicio Público, está sujeta al 15% de límite de Adjudicación

Anual.



Actividad Propuesta: Administración

Presupuesto: \$135,000.00

Descripción:

- Financiamiento del programa de administración, salario y beneficios del personal, servicios de traducción de lenguaje, costes operativos del programa (incluyendo correo), programa de entrenamientos/conferencia.

Línea del Tiempo del Año Fiscal-2022

CDBG - Plan Anual de Acción (AAP)

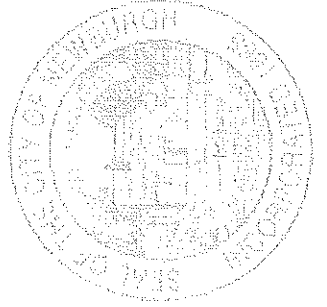
Junio/Julio
2021:
1.^o
Audiencia
Pública/Perí-
odo de 30-
Días de
Comentario
Público

Sept./Oct.
2021:
2.^o
Audiencia
Pública/Perí-
odo de 30-
Días de
Comentario
Público

Noviembre
2021:
Ayuntamiento
de la Ciudad –
Resolución
para aceptar
el Plan Anual
de Acción del
Año Fiscal
2022

Noviembre
15 de 2022:
Presentación
ante el HUD
del Plan Anual
de Acción del
Año Fiscal
2022

1.^o Bimestre /
2.^o Bimestre
de 2022:
Recepción de
la
Adjudicación
Anual de
CDBG



**Año Fiscal-2022 - SUBVENCIÓN EN BLOQUE PARA EL
DESARROLLO DE LA COMUNIDAD (CDBG)
LÍNEA DEL TIEMPO DE LOS PROYECTOS**

FY2022 Annual Action Plan
Community Development Block Grant (CDBG)

Projects Funded through Entitlement Grant	Priority Need Addressed	Project Name	Proposed Activities (Examples)	Project Funding	% Project increase, if HUD allocation greater than proposed (approx.)		% Project decrease, if HUD allocation less than proposed (approx.)	
					(approx.)		(approx.)	
	Housing	Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	\$230,000.00	No Increase		10%	
	Housing	Housing	Home Repair Assistance Program, performed through a City of Newburgh Housing Partner.	\$50,000.00	25%		10%	
	Infrastructure Improvements	Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	\$300,000.00	25%		25%	
	Infrastructure Improvements	Public Facility Improvements	Public Accessibility Improvements to City of Newburgh Buildings.	\$40,000.00	25%		20%	
	Economic Development	Economic Development	Examples of Economic Development Activities: Business Facade and signage, Workforce Training.	\$75,000.00	15%		10%	
	Quality of Life Improvements	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap, Examples of Activities: Summer Film Festival, Health Outreach Initiatives, National Night Out (Activities Subject to City of Newburgh operational approval).	\$25,000.00	10%		20%	
	Administration	Administration	Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	\$135,000.00	No Increase		5%	
			Proposed Total FY2022 Allocation	\$855,000.00				

RESOLUTION NO.: 211 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER
INTO A LICENSE AGREEMENT WITH
THE GREATER NEWBURGH PARKS CONSERVANCY, INC.
TO ALLOW USE AND ACCESS TO CITY-OWNED PROPERTY SITES
FOR A SEASONAL PLANTING PROJECT**

WHEREAS, the Greater Newburgh Parks Conservancy, Inc. proposes a seasonal planting project at a number of City-owned parks, open spaces and properties; and

WHEREAS, the proposed project envisions planting perennial flowers and bulbs where appropriate and as locations and budget allow and will develop planting plans in close coordination with community stakeholders through community engagement events and surveys; and

WHEREAS, access to the City-owned parks, open-spaces and 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;

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 the Greater Newburgh Parks Conservancy, Inc. to allow use and access to City-owned property sites for a seasonal planting project.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, dated as of _____, 2021, by and between:

THE CITY OF NEWBURGH, a New York municipal corporation with offices at 83 Broadway, City Hall, Newburgh, New York 12550 ("City" or "Licensor"); and

GREATER NEWBURGH PARKS CONSERVANCY, INC. a New York not-for-profit corporation with an address of 28 Bay View Terrace, Newburgh New York 12550 ("Licensee").

WHEREAS, the City is the owner of various parcels of land located within the City of Newburgh and more specifically described in Schedule A, annexed hereto and made a part hereof (all parcels collectively hereinafter referred to as "the Property"); and

WHEREAS, the Licensee has requested access to the Property for the purpose of installing seasonally appropriate plantings; and

NOW, THEREFORE, it is hereby agreed between the parties as follows:

Section 1. Grant of License. The City hereby represents that it owns the Property, and that it has duly authorized this License Agreement. The City hereby grants Licensee a revocable license for Licensee and Licensee's employees, apprentices, volunteers, agents, invited guests, and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon the Property, and taking thereupon such equipment, tools, machinery and other materials as may be necessary, for the purpose of installing seasonally appropriate plantings.

Section 2. Use of, and Access to, the Property.

- A. Entry to the Property is limited to the use and access necessary to conducting a seasonal planting project administered by the Licensee. In addition to Property access, Licensee shall be permitted to install seasonally appropriate plantings. Licensee shall perform its planting project in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority, in the sole discretion of the City. Licensee may perform maintenance and clean-up in and around the Property as approved by the Licensor and as related to the planting project.
- B. Licensee shall submit a planting plan to the City Manager or his designee for review and approval at least 2 weeks prior to commencing any activities related to the planting project. Planting location plans shall include, but are not limited to, the dates, times, and exact locations of the plantings; the types of plantings to be installed; the methods, tools, and equipment to be used to install the plantings; and maintenance plan.
- C. Licensee shall call 811 for a utility markout before commencing any planting activities and shall wait the required time before any land disturbance activities take place.

Section 3. Insurance. Licensee shall not commence or perform work nor operate machinery under this License Agreement until it has obtained all insurance required under this Section 3 and such insurance has been approved by the City.

A. Workers' Compensation Insurance - The Licensee shall take out and maintain during the life of this agreement such Workers' Compensation Insurance for its employees or members to be assigned to the work hereunder as may be required by New York State Law.

B. General Liability and Property Damage Insurance - The Licensee shall take out and maintain during the life of this agreement such general liability and property damage insurance as shall protect it and the City which shall be named as additional insured on all such policies from claims for damages for personal injury including accidental death, as well as from claims for property damage which may arise from operations under this agreement. The amounts of such insurance shall be as follows:

1. General Liability Insurance in an amount not less than \$1,000,000.00 for injuries including wrongful death to any one person and subject to the same limit for each person, in an amount not less than \$3,000,000.00 on account of any one occurrence.

2. Property Damage Insurance in an amount not less than \$50,000.00 for damage on account of all occurrences. The Licensee shall furnish the above insurance to the City and shall also name the City as an additional named insured in said policies. Such insurance shall be maintained in force during the entire term of this License Agreement.

C. Licensee may retain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, Licensee and such agents shall provide and maintain insurances as required by this Section 3 and name Licensor as additional insured under insurance coverage concerning Licensee's performance of the work referenced herein.

Section 4. Damages. The relation of the Licensee to the City as to the work to be performed by it under this agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances arising out of the negligent performance, other than those wholly caused by Acts of God or hidden defects under the City's or a previous licensee's prior care. The Licensee shall make good any damages that may occur in consequence of the performances or any part of it. The Licensee shall assume blame, loss and responsibility of any nature to the extent of the Licensee's neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance or arising out of its activities licensed hereby. Licensee will not be liable for damages in excess of Licensee's insurance coverage per occurrence, except such limitations will not apply to claims based on Licensee's intentional breach of this agreement or willful misconduct.

Section 5. Defense and Indemnity. Licensee shall defend, indemnify and hold the City harmless against any and all claims, actions, proceedings, and lawsuits arising out of or relating to the access and use of the Property under this License Agreement, excepting gross negligence, intentional breach of this agreement or misconduct by the Licensor.

Section 6. Term of License. The license or privilege hereby given shall commence upon the signing of this License Agreement and shall expire without further notice to either party to the other at 11:59 p.m. on November 1, 2023 ("Expiration Date"), subject to Section 8 below. The license may be renewed thereafter by the mutual consent of both parties on such terms and conditions as the parties shall agree at that time.

Section 7. Assignment of License; No Sub-Licensing. This License may not be assigned or sub-let to any other party.

Section 8. Termination of License. Either party may terminate this license prior to the Expiration Date, with or without cause, on at least thirty (30) days prior written notice to the other party. Upon termination by either party, Licensee shall not be entitled to reimbursement of any of its costs, and Licensee and its agents, employees and contractors will restore of the property to a clean and orderly state and in substantially the same condition as existed prior to the granting of this License.

The City may terminate this license agreement by ten (10) days' written notice when and if in its sole judgment it deems such termination is necessary by operation of law in the City's sole reasonable discretion.

Section 9. Notices. Notices shall be in writing and shall be deemed properly served when deposited with the United States Postal Service, as certified mail, return receipt requested, bearing adequate postage or being deposited with a reputable overnight courier service for guaranteed next business day delivery and addressed as follows:

a. If to Licensor:

City of Newburgh
attn: City Manager
City Hall, 83 Broadway
Newburgh, New York 12550
(845) 569-7301

With a copy to

Corporation Counsel
City Hall, 83 Broadway
Newburgh, New York 12550
(845) 569-7335

- b. If to Licensee:
Greater Newburgh Parks Conservancy, Inc.
attn: _____
28 Bay View Terrace
Newburgh, New York 12550

Section 10. New York Law. This License Agreement shall be construed under New York law and any and all proceedings brought by either party arising out of or related to this License shall be brought in the New York Supreme Court, Orange County.

Section 11. Modification of License Agreement. This License Agreement may not be modified except by a writing subscribed by both parties to this Agreement.

Section 12. No Vested Right. 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.

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[Signature Page to Follow]

Signature Page

License Agreement: City of Newburgh / Greater Newburgh Parks Conservancy, Inc.

IN WITNESS WHEREOF, Licensor and Licensee have executed this Agreement the day and year herein mentioned.

WITNESSETH:

THE CITY OF NEWBURGH
LICENSOR

By: _____
Todd Venning, City Manager
Per Resolution No.:

GREATER NEWBURGH PARKS CONSERVANCY, INC.
LICENSEE

By: _____

Approved as to form:

MICHELLE KELSON, Corporation Counsel

JANICE GASTON, City Comptroller

Remainder of this page intentionally left blank/Schedule A to follow

Schedule A – Property List

SCHEDULE "A"

Serial	Name	Address	SBL	Area (acre)	Owner
Parks and Open Spaces					
1.	1st Street Fishing Pier	1st St.	Right-of-way	0.1123	City of Newburgh
2.	See 23.f				
3.	Delano-Hitch Recreation Park	401 Washington St.	34-4-1.22	27.1102	City of Newburgh
4.	Audrey Carey Park	251 Liberty St.	18-8-1.2	0.5957	City of Newburgh
5.	Downing Vaux Park	1 Broadway	31-4-54	0.4602	City of Newburgh
6.	See 23.b				
7., 8.	See 3.				
9.	Desmond Tennis Courts	385 South St.	16-2-1	0.3236	City of Newburgh
10.	Downing Park East	123 Carpenter Ave.	17-9-1	15.4165	City of Newburgh
10.	Downing Park West	123 Carpenter Ave.	17-10-1	15.4668	City of Newburgh
10.	Downing Park Green Houses	207 Carpenter Ave.	17-5-6	1.8863	City of Newburgh
11.	Gidney Ave Basketball Courts	14 Gidney Ave.	11-4-34.1	0.6612	City of Newburgh
12.	Hasbrouck Street Park	10 Hasbrouck St.	38-3-35.1	0.2247	City of Newburgh
13.	Newburgh Boat Launch	144 S Water St.	37-4-4	2.0755	City of Newburgh
14.	Unico Park & Newburgh Landing	70 Front St.	51-1-3	2.0755	City of Newburgh
15.	People's Park	1 Washington St.	40-3-3	7.4022	City of Newburgh
17.	Schleiermacher Park	4 West St.	33-6-1.1	0.8662	City of Newburgh
18.	South Street Park	180 Water St.	12-6-5.2	0.7653	City of Newburgh
19.	Tyrone Crabb Park	210 Grand St.	12-2-6	0.7657	City of Newburgh
20.	See 14.				
21.	Ward Brothers Memorial	2 Renwick St.	49-1-5.1-1	11.0166	City of Newburgh
	Rowing Park	2 Renwick St.	49-1-5.1-2	-	City of Newburgh
22.	Xavier Lunan Park	66 Courtney Ave.	48-2-22.2	0.1691	City of Newburgh
Triangle Parks					
23.a	Cerone Drive Triangle	37 Cerone Pl.	42-2-6.121	0.1037	City of Newburgh
23.b, 6.	Clinton Square	374 Third St.	16-7-1	0.2028	City of Newburgh
23.c	Dupont Broadway Triangle	562 Broadway	26-1-43	0.0198	City of Newburgh
23.d	Forsyth Place Triangle	38 Forsythe Pl.	9-3-1	0.0976	City of Newburgh
23.e	Leroy Pl. & Liberty St. Park	Leroy Pl + Liberty St.	4-10-1	0.0812	City of Newburgh
23.f, 2.	Vietnam Memorial Park	Liberty St + Leroy Pl.	4-4-1	0.2817	City of Newburgh
23.g	Montgomery Street Triangle	367 Water St.	9-5-1.11	0.0631	City of Newburgh
23.h	North Street Triangle	N Plank Rd & North St.	3-5-1	0.2223	City of Newburgh
23.i	Park Place Park	Park Place	Right-of-way	0.8181	City of Newburgh
23.j	Thompson Street Triangle	South St & Pierce Rd S	13-3-1.1	0.0532	City of Newburgh
Public Open Spaces					
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-1	2.0159	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-8	0.2563	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-9	0.0779	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-10	0.0799	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-18.11	0.0483	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-18.12	0.5383	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-18.2	0.3430	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-18.3	0.1628	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-20	0.0210	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-21	0.0265	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-23	0.0489	City of Newburgh
24.b	Crystal Lake	60 Temple Ave.	41-2-11.2	19.7913	City of Newburgh
24.c	Mame Ave Water Storage Tank	283 Carpenter Ave.	7-2-2	4.6379	City of Newburgh
24.d	Muchattoes Lake	136 Lake St Rear	33-7-29.2	7.0386	City of Newburgh
24.d	Muchattoes Lake	192 Lake St.	42-2-8	3.3415	City of Newburgh
24.e	Quassaick Creek Open Space	Dickson St.	43-1-35	1.7019	City of Newburgh
24.f	See 17.				
24.g	West Street Open Space	48 Orchard St.	14-3-54.2	6.4824	City of Newburgh
Other Locations					
25.1	City Hall	83 Broadway	37-1-3	0.2676	City of Newburgh
25.2	Newburgh Heritage Center	123 Grand St.	24-1-1	0.6188	City of Newburgh
25.2	Newburgh Heritage Center	125 Grand St.	24-1-2	0.3599	City of Newburgh
25.3	Police Department	55 Broadway	37-2-4	2.0885	City of Newburgh
25.4	Fire Department	55 Broadway	37-2-4	-	City of Newburgh

RESOLUTION NO.: 212 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
A LICENSE AGREEMENT WITH CHOICE FILMS, INC.
FOR USE AND OCCUPANCY OF 104 SOUTH LANDER STREET
(SECTION 48, BLOCK 2, LOT 25) FOR FILM PRODUCTION OFFICE SPACE**

WHEREAS, Choice Films, Inc. has submitted an application for a film permit in connection with the production of a Hallmark holiday movie entitled "Duet";

WHEREAS, in addition to filming activities at various locations within the City of Newburgh, Choice Films, Inc. has requested the use and occupancy of City-owned property located at 104 South Lander Street, and more particularly identified as Section 48, Block 2, Lot 25 on the official Tax Map of the City of Newburgh (the "Property"); and

WHEREAS, the request for the use and occupancy of the Property requires 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 agreement 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 the Choice Films, Inc. to allow use and occupancy of City-owned property located at 104 South Lander Street (Section 48, Block 2, Lot 25) for film production office space in connection with a film permit.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, dated as of _____, 2021, by and between:

THE CITY OF NEWBURGH, a New York municipal corporation with offices at 83 Broadway, City Hall, Newburgh, New York 12550 ("City" or "Licensor"); and

CHOICE FILMS, INC. a for-profit corporation with an address of 9 Scobie Drive, Newburgh, New York 12550 ("Licensee").

WHEREAS, the City is the owner of the property located at 104 South Lander Street in the City of Newburgh, and more accurately described as Section 48, Block 2, Lot 25 on the official tax map of the City of Newburgh (hereinafter referred to as "the Property"); and

WHEREAS, the Licensee has requested use and occupancy of the Property for film production office space in connection with a film permit;

NOW, THEREFORE, it is hereby agreed between the parties as follows:

Section 1. Grant of License. The City hereby represents that it owns the Property, located at 104 South Lander Street in the City of Newburgh, and more accurately described as Section 48, Block 2, Lot 25 on the official tax map of the City of Newburgh, and that it has duly authorized this License Agreement. The City hereby grants Licensee a revocable license for Licensee and Licensee's employees, volunteers, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon the Property, for the purpose of establishing a fixed office for the conduct of its business operations in connection with a film permit submitted to the City of Newburgh and attached hereto as Exhibit A.

Section 2. Use and Occupancy of the Property. Entry to the Property is limited to the use of the building and occupancy necessary to complete the film production described in the film permit submitted to the City of Newburgh and attached hereto as Exhibit A. Licensee shall use and occupy the Premises in a careful, safe and proper manner, and shall not occupy or use said premises or permit the same to be occupied or used for any purpose or business which is unlawful and shall comply with all lawful requirements of all current laws, ordinances, rules and regulations of all governmental authorities pertaining to the use and occupancy of the Premises. Licensee may provide office furniture and equipment necessary and proper for the intended use of the Premises which shall be removed upon the termination of this Agreement. Prior to the expiration of the license, Licensee shall remove all materials related to the film production and shall restore the Property to a clean and orderly state and in substantially the same condition as existed prior to the granting of this license. Licensor shall be responsible to provide utility service during the term of this License Agreement which costs are included in the License Fee as provided in Section 4 of this License Agreement.

Section 3. Insurance. The Licensee shall not enter the Property or commence or perform work under this License Agreement until it has obtained all insurance required under this Section 3 and such insurance has been approved by the City.

A. Workers' Compensation Insurance - The Licensee shall take out and maintain during the life of this agreement such Workers' Compensation Insurance for its employees or members to be assigned to the work hereunder as may be required by New York State Law.

B. General Liability and Property Damage Insurance - The Licensee shall take out and maintain during the life of this agreement such general liability and property damage insurance as shall protect it and the City which shall be named as additional insured on all such policies from claims for damages for personal injury including accidental death, as well as from claims for property damage which may arise from operations under this agreement. The amounts of such insurance shall be as follows:

1. General Liability Insurance in an amount not less than \$1,000,000.00 for injuries including wrongful death to any one person and subject to the same limit for each person, in an amount not less than \$3,000,000.00 on account of any one occurrence.

2. Property Damage Insurance in an amount not less than \$50,000.00 for damage on account of all occurrences.

Licensee shall furnish the above insurance to the City and shall also name the City as an additional named insured in said policies. Such insurance shall be maintained in force during the entire term of this License Agreement.

C. Licensee may retain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, Licensee and such agents shall provide and maintain insurances as required by this Section 3 and name Licensor as additional insured under insurance coverage concerning Licensee's performance of the work referenced herein.

Section 4. Fees, costs and expenses. Licensee shall pay to Licensor, as and for a fee for the use and occupancy of the Property during the period of this agreement, \$6,100.00 per month, which shall be prorated for the months of September and November in accordance with the License term set forth in Section 7, for a total License Fee in the amount of \$14,233.33, payable as follows:

- A. \$3,050.00 due upon execution of this Agreement;
- B. \$6,100.00 due on or before October 1, 2021; and
- C. \$5,083.33 due on or before November 1, 2021.

It is expressly understood that Licensee will be responsible for all costs and expenses related to the film production.

Section 5. Damages. The relation of the Licensee to the City as to the work to be performed by it under this agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances arising out of the negligent performance, other than those wholly caused by Acts of God. The Licensee shall make good any damages that may occur in consequence of the performances or any part of it. The Licensee shall assume all blame, loss and responsibility of any nature by reason of the Licensee's neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance or arising out of its activities licensed hereby.

Section 6. Defense and Indemnity. Licensee shall defend, indemnify and hold the City harmless against any and all claims, actions, proceedings, and lawsuits arising out of or relating to the access and use of the Property under this License Agreement, excepting gross negligence or misconduct by the City.

Section 7. Term of License. The license or privilege hereby given shall commence September 15, 2021 and shall expire without further notice to either party to the other at 11:59 p.m. on November 25, 2021 ("Expiration Date"), subject to Section 9 below. The license may be renewed thereafter by the mutual consent of both parties on such terms and conditions as the parties shall agree at that time.

Section 8. Assignment of License; No Sub-Licensing. This License may not be assigned or sub-let to any other party.

Section 9. Termination of License. Either party may terminate this License prior to the Expiration Date without cause on at least seven (7) days prior written notice to the other party. In the event of termination without cause by either party, Licensee shall receive a refund of any license fees paid by the Licensor in an amount prorated to the unexpired portion of the term. Licensor may terminate this License with cause by first providing a written notice to cure, with a list of deficiencies and curative instructions. Licensee shall then have ten (10) days from the date of the notice to cure to remedy all of the deficiencies listed in the notice and provide proof of same to the Licensor. Licensor retains the sole right to determine whether any deficiencies have been satisfactorily cured. Should Licensee fail to completely cure all deficiencies listed in the notice, this License shall terminate with no further notice to either party, and Licensor shall be entitled to keep any and all sums collected to the date of License termination.

Section 10. Security Deposit. In addition to the License Fee in Section 4, Licensee shall deposit an amount of four thousand and 00/100 dollars (\$4,000.00) to be held as security by the Licensor ("Security Deposit"). This Security Deposit is security that Licensee will comply with all of the terms of this License, and to restore the Property to a clean and orderly state in substantially the same condition as existed prior to the granting of this License.

Section 11. New York Law. This License Agreement shall be construed under New York law and any and all proceedings brought by either party arising out of or related to this License shall be brought in the New York Supreme Court, Orange County.

Section 12. Notices. Notices shall be in writing and shall be deemed properly served when deposited with the United States Postal Service, as certified mail, return receipt requested, bearing adequate postage or being deposited with a reputable overnight courier service for guaranteed next business day delivery and addressed as follows:

a. If to Licensor:

City of Newburgh
attn: City Manager
City Hall, 83 Broadway
Newburgh, New York 12550
(845) 569-7301

With a copy to:

Corporation Counsel
City Hall, 83 Broadway
Newburgh, New York 12550
(845) 569-7335

b. If to Licensee:

Choice Films, Inc.
attn: _____
9 Scobie Drive
Newburgh, New York 12550

Section 13. Modification of License Agreement. This License Agreement may not be modified except by a writing subscribed by both parties to this Agreement.

Section 14. No Vested Right. 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.

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[Signature Page to Follow]

Signature Page

License Agreement: City of Newburgh / Choice Films, Inc.

IN WITNESS WHEREOF, Licensor and Licensee have executed this Agreement the day and year herein mentioned.

WITNESSETH:

THE CITY OF NEWBURGH
LICENSOR

By: _____
Todd Venning, City Manager
Per Resolution No.:

CHOICE FILMS, INC.
LICENSEE

By: _____

Approved as to form:

MICHELLE KELSON, Corporation Counsel

JANICE GASTON, City Comptroller

Remainder of this page intentionally left blank/Exhibit A to follow

Exhibit A - Film Permit

RESOLUTION NO.: 213 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
A LICENSE AGREEMENT WITH VINCENT CIANNI,
D/B/A VINCENT CIANNI PHOTOGRAPHY, TO ALLOW USE AND ACCESS TO
THE DELANO-HITCH RECREATION PARK
FOR A NEWBURGH COMMUNITY PHOTO PROJECT**

WHEREAS, the Newburgh Community Photo Project (the "NCPP") plans to produce a public art project involving photographs and text revealing the history of Black life in the City of Newburgh up to and including the Urban Renewal period of the 1960s and 1970s as the first part of three-year project that will include in-depth investigations into Urban Renewal and its aftermath as well as more recent histories/narratives including Latinx and immigrant populations; and

WHEREAS, the photographs and text will be displayed in and around the Delano-Hitch Recreation Park where they can be vividly seen and can contribute to raising awareness of the history of Black life in the City of Newburgh; and

WHEREAS, the NCPP proposes the installations on the exterior fencing of the Delano-Hitch Recreation park along Robinson Avenue, Washington Street and South William Street and interior fencing in and around the Delano-Hitch Stadium; and

WHEREAS, the proposed art installation requires 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 Vincent Cianni, d/b/a Vincent Cianni Photography to allow access to City-owned property known as the Delano-Hitch Recreation Park, 401 Washington Street, Section 34, Block 4, Lot 1.22, for the purpose of installing and displaying an art exhibit for public viewing.

LICENSE AGREEMENT

This license agreement ("Agreement"), made this _____ day of _____, 2021 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 ("LICENSOR") and VINCENT CIANNI, d/b/a VINCENT CIANNI PHOTOGRAPHY, a private business organization having an address at 10 Galloway Avenue, Newburgh, New York 12550 ("LICENSEE");

WITNESSETH:

WHEREAS, Licensee desires the license or privilege of gaining access to the premises known as the Delano-Hitch Recreation Park, 401 Washington Street, Section 34, Block 4, Lot 1.22 on the tax map of the City of Newburgh ("Premises"), of Licensor on behalf of itself and its employees, agents and contractors; and

WHEREAS, Licensee desires to install photographs and text banners reflecting City of Newburgh history on the Premises in a manner that reveals the history of Black life in the City of Newburgh up to and including the Urban Renewal period of the 1960s and 1970s; and

WHEREAS, Licensee desires to install said photographs and banners on the fencing along the perimeter of the Premises and specific interior locations within the Premises; 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:

Section 1. Grant of License:

- A. Licensor hereby gives to Licensee and Licensee's employees, agents and subcontractors, upon the conditions hereinafter stated, the license or privilege of entering upon the Premises, for the purpose of installing photographs and banners depicting and describing the history of Black life in the City of Newburgh up to and including the Urban Renewal period of the 1960s and 1970s on the Premises.
- B. Said photographs and banners shall be installed only on the fencing of the perimeter of the Premises along Robinson Avenue, South William Street, and Washington Street, from the southwest corner of Robinson Avenue and continuing west to the Delano-Hitch Stadium and in certain interior locations identified in Exhibit "A" to this Agreement and in no other areas of the Premises.

- C. Said photographs and banners shall be made of material which will withstand weather conditions and be water and UV resistant. Said photographs and banners shall be affixed to the fencing and other interior locations with grommets and other materials to facilitate hanging and removal.
- D. Licensee shall maintain the photographs and banners in a neat, publicly presentable, and artistic fashion for the period of time they are installed at the Premises.
- E. Prior to the conclusion of the License term as set forth in Section 7, below, Licensee shall restore the Premises to a clean and orderly state and in the same condition as existed prior to the granting of this License. This term includes, but is not limited to: the complete removal of any photographs and banners and the complete removal of any materials used to affix the photographs or banners to the fencing or other interior location.
- F. At its sole cost and expense, Licensee shall apply for, and receive, if required, a Sign Permit from the Department of Code Compliance consistent with Chapter 250 of the City Code of Ordinances prior to commencement of any work on the Premises.

Section 2. Access: 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. Licensee agrees to give Licensor no less than twenty-four (24) hours advance notice of its intention to enter upon the subject property and to perform the subject work.

Section 3. License Fee: Licensee shall not be required to pay any fees pursuant to this Agreement.

Section 4. Insurance: Licensee shall neither commence work nor perform work nor operate machinery under this Agreement until it has obtained all insurances required under this Section 4 and such insurance has been approved by the City.

A. Workers' Compensation Insurance - The Licensee shall take and maintain during the life of this Agreement such Workers' Compensation Insurance for its employees or members to be assigned to the work hereunder as may be required by New York State Law.

B. General Liability and Property Damage Insurance - The Licensee shall take and maintain during the life of this Agreement such general liability and property damage insurance as shall protect it and the City which shall be named as additional insured on all such policies from claims for damages for personal injury including accidental death, as well as from claims for property damage which may arise from operations under this agreement. The amounts of such insurance shall be as follows:

1. General Liability Insurance in an amount not less than \$1,000,000.00 for injuries including wrongful death to any one person and subject to the same limit for each person, in an amount not less than \$3,000,000.00 on account of any one occurrence.

2. Property Damage Insurance in an amount not less than \$50,000.00 for damage on account of all occurrences.

Licensee shall furnish the above insurance to the City and shall also name the City as an additional named insured in said policies. Such insurance shall be maintained in force during the entire term of this Agreement.

C. Licensee may retain certain employees, agents, subcontractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, Licensee and such agents shall provide and maintain insurances as required by this Section 4 and name Licensor as additional insured under insurance coverage concerning Licensee's performance of the work referenced herein.

Section 5. Damages: The relation of the Licensee to the City as to the work to be performed by it under this Agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances arising out of the negligent performance, other than those wholly caused by Acts of God. Licensee shall make good any damages that may occur in consequence of the performances or any part of it. Licensee shall assume all blame, loss and responsibility of any nature by reason of Licensee's neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance or arising out of its activities licensed hereby.

Section 6. Defense and Indemnity: Licensee shall defend, indemnify and hold the City harmless against any and all claims, actions, proceedings, and lawsuits arising out of or relating to the access and use of the Premises under this Agreement, excepting gross negligence or misconduct by the City.

Section 7. Term of License: The License hereby given shall expire and terminate on September 30, 2026 ("Expiration Date") unless earlier terminated by either party as provided in Section 9 of this Agreement. The term of this Agreement may be extended by mutual agreement of the parties in writing subscribed by the parties to this Agreement. Prior to the Expiration Date, Licensee and its agents, employees and contractors, shall restore the Premises to a clean and orderly state and in the same condition as existed prior to the granting of this License and in accordance with Section 1, above, normal wear and tear excepted.

Section 8. Assignment of License; No Sub-Licensing: This Agreement may not be assigned or sub-let to any other party.

Section 9. Termination of License: Either party may terminate this license prior to the expiration of the term specified in paragraph 7, with or without cause, on at least thirty (30) days prior written notice to the other party. Upon termination by either party, Licensee shall not be entitled to reimbursement of any of its costs, and Licensee and its agents, employees and contractors will restore of the property to a clean and orderly state and in substantially the same condition as existed prior to the granting of this license. The City may terminate this license agreement by ten (10) days' written notice when and if in its sole judgment it deems such termination is necessary in the City's sole reasonable discretion.

Section 10. New York Law: This Agreement shall be construed under New York law and any and all proceedings brought by either party arising out of or related to this License shall be brought in the New York Supreme Court, Orange County.

Section 11. Modification of License Agreement: This Agreement may not be modified except by a writing subscribed by both parties to this Agreement.

Section 12. No Vested Rights: 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.

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[Signature Page to Follow]

Signature Page

License Agreement, Delano-Hitch Recreation Park, 401 Washington Street, Section 34, Block 4,
Lot 1.22, City of Newburgh / Vincent Cianni, d/b/a Vincent Cianni Photography

IN WITNESS WHEREOF, Licensors and Licensee have executed this Agreement the day and year
herein mentioned.

CITY OF NEWBURGH
LICENSOR

By: _____
Todd Venning, City Manager
Per Resolution No.

VINCENT CIANNI
d/b/a VINCENT CIANNI PHOTOGRAPHY
LICENSEE

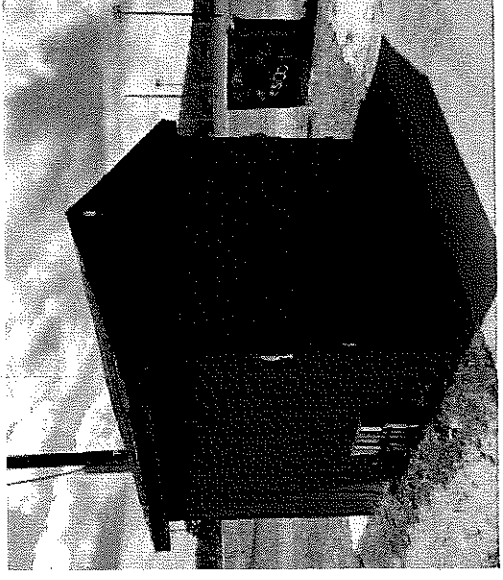
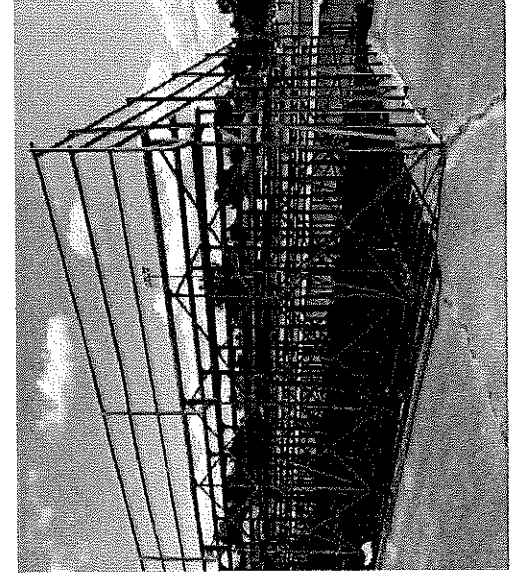
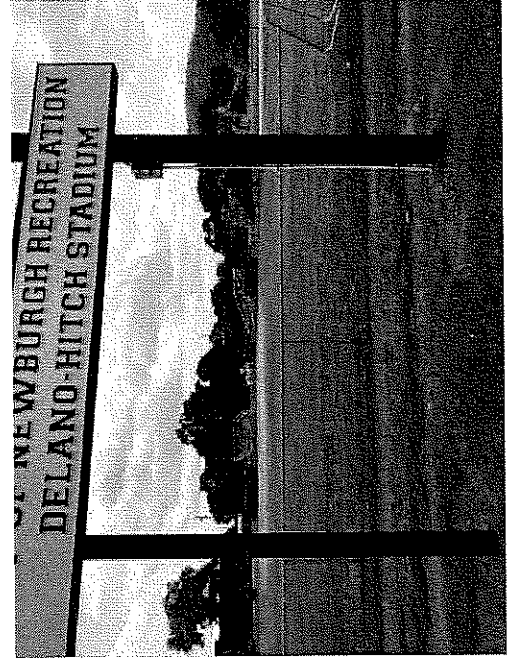
By: _____
Name: Vincent Cianni

Approved as to form:

MICHELLE KELSON
Corporation Counsel

JANICE GASTON
City Comptroller

Interior Locations



RESOLUTION NO.: 214 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR
AND ACCEPT IF AWARDED A DOWNTOWN REVITALIZATION INITIATIVE GRANT
IN AN AMOUNT NOT TO EXCEED \$20,000,000.00**

WHEREAS, New York State's Downtown Revitalization Initiative (DRI), a cornerstone of the State's economic development program, transforms downtown neighborhoods into vibrant centers that offer a high quality of life and are magnets for redevelopment, business, job creation, and economic and housing diversity reflecting compact, walkable downtowns that are a key ingredient to helping New York State rebuild its economy from the effects of the COVID-19 pandemic, as well as to achieving the State's bold climate goals by promoting the use of public transit and reducing dependence on private vehicles; and

WHEREAS, in its fifth year, the program will invest \$200 million in up to 20 additional downtowns statewide in which participating communities will be nominated by the state's ten Regional Economic Development Councils (REDCs) based on the downtown's potential for transformation and within each region, the REDC will nominate either two downtowns to receive \$10 million each or one downtown to receive an award of \$20 million to develop a downtown strategic investment plan and implement key catalytic projects that advance the community's vision for revitalization; and

WHEREAS, the City of Newburgh is a qualified applicant for the DRI program; and

WHEREAS, this Council finds that applying for and accepting funding from the DRI is 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 apply for and accept if awarded a New York State grant in an amount not to exceed \$20,000,000.00; 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.

RESOLUTION NO.: 215-2021

OF

SEPTEMBER 13, 2021

A RESOLUTION DESIGNATING THE SECOND MONDAY IN OCTOBER
AS INDIGENOUS PEOPLES' DAY IN THE CITY OF NEWBURGH

WHEREAS, Newburgh is located on the west shore of the Hudson River on the lands of the Waoranek peoples, who were described by the Europeans who first encountered them as a close-knit, loving and peaceable group; and

WHEREAS, the Waoranek were part of the Lenape tribe of the Algonquin nation and around them in the bay were other related bands also part of the greater Lenape-Algonquin peoples; and

WHEREAS, when the first white people came ashore to settle, it was the Waoranek who shared and sustained and taught them about this new world and who gave settlers the very land they lived on - the concept of land ownership being utterly foreign to them; and

WHEREAS, the Waoranek moved on to the west and north as Europeans began to build on and cultivate the acres from the Quassaick Creek to Balmville; and

WHEREAS, the City of Newburgh recognizes that it is built upon the homelands of the Waoranek without whom the European and white settlers would not have survived to build what has now become the City of Newburgh; and

WHEREAS, the City of Newburgh opposes systemic racism towards any and all racial and ethnic minorities in the United States, including the Waoranek and all Indigenous Peoples in the United States, which perpetuates high rates of poverty and income inequality, exacerbating health, education, and social inequities; and

WHEREAS, the City of Newburgh promotes policies, programs, and practices that reduce poverty, income inequality, and other health, education, and social gaps to ensure greater access and opportunities for the Indigenous Peoples; and

WHEREAS, Indigenous Peoples' Day was first proposed in 1977 by a delegation of Native Nations to the United Nations-sponsored International Conference on Discrimination Against Indigenous Populations in the Americas; and

WHEREAS, by Resolution No. 71-2017 of March 13, 2017, the City Council of the City of Newburgh declared itself a fair and welcoming city, celebrating its ethnic, racial, linguistic, and

socio-economic diversity and support of anti-discrimination policies to protect vulnerable communities; and

WHEREAS, the City of Newburgh joins the International community and other state and local governments across the United States to recognize the and honor the historic, cultural, and contemporary significance of Indigenous Peoples and their ancestral lands and celebrate their contributions to communities all across the Americas;

NOW, THEREFORE, BE IT RESOLVED, that City Council of the City of Newburgh does hereby join the International community and our colleagues in state and local governments in designating the second Monday in October each year as Indigenous Peoples Day in the City of Newburgh, in recognition of the rich, cultural, and economic contributions made by the Indigenous people of Newburgh and North America; and

BE IT FURTHER RESOLVED, by the City Council of the City of Newburgh to promote Indigenous Peoples' Day celebrations and activities; encourage schools to include the teaching of Indigenous Peoples' History; and encourage other businesses, organizations and public institutions to recognize Indigenous Peoples' Day.

Newburgh City Democratic Committee
Indigenous Peoples Day Resolution
February 2, 2021

Constituted on the ancestral, traditional, and contemporary lands of the Lenape-Haki-nk land, The City of Newburgh Democratic Committee hereby makes this Resolution in support for the designation of the second Monday in October as “Indigenous Peoples’ Day” to celebrate and honor Indigenous Peoples and their shared history and culture.

Whereas, the City of Newburgh recognizes and honors the Waoranek people whom were part of the Lenape tribe of the Algonquin nation; and

Whereas, the City of Newburgh recognizes the fact that the City is built upon the homelands and villages of the Waoranek people; and

Whereas, the European colonization led to the suppression, forced assimilation, and genocide of Indigenous peoples and their cultures; and

Whereas, the City of Newburgh recognizes and values the many contributions made to the community through Indigenous peoples’ knowledge, labor, science, technology, philosophy, arts, and culture; and

Whereas it is the responsibility of the Newburgh City Democratic Committee to foster inclusivity, racial equity, and justice for all people and oppose systemic practices that perpetuate oppression;

Being so stated, now therefore, in alignment with the City of Newburgh Resolution of March 2017, designating the City of Newburgh a ‘fair and welcoming’ city, the City of Newburgh Democratic Committee calls on the City of Newburgh City Council to support the second Monday in October as being designated “Indigenous Peoples’ Day”.

Respectfully Submitted,
Jules Ridgeway, Esq. – Chair
Deborah Danzy – Vice Chair
Giselle Martinez – Secretary
Councilmember Bob Sklarz – Treasurer
Tammie Hollins – Sergeant at Arms

RESOLUTION NO. _____

WHEREAS, October 12, 1492 marks one of the most significant dates to all indigenous people of the Americas – the beginning of the colonization of indigenous people that forever changed their identity, cultures and achievements; and

WHEREAS, numerous cities and state governments within the United States now recognize Columbus Day also as Indigenous Peoples' Day in an effort to create a path of healing and reconciliation; and

WHEREAS, the area around present-day Austin is one of the longest continually inhabited sites in North America and was home to many different groups, bands, and tribes of Indigenous Peoples for at least 13,000 years; and

WHEREAS, the City of Austin has a responsibility to oppose the systematic racism towards Indigenous People in the United States, which perpetuates high rates of poverty and income inequality, exacerbating disproportionate health, education, and social crises; and

WHEREAS, the City of Austin promotes the closing of the equity gap for Indigenous Peoples through policies and practices that reflect the experiences of Indigenous Peoples, ensure greater access and opportunity, and honor our nation's indigenous roots, history, and contributions; and

WHEREAS, Indigenous Peoples' Day was first proposed in 1977 by a delegation of Native Nations to the United Nations sponsored International Conference on Discrimination Against Indigenous Populations in the Americas; and

WHEREAS, honoring the role of Columbus as a historical figure promotes values of intolerance and violence that are still common in today's world and opposed to the values of the citizens of Austin; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The Austin City Council hereby recognizes the second Monday in October also as Indigenous Peoples' Day and Columbus Day in the City of Austin.

BE IT FURTHER RESOLVED:

The City of Austin affirms its willingness to participate in annual Indigenous Peoples' Day celebrations and activities.

BE IT FURTHER RESOLVED:

The City of Austin strongly encourages Austin Public Schools to include the teaching of Indigenous Peoples' history.

BE IT FURTHER RESOLVED:

The City of Austin encourages other businesses, organizations, and public institutions to also recognize Indigenous Peoples' Day.

BE IT FURTHER RESOLVED:

The City of Austin firmly commits to continue its efforts to promote the wellbeing and growth of Austin's American Indian and Indigenous community.

ADOPTED: _____, 2017

ATTEST: _____
Jannette S. Goodall
City Clerk

RESOLUTION NO. 1190

A RESOLUTION DECLARING THE SECOND MONDAY OF OCTOBER OF EACH YEAR TO BE INDIGENOUS PEOPLES' DAY

WHEREAS, Indigenous People in Boulder respect the interdependence of all humanity and living things and celebrate a vast and rich living tradition through ancestral recognition and diversity of knowledge and perspectives, including sustainable practices; and

WHEREAS, Indigenous People in Boulder have, as in all parts of Americas, endured centuries of cruelty, exploitation and genocide; and

WHEREAS, the Boulder area encompasses ancestral homelands of Indigenous Peoples' Nations; and

WHEREAS, facing and acknowledging our past, good as well as bad, makes our community stronger and more resilient; and

WHEREAS, Southern Arapaho Chief Left Hand notified a party of Nebraska gold seekers that they could not remain on Indian land at what is now known as Settlers Park, but the gold seekers planned to go into the mountains in the spring in search for goldⁱ; and

WHEREAS, after gold was discovered at Gold Run in January of 1859, Boulder City Town Company was founded by settlers on February 10 of 1859, thereby going against the agreement of the 1851 Treaty of Fort Laramie (also known as the Horse Creek Treaty)^{ii iii}; and

WHEREAS, in August of 1864, nearly 100 Boulder County residents mobilized into Company D of the Third Colorado Cavalry of U.S. Volunteers at Fort Chambers (near 63rd and Valmont Streets), to become 'Indian Fighters'^{iv v vi}; and

WHEREAS, under the command of Colonel John Chivington, on November 29 of 1864 an estimated 230 peaceful Arapaho and Cheyenne people were killed along the Big Sandy Creek in southeastern Colorado by the First and Third Colorado Cavalry of U.S. Volunteers^{vii}; and

WHEREAS, Captain David Nichols, a former Boulder County Sheriff, led the Company D volunteers, including 46 Boulder residents, in what is now known as the Sand Creek Massacre from which the Boulder troops enjoyed a heroes welcome upon their return^{viii ix x}; and

WHEREAS, Boulder has benefited directly from Indian removal policies that violated human rights, broke government treaties and forced Arapaho People from their homeland; and

WHEREAS, Boulder is honored to be home of several prominent Native organizations including the Native American Rights Fund founded in 1970, which is the largest nonprofit law firm dedicated to asserting and defending the rights of Indian tribes, organizations and individuals nationwide.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BOULDER:

Section 1. That those now living on these ancestral lands recognize that harm was done and acknowledge that we have a shared responsibility to forge a path forward to address the past and continuing harm to the Indigenous People and the land.

Section 2. That in the pursuit of shared responsibility and of promoting knowledge about Indigenous Peoples, unifying communities, combating prejudice and eliminating discrimination against Indigenous Peoples, the City of Boulder does hereby resolve the second Monday in October of each year to be Indigenous Peoples' Day.

Section 3. That on the second Monday in October of each year the City of Boulder will support events that encourage understanding and appreciation of Indigenous Peoples, their traditions, culture and our shared history in these ancestral lands known as the Boulder Valley.

Section 4. That City Council directs its City Manager to work with City departments, Native Americans and historians to correct omissions of the Native American presence in public places, resources and cultural programming.

Section 5. That as a first step, in recognition of a Memorandum of Understanding that the city entered into with Indigenous tribes concerning open space lands, the city requests input from representatives of those tribes and other interested parties regarding a name that commemorates the Indigenous presence on the park land known as Settlers Park and second, the city manager considers any application submitted to rename the park land based on the input of the Indigenous tribes and interested parties.

Section 6. That the City of Boulder, will work together in partnership with Native Americans to encourage all educational institutions in the city to implement accurate curricula relevant to the traditions, history and current issues of Indigenous People inclusive of and as part of our shared history.

APPROVED this 2ND day of AUGUST, 2016

CITY OF BOULDER, COLORADO


Mayor

ATTEST:


City Clerk

THE OFFICE OF

GOVERNOR GRETCHEN WHITMER

WHITMER / NEWS / PROCLAMATIONS

October 14, 2019: Indigenous Peoples Day

WHEREAS, the idea of Indigenous Peoples Day was first proposed in 1977 by a delegation of Native Nations to the United Nations-sponsored International Conference on Discrimination Against Indigenous Populations in the Americas; and,

WHEREAS, in 1990, representatives from 120 Indigenous Nations at the First Continental Conference on 500 Years of Indian Resistance unanimously passed a resolution to transform Columbus Day into an opportunity to reveal historical truths about pre-existing indigenous cultures that have survived an often violent colonization process and continue to exist and thrive in present day America; and,

WHEREAS, the United States endorsed the United Declaration on the Rights of Indigenous Peoples on December 16, 2010, and Article 15 of that declaration states:

- Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories, and aspirations, which shall be appropriately reflected in education and public information.
- States should take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding, and good relations among Indigenous peoples and all other segments of society; and,

WHEREAS, the state of Michigan recognizes the presence of the three major groups in our state today, the Chippewa (Ojibwe), Ottawa (Odawa), and Potawatomi (Bodéwadmik), who have lived upon this land since time immemorial, and values the progress our society has accomplished through Native American thought and culture; and,

WHEREAS, the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians has passed a resolution to officially recognize Indigenous Peoples Day on the second Monday in October; and,

WHEREAS, the resolution states that Indigenous Peoples Day shall be used to reflect upon the ongoing struggles of Indigenous peoples on this land, and to celebrate the thriving cultures and values that the Odawa, Ojibwe, Potawatomi, and other indigenous peoples contribute to society; and,

WHEREAS, on this second Monday of October, we should honor the historic, cultural, and contemporary significance of Indigenous peoples and their ancestral lands that also became known as the Americas and celebrate their contributions to communities throughout Michigan,

ORDINANCE NO.: 5 - 2021

OF

SEPTEMBER 13, 2021

~~AN ORDINANCE AMENDING CHAPTER 110 ENTITLED "MASS GATHERINGS AND PUBLIC EVENTS" OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH TO ADD SUBSECTION 110-9(C) ENTITLED "REVOCATION"~~

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 110 entitled "Mass Gatherings and Public Events" of the Code of the City of Newburgh is hereby amended as follows:

SECTION 1. Amendment

§ 110-9. Denial of application for permit; revocation.

- A. Denial. The City shall deny applications for permits to hold events for any one or more of the following reasons:
1. The applicant has failed to complete and/or satisfy any of the requirements of the application procedure or has failed to properly complete and/or submit the application form.
 2. The applicant has failed to pay the required fees and/or provide the required insurance coverage or security or escrow account or deposit.
 3. The applicant has a prior history of failing to comply with the terms, conditions and requirements of applicable laws, codes, rules and regulations in the holding of previous events or procedures applicable thereto.
 4. The applicant has applied for permission to hold the event at such time and/or place which is not available for any of the following reasons and no other equivalent, suitable or sufficient place and/or time is available to hold the proposed event:
 - a. The time and place has been granted to another applicant who has filed a proper application prior to the subject application.
 - b. The safe and proper conduct and holding of the proposed event will require the dedication and/or use of City personnel, property, facilities or equipment at such time as same are not available by reason of force majeure, including but not limited to extreme weather conditions, fire, flood, public emergency, riot, labor unrest or other matters or causes beyond the City's control.
 - c. The applicant has applied to hold the proposed event at a location which is not a traditional public forum and it is not dedicated or suitable for the

Underlining denotes additions

~~Strikethrough~~ denote deletions

proposed use or for events involving the exercise of free speech or expression or other activities protected by the First Amendment and/or for any of the reasons set forth in §110-4B hereinabove.

- d. The granting of the application to hold or conduct the event at the time, place and/or manner described in the application and the holding or conduct of same as so described would result in a violation of one or more laws, code provisions, rules or regulations or the civil rights of any individual under federal or state law, including but not limited to those relating to buildings, electricity and other forms of energy, fire prevention, sanitation, food and beverages, toilet facilities, access to medical care, protection of property rights, protection of fair business practices and economic competition, public nuisances, noise, parking, intellectual property rights, occupancy, disorderly conduct, emergency response, and those applicable to the use of public parks and recreational facilities.
- B. In any case where a permit is denied under this section, the City shall provide the applicant with a written denial as set forth in §110-4C hereinabove, and the applicant shall be entitled to submit an amended application, in compliance with the time frame set forth in this chapter, or a new application.
- C. Revocation.
 1. The City Manager or designee may revoke a permit if the permit holder fails to abide by the terms and conditions of the permit or upon a finding of any violation of any applicable rule, ordinance, local law upon notice to the permit holder as set forth herein.
 2. Any permit for a public gathering or assemblage, parade or motorcade, or special event issued pursuant to this chapter may be summarily revoked by the City Manager or designee at any time when, by reason of disaster, public calamity, riot or other emergency, the City Manager or designee determines that the safety of the public or property requires such revocation.
 3. Notice of any action revoking a permit shall be delivered by electronic mail and, as immediately practicable thereafter, by certified mail to the e-mail address(es) and mailing address(es) listed on the permit application.

SECTION 2. Severability.

The provisions of this Ordinance are separable and if any provision, clause, sentence, section, subsection, word or part thereof is held to be illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included

Underlining denotes additions

~~Strikethrough~~ denote deletions

therein, and if such person or circumstance to which the Ordinance or part here of is held inapplicable had been specifically exempt therefrom.

SECTION 3. Codification.

It is the intention of the City Council of the City of Newburgh and it is hereby enacted that the provisions of this Ordinance shall be included in the Code of Ordinances of the City of Newburgh; that the sections and subsections of this Ordinance may be re-numbered and/or re-lettered by the codifier to accomplish such intention; that the term "Ordinance" shall be changed to "Chapter", "Section", or other appropriate word as required for codification; and that any such rearranging of the numbering and/or lettering and editing shall not affect the validity of this Ordinance or the provisions of the Code of Ordinances affected thereby.

SECTION 4. Validity.

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

SECTION 5. Effective Date.

This ordinance shall take effect immediately.

Underlining denotes additions

~~Strikethrough~~ denote deletions

Chapter 110

MASS GATHERINGS AND PUBLIC EVENTS

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Noise — See Ch. 212.

Amusements — See Ch. 108.

Parks and recreation areas — See Ch. 220.

Fire prevention — See Ch. 172.

§ 110-1. Findings and purpose.

The City Council finds and determines that public events held at various times throughout the year and at various venues within the City of Newburgh enrich the quality of life and enhance the recognition and celebration of our diverse cultural, historic, spiritual and artistic heritage. The City Council further finds that providing public spaces as an appropriate forum for the exercise of free expression is an affirmative obligation of government under the First Amendment of the Constitution of the United States and under the Constitution of the State of New York. The City Council further finds and determines that a system of organization and review is a necessary and appropriate method of preserving and protecting public health and safety, protecting property and facilities, coordinating emergency services and response, ensuring the flow of communications and transportation, maintaining compliance with applicable regulations and codes, and preserving public order while affording opportunity and access to public facilities in the best interest of the City of Newburgh and its citizens. To that end, this chapter has as its purpose the lawful, necessary and appropriate regulation of the time, place and manner of mass gatherings and public events.

§ 110-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

APPLICANT or SPONSOR — Any person(s) or entity(ies) seeking to hold a mass gathering or public event which is regulated hereunder and/or is subject to any provision of law, rule and regulation, or any part thereof, which is so subject, and which is subject to the review, inspection, regulation or enforcement of or by the City or other lawful authority.

CITY — Unless otherwise designated, the City of Newburgh and its authorized officials, officers and employees.

MASS GATHERING AND/OR PUBLIC EVENT — A gathering of 10 or more persons in such manner as shall have been planned in advance around a central theme or purpose which uses or occupies space on public premises, including but not limited to public streets and sidewalks, public parkland,

City-owned or -controlled buildings, public waterways, public airspace, public highways and thoroughfares, docks, walkways, bridges, mains or transmission lines, berms, shoulders or lands auxiliary or adjacent thereto, in such manner as would interfere with, obstruct, preclude or otherwise impact the normal and ordinary use thereof by the general public, and all such uses as the City may regulate or control as to time, place and manner under the provisions of any and all applicable laws, rules and regulations. Such events shall include but are not limited to festivals, parades, rallies, fairs, celebrations, ceremonies, marches, demonstrations, exhibitions, performances, arts and cultural events, and any other occurrence involving public gathering and/or attendance which is not otherwise considered a matter of right under prevailing law such as to be exempt from governmental regulation.

NONPROFIT or NOT-FOR-PROFIT or CHARITABLE — A corporation or business organization defined and qualifying as such under the laws, rules and/or regulations of the federal government or of any state.

VEHICLE — Any and all types and means, other than human beings of carrying, transporting, displaying, offering, providing, selling or otherwise using for commercial purposes wares, goods, merchandise, products, foods, beverages, crafts, materials, clothing, or other items for sale or distribution, including but not limited to wagons, carts, pushcarts, automobiles, trucks, trailers, tables, platforms, benches, surfaces, or other such means of display and/or sales.

§ 110-3. Permit required; application contents and procedures; insurance, fees and security.

- A. Any person or entity wishing to hold a mass gathering and/or public event as defined herein on any public property or portion thereof owned and/or controlled by the City of Newburgh is hereby required to file a permit application and receive City approval thereof no fewer than 28 days prior to the holding of same. Such approval shall be given only upon satisfaction of all City requirements imposed as conditions thereof and as required hereunder.
- B. Application for such permit shall be made upon forms prescribed therefor by the City. Application forms shall require, at minimum, the following information:
 - (1) The correct name and address and telephone number of the person and/or organization sponsoring or organizing the mass gathering or public event.
 - (2) If the applicant is a corporation, organization, or association, the title of the individual completing the application, as so authorized by said entity, and acting as the authorized representative of same.
 - (3) The name of the person or persons in charge of organizing and conducting the event, and the name, title, address and telephone number, including cellular telephone number, and other contact

information of the person who shall be present at and with operational responsibility and authority for the event.

- (4) If the applicant is a corporation, organization or association, the names, titles, telephone numbers and other current contact information of the chief executive officer(s) and other responsible persons in authority over same.
 - (5) The total number of people invited and/or expected to participate and to be present as attendees of the event.
 - (6) All locations requested to be used, and the dates and hours requested for each such use.
 - (7) The sanitary facilities, if required under this chapter, in addition to any already existing and present at the proposed location, which will be provided by the applicant.
 - (8) Whether live or recorded music shall be utilized at the event, and if so, a description thereof including any means of broadcast and/or amplification.
 - (9) Whether the applicant(s) has previously sought permits for mass gatherings, events or assemblies in public places and, if so, when and where.
 - (10) Whether any fees for participation and/or admission to the event are to be charged, and if so, the amounts and schedule of same.
 - (11) A description of the nature of the event and the reason why public property is to be utilized.
 - (12) Any provisions to be made or as may be required by any law, rule or regulation to accommodate persons with disabilities.
- C. Except in the case of a spontaneous or similar event or exercise of free speech such as those in response to a contemporaneous occurrence, permit applications shall be filed no later than 28 days prior to the date(s) of any event and in any event not later than the time required for City to review same and to determine that all arrangements are satisfactory and sufficient to protect public health, safety and property. The City shall waive such requirement and accept the filing of an application after the deadline for same if the City determines that such late filing shall not have impaired the City's ability to adequately review the application and all arrangements necessary to hold the event as intended so as to safeguard the protection of public health, safety and property by evaluating same according to the criteria set forth herein; however, the City shall have the right to deny any such permit and prohibit such event due to the late filing of an application or other material failure to comply with City requirements as defined hereunder, including if such late filing shall have precluded or significantly

impaired the City's ability and opportunity to evaluate said application as provided under this chapter.

D. Certificate of liability insurance.

- (1) Except as otherwise provided, the applicant shall furnish a certificate of liability insurance covering the event to be held and naming the City of Newburgh as an additional insured with limits of liability of at least \$1,000,000 for each occurrence and \$2,000,000 aggregate for bodily injury and \$50,000 for each occurrence and \$100,000 aggregate for property damage. All such policies must be written in the broadest form available by a company authorized to do business in New York State and of recognized financial standing which has been fully informed about the proposed event.
- (2) The insurance coverage described hereinabove shall be increased by the City Manager for good cause. As used herein, the term "good cause" shall mean that the circumstances of the proposed event shall include one or more of the following: the number of attendees and/or participants shall be 150 or more persons; the inclusion of any animals other than domesticated cats and dogs; the inclusion of ride-on attractions such as roller-coasters, carousels, Ferris wheels or other such devices; the inclusion of equipment or devices requiring connection to electricity or other independently generated energy sources or utilities, including but not limited to water and/or sewerage treatment systems; the presence and/or use of fireworks, explosive devices, firearms, weapons, fire, chemicals or other inherently hazardous or dangerous devices or materials or activities. The amount by which the City Manager shall require an increase in such insurance coverage shall be no less than two times the amounts in U.S. dollars set forth in the preceding subsection. In the event no such insurance coverage is available, the City Manager may prohibit such activity or circumstance from inclusion in the event.

E. Waiver or reduction of fees, insurance and/or security deposit requirements.

- (1) Notwithstanding the requirements to pay fees and/or provide insurance coverage and/or a security deposit or escrow account as set forth in this chapter, the City Manager shall have the authority to and shall reduce and/or waive such requirements for all applicants who qualify for such reduction and/or waiver according to the following schedule and criteria:
 - (a) If the applicant provides documentation showing that it is a not-for-profit and/or charitable organization organized and registered as such under the laws of the United States, the State of New York or any other state, or if the applicant sponsor or cosponsor of the event is a municipality, municipal corporation or agency or a department or subdivision thereof,

no fees shall be charged, and no security deposit or escrow shall be required. Insurance coverage requirements as provided in Subsection D shall remain in effect, unless reduced or waived as provided therein or below, except that no separate policy of insurance shall be required of the municipal entities mentioned herein.

- (b) If the applicant is indigent, no fees shall be charged, and no security deposit or escrow deposit shall be required. Indigent applicants shall not be required to provide insurance coverage as required hereinabove. As used herein, the term "indigent" shall mean an individual with a gross annual income of less than \$12,000; or if the applicant is an organization, "indigent" shall mean having a gross annual income for the current or most recent fiscal year or organizational assets or a combined total of each of \$20,000 or less.
 - (c) Should the applicant show good cause why it cannot comply with the requirements to provide insurance coverage as provide herein, the City Manager shall require applicants other than indigent applicants to provide a security deposit in the form of a bond or cash escrow account to be held by and in the name of the City of Newburgh in the amount of \$10,000. As used herein, the term "good cause" shall mean the unwillingness or inability of qualified insurers to provide the required policies for reasons unrelated to any wrongful or negligent acts or omissions of the applicant.
- (2) Applications for permits to hold events other than spontaneous or similar events or exercises of free speech such as those in response to a contemporaneous occurrence shall be accompanied by an application fee as set forth in Chapter 163, Fees, of this Code representing the administrative costs to the City for processing same. **[Amended 6-14-2010 by Ord. No. 10-2010]**

§ 110-4. Location.

- A. The City shall have the authority to determine the location where all public events shall be held based upon the criteria hereinafter set forth. Such locations may be on the grounds of certain discreet public lands and facilities, including but not limited to Delano-Hitch Recreation Park and facilities, Downing Park and facilities, other City parks, parklands or open space, activity centers, Ann Street parking lot, ferry parking lot, other City parking lots, Unico Park, Newburgh Landing, other City waterfront properties and facilities; or such City streets and thoroughfares as the City shall approve of, determine and allow under the criteria set forth herein and as shall be authorized and required hereunder.
- B. The City shall authorize and permit the event to take place at the place and time requested by the applicant; provided, however, that the City

shall have the right to provide a location and time as nearly equivalent to the requested location and time as possible if the City determines that holding the event as requested could reasonably be expected to create or result in circumstances which would pose a danger to public health and safety or a risk of damage or loss to public or private property or to the use thereof during or subsequent to the event. In evaluating such danger or risk, the City will consider the following criteria:

- (1) The number of persons invited to and/or reasonably expected to participate in or attend the event, and the capacity and current condition of the site(s) and/or location(s) requested by the applicant.
- (2) The anticipated duration of the event.
- (3) The actual time of day or night during which the event is expected to or will occur.
- (4) The extent and dimensions of the area to be used for and occupied by the event.
- (5) The specific facilities, sites and locations requested by the applicant to be used for the event, including such characteristics as their durability; cost of maintenance and repairs beyond that required by normal use, wear and tear; surface composition; design and normal and regular intended use; capacity; the presence of components of utility systems and infrastructure or sensitive ecological, environmental, historical or cultural assets; and/or the inclusion in the event of the use of explosives or other inherently dangerous, damaging or destructive instrumentalities.
- (6) The reasonably likely impacts and effects which the event will have upon persons or functions which will be displaced or precluded at the time or within a reasonably short time following the holding of the subject event if the subject event is held at the places and times requested by the applicant.
- (7) The apparent and inherent incompatibility of and between the times and places requested by the applicant and the types of activities reasonably anticipated to take place during the event. For example and not by way of limitation, events shall be considered apparently and inherently incompatible if the event will generate significant noise near or in a hospital or other quiet zone; include lights or signs or visual obstructions such as can reasonably be anticipated to interfere with nearby vehicular traffic; if the proximity of a site of ongoing construction could reasonably be considered to pose a danger to attendees; or if holding the event at the time and place requested by the applicant can be reasonably considered to cause or create a public nuisance.

- C. In the event the City denies permission to hold the event at the time(s) and place(s) requested, the City shall promptly provide the applicant with written notice of such denial and shall include in such written notice the reason(s) for such denial, and where appropriate, the City shall further notify the applicant of such other time(s) and/or place(s) when and where the subject event may be held which shall be as nearly equivalent to the requested time and place as shall be reasonably possible.

§ 110-5. Security deposit and escrow account.

- A. In addition to any insurance coverage required hereunder, the City shall require of any and all applicants and/or sponsors a security deposit and/or escrow account for each such public event as defined herein and/or regulated hereunder according to the criteria set forth herein.
- B. The City Manager shall reasonably determine the amount of such security deposit and/or escrow account, taking into account the following, which shall be considered in making such determination:
- (1) The number of persons projected to attend the event.
 - (2) The number of vendors, peddlers, booths, exhibits, rides, attractions, features, entertainments and other aspects of the event.
 - (3) The requirement of and the contents and provisions of any safety plan required for such event and/or requirements reasonably imposed by the City Code Enforcement Officer; and/or the City Engineer; and/or the Fire Chief; and/or the Police Chief; and/or the Corporation Counsel; and/or the City Manager related to established safety, security, engineering and/or legal considerations.
 - (4) The size, dimensions and extent of the public properties, facilities and space projected to be used and occupied by the event.
 - (5) The number of City staff and the number and time of hours of work required of the City to provide supervision and direct services in support of the event and all persons in attendance thereof.
 - (6) The history, background, and nature of the applicant and/or sponsor of the event, specifically with respect to its longevity, budget, staff, history of compliance with City codes and regulations, local presence and contacts with the City community, and other factors relevant to the responsibility and accountability of same, but not with respect to any political platform, opinion or posture of same or with respect to any status or characteristic which is protected by or under the federal or state constitutions or any civil rights laws or case law determined thereunder, and not in such manner as may be discriminatory or subjective or arbitrary as may be prohibited by law.

- (7) The extent to which the applicant and/or sponsor will require special arrangements for such event with respect to utilities, energy, lighting, vehicles, parking, connections, wiring, stages, platforms, scaffolding, control boards and panels, sound and amplification equipment, costumes, stage properties, private event staff and other materials, equipment and/or personnel.
 - (8) Whether or not any animals will be involved in any aspect of the event and, if so, the number, kind and characteristics of same and their role in the event and the number, qualifications and experience of those charged with the control and supervision of same.
 - (9) The number, kind and value of any and all City equipment, materials, vehicles and other properties owned or controlled by the City and used by the City in the supervision and control over said event, and the loss, damage, depreciation and/or wear and tear reasonably likely to be sustained by same.
 - (10) Any characteristic, component, portion or element of the event which may be reasonably considered to be inherently dangerous.
- C. The City shall receive such security deposit, whether in money or property or both, as the City may determine and keep and retain same in a protected and segregated manner. If the security deposit shall take the form of cash, monies or funds, the City shall deposit same in an escrow account. After the event has concluded, the City shall return such security deposit and/or Escrow Account to applicant and/or sponsor in the exact kind or amount deposited without interest, except for such monies or property of such value as shall fairly and accurately represent the cost to City incurred as a result of the event, which shall be calculated and based upon such factors directly related thereto, including but not limited to those considerations as are listed or mentioned in Subsection B hereinabove. The City shall provide the applicant/sponsor with an itemized statement indicating all such costs and expenses and showing proper deductions therefor, and the balance to be returned by the City to the applicant/sponsor after making all such deductions therefrom.

§ 110-6. Safety plan.

Before issuing any permit as required hereunder, for events reasonably anticipated to involve more than 100 persons and/or to include activities defined elsewhere herein as inherently dangerous, the City may reasonably require the applicant/sponsor to provide a safety plan designed to protect public health, safety and property before, during and after said event. Such public safety plan shall be subject to the prior review and approval of the Chief of Police, the Fire Chief, the Code Compliance Supervisor, the City's Consulting Engineer and the City Manager and shall comply with the requirements of any and all such City and public safety officials acting in their official capacities and employing their professional judgment on the

basis of their knowledge and experience, and with the provisions of any and all applicable laws, codes, rules and regulations. Such safety plan shall include provisions for adequate and sufficient toilet and sanitation facilities, emergency medical response, communications and command control, safety and security, and other provisions applicable to events of such size and nature.

§ 110-7. Scheduling.

The City shall have the right to determine the times, hours, dates, durations and locations for all such events held on City or public property, which shall be done in consideration of the factors enumerated in § 110-5B hereinabove. The City shall be under no obligation to permit, allow or oversee any event if other events or activities are or will be anticipated to occur on the same day or times within the City and such other events or activities will make demands upon City personnel, properties, equipment or facilities such as to raise the reasonable possibility that the demand upon same may be such as to preclude the City from accommodating multiple events in a lawful, responsible, safe and organized manner. The City shall grant applications for the use of City locations, facilities and sites on a "first-come, first-served" basis and as described hereinabove.

§ 110-8. Other permits and approvals.

- A. In addition to satisfying all requirements of City as provided herein, all applicants/sponsors shall fully comply with all other applicable laws, rules, codes, regulations and permit conditions as may be applicable and as may be overseen and enforced by any and all other governmental, municipal or legal agencies as may have jurisdiction thereover. City shall be under no obligation to grant a permit and/or allow an event to be held in the circumstance that City has reasonably reliable knowledge indicating that any applicant/sponsor is not in compliance with any law, code, rule or regulation administered or enforced by any government agency applicable to the applicant/sponsor and/or the subject event. City shall have the right to require the applicant to provide proof of compliance with all such requirements, and should the applicant fail to provide same, City may deny the applicant permission to hold such event on City premises.
- B. Other requirements. Based upon the factors and considerations mentioned and listed in § 110-4B and other sections hereof, City shall have the right to require any applicant/sponsor at its own cost and expense to provide such personnel and/or equipment as City may reasonably deem to be appropriate and necessary to ensure the safety and security of the public and/or public property before, during and after such event, including but not limited to security personnel, communications equipment, medical and emergency response plans, services and vehicles, generators, lighting, sanitation facilities including toilets, garbage and trash collection and disposal facilities and services, parking and traffic control, and others, all of which shall

be and remain subject to the oversight, supervision and control of City officials, officers and staff with supervisory responsibility for such event and for City property. City may impose and/or mandate compliance with such standards and requirements as same shall be reasonably related to the public policies to be supported by this chapter.

- C. Prior to and during any event, City shall have the right to prohibit any and all activity related to any event from taking place upon or impacting ~~any City property, facility, equipment, personnel, street, sidewalk or~~ other public property owned or controlled by City, as same shall be consistent with City's lawful rights, powers and duties as custodian, trustee and proprietor of the public properties and facilities owned, controlled and/or regulated by City under law, as same may be reasonable necessary and appropriate to protect and safeguard personal health and safety and prevent damage or loss to public or adjacent private property.

§ 110-9. Denial of application for permit.

- A. The City shall deny applications for permits to hold events for any one or more of the following reasons:
- (1) The applicant has failed to complete and/or satisfy any of the requirements of the application procedure or has failed to properly complete and/or submit the application form.
 - (2) The applicant has failed to pay the required fees and/or provide the required insurance coverage or security or escrow account or deposit.
 - (3) The applicant has a prior history of failing to comply with the terms, conditions and requirements of applicable laws, codes, rules and regulations in the holding of previous events or procedures applicable thereto.
 - (4) The applicant has applied for permission to hold the event at such time and/or place which is not available for any of the following reasons and no other equivalent, suitable or sufficient place and/or time is available to hold the proposed event:
 - (a) The time and place applied for has been granted to another applicant who has filed a proper application prior to the subject application.
 - (b) The safe and proper conduct and holding of the proposed event will require the dedication and/or use of City personnel, property, facilities or equipment at such time as same are not available by reason of force majeure, including but not limited to extreme weather conditions, fire, flood, public emergency, riot, labor unrest or other matters or causes beyond the City's control.

- (c) The applicant has applied to hold the proposed event at a location which is not a traditional public forum and it is not dedicated or suitable for the proposed use or for events involving the exercise of free speech or expression or other activities protected by the First Amendment and/or for any of the reasons set forth in § 110-4B hereinabove.
- (d) The granting of the application to hold or conduct the event in the time, place and/or manner described in the application and the holding or conduct of same as so described would result in a violation of one or more laws, code provisions, rules or regulations or the civil rights of any individual under federal or state law, including but not limited to those relating to buildings, electricity and other forms of energy, fire prevention, sanitation, food and beverages, toilet facilities, access to medical care, protection of property rights, protection of fair business practices and economic competition, public nuisances, noise, parking, intellectual property rights, occupancy, disorderly conduct, emergency response, and those applicable to the use of public parks and recreational facilities.

- B. In any case where a permit is denied under this section, the City shall provide the applicant with a written denial as set forth in § 110-4C hereinabove, and the applicant shall be entitled to submit an amended application, in compliance with the time frame set forth in this chapter, or a new application.

§ 110-10. Release of City from liability.

The filing of an application and/or the use of City- or publicly owned property or facilities for an assembly, mass gathering or event shall be and operate as a release of the City of Newburgh and its officers, employees and agents from and against any and all claims, actions, losses, liability or damages of any kind arising out of or resulting from or caused by the occupancy or use of such property or facilities by any and all persons or groups participating or involved in said event, and the agreement of the applicant, sponsor, cosponsor and organizer, jointly and severally, to indemnify defend and hold harmless the City of Newburgh and its employees and agents from same.

§ 110-11. No endorsement by City.

The granting of permission by the City and/or the use of City- or publicly owned property or facilities by any person or group or organization shall in no way be considered an endorsement or any expression of support, of disagreement or of any position or opinion of the City whatsoever with respect to the activities, policies, opinions, positions, precepts or other aspects of the persons or groups organizing, sponsoring, holding or participating in such event or use, and no person associated in any way

with said event is authorized to or shall make any public statements or representations concerning the City of Newburgh concerning same.

§ 110-12. Severability.

If any part, portion or provision of this chapter shall be invalidated by reason of any law or decision of any court or other agency with authority or jurisdiction thereover, the remainder shall remain in full force and effect as the sense thereof may allow.

§ 110-13. When effective.

This chapter shall take effect immediately, as provided by the Municipal Home Rule Law and other laws of the State of New York.

RESOLUTION NO.: 216 - 2021

OF

SEPTEMBER 13, 2021

RESOLUTION SCHEDULING A PUBLIC HEARING FOR SEPTEMBER 27, 2021
TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW AMENDING
CHAPTER 276 ENTITLED "TOBACCO" OF THE CODE OF ORDINANCES
OF THE CITY OF NEWBURGH TO CHANGE THE CHAPTER TITLE
TO "TOBACCO AND MARIHUANA", AND
TO AMEND ARTICLE II ENTITLED "OUTDOOR SMOKING"

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 Chapter 276 entitled 'Tobacco' of the Code of Ordinance of the City of Newburgh to change the chapter title to "Tobacco and Marihuana", and to amend Article II entitled 'Outdoor Smoking"; 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 27th day of September, 2021, in the 3rd Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

LOCAL LAW NO.: _____ - 2021

OF

_____, 2021

**A LOCAL LAW AMENDING CHAPTER 276 ENTITLED "TOBACCO"
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH
TO AMEND THE CHAPTER TITLE AS "TOBACCO AND MARIHUANA",
AND TO AMEND ARTICLE II ENTITLED "OUTDOOR SMOKING"**

BE IT ENACTED, by the Council of the City of Newburgh, New York that Chapter 276 "Tobacco" be and is hereby amended to amend the chapter title as "Tobacco and Marihuana" and to amend Article II entitled "Outdoor Smoking" as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law amending Chapter 276 entitled 'Tobacco' of the Code of Ordinances of the City of Newburgh to amend the chapter title to 'Tobacco and Marihuana' and to amend Article II entitled 'Outdoor Smoking'".

SECTION 2 - PURPOSE AND INTENT

On March 31, 2021, Governor Cuomo signed into law Chapter 92 of the Laws of 2021, known as "The Marihuana Regulation and Taxation Act" (MRTA). Nothing in the MRTA is intended to limit the authority of local government to allow smoking cannabis/marihuana in any location where smoking tobacco is prohibited. The primary purpose of this local law is to amend Article II of Chapter 276 to add cannabis/marihuana to the prohibition of smoking and vaping in outdoor and other public spaces to reduce exposure to second-hand smoke to the general public and youth in locations where they are likely to be present.

SECTION 3 - AMENDMENT

Chapter 276 of the Code of Ordinances of the City of Newburgh is hereby amended to amend the chapter title to "Tobacco and Marihuana" and to amend Article II entitled "Outdoor Smoking" to read as follows:

CHAPTER 276 TOBACCO AND MARIHUANA

ARTICLE II. Outdoor Smoking

§ 276-11. Legislative authority.

- A. Pursuant to the New York State Constitution, the City Council of the City of Newburgh may adopt and amend laws pertaining to the protection, conduct, safety, health and well-being of the persons and property in the City.
- B. The Clean Indoor Air Act, adopted by the New York State Legislature as Public Health Law, Article 13-E, §1399-n et seq., addresses indoor smoking only and specifically provides that "nothing herein shall be construed to restrict the right of any county, city, town, or village to adopt and enforce additional local law, ordinances or regulations which comply with at least the minimum applicable standards set forth in this article."
- C. The Marihuana Regulation and Taxation Act ("MRTA"), adopted by the New York State Legislature as Cannabis Law, Chapter 7-A, provides that nothing in the MRTA is intended to limit the authority of any government agency to allow smoking cannabis in any location where smoking tobacco is prohibited.

§ 276-12. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

CANNABIS PRODUCT or CANNABIS-RELATED PRODUCT means any product containing cannabis or hemp, as those terms are defined in the MRTA, that are used or intended for the purpose of smoking or inhaling. "Cannabis Product" or "Cannabis-Related Product" does not include any product that has been excluded from the definition of cannabis or hemp by the MRTA or approved by the U.S. Food and Drug Administration, pursuant to its authority over drugs and devices, for sale as a drug product or for other medical purposes and is being marketed and sold solely for that approved purpose.

CHILDREN means persons under the age of 18 years.

CITY-OWNED BUILDING means any structure owned by the City of Newburgh, except for any vacant structure not used for municipal purposes and any such structure that is subject to a written lease to another party, provided such lease was entered into prior to the effective date of this chapter and provided such lease does not give the City the authority to regulate outdoor smoking on the leased premises.

E-CIGARETTE means any electronic device composed of a mouthpiece, heating element, battery and electronic circuits that provides a vapor of liquid nicotine, cannabis product, or cannabis-related product, and/or other substances mixed with propylene glycol to the user as he or she simulates smoking. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

ENTRANCE means the location by which persons may enter a building, typically consisting of a door or doorway, which may be associated with a stoop or steps and/or a ramp and for the purposes of this chapter, "entrance" includes the stoop, steps or ramp leading from the sidewalk or pavement to such a door or doorway.

Underlining denotes additions

~~Strikethrough~~ denote deletions

EXIT means the location by which persons may leave a building, typically consisting of a door or doorway, which may be associated with a stoop or steps and/or a ramp and for the purposes of this chapter, "exit" includes the stoop, steps or ramp leading from the sidewalk or pavement to such a door or doorway.

FACILITY means the structures and activity areas, which may be partially enclosed or unenclosed, associated with an operation (which operation may be governmental, recreational, educational, commercial or of another type).

MASS TRANSIT SHELTER means a structure that has a roof and intended for use by persons waiting for a bus or other mass transit vehicle.

MOBILE VENDING means an activity consisting of the offering of goods and/or services for sale from a nonpermanent base of operations, including but not necessarily limited to a cart, kiosk, table or vehicle.

OUTDOOR DINING means an activity consisting of the provision of facilities that are available to members of the public (with or without payment) for eating and/or drinking in an area that is not fully enclosed by a permanent structure (walls, roof, etc.).

OUTDOOR RECREATION AREA means an area that is not fully enclosed and that is designated for recreational purposes or activities.

PAVILION means a structure that is at least partially unenclosed (for example, with open sides) and that is intended for public use.

PERMIT means written permission for an activity proposed to be conducted on property of the City of Newburgh, including any conditions placed upon such permission, issued and signed by the appropriate regulatory authority of the City.

PLAYGROUND means an outdoor recreation area that is designed and intended for use by children and for the purposes of this chapter, a playground that is fenced or otherwise physically demarcated shall be deemed to include all of the area inside such fence or demarcation; a playground that is not fenced or otherwise demarcated shall be deemed to include all open space that is associated with or adjacent to it.

PLAYING FIELD means that portion of an outdoor recreation area that is set up and marked in some way for the playing of one or more specific games (such as baseball, football or soccer) and for the purposes of this chapter, a playing field that is fenced or the outside perimeter of which is otherwise physically demarcated shall be deemed to include all of the area inside such fence or demarcation, together with any bleachers or other, designated viewing area; a playing field that is not fenced or otherwise demarcated (as to its outside perimeter) shall be deemed to include all of

Underlining denotes additions

~~Strikethrough~~ denote deletions

the area customarily required for playing the game for which it is being used, together with any bleachers or other designated viewing area.

SMOKE means the emission produced by the burning of a tobacco product or tobacco-related product, cannabis product or cannabis-related product, or the heating of an e-cigarette which creates a vapor.

SMOKING means the burning of a tobacco product or tobacco-related product, cannabis product or cannabis-related product, or the heating or ignition of an e-cigarette which creates a vapor.

TOBACCO PRODUCT or TOBACCO-RELATED PRODUCT means any manufactured product containing tobacco or nicotine, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, snus, shisha, powdered and/or dissolvable tobacco products, liquid nicotine and electronic cigarette cartridges, whether packaged or not; any packaging that indicates it might contain any substance containing tobacco or nicotine; or any object utilized for the purpose of smoking or inhaling tobacco or nicotine products. However, "Tobacco Product" or "Tobacco-Related Product" does not include any product that has been approved by the U.S. Food and Drug Administration, pursuant to its authority over drugs and devices, for sale as a tobacco use cessation product or for other medical purposes and is being marketed and sold solely for that approved purpose.

§ 276-13. Outdoor smoking prohibited in certain public places.

Smoking shall not be permitted and no person shall smoke in the following outdoor areas:

A. Smoking shall be prohibited in the following City parks:

Downing Park (the area between and bounded on the north by South Street; on the east by Dubois Street; on the south by Third Street and on the west by Robinson Avenue; as shown on the Tax Map of the City of Newburgh as Section 17, Block 9, Lot 1 and Section 17, Block 10, Lot 1)

Delano-Hitch Recreation Park, including the Activity Center, Stadium, Skateboard Park, Aquatic Center and Athletic Fields, (the area between and bounded on the north by Washington Street; on the east by Robinson Avenue; on the south by South William Street and on the west by Lake Street; as shown on the Tax Map of the City of Newburgh as Section 34, Block 4, Lot 1.22)

Newburgh Landing Park (the area between and bounded on the north by Fourth Street, on the west by Front Street, on the east by the Hudson River and on the south by Third Street)

Underlining denotes additions

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Clinton Square Park (the area between and bounded on the south by Third Street, on the east by Bush Avenue, on the north by Bush Avenue and on the west by Fullerton Avenue)

Ward Brothers Memorial Rowing Park (the area beginning at the intersection of Renwick Street and River Street, along the former line of the Newburgh-New Windsor Turnpike, along the westerly boundary of the Wastewater Treatment Plant property, as shown on the Tax Map of the City of Newburgh as Section 49, Block 1, Lot 5.1)

Hasbrouck Street Park (10-14 Hasbrouck Street, as shown on the Tax Map of the City of Newburgh as Section 38, Block 3, Lot 35.1)

Tyrone H. Crabb Memorial Park (Grand Street and South Street, as shown on the Tax Map of the City of Newburgh as Section 12, Block 2, Lot 6)

Audrey L. Carey Family Park (Liberty Street, as shown on the Tax Map of the City of Newburgh as Section 18, Block 8, Lot 1.2)

B. Smoking shall be prohibited in the following outdoor recreation areas:

Lily Street Tennis Courts (Lily Street, as shown on the Tax Map of the City of Newburgh as Section 16, Block 2, Lot 1)

Gidney Avenue Basketball Court (Gidney Avenue, as shown on the Tax Map of the City of Newburgh as Section 11, Block 4, Lot 34.1)

Washington Street Boat Launching Ramp (foot of Washington Street)

Frank Masterson Recreation Area

C. Smoking shall be prohibited in other areas or at events where persons cannot readily escape nearby second-hand smoke, as follows:

1. Within any outdoor dining area, whether covered or not, located on City-owned property as follows:
 - a. Within any seating area for outdoor dining and/or drinking associated with a bar or restaurant that is on City property and subject to a City license and that is in use for that purpose; and
 - b. Within any seating area for outdoor dining and/or drinking, established or maintained by the City or its agent, that is in use for that purpose.

Underlining denotes additions

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2. On any public property that is within 25 feet of the area occupied by a mobile vending cart or other mobile vendor operating on City-owned or City-leased property.
3. At outdoor events on City-owned property, as follows:
 - a. Within the outdoor seating and viewing areas for open-air concerts, dances, parades, other performances, lectures, motion-picture or video presentations or similar open-air presentations for which a permit from the City is required and when in use for that purpose.
 - b. Within the outdoor seating and viewing areas associated with unenclosed or partially enclosed sports areas or similar open-air recreational facilities.
 - c. During outdoor festivals, block parties and similar events on public property, for which a permit from the City is required, that will involve the concentration of persons in small or constrained spaces. For such an event, smoking is prohibited within the area covered by the City permit, except within a designated smoking area as described in subsection C(3)(d), below.
 - d. If the sponsor of an outdoor event (per subsection C(3)(a), (b) or (c) above) wishes to allow smoking at the event, the sponsor must propose and request from the City a designated smoking area associated with the event, which must be so marked, may not be in a permanently smoke-free area and would result in little or no direct exposure of nonsmokers to second-hand smoke; if no such exception is requested and granted, the event must be entirely smoke free.
4. Any licensee or permit holder for an outdoor dining area, vending or outdoor event on City-owned property shall be required to inform members of the public of applicable restrictions on outdoor smoking (for example, through signs posted on a mobile vending cart, at the perimeter of an outdoor dining area or outdoor event and/or in the publicity for an event).

D. Smoking shall be prohibited in certain other areas, as follows:

1. Outside City-owned buildings, as follows: at all times, on any public property within 25 feet of any entrance or exit or window or ventilation intake for any building owned by the City of Newburgh.
2. Inside, or on any public property within 25 feet of, any mass transit shelter.
3. At facilities leased or licensed to others, as follows:
 - a. Whenever the City is negotiating a new or renewed lease or license for use of City land or buildings, the City shall include in such lease or license a provision that will apply outdoor smoking rules comparable to those for other, comparable City property (as set forth herein)
 - b. As for existing leases, where this chapter would not apply automatically, the City shall ask such lessees to agree (voluntarily) to operate the outdoor areas of the leased premises in a manner that is consistent with City regulation of smoking in comparable outdoor areas.

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§ 276-14. Penalties for offenses.

Any person found to be in violation of any provision of this Article by smoking in an area where outdoor smoking is hereby prohibited shall be guilty, upon conviction, of an offense punishable by a fine of not less than \$50.00 for the first violation; not more than \$100.00 for a second violation; and not more than \$250.00 for the third and each subsequent violation. Each day on which a violation occurs shall be considered a separate and distinct violation.

§ 276-15. Severability.

The provisions of this Local Law are declared to be severable, and if any section or subsection of this Article is held to be invalid, such invalidity shall not affect the other provisions of this Article that can be given effect without the invalidated provision.

SECTION 4 - SEVERABILITY

The provisions of this Local Law are separable and if any provision, clause, sentence, section, subsection, word or part thereof is held to be illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted is such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part here of is held inapplicable had been specifically exempt therefrom.

SECTION 5 - CODIFICATION

It is the intention of the City Council of the City of Newburgh and it is hereby enacted that the provisions of this Local Law shall be included in the Charter of the City of Newburgh; that the sections and subsections of this Local Law may be re-numbered and/or re-lettered by the codifier to accomplish such intention; that the term "Local Law" shall be changed to "Charter", "Article", or other appropriate word as required for codification; and that any such rearranging of the numbering and/or lettering and editing shall not affect the validity of this Local Law or the provisions of the City Charter affected thereby.

SECTION 6 - 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 7 - EFFECTIVE DATE

This Local Law and shall be effective after 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.

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New York's Marijuana Regulation and Taxation Act: The Legalization of Adult-Use Cannabis in New York

By Wade Beltramo, NYCOM General Counsel

Overview

On March 31, 2021, Governor Cuomo signed into law Chapter 92 of the Laws of 2021. Known as "the marijuana regulation and taxation act" (MRTA), this legislation was enacted with the stated purpose of creating a regulated and taxed cannabis industry in New York and to provide for social and economic justice related to the sale and use of cannabis. While the MRTA legalizes the possession and use of cannabis immediately, the actual sale of adult-use cannabis is not expected to begin until late 2022 or early 2023.

The MRTA enacts an entirely new chapter of the New York State Laws (Chapter 7-A, Cannabis Law) and substantially amends numerous other provisions of State law to provide for the implementation of adult-use cannabis. In addition, the MRTA establishes two new State agencies called the New York State Cannabis Control Board and the Office of Cannabis Management, which will administer the State's adult-use and medical use programs, promulgating rules, issuing licenses, and investigating and enforcing infractions of the law. The regulatory framework created by the MRTA is in many ways similar to how the State currently regulates alcohol via the Alcoholic Beverage Control Law and the New York State Liquor Authority.

The MRTA creates a heavily regulated market requiring individuals and organizations to obtain a license before engaging in any of the myriad types of authorized cannabis businesses, including cultivating, processing, distributing, delivering, dispensing cannabis, or operating a cooperative, microbusiness, nursery, or on-site consumption establishment.

Legalization of Cannabis Use

The MRTA amends the NYS Penal Law, adding Article 222 Cannabis, which sets forth both legal and illegal activities regarding adult-use cannabis. Penal Law § 222.05 expressly states that any individual 21 or older may:

- (a) possess, display, purchase, obtain, or transport up to 3 ounces of cannabis and up to 24 grams of concentrated cannabis
- (b) transfer, without compensation, to another person 21 or older, up to 3 ounces of cannabis and up to 24 grams of concentrated cannabis;

- (c) use, smoke, ingest, or consume cannabis or concentrated cannabis unless otherwise prohibited by state law;
- (d) possess, use, display, purchase, obtain, manufacture, transport or give to any person 21 or older cannabis paraphernalia or concentrated cannabis paraphernalia;
- (e) plant, cultivate, harvest, dry, process or possess cultivated cannabis in accordance with Penal Law § 222.15; and
- (f) (i) assist another person who is 21 or older or (ii) allow property to be used in any of the acts described in the preceding paragraphs.

In addition, cannabis, concentrated cannabis, cannabis paraphernalia or concentrated cannabis paraphernalia involved in any lawful conduct under Penal Law § 222.05 are not contraband nor subject to seizure or forfeiture of assets. Moreover, conduct deemed lawful by Penal Law §222.05 may not be the basis for law enforcement approaching, searching, seizing, arresting or detaining an individual. These provisions of law took effect March 31, 2021.

Local Opt-Out of Retail Sales

General Provisions

Cities, villages, and towns may opt out of allowing retail dispensaries and/or on-site consumption establishments from locating and operating within their boundaries. To effectuate the opt-out, such local governments must adopt a local law subject to a permissive referendum on or before December 31, 2021. A town opt-out only applies to the area of the town outside of any village(s) located therein. No city, village, or town may opt out after December 31, 2021. However, a local government that, in 2021, opts out of allowing retail dispensaries and/or on-site consumption establishments from locating within their boundaries may repeal such opt-out at any time. The local government opt-out does not apply to other types of licensed activities under the Cannabis Law.

Conducting the Permissive Referendum in Cities

The Municipal Home Rule Law sets forth the process and procedures required to conduct mandatory and permissive referenda in cities. Failure to follow the procedure required by law for conducting a referendum may result in the city council's action being invalidated.¹

Any local law adopted by a city that is subject to permissive referendum will not take effect until:

1. 45 days after its adoption have passed; and
2. It is approved by the electors of the city, if a petition is filed requiring the law be approved by a majority vote of the electorate.²

Petitions must be made on separate sheets of paper and the signatures on each sheet must be signed and authenticated in the manner provided by the Election Law for the signing and authorizing of nominating petitions.³ These sheets, when fastened together and offered for filing, are deemed to constitute one petition.

Petitions must be filed in the city clerk's office within 45 days of the adoption of the local law. Petitions must be signed by a number of electors equal to 10% of the total number of votes cast in the city for governor at the last gubernatorial election.⁴ All signers of the petition must be qualified voters.⁵ A qualified voter is an individual who is currently registered to vote and was also registered during the previous general election.⁶

If a petition is filed, a proposition on the local law must be submitted to the voters at the next election of State or local government, not less than 60 days after the filing of the petition. The petition may also request that the city council direct a special election be held.⁷

Once the petition has been filed with the city clerk, he or she must examine it not later than 30 days after the date of filing, or 45 days before the date of the election where the referendum would appear on the ballot, whichever is earlier. The clerk then transmits a certificate to the city council attesting that he or she has examined the petition and stating whether the petition complies with the law's requirements.⁸

If within five days after the last day to file a certificate to the legislative body, a written objection to the clerk's certification is filed in the State Supreme Court in the county in which the city is located, the court must determine any question arising from the petition and issue an order. This proceeding must be heard and determined in the manner prescribed in Election Law § 16-116.

Conducting the Permissive Referendum in Villages

A local law adopted by a village that is subject to a permissive referendum under Municipal Home Rule Law § 24, or any other State statute, will be conducted pursuant to **Article 9 of the Village Law**.⁹ Under Article 9, a village board of trustees may bypass the petition process by submitting a permissive referendum to voters upon its own motion.¹⁰ Compliance with Article 9 is therefore consistent with the terms of the Municipal Home Rule Law. Additionally, Village Law § 9-900(1) states that whenever the Village Law provides that an act or resolution of the board of trustees is subject to a permissive referendum, the permissive referendum must be conducted as provided in Article 9.

Many referenda may be timed so that they are held during a regularly scheduled village election. The criteria for determining when a referendum is to be held is set forth in Village Law § 9-902. If the petition for a permissive referendum is filed after the first day of the month in which a general village election is to be held and before the first day of the month two months prior to the next general village election, the referendum must be held at a special election of the village to be held not less than 10, nor more than 60, days after the filing of the petition.¹¹

Within 10 days after the board of trustees adopts any local law or resolution that is subject to a permissive referendum, the village clerk must post and publish, in the same manner as provided for the notice of a general village election, a notice setting forth the date that the local law or resolution was adopted.¹² The notice must also contain an abstract of the local law or resolution stating its purpose and indicating that the local law or resolution is subject to a permissive referendum. If more than one referendum is to be voted upon, each must be separately and consecutively numbered.¹³

The purpose of this notice is to afford the electorate the opportunity to circulate a petition on the question. If the local law or resolution is subject to a mandatory referendum, this notice is not required.

For a vote to be held on a local law or resolution that is subject to a permissive referendum, a valid petition must be filed in the office of the village clerk within 30 days of the passage of the legislative act. If no petition is filed within the 30 days, the local law or resolution goes into effect by operation of law.¹⁴

The petition must be signed by a number of village electors equal to at least 20% of the electors of the village, as shown on the register of electors for the previous general village election.¹⁵ It must be noted that the percentage requirement is 20% of residents registered to vote, and not 20% of residents who actually voted.

If an act is subject to a permissive referendum, the board of trustees may, upon its own motion, submit the act to a referendum, eliminating the need for a petition.¹⁶ This is an alternative to the citizen-initiated petition process and expedites the vote by eliminating the petition's "waiting period." The remainder of the process would be the same as if a petition had been filed on the date that the board submits the act to the referendum.¹⁷

For information on the process and procedure of conducting permissive referenda, see NYCOM's publication [Enacting Local Legislation and Conducting Referenda](#), available for download from the member's section at www.nycom.org. A sample local law opting out of hosting retain cannabis dispensaries and/or on-site cannabis consumption establishments can be found at the end of this document.

State Preemption & Local Time, Place, and Manner Restrictions

Counties, cities, villages, and towns are preempted from adopting any law, rule, ordinance, regulation or prohibition pertaining to the operation or licensure of registered organizations, adult-use cannabis licenses or cannabinoid hemp licenses. Cities, villages, and towns may nonetheless pass local laws and regulations governing the time, place and manner of the operation of licensed adult-use cannabis retail dispensaries and/or on-site consumption site, provided such laws or regulations do not make the operation of such licensed retail dispensaries or on-site consumption sites unreasonably impracticable as determined by the Cannabis Board. All adult-use licensees must comply with local zoning regulations.

Notwithstanding any local regulations, retail dispensary signage is prohibited except as authorized by the Cannabis Control Board. In addition, neither retail dispensaries nor on-site consumption establishments may be located within 500 feet of school grounds as such term is defined in the NYS Education Law or within 200 feet of a house of worship.

Notification to Location Governments of License Applications

Pursuant to Cannabis Law § 76, cultivators, processors, distributors, retail dispensaries, and on-site consumption license applicants must notify the municipality in which the applicant's premises is located of their intent to file an application for that location. The notice must be filed with the municipal clerk not less than 30 days nor more than 270 days before filing the license application with the State. The notification must be made in the form prescribed by Cannabis Control Board. If a local government expresses an opinion for or against the granting of the registration, license or permit application, that opinion will be deemed part of the record upon which the Office of Cannabis Management makes its licensure recommendation to the Cannabis Control Board to grant or deny the application. The Cannabis Control Board must respond in writing to the municipality with an explanation of how such opinion was considered in granting or denying the application.

License applicants must notify the municipality by: (a) certified mail, return receipt requested; (b) overnight delivery service with proof of mailing; or (c) personal service upon the offices of the clerk or community board.

The form of the notification will include

- a) the trade name or "doing business as" name, if any, of the establishment;
- b) the full name of the applicant;
- c) the street address of the establishment, including the floor location or room number, if applicable;
- d) the mailing address of the establishment, if different than the street address;
- e) the name, address and telephone number of the attorney or representative of the applicant, if any;
- f) a statement indicating whether the application is for:
 - i. a new establishment;

- ii. a transfer of an existing licensed business;
- iii. a renewal of an existing license; or
- iv. an alteration of an existing licensed premises;
- g) if the establishment is a transfer or previously licensed premises, the name of the old establishment and such establishment's registration or license number;
- h) in the case of a renewal or alteration application, the registration or license number of the applicant; and
- i) the type of license being applied for.

Police Right to Inspect Licensed Operations

Pursuant to Cannabis Law § 79, peace and police officers will be able to inspect all licensed or permitted premises and all records of licensed operators. Such inspections may only be done in a manner so as not to interrupt ordinary business and not to compromise the licensees' safety and security procedures. Such inspections may include, but are not limited to, ensuring the licensee or permittee is complying with the NYS Cannabis Law, the regulations promulgated pursuant thereto, and other applicable State and local building codes, fire, health, safety, and other applicable regulations.

Local Revenues from Cannabis Sales

The MRTA adds a new Article 20-C to the New York State Tax Law, entitled Tax on Adult-Use Cannabis Products. Article 20-C imposes multiple State taxes on both the distribution and the retail sale of adult-use cannabis. In addition, Tax Law § 493(c) imposes a 4% local tax on the retail sale of adult-use cannabis which will be distributed to the county and the city, village, or town in which the sale occurs. Thus, if a city, village, or town has opted out of allowing retail cannabis dispensaries and on-site cannabis consumption establishments to locate within their boundaries, that municipality will not receive any revenue from the local cannabis sales tax.

The New York State Comptroller will distribute taxes collected pursuant to Tax Law § 493(c) to counties in which adult-use cannabis retail sales occur. The counties are entitled to retain 25% of the monies distributed by the Comptroller. The counties must distribute the remaining 75% of the monies to the cities, villages, and towns within the county in proportion to the sales of adult-use cannabis products by the retail dispensaries in such cities, villages, and towns.

If a retail dispensary is located in a village within a town that also permits cannabis retail sales, then the county must distribute the monies attributable to such retail dispensary to the town and village as agreed upon by the governing bodies of those local governments. In the absence of such an agreement, the county must evenly divide the monies between the town and village. The moneys will be distributed on a quarterly basis.

There are no restrictions placed on how the local governments may use these local revenues.

Programs Financed by the State

The MRTA establishes several funds consisting of revenues collected by the State pursuant to Article 20-C of the NYS Tax Law to finance myriad programs related to the legalization of cannabis. The New York State Cannabis Revenue Fund (Tax Law § 99-ii) will be used for Office of Cannabis Management and Cannabis Control Board operations, funding cannabis equity programs, researching the impacts of cannabis legalization, funding State Police and the Department of Motor Vehicles implementation of the MRTA (including expanding and enhancing the drug recognition expert training program and technologies utilized in the process of maintaining road safety), schools, and drug treatment and public education programs. The New York State

Drug Treatment and Public Education Fund (Tax Law § 99-jj) will be used by the Office of Addiction Services and Supports to develop and implement a youth-focused public health education and prevention campaign and a statewide public health campaign focused on the health effects of cannabis and legal use, and to provide substance use disorder treatment programs for youth and adults. The New York State Community Grants Reinvestment Fund (Tax Law § 99-kk) will be used to fund the awards by the State Cannabis Advisory Board to reinvest in communities disproportionately affected by past federal and State drug policies. The grants must be used to support job placement, job skills services, adult education, mental health treatment, substance use disorder treatment, housing, financial literacy, community banking, nutrition services, services to address adverse childhood experiences, afterschool and child care services, system navigation services, and legal services to address barriers to reentry.

Personal Cultivation of Cannabis

Pursuant to Penal Law § 222.15, individuals 21 or older may plant, cultivate, harvest, dry, process and possess up to three mature cannabis plants and three immature cannabis plants at their private residence at any one time. Cannabis must be securely stored by reasonable steps designed so that the plants are not accessible to any person under 21. No more than six mature and six immature cannabis plants may be cultivated within any private residence, regardless of the number of individuals 21 or older who reside there. Individuals may lawfully possess up to five pounds of cannabis in their private residence or on the grounds of their private residence, so long as they take reasonable steps designed to ensure that the cannabis is in a secured place not accessible to any person under 21. A violation of Penal Law § 222.15 is subject to a civil penalty of up to \$125 per violation.

Cities, villages, towns, and counties may enact reasonable regulations of personal cultivation and home possession. Violations of such regulations may constitute an infraction subject to a civil penalty of no more than \$200. Local governments may not adopt regulations that prohibit personal cultivation or possession as authorized under Penal Law § 222.15.

Personal cultivation of cannabis pursuant to Penal Law § 222.15 is not allowed until the Office of Cannabis Management issues regulations for home cultivation and storage. The Office must issue such regulations for home cultivation by certified cannabis patients no later than September 30, 2021. Regulations for personal cultivation by adult-use cannabis consumers must be promulgated no later than 18 months following the first authorized retail sale of adult-use cannabis products to a cannabis consumer. Consequently, legal home cultivation for recreational use is not likely to be allowed under the MRTA until 2024 or beyond.

Protections for Cannabis Users

In addition to the legal use of cannabis authorized under Penal Law §§ 222.05 and 222.15, Cannabis Law § 127 prohibits individuals from being discriminated against for engaging in conduct permitted under the Cannabis Law. Landlords are expressly prohibited from refusing to lease to and may not otherwise penalize an individual solely for conduct authorized by the Cannabis Law, except (a) if failing to do so would cause the landlord to lose a monetary or licensing-related benefit under federal law or regulations; or (b) if the property has in place a smoke-free policy, it is not required to permit the smoking of cannabis products on its premises, provided no such restriction may be construed to limit the certified medical use of cannabis.

Schools, colleges, and universities may not refuse to enroll and may not otherwise penalize individuals solely for conduct allowed by the Cannabis Law, except (a) if failing to do so would cause the school, college or university to lose a monetary or licensing-related benefit under federal law or regulations; or (b) if the school, college or university has adopted a code of conduct prohibiting cannabis use on the basis of a sincere religious belief of the school, college or university.

Sale of Cannabis

Cannabis may not be sold to anyone who is under the age of 21 or who is visibly intoxicated. Cannabis retailers may not sell cannabis products knowing or reasonably believing that the person to whom the cannabis products are being sold is acquiring the cannabis for the purpose of selling or giving it away in violation of State law or regulations.

Cannabis purchasers must provide written evidence of their age, which may consist of:

- a) a valid driver's license or non-driver identification card issued by the NYS Department of Motor Vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or
- b) a valid passport issued by the United States government or any other country, or
- c) an identification card issued by the United States armed forces.

Special Rules for Licensing of On-Site Consumption Establishments

In approving on-site consumption licenses, the Cannabis Control Board may consider various factors, including but not limited to:

- (a) the number, classes, and character of other licenses in proximity to the location and in the particular municipality;
- (b) whether there is a demonstrated need for spaces to consume cannabis;
- (c) any effect on pedestrian or vehicular traffic, and parking;
- (d) potential noise impact generated by the proposed premises; and
- (e) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage and the public interest of the community.

In addition to sales being restricted to individuals 21 years of age and older, no one under 21 years of age may be permitted on the premises of a cannabis on-site consumption facility.

Social Equity Program

One of the primary objectives of the MRTA is to promote social equity and justices. To that end, the Cannabis Law establishes programs to foster social equity and assist minority and women-owned businesses, distressed farmers, and service-disabled veterans. The Cannabis Law requires the State to develop a social and economic equity plan and an incubator program designed to promote racial, ethnic, and gender diversity when issuing licenses, with a goal of awarding 50% of adult-use cannabis licenses to social and economic equity applicants and to help communities disproportionately impacted by the enforcement of cannabis prohibition.

Law Enforcement Practices

In any criminal proceeding, no finding or determination of reasonable cause to believe a crime has been committed may be based solely on evidence of the following facts and circumstances, either individually or in combination with each other:

- (a) the odor of cannabis;
- (b) the odor of burnt cannabis;
- (c) the possession of or the suspicion of possession of cannabis or concentrated cannabis in the amounts authorized in Penal Law Article 222;
- (d) the possession of multiple containers of cannabis without evidence of concentrated cannabis in the amounts authorized in Penal Law Article 222;
- (e) the presence of cash or currency in proximity to cannabis or concentrated cannabis; or

- (f) the planting, cultivating, harvesting, drying, processing or possessing cultivated cannabis in accordance with Penal Law § 222.15.

The prohibition in Penal Law § 222.05(3)(b) with respect to the odor of burnt cannabis does not apply when a law enforcement officer is investigating whether a person is operating a motor vehicle, vessel or snowmobile while impaired by drugs. However, during such investigations, the odor of burnt cannabis does not provide probable cause to search any area of a vehicle that is not readily accessible to the driver and reasonably likely to contain evidence relevant to the driver's condition.

Public Consumption of Cannabis

With respect to smoking and vaping, cannabis is treated the same as smoking or vaping tobacco products. Consequently, pursuant to Public Health Law Article 13-E, cannabis may not be smoked or vaped in the following indoor areas:

- (a) places of employment;
- (b) bars;
- (c) food service establishments, except as provided in Public Health Law § 1399-q;
- (d) enclosed indoor areas open to the public containing a swimming pool;
- (e) public means of mass transportation, including subways, underground subway stations, and when occupied by passengers, buses, vans, taxicabs and limousines;
- (f) ticketing, boarding and waiting areas in public transportation terminals;
- (g) youth detention centers and facilities;
- (h) any facility that provides child care services;
- (i) child day care centers;
- (j) group homes for children;
- (k) public institutions for children;
- (l) residential treatment facilities for children and youth;
- (m) all public and private colleges, universities and other educational and vocational institutions, including dormitories, residence halls, and other group residential facilities that are owned or operated by such colleges, universities and other educational and vocational institutions, except that these restrictions do not apply in any off-campus residential unit occupied by a person who is not enrolled as an undergraduate student in such college, university or other educational or vocational institution;
- (n) general hospitals and residential health care facilities;
- (o) commercial establishments used for the purpose of carrying on or exercising any trade, profession, vocation or charitable activity;
- (p) indoor arenas;
- (q) zoos; and
- (r) bingo facilities.

In addition, smoking or vaping of cannabis is not permitted in the following outdoor areas:

- (a) ticketing, boarding or platform areas of railroad stations operated by the MTA;
- (b) on the grounds of hospitals and residential health care facilities or within 15 feet of a building entrance or exit.

Pursuant to Penal Law § 222.10 and Public Health Law Article 13-E, individuals may not smoke or vape cannabis on school grounds (as defined by Education Law 1125(10)), within 100 feet of entrance, exit or outdoor areas of an elementary or secondary school or of a public library (except this does not apply to smoking or vaping in a residence or within the real property boundary lines of residential real property), or in or on a school bus.

New York Courts have ruled that local governments are not preempted from imposing their own local smoking and vaping restrictions that are more stringent than what is mandated under Public Health Law Article 13-E (the “Clean Air Act”). Additionally, NYS Public Health Law § 1399-r provides in relevant part that “Nothing herein shall be construed to restrict the power of any county, city, town, or village to adopt and enforce additional local law, ordinances, or regulations which comply with at least the minimum applicable standards set forth in this article.”

Moreover, local governments may impose their own smoking and vaping restrictions for property owned or controlled by the municipality, including parks and playgrounds.

Local Officials’ Interest in Cannabis Operations

Cannabis Law § 137 prohibits any chief of police, police officer or subordinate of any police department in New York from having an interest, either directly or indirectly, in the cultivation, processing, distribution, or sale of cannabis products, or from offering for sale or recommending to any registered organization or licensee any cannabis products. This prohibition does not apply to the spouse or domestic partner of such an official. Elected village officials are not subject to these limitations unless they are assigned duties directly relating to the operation or management of the police department. This restriction is similar to NYS Alcoholic Beverage Control Law § 128, which prohibits police officers and village officials who manage the police department from having an interest in the manufacture or sale of alcoholic beverages.

Employer Concerns

The MRTA bars employers from discriminating against individuals for cannabis use (See Labor Law § 201-d). However, the MRTA amends Labor Law § 201-d to provide that notwithstanding its prohibitions against discrimination, employers are not be barred from discharging or disciplining an employee (a) if doing so is mandated by State or federal statute or regulation (e.g., CDL requirements) or (b) if the employee is impaired while on the job.

Illegal Possession, Use, and Sale of Cannabis

While the MRTA legalizes adult-use cannabis, it does impose penalties for activities that are not authorized by the Cannabis Law or the Penal Law. Individuals under the age of 21 who are found to be in possession of cannabis or cannabis products are subject to a \$50 civil penalty (Cannabis Law § 132). Additionally, Article 222 of the Penal Law makes possessing or selling various amounts of cannabis and cannabis concentrate subject to various penalties.

Licensees are subject to civil penalties and license suspension and revocation for myriad violations.

Expungement of Records

The MRTA provides extensive procedures for expunging criminal records for many previous cannabis related convictions. The NYS Division of Criminal Justice Services and the Office of Court Administration will be promulgating rules and guidance to facilitate expunging these convictions and the handling of any records related thereto.

¹ 1990 N.Y. Op. Atty. Gen. (Inf.) 35.

² M.H.R.L. § 24(1)(a).

³ M.H.R.L. § 24(1)(a).

⁴ Id.

⁵ General discussion as to number and qualifications of petitioners for a local law subject to a referendum on petition. 1978 N.Y.

Op. Atty. Gen. (Inf.) 291.

6 Id.

7 M.H.R.L. § 24(1)(a).

8 M.H.R.L. § 24(1)(a).

9 M.H.R.L. § 24(1)(b).

10 Village Law § 9-908.

11 Village Law § 9-902(5).

12 Village Law § 9-900(2).

13 Village Law § 9-904.

14 Village Law § 9-902(1).

15 Id.

16 Village Law § 9-908.

17 Id.

RESOLUTION NO.: 217 - 2021

OF

SEPTEMBER 13, 2021

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PAYMENT OF
CLAIM WITH CENTRAL MUTUAL INSURANCE COMPANY
A/S/O JAVIER ALVARADO IN THE AMOUNT OF \$7,755.15

WHEREAS, Central Mutual Insurance Company a/s/o Javier Alvarado 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 Seven Thousand Seven Hundred Fifty-Five and 15/100 Dollars (\$7,755.15) 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 Central Mutual Insurance Company a/s/o Javier Alvarado in the total amount of Seven Thousand Seven Hundred Fifty-Five and 15/100 Dollars (\$7,755.15) and that the City Manager be and he hereby is authorized to execute documents as the Corporation Counsel may require to effectuate the settlement as herein described.