



City of Newburgh Council Work Session
*Sesion de trabajo del Concejal de la
Ciudad de Newburgh*
October 7, 2021
6:00 PM

Council Meeting Presentations

1. Hook Elite Boxing Club - Certificates of Recognition

Engineering/Ingeniería

2. Proposal with Creighton Manning for Land Surveying Services in Connection with 2022 Paving ADA Curb Ramps

Resolution authorizing the City Manager to accept a proposal and execute a contract with Creighton Manning Engineering, LLP for professional land surveying services for the 2022 ADA Curb Ramp Project in the amount of \$92,250.00

Finance/Finanza

3. Budget Transfer to Human Rights Commission

Resolution amending Resolution No: 282-2020, the 2021 Budget for the City of Newburgh, New York to transfer \$548.57 from Legislative Body-Travel and Conference and \$137.14 from Legislative Body-Education to the Human Rights Commission

4. Surplus Equipment from Police & Recreation Departments

Resolution declaring Police Department and Recreation Department vehicles as surplus

5. 2022 Budget - scheduling the public hearing

Resolution scheduling a public hearing for November 8, 2021 to receive comments concerning the adoption of the 2022 Budget for the City of Newburgh

Planning and Economic Development/Planificación y Desarrollo Económico

6. 51 & 53 City Terrace - Release of Restrictive Covenants

Resolution authorizing the execution of a release of restrictive covenants and right of re-entry from deeds issued to Ernest Anderson and Dolores Anderson to the premises known as 51 City Terrace (Section 29, Block 4, Lot 9) and 53 City Terrace (Section 29, Block 4, Lot 8)

7. 376 Liberty Street Rear - Partial Release of Restrictive Covenants

Resolution authorizing the execution of a partial release of restrictive covenants and right of re-entry from a deed issued to Edouard Pierre to the Premises known as 376 Liberty Street Rear (Section 10, Block 1, Lot 34)

8. 144 West Parmenter Street - Release of Restrictive Covenants

Resolution authorizing the execution of a release of restrictive covenants and right of re-entry from a deed issued to Edith Rivera to the premises known as 144 West Parmenter Street (Section 38, Block 2, Lot 51)

9. 357 Liberty Street - Release of Restrictive Covenants

Resolution authorizing the execution of a release of restrictive covenants and right of re-entry from a deed issued to 357 Liberty Corp. to the premises known as 357 Liberty Street (Section 11, Block 4, Lot 22)

Police Department

10. Halloween curfew

Resolution to implement a City-wide curfew for minors 16 years of age and under beginning October 30, 2021 at 9:00 p.m. and ending November 1, 2021 at 6:00 a.m.

11. Handle With Care MOU

Resolution authorizing the City Manager to enter into a Memorandum of Understanding with the Newburgh Enlarged City School District to implement a Handle with Care initiative to address children's exposure to violence and trauma

Local Laws/Leys Locales

12. Local Law amending Chapter 276 "Tobacco" to change Chapter title to "Tobacco and Marihuana" and amend Article II "Outdoor Smoking"

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"

13. Local Law adding Article III "Prohibition of Eviction without Good Cause" to Chapter 240 "Rental Properties"

Resolution scheduling a public hearing for October 25, 2021 to hear public comment concerning a Local Law amending Chapter 240 entitled "Rental Properties" adding Article III entitled "Prohibition of Eviction without Good Cause" to the Code of Ordinances of the City of Newburgh

14. Local Law authorizing a property tax levy in excess of the limit established in General Municipal Law Section 3-c

Resolution scheduling a public hearing for October 25, 2021 to hear public comment concerning a local law authorizing a property tax levy in excess of the limit established in General Municipal Law Section 3-c

Discussion Items/Temas de Discusión

15. Celebrations Line

Celebrations Line Discussion for 2022 Budget

RESOLUTION NO.: _____ - 2021

OF

OCTOBER 12, 2021

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL
AND EXECUTE A CONTRACT WITH CREIGHTON MANNING ENGINEERING, LLP
FOR PROFESSIONAL LAND SURVEYING SERVICES
FOR THE 2022 ADA CURB RAMP PROJECT IN THE AMOUNT OF \$92,250.00**

WHEREAS, Under Title II of the Americans with Disabilities Act (ADA) and clarified in the United States Department of Justice/Department of Transportation Joint Technical Assistance on the Title II of the Americans with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing, the City of Newburgh is mandated to construct curb ramps when streets, roads or highways are altered through resurfacing; and

WHEREAS, the City of Newburgh solicited proposals for professional land surveying services for the 2022 ADA Curb Ramp Project (the “Project”); and

WHEREAS, the City received a proposal from Creighton Manning Engineering, LLP which has been identified as the most qualified firm to provide said services; and

WHEREAS, general scope of services includes establishing right-of-way and utility location research of the intersections, field verification, utility research with appropriate Dig Safe survey mark out request, and generation of topographic base mapping for 33 identified intersections; and

WHEREAS, the funding for the land surveying services shall be derived from A.5112.0206 CHIPS; and

WHEREAS, the City Council has reviewed the annexed proposal and has determined that accepting the proposal and entering into a contract for such work as proposed 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 is hereby authorized to accept a proposal and execute a contract for professional land surveying services with the Creighton Manning Engineering, LLP in the amount of \$92,250.00 for the 2022 ADA Curb Ramp Project.

RESOLUTION NO.: _____ - 2021

OF

OCTOBER 12, 2021

**RESOLUTION AMENDING RESOLUTION NO: 282-2020, THE 2021 BUDGET FOR
THE CITY OF NEWBURGH, NEW YORK TO TRANSFER \$548.57
FROM LEGISLATIVE BODY-TRAVEL AND CONFERENCE AND
\$137.14 FROM LEGISLATIVE BODY-EDUCATION
TO THE HUMAN RIGHTS COMMISSION**

WHEREAS, Councilwoman Karen Mejia proposes to transfer her allocation from the Legislative budget in the amount of \$685.71 to the Human Rights Commission to facilitate training and education; and

WHEREAS, this Council finds that the transfer of funds and 2021 budget amendment is in the best interests 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.1010.0461 Legislative Body-Travel & Conference	\$548.57	
A.1010.0463 Legislative Body-Education	<u>\$137.14</u>	
A.8039.0448- Human Rights Commission – Other Services		<u>\$685.71</u>
TOTAL:	\$685.71	\$685.71

RESOLUTION NO.: _____ - 2021

OF

OCTOBER 12, 2021

**A RESOLUTION DECLARING POLICE DEPARTMENT AND
RECREATION DEPARTMENT VEHICLES AS SURPLUS**

WHEREAS, the City of Newburgh Police Department possesses one 2008 Dodge Charger, one 2008 Ford Bus, one 2007 Jeep Cherokee, and one 2007 Ford Taurus, which are no longer of use to the City; and

WHEREAS, the City of Newburgh Recreation Department possesses one 2001 GMC Bus, which is no longer of use to the City; and

WHEREAS, the Police Department and Recreation Department have requested that the vehicles be designated as surplus and sold; and

WHEREAS, the City Council has determined that declaring the vehicles as surplus is in the best interests of the City of Newburgh; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the vehicles identified on the schedule attached hereto and made part hereof are hereby declared to be surplus and of no further use or value to the City of Newburgh; and

BE IT FURTHER RESOLVED, that the City Manager and/or City Comptroller be and they are hereby authorized to execute any required documents and conduct all necessary transactions to dispose of said surplus vehicles in accordance with the City of Newburgh's Surplus Property Disposition Policy and Procedure adopted by Resolution No. 174-2014 of July 14, 2014.

RESOLUTION NO.: _____ - 2021

OF

OCTOBER 12, 2021

**A RESOLUTION SCHEDULING A PUBLIC HEARING FOR NOVEMBER 8, 2021
TO RECEIVE COMMENTS CONCERNING THE ADOPTION OF THE
2022 BUDGET FOR THE CITY OF NEWBURGH**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that pursuant to Charter Section C8.15 a public hearing will be held to receive comments concerning the adoption of the 2022 Budget for the City of Newburgh; and that such public hearing be and hereby is duly set for a City Council meeting of the Council to be held at 7:00 p.m. on the 8th day of November, 2021; and

BE IT FURTHER RESOLVED, that due to public health and safety concerns related to COVID-19, the capacity of the City Council Chambers will be limited due to the space available to maintain six (6) feet of social distancing and in-person attendance will be on a first-come, first-serve basis, and therefore, in accordance with Part E of the Chapter 417 of the Laws of 2021, the November 8, 2021 also will be accessible via videoconferencing, and a transcript will be provided at a later date. The public will have an opportunity to see and hear the meeting live and provide comments on the proposed local law as follows:

To view the livestream of the City Council Work Session and Meeting visit:
<https://www.cityofnewburgh-ny.gov/live-video-streaming>.

To access the City Council Work Session and Meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device through the Zoom App:
https://us06web.zoom.us/webinar/register/WN_MmmmTqFoQiCrMwE2bhuAGg. (Please note that there is an underscore between the “N” and “M”).

To register in advance for this webinar in order to provide comments during the hearing:
https://us06web.zoom.us/webinar/register/WN_MmmmTqFoQiCrMwE2bhuAGg. (Please note that there is an underscore between the “N” and “M”). Please fill out the required information (First Name, Last Name, E-mail Address and check appropriate box to comment during the public hearing). After registering, you will receive a confirmation email containing information about joining the webinar.

Comments can be provided by email before the meeting to comments@cityofnewburgh-ny.gov with the Subject Line in this format: “PUBLIC HEARING ITEM” by 4:00 p.m. on Monday, November 8, 2021. Please check the meeting Agenda posted on the website for further instructions to access the virtual meeting and for updated information.

RESOLUTION NO.: _____-2021

OF

OCTOBER 12, 2021

**A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF
RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM DEEDS
ISSUED TO ERNEST ANDERSON AND DOLORES ANDERSON TO THE PREMISES
KNOWN AS 51 CITY TERRACE (SECTION 29, BLOCK 4, LOT 9) AND
53 CITY TERRACE (SECTION 29, BLOCK 4, LOT 8)**

WHEREAS, on July 25, 1983, the City of Newburgh conveyed properties located at 51 City Terrace and 53 City Terrace, being more accurately described on the official Tax Map of the City of Newburgh as Section 29, Block 4, Lot 9 and Section 29, Block 4, Lot 8, respectively, to Ernest Anderson and Dolores Anderson; and

WHEREAS, the attorney for the current owners, Clifton Green and Dahlia Green, have requested a release of the restrictive covenants contained in said deeds; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh to grant such request;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the releases, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4, and 5 of the aforementioned deeds.

**RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY**

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 51 City Terrace (Section 29, Block 4, Lot 9) on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated July 25, 1983, from THE CITY OF NEWBURGH to ERNEST ANDERSON AND DOLORES ANDERSON, recorded in the Orange County Clerk's Office on August 5, 1983, in Liber 2258 of Deeds at Page 601 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2021

THE CITY OF NEWBURGH

By: _____
Todd Venning, City Manager
Pursuant to Res. No.: ____-2021

STATE OF NEW YORK)
) ss.:
COUNTY OF ORANGE)

On the ____ day of _____ in the year 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

**RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY**

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 53 City Terrace (Section 29, Block 4, Lot 8) on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated July 25, 1983, from THE CITY OF NEWBURGH to ERNEST ANDERSON AND DOLORES ANDERSON, recorded in the Orange County Clerk's Office on August 5, 1983, in Liber 2258 of Deeds at Page 607 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2021

THE CITY OF NEWBURGH

By: _____
Todd Venning, City Manager
Pursuant to Res. No.: ____-2021

STATE OF NEW YORK)
) ss.:
COUNTY OF ORANGE)

On the ____ day of _____ in the year 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

RESOLUTION NO.: _____-2021

OF

OCTOBER 12, 2021

**A RESOLUTION AUTHORIZING THE EXECUTION OF A PARTIAL RELEASE OF
RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM
A DEED ISSUED TO EDOUARD PIERRE TO THE PREMISES
KNOWN AS 376 LIBERTY STREET REAR (SECTION 10, BLOCK 1, LOT 34)**

WHEREAS, on October 12, 2018, the City of Newburgh conveyed property located at Liberty Street Rear, being more accurately described on the official Tax Map of the City of Newburgh as Section 10, Block 1, Lot 34, to Edouard Pierre; and

WHEREAS, Mr. Pierre has requested a partial release of the restrictive covenants contained in said deed; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh to grant such request;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4, and 5 of the aforementioned deed.

**PARTIAL RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY**

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 376 Liberty Street Rear, (Section 10, Block 1, Lot 34) on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4 and 5 in a deed dated October 12, 2018 from THE CITY OF NEWBURGH to EDOUARD PIERRE, recorded in the Orange County Clerk's Office on October 25, 2018, in Liber 14478 of Deeds at Page 242 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed. The restrictive covenant numbered 6 in said deed remains in effect as of the within date.

Dated: _____, 2021

THE CITY OF NEWBURGH

By: _____
Todd Venning, City Manager
Pursuant to Res. No.: ____-2021

STATE OF NEW YORK)
) ss.:
COUNTY OF ORANGE)

On the ____ day of _____ in the year 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

RESOLUTION NO.: _____-2021

OF

OCTOBER 12, 2021

**A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF
RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED
ISSUED TO EDITH RIVERA TO THE PREMISES KNOWN AS
144 WEST PARMENTER STREET (SECTION 38, BLOCK 2, LOT 51)**

WHEREAS, on January 31, 2013, the City of Newburgh conveyed property located at 144 West Parmenter Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 38, Block 2, Lot 51, to Edith Rivera; and

WHEREAS, the attorney for the current owner, Alandra Price, has requested a release of the restrictive covenants contained in said deed; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh to grant such request;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4, and 5 of the aforementioned deed.

**RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY**

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 144 West Parmenter Street, Section 38, Block 2, Lot 51 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated January 31, 2013, from THE CITY OF NEWBURGH to EDITH RIVERA, recorded in the Orange County Clerk's Office on April 4, 2013, in Liber 13537 of Deeds at Page 1963 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2021

THE CITY OF NEWBURGH

By: _____
Todd Venning, City Manager
Pursuant to Res. No.: ____-2021

STATE OF NEW YORK)
) ss.:
COUNTY OF ORANGE)

On the ____ day of _____ in the year 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

RESOLUTION NO.: _____-2021

OF

OCTOBER 12, 2021

**A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF
RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED
ISSUED TO 357 LIBERTY CORP. TO THE PREMISES KNOWN AS
357 LIBERTY STREET (SECTION 11, BLOCK 4, LOT 22)**

WHEREAS, on February 28, 2019, the City of Newburgh conveyed property located at 357 Liberty Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 11, Block 4, Lot 22, to 357 Liberty Corp.; and

WHEREAS, the president of the company, Arleen Perez, has requested a release of the restrictive covenants contained in said deed; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh to grant such request;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4, and 5 of the aforementioned deed.

**RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY**

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 357 First Street, Section 11, Block 4, Lot 22 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated February 28, 2019, from THE CITY OF NEWBURGH to 357 LIBERTY CORP., recorded in the Orange County Clerk's Office on June 11, 2019, in Liber 14577 of Deeds at Page 1964 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2021

THE CITY OF NEWBURGH

By: _____
Todd Venning, City Manager
Pursuant to Res. No.: ____-2021

STATE OF NEW YORK)
) ss.:
COUNTY OF ORANGE)

On the ____ day of _____ in the year 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

RESOLUTION NO.: _____ - 2021

OF

OCTOBER 12, 2021

**A RESOLUTION TO IMPLEMENT A CITY-WIDE
CURFEW FOR MINORS 16 YEARS OF AGE AND UNDER
BEGINNING OCTOBER 30, 2021 AT 9:00 P.M. AND
ENDING NOVEMBER 1, 2021 AT 6:00 A.M.**

WHEREAS, the City of Newburgh has a general obligation to ensure the safety and welfare of the general population of the City including minors, along with protection of private property; and

WHEREAS, October 30th and 31st are associated with Halloween related activities, including “Trick or Treating” and other related outdoor activities, some of which might be prejudicial to the safety and welfare of the population and protection of private property; and

WHEREAS, the City of Newburgh determines that the passage of a curfew resolution for Halloween and the preceding night will assist in protecting the welfare of minors by reducing the likelihood of their involvement in inappropriate behavior, while aiding parents or guardians of minors entrusted in their care;

NOW THEREFORE, BE IT RESOLVED:

THIS COUNCIL HEREBY DECLARES a city-wide curfew for minors from 9:00 P.M. until 6:00 A.M. each day, starting at 9:00 p.m. on Saturday, October 30, 2021, and ending at 6:00 a.m. on Monday, November 1, 2021; and

BE IT FURTHER RESOLVED, this Council urges all parents to inform their children and supervise the implementation of this City-wide curfew so that we may avoid problems and promote the safety, health and welfare of our City’s young people and property owners; and

BE IT FURTHER RESOLVED, that it shall be a defense to a violation of this curfew that the minor was accompanied by the minor’s parent or guardian, engaged in an employment activity, or involved in an emergency or other legally justifiable activity.

RESOLUTION NO.: _____ - 2021

OF

OCTOBER 12, 2021

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO A MEMORANDUM OF UNDERSTANDING
WITH THE NEWBURGH ENLARGED CITY SCHOOL DISTRICT
TO IMPLEMENT A HANDLE WITH CARE INITIATIVE
TO ADDRESS CHILDREN'S EXPOSURE TO VIOLENCE AND TRAUMA**

WHEREAS, the City of Newburgh and the Newburgh Enlarged City School District wish to enter into a memorandum of understanding to implement a Handle with Care initiative aimed at addressing children's exposure to violence and trauma; and

WHEREAS, the Handle with Care initiative directly addresses the goal of mitigating the negative impacts of exposure to trauma when it does occur, by providing support and on-site trauma focused interventions by mental health providers, to children identified by local law enforcement and school personnel; and

WHEREAS, this Council has reviewed the attached memorandum of understanding and finds that the execution of the same is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into a Memorandum of Understanding with the Newburgh Enlarged City School District, in substantially the same form as annexed hereto with such other terms and conditions as may be required by the Corporation Counsel, to implement a Handle with Care initiative to address children's exposure to violence and trauma for the 2021-2022 school year.

LOCAL LAW NO.: _____ - 2021

OF

OCTOBER 12, 2021

**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”**

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 to “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

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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)

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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.

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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.

Underlining denotes additions

~~Strikethrough~~ denote deletions

§ 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.

Underlining denotes additions

~~Strikethrough~~ denote deletions

RESOLUTION NO.: _____ - 2021

OF

OCTOBER 12, 2021

**RESOLUTION SCHEDULING A PUBLIC HEARING FOR OCTOBER 25, 2021
TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW AMENDING CHAPTER
240 ENTITLED “RENTAL PROPERTIES” ADDING ARTICLE III ENTITLED
“PROHIBITION OF EVICTION WITHOUT GOOD CAUSE”
TO THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning “A Local Law amending Chapter 240 entitled ‘Rental Properties’ and adding Article III entitled ‘Prohibition of Eviction Without Good Cause’ to the Code of Ordinances of the City of Newburgh”; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 25th day of October, 2021, in the 3rd Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York;

BE IT FURTHER RESOLVED, that due to public health and safety concerns related to COVID-19 and in accordance with Part E of Chapter 417 of the Laws of 2021, the October 25, 2021 City Council meeting also will be accessible via videoconferencing, and a transcript will be provided at a later date. The public will have the option to see and hear the meeting live and provide comments on the proposed Local Law amending Chapter 240 entitled “Rental Properties” and adding Article III entitled “Prohibition of Eviction Without Good Cause” to the Code of Ordinances of the City of Newburgh as follows:

To view the livestream of the City Council Meeting visit: <https://www.cityofnewburgh-ny.gov/live-video-streaming>.

To access the City Council Meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device through the Zoom App: https://us06web.zoom.us/webinar/register/WN_gBgFZ_YPSz-5nma9a5GBDQ. Please note that there is an underscore between the “N” and “g” and between the “Z” and “Y”).

In order to provide comments during the hearing you must register in advance for this webinar no later than 4:00 p.m. on Monday, October 25, 2021 through the Zoom App: https://us06web.zoom.us/webinar/register/WN_gBgFZ_YPSz-5nma9a5GBDQ. Please note that there is an underscore between the “N” and “g” and between the “Z” and “Y”). Please fill out the required information (First Name, Last Name, E-mail Address and check appropriate box to comment during the public hearing). After registering, you will receive a confirmation email containing information about joining the webinar.

Comments can be provided by email before the meeting to comments@cityofnewburgh-ny.gov with the Subject Line in this format: "PUBLIC HEARING ITEM" by 4:00 p.m. on Monday, October 25, 2021. Please check the meeting Agenda posted on the website for further instructions to access the virtual meeting and for updated information.

LOCAL LAW NO.: _____ - 2021

OF

_____, 2021

**A LOCAL LAW AMENDING CHAPTER 240 ENTITLED “RENTAL PROPERTIES”
TO ADD ARTICLE III ENTITLED
“PROHIBITION OF EVICTION WITHOUT GOOD CAUSE”
TO THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH**

BE IT ENACTED, by the Council of the City of Newburgh, New York that Chapter 240 “Rental Properties” be and is hereby amended to add Article III, “Prohibition of Eviction Without Good Cause” as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as “A Local Law amending Chapter 240 entitled ‘Rental Properties’ and to add Article III entitled ‘Prohibition of Eviction Without Good Cause’ to the Code of Ordinances of the City of Newburgh”.

SECTION 2 - PURPOSE AND INTENT

The Council of the City of Newburgh commissioned and completed a Housing Needs Assessment to evaluate current housing needs in the City of Newburgh and to promote the development of long-term housing policies. The Housing Needs Assessment found housing cost burden rates for renter-occupied homes at significantly higher rates for City of Newburgh renters than for those in Orange County and all City of Newburgh census tracts had cost burden rates for renters over 50%. Renters in the City of Newburgh, especially, low- and moderate-income renters increasingly are faced with the refusal of landlords to continue to rent to otherwise credit-worthy tenants and tenants who are otherwise following all applicable laws. Increased real estate prices in the City is leading to gentrification and the displacement of tenants who cannot afford increasing rents. The Housing Needs Assessment produced the Newburgh Housing Report which outlined policy themes, goals and actions that could assist the City in developing a long-term strategy for meeting local housing needs. Strengthening and expanding eviction prevention programs, including adopting a “just cause” eviction law was identified as an action item to reduce incidents of eviction leading to homelessness. The primary purpose of this Article is to implement a policy recommendation of the City of Newburgh Housing Needs Assessment and Newburgh Housing Report intended to protect tenants from exorbitant and predatory rent increases that could result in a significant increase in homelessness in the City of Newburgh.

SECTION 3 - AMENDMENT

The Code of Ordinances of the City of Newburgh is hereby amended to add new Article III entitled “Prohibition of Eviction Without Good Cause” to Chapter 240 entitled “Rental Properties” to read as follows:

ARTICLE III. PROHIBITION OF EVICTION WITHOUT GOOD CAUSE

§ 240-30. 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. This local law is authorized by the Municipal Home Rule Law, adopted as chapter 36-a of the Consolidated Laws of the State of New York, and the General City Law, adopted as chapter 21 of the Consolidated Laws of the State of New York.

§ 240-31. Definitions.

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

DISABLED PERSON means as applied according to the definition set forth in the New York State Public Housing Law §14(4)(c)(iii).

HOUSING ACCOMMODATION means residential premises, including a dwelling, dwelling unit, or rooming unit as defined in this Chapter, located in the City of Newburgh.

LANDLORD means any owner, lessor, sub-lessor, assignor, or other person receiving or entitled to receive rent for the occupancy of any housing accommodation or the agent of any the foregoing.

RENT means any consideration, including any bonus, benefit, or gratuity, demanded or received for or in consideration with the possession, use, or occupancy of housing accommodations or the execution or transfer of a lease for such housing accommodations.

TENANT means a tenant, sub-tenant, lessee, sub-lessee, assignee, manufactured home tenant as defined in paragraph one of subsection (A) of section two hundred thirty-three of the New York State Real Property Law, an occupant of a rooming house or hotel as defined in section seven hundred eleven of the New York State Real Property Actions and Proceedings Law, or any other person entitled to the possession, use or occupancy of any housing accommodation.

§ 240-32. Applicability.

This article shall apply to all housing accommodations except:

- A. Owner-occupied premises with less than four units.

- B. Premises where the possession, use or occupancy of which is solely incident to employment and such employment is being lawfully terminated.
- C. Premises otherwise subject to regulation of rents or evictions pursuant to state or federal law to the extent that such state or federal law requires “good cause” for termination or non-renewal of such tenancies.
- D. Premises sublet pursuant to section two hundred twenty-six-b of the New York State Real Property Law or otherwise, where the sub-lessor seeks in good faith to recover possession of such housing accommodation for personal use and occupancy.

§ 240-33. Necessity for good cause.

No landlord shall, by action to evict or to recover possession, by exclusion from possession, by failure to renew any lease, or otherwise, remove any tenant from housing accommodation except for good cause as defined in Section 240-34 of this article.

§ 240-34. Grounds for removal of tenants.

- A. No landlord shall remove a tenant from any housing accommodation, or attempt such removal or exclusion from possession, notwithstanding that the tenant has no written lease or that the lease or other rental agreement has expired or otherwise terminated, except upon order of a court of competent jurisdiction entered in an appropriate judicial action or proceeding in which the plaintiff or petitioner has established one of the following grounds as good cause for removal or eviction:
 1. The tenant has failed to pay rent due and owing, provided, however, that the rent due and owing, or any part thereof, did not result from a rent increase or pattern of rent increases which, regardless of the tenant's prior consent, if any, is unconscionable or imposed for the purpose of circumventing the intent of this article. In determining whether all or part of the rent due and owing is the result of an unconscionable rent increase or pattern of rent increases, the court may consider, among other factors, i) the rate of the increase relative to the tenant's ability to afford said increase, ii) improvements made to the subject unit or common areas serving said unit, iii) whether the increase was precipitated by the tenant engaging in the activity described at section 223-b (1(a)-(c)) of the New York State Real Property Law, iv) significant market changes relevant to the subject unit, and v) the condition of the unit or common areas serving the unit, and it shall be a rebuttable presumption that the rent for a dwelling not protected by rent regulation is unconscionable or imposed for the purpose of circumventing the intent of this article if said rent has been increased in any calendar year by a percentage exceeding five percent;
 2. The tenant is violating a substantial obligation of their tenancy, other than the obligation to surrender possession, and has failed to cure such violation after written notice that the violation cease within ten days of receipt of such written notice, provided however, that the obligation of tenancy for which violation is claimed was not imposed for the purpose of circumventing the intent of this article;
 3. The tenant is committing or permitting a nuisance in such housing accommodation, or is maliciously or by reason of negligence damaging the housing accommodation; or the tenant's conduct, including but not limited to, smoking inside the dwelling unit where smoking inside the dwelling unit has been prohibited by the landlord and such prohibition has been

communicated to the tenant, failing to dispose of waste created by the tenant's pet(s) from the property on which the dwelling unit is located in accordance with relevant laws, and causing the accumulation of excessive rubbish and/or garbage in the dwelling unit and common areas, is such as to interfere with the comfort of the landlord or other tenants or occupants of the same or adjacent buildings or structures;

4. Occupancy of the housing accommodation by the tenant is in violation of or causes a violation of law and the landlord is subject to civil or criminal penalties therefore; provided however that the City of Newburgh or other qualified governmental entity has issued an order requiring the tenant to vacate the housing accommodation. No tenant shall be removed from possession of a housing accommodation on such ground unless the court finds that the cure of the violation of law requires the removal of the tenant and that the landlord did not, through neglect or deliberate action or failure to act, create the condition necessitating the order to vacate. In instances where the landlord does not undertake to cure conditions of the housing accommodation causing such violation of the law, the tenant shall have the right to pay or secure payment in a manner satisfactory to the court, to cure such violation provided that any tenant expenditures shall be applied against rent to which the landlord is entitled. In instances where removal of a tenant is absolutely essential to their health and safety, the removal of the tenant shall be without prejudice to any leasehold interest or other right of occupancy the tenant may have and the tenant shall be entitled to resume possession at such time as the dangerous conditions have been removed. Nothing herein shall abrogate or otherwise limit the right of a tenant to bring an action for monetary damages against the landlord to compel compliance by the landlord with all applicable laws;
5. The tenant is using or permitting the housing accommodation to be used for an illegal purpose;
6. The tenant has unreasonably refused the landlord access to the housing accommodation for the purpose of making necessary repairs or improvements required by law or for the purpose of showing the housing accommodation to a prospective purchaser, mortgagee, or other person having a legitimate interest therein;
7. The landlord seeks in good faith to recover possession of a housing accommodation located in a building containing fewer than twelve units because of immediate and compelling necessity for their own personal use and occupancy as their principal residence, or the personal use and occupancy as principal residence of their partner, spouse, parent, child, stepchild, father-in-law or mother-in-law, when no other suitable housing accommodation in such building is available. This paragraph shall permit recovery of only one housing accommodation and shall not apply to a housing accommodation occupied by a tenant who is sixty-two years of age or older or who is a disabled person;
8. The landlord seeks in good faith to recover possession of any or all housing accommodations located in a building with less than five units to personally occupy such housing accommodations as their principal residence;
9. The owner-landlord has in good faith entered into a contract for the sale of the housing accommodation and such contract requires that the housing accommodation be transferred free and clear of any and all residential tenancy obligations as a condition of such sale where the owner-landlord has no shared financial or other interest with the potential buyer other

than the sale of the housing accommodation in question and submitted sufficient proof to the court thereof.

10. Where the tenant has refused in bad faith to enter into a written lease which has been offered in good faith to the tenant by the landlord subject to the following:
 - a. The proposed written lease must have been offered to the tenant in writing on at least two occasions at least two weeks apart, which such written offer to include:
 - i. An original and one copy of the proposed written lease, executed by the landlord or the landlord's designee;
 - ii. Notice of the landlord's intention to pursue eviction within 120 days pursuant to this article if the tenant rejects the proposed written lease and/or does not enter into said lease within forty-five days of the initial offer;
 - iii. Clear instructions to the tenant concerning the matter in which the tenant is to communicate to the landlord acceptance or rejection of the written lease; and
 - iv. Notice of any proposed increase equal to or greater than 5% shall be provided in compliance with New York State Real Property Law Section 226-C
 - b. The proposed written lease shall not supersede an existing, active lease to which the landlord and tenant are parties;
 - c. The terms of the proposed lease may not:
 - i. Be unconscionable and/or mandate or proscribe activities not rationally related to the regulation of activities which would create a nuisance at the property or cause discomfort to the tenants or occupants of the same or adjacent buildings or structures as described in Section 240-34(A)(3) above; or
 - ii. Substantially alter the terms of any existing lease;
 - d. The proposed written lease shall not be offered for the purposes of circumventing this article;
 - e. The tenant shall be entitled to dismissal of any eviction petition brought for the tenant's refusal to enter into a lease according to these terms if:
 - i. The tenant consents to enter into the proposed written lease presented in the first offer pursuant to subsection 10(a) at any time prior to the execution of the warrant of eviction regardless of landlord's willingness to accept said consent at the time it is communicated; and/or
 - ii. Prior to the commencement of the eviction proceeding the tenant attempted in good faith to negotiate the terms of the proposed written lease and that the landlord refused in bad faith to engage in such negotiation; and/or
 - iii. The tenant's failure to enter into the proposed written lease was due to a good faith failure to comprehend the terms of the proposed written lease; and/or
 - iv. The tenant is a victim of domestic violence as defined by New York State Social Service Law Section 459-A and is unable to safely enter into the proposed written lease due to good faith concerns for the tenant's personal safety; and/or

- v. The proposed written lease includes an increase in rent or increase in the tenant's responsibility for recurring payments associated with the tenancy which is unconscionable or imposed for the purposes of circumventing this article per Section 240-34(A)(1) above;
 - f. That any proceeding for eviction pursuant to this subsection shall have been commenced within 120 days of the proposed written lease first having been offered to the tenant.
- B. A tenant required to surrender a housing accommodation by virtue of the operation of paragraph (7), (8), or (9) of Section 240-24(A) of this Article shall have a cause of action in any court of competent jurisdiction for damages, declaratory, and injunctive relief against a landlord or purchaser of the premises who makes a fraudulent statement regarding a proposed use of the housing accommodation. In any action or proceeding brought pursuant to this provision a prevailing tenant shall be entitled to recovery of actual damages, and reasonable attorneys' fees.
- C. Nothing in this section shall abrogate or limit the tenant's right, pursuant to section seven hundred fifty-one of the New York State Real Property Actions and Proceedings Law, to permanently stay the issuance or execution of a warrant or eviction in a summary proceeding, whether characterized as a nonpayment, objectionable tenancy, or holdover proceeding, the underlying basis of which is the nonpayment of rent, so long as the tenant complies with the procedural requirements of section seven hundred fifty-one of the New York State Real Property Actions and Proceedings Law.

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 on January 1, 2022 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.

RESOLUTION NO.: _____ - 2021

OF

OCTOBER 12, 2021

**RESOLUTION SCHEDULING A PUBLIC HEARING
FOR OCTOBER 25, 2021 TO HEAR PUBLIC COMMENT
CONCERNING A LOCAL LAW AUTHORIZING A PROPERTY TAX LEVY IN EXCESS
OF THE LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW SECTION 3-c**

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 authorizing a property tax levy in excess of the limits established in General Municipal Law Section 3-c”; 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 25th day of October, 2021 in the 3rd Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York; and

BE IT FURTHER RESOLVED, that due to public health and safety concerns related to COVID-19 and in accordance with Part E of Chapter 417 of the Laws of 2021, the October 25, 2021 City Council meeting also will be accessible via videoconferencing, and a transcript will be provided at a later date. The public will have the option to see and hear the meeting live and provide comments on the proposed local law authorizing a property tax levy in excess of the limits established in General Municipal Law Section 3-c as follows:

To view the livestream of the City Council Work Session and Meeting visit:
<https://www.cityofnewburgh-ny.gov/live-video-streaming>.

To access the City Council Work Session and Meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device through the Zoom App:
https://us06web.zoom.us/webinar/register/WN_gBgFZ_YPSz-5nma9a5GBDQ. Please note that there is an underscore between the “N” and “g” and between the “Z” and “Y”).

In order to provide comments during the hearing you must register in advance for this webinar no later than 4:00 p.m. on Monday, October 25, 2021 through the Zoom App:
https://us06web.zoom.us/webinar/register/WN_gBgFZ_YPSz-5nma9a5GBDQ. Please note that there is an underscore between the “N” and “g” and between the “Z” and “Y”). Please fill out the required information (First Name, Last Name, E-mail Address and check appropriate box to comment during the public hearing). After registering, you will receive a confirmation email containing information about joining the webinar.

Comments can be provided by email before the meeting to comments@cityofnewburgh-ny.gov with the Subject Line in this format: “PUBLIC HEARING ITEM” by 4:00 p.m. on Monday, October 25, 2021. Please check the meeting Agenda posted on the website for further instructions to access the virtual meeting and for updated information.

LOCAL LAW NO.: _____ - 2021

OF

_____, 2021

**A LOCAL LAW AUTHORIZING A PROPERTY TAX LEVY IN EXCESS OF THE LIMIT
ESTABLISHED IN GENERAL MUNICIPAL LAW SECTION 3-c**

BE IT ENACTED by the City Council of the City of Newburgh as follows:

SECTION 1. LEGISLATIVE INTENT

It is the intent of this local law to allow the City of Newburgh to adopt a budget for the fiscal year commencing January 1, 2022 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law Section 3-c.

SECTION 2. AUTHORITY

This local law is adopted pursuant to subdivision 5 of General Municipal Law Section 3-c, which expressly authorizes a local government’s governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

SECTION 3. TAX LEVY LIMIT OVERRIDE

The City Council of the City of Newburgh, County of Orange, is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2022 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law Section 3-c.

SECTION 4. SEVERABILITY

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court’s order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 5. EFFECTIVE DATE

This local law shall take effect immediately upon filing with the Secretary of State.