

January 11, 2023

The Town Board of the Town of Harpersfield held an organization meeting on January 11, 2023.

Present were: Matthew J. Taylor, Deputy Supervisor

Patrick F. Funk, Councilmember

Lisa M. Driscoll, Councilmember

Erik R. Reeve, Councilmember

Absent: James Eisel Sr., Supervisor

Also present: Russell Hatch, Supt. of Highways

Linda E. Goss, Town Clerk

Dean A. Darling, Chairman of the Planning Board

Others present: Henry L. Browning

Gloria Anderson

Steven Weiner

Dwayne Hill

The meeting was called to order at 7:00 PM by Deputy Supervisor Matthew J. Taylor.

Deputy Supervisor Taylor led the Board and those in attendance in the Pledge of Allegiance to the Flag.

A motion to appoint the following Town Officials was made by Patrick F. Funk:

Town Attorneys – Kevin Young and Allyson Phillips

Town Bookkeeper – Karen Kropp

Town Code Enforcement Officer – Thomas Little

Deputy Town Code Enforcement Officer – Dale Downin

Town Court Clerk – Joy Musella

Town Dog Control Officer – Jeffrey Bell

Town Historian – Dwayne Hill

Town Planning Board Chairman – Dean Darling

Town Planning Board Member – Kevin All

Deputy Superintendent of Highways - Otis Schermerhorn Jr.

Deputy Town Supervisor – Matthew J. Taylor

Seconded by Erik R. Reeve. All voting Aye.

A motion made by Lisa M. Driscoll seconded by Erik R. Reeve that in compliance with Open Meeting Law the regular Town Board meetings will throughout the year be held on the second Wednesday of the month at 7:00 PM at the Town Hall. All voting Aye.

Deputy Supervisor Taylor asked for a motion to keep the Equalization Committee the same with the members being William Boyle Sr., James Eisel Sr. and Edward Pick Jr. A motion to keep the Town's Equalization Committee with the members being William Boyle Sr., James Eisel Sr., Edward Pick was made by Erik R. Reeve seconded by Patrick F. Funk. All voting Aye.

A motion that the necessary bills be paid when due (Electric, Telephone, Fuel, Transfer Station, The Daily Star, Ace Hardware, Tractor Supply, Power Plan etc.) and audited by the Board at the next regular meeting was made by Patrick F. Funk seconded by Lisa M. Driscoll. All voting Aye.

Lisa M. Driscoll moved seconded by Patrick F. Funk that when officials are on town business they be paid mileage at the rate of 65.5 cents per mile. All voting Aye.

The following were appointed to the Highway Committee: Matthew J. Taylor and Patrick F. Funk. This appointment was approved on motion by Lisa M. Driscoll seconded by Erik R. Reeve. All voting Aye.

Deputy Supervisor Taylor informed the Board that James Eisel Sr. would represent the Town on the Catskill Rail Committee. A motion that James Eisel Sr. represent the Town of Harpersfield on the Catskill Rail Committee was made by Lisa M. Driscoll seconded by Patrick F. Funk. All voting Aye.

Patrick F. Funk moved seconded by Lisa M. Driscoll that The Daily Star be the Town's Official newspaper. All voting Aye.

#### RESOLUTION NO. 001 OF THE YEAR 2023.

Councilmember Patrick F. Funk offered the following resolution and moved its adoption:

TITLE: INVESTMENT POLICY RESOLUTION.

BE IT RESOLVED, that investment in the Local Government of the Town of Harpersfield shall be undertaken in a manner which seeks to insure the preservation of capital. Each investment transaction shall see to avoid capital losses from securities, defaults of erosion of market value.

It is the intent of the Town of Harpersfield Local Government to maximize the returns on idle cash balances within the guidelines established by this policy.

This policy shall apply to idle monies in each of the various funds of the Town of Harpersfield. In accordance with State Law, the Supervisor and the Town Clerk/Collector are permitted to invest the Local Government's idle cash in the following instruments:

An Interest Bearing Account, Certificate of Deposit, Savings Account or Money Market.

Seconded by Councilmember Lisa M. Driscoll with the vote as follows:

Adopted:	Deputy Supervisor	Matthew J. Taylor	Aye.
	Councilmember	Patrick F. Funk	Aye.
	Councilmember	Lisa M. Driscoll	Aye.
	Councilmember	Erik R. Reeve	Aye.
	Supervisor	James Eisel Sr.	Absent.

RESOLUTION NO. 002 OF THE YEAR 2023

Councilmember Patrick F. Funk offered the following resolution and move its adoption:

TITLE: RESOLUTION DESIGNATING DEPOSITORIES.

WHEREAS, under Section 64 of the Town Law, it is provided that the Town Board shall designate the banks or trust companies by written resolution in which certain Town Officials shall deposit the monies coming into their hands by virtue of their offices.

NOW, THEREFORE, BE IT RESOLVED, that the NBT of Hobart Bank, the Wayne Bank or the Delaware National Bank of Delhi are hereby designated as depositories in which the Supervisor, the Town Clerk/Collector and the Town Justice shall deposit all monies coming into their office.

BE IT FURTHER RESOLVED, that this resolution be entered in the minutes of this Board.

Seconded by Councilmember Lisa M. Driscoll with the vote as follows:

Adopted:	Deputy Supervisor	Matthew J. Taylor	Aye.
	Councilmember	Patrick F. Funk	Aye.
	Councilmember	Lisa M. Driscoll	Aye.
	Councilmember	Erik R. Reeve	Aye.
	Supervisor	James Eisel Sr.	Absent.

RESOLUTION NO. 003 OF THE YEAR 2023.

Councilmember Patrick F. Funk offered the following resolution and moved its adoption:

TITLE: RESOLUTION ADOPTING A PROCUREMENT POLICY.

WHEREAS, Section 104-b of the General Municipal Law requires the governing body of every municipality to adopt internal policies and procedures governing all procurement of goods and which are not required by law to be publicly bid.

Guideline 1. Every prospective purchase of goods or services shall be evaluated to determine the applicability of General Municipal Law #103. Every Town Officer, Board Member, Department Head or other personnel with the requisite purchasing authority (hereinafter Purchaser) shall estimate the cumulative amount of the items of supply or equipment needed in a given fiscal year. That estimate shall include the canvas of other Town Departments and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.

Guideline 2. All purchases of (a) supplies or equipment which will exceed \$10,000.00 in the fiscal year or (b) public works contracts over \$20,000.00 shall be formally bid pursuant to General Municipal Law #103.

Guideline 3. The following method of purchase will be used when required by this policy in order to achieve the highest savings:

ESTIMATED AMOUNT OF PURCHASE CONTRACT:	METHOD:
0 TO \$5,000.00	Discretion of purchaser.
\$5,000.00 to \$7,000.00	Oral request for the goods and Oral/fax/email/quotes from two vendors.
\$7,000.00 to \$20,000.00	A written request (RFP – Request For Proposal) and written/fax/email/ Quotes from three vendors.
ESTIMATED AMOUNT OF PUBLIC WORKS CONTRACTS:	METHOD:
\$500.00 TO \$3,000.00	Discretion of purchaser.
\$3,000.00 to \$10,000.00	Written Request For Proposals (RFP) and written/fax/ email/proposals from two

\$10,000.00 to \$20,000.00

contractors.

Written Request for Proposals  
(RFP) and written/fax/  
email/proposals from three  
contractors.

Any written Request For Proposal (RFP) shall describe the desired goods, quantity and the particulars of delivery. The Purchaser shall compile a list of vendors from whom written/fax/email/oral quotes have been requested and the written/fax/email/oral quotes offered. All information gathered in complying with the procedures of this Guideline shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.

Guideline 4. The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the Purchaser prepares a written justification providing reasons why it is in the best interest of the Town and its taxpayers to make an award to other than the lowest bidder. For example, the second lowest bidder is a business in the Town, paying Town property taxes and their quote was within 5% of the low bidder which is an out-of-state business or supplier. If a bidder is not deemed responsible, facts supporting that judgement shall also be documented and filed with the record supporting the procurement.

Guideline 5. A good faith effort shall be made to obtain the required number of proposals or quotations, the Purchaser shall document the attempt made obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to procurement.

Guideline 6. Except when directed by the Town Board no solicitation of written proposals or quotations shall be required under the following circumstances:

- (a) Acquisition of professional services.
- (b) Emergencies.
- (c) Sole source situation.
- (d) Goods purchased from agencies for the blind or severely handicapped.
- (e) Goods purchased from another government agency.
- (f) Goods purchased from correctional facilities.
- (g) Goods purchased at auction.
- (h) Goods purchased for less than \$250.00.
- (i) Public Works Contract for less than \$500.00.
- (j) Insurance purchase.
- (k) Leases.

Guidelines 7. This policy shall be reviewed annually by the Town Board at its organization meeting or as soon after as is reasonably practicable.

Seconded by Councilmember Lisa M. Driscoll with the vote as follows:

Adopted:	Deputy Supervisor	Matthew J. Taylor	Aye.
	Councilmember	Patrick F. Funk	Aye.
	Councilmember	Lisa M. Driscoll	Aye.
	Councilmember	Erik R. Reeve	Aye.
	Supervisor	James Eisel Sr.	Absent.

RESOLUTION NO. 004 OF THE YEAR 2023.

Councilmember Patrick F. Funk offered the following resolution and moved its adoption:

TITLE: STANDARD WORK DAY AND REPORTING RETIREMENT RESOLUTION.

BE IT RESOLVED, that the Town of Harpersfield hereby establishes the following as standard workdays for Elected and Appointed Officials/Employees for the purposes of determining days worked reportable to the New York State and Local Retirement System.

This resolution will cover employees currently enrolled in the New York State and Local Retirement System.

Union Highway Department Employees – Full – Time – 8 hours standard work day – 5 days per week.

Transfer Station Employee – Full – Time – 8 hours standard work day – 5 days per week.

Town Supervisor – 5 days per month.

Superintendent of Highways – Full – Time – 8 hours standard work day – 5 days per week.

Town Clerk – Full – Time – 7 hours standard work day – 5 days per week.

Assessor, Chairman – 6.78 days per month.

Assessor – 5.83 days per month.

Councilmember – 1 day per month.

Building Code Enforcement Officer – 8 days per month.

Bookkeeper – 3 days per month.

Justice – 9.40 days per month.

Planning Board Chairman – 4.72 days per month.

Seconded by Councilmember Lisa M. Driscoll with the vote as follows:

Adopted:	Deputy Supervisor	Matthew J. Taylor	Aye.
	Councilmember	Patrick F. Funk	Aye.
	Councilmember	Lisa M. Driscoll	Aye.
	Councilmember	Erik R. Reeve	Aye.
	Supervisor	James Eisel Sr.	Absent.

At 7:10 PM Deputy Supervisor Taylor opened the Public Hearing for Local Law No. 01 of the Year 2022 “To Adopt The New York State Minimum Requirements For Enforcement Of The New York State Uniform Fire Prevention And Building Code And The State Energy Conservation Construction Code”. Deputy Supervisor Taylor asked if anyone present would like to be heard. Steven Weiner asked who will be enforcing this new local law? The answer was the Town Code Enforcement Officer Tom Little. A discussion was had. Deputy Supervisor Taylor told those present that he would leave the public hearing open in case someone coming in late would like to be heard.

Deputy Supervisor Taylor asked if the Board had received the minutes from the regular meeting held on December 14, 2022? The Board had received the minutes. Deputy Supervisor Taylor asked the Board if they had any questions, comments or corrections to be made to the minutes? The Board had no questions, comments or corrections to be made to the minutes. A motion to accept the minutes from the regular meeting held on December 14, 2022 as presented was made by Patrick F. Funk seconded by Lisa M. Driscoll. All voting Aye.

Linda E. Goss informed the Board that she has received a packet from The Association of Towns of the State of New York that the 2023 Training School and Annual Meeting will be held at the New York Marriott Marquis on February 19-22, 2023. Councilmember Funk would like to ask The Association of Towns why they hold this meeting in the most expensive city in the world? How are they expecting these small Towns to attend? Can the Town respond to the Association of Towns that we will not be attending because of the expensive cost to attend the training? A discussion was had. Councilmember Funk is concerned that The Association of Towns is for Towns and they are having training where it is very expensive to go. Some of that revenue could be better spent in some of these Towns that are struggling a little bit that are represented by The Association of Towns instead of having them go down and stay at the Marriott Marquis in New York City. The discussion continued. It was decided that Linda E. Goss would draft a letter to The Association of Towns listing the concerns of the Town Board. She will send the draft letter to the Board for them to review.

Linda E. Goss reported to the Board that in their packets was a copy of the Town of Harpersfield’s building permit fees, a copy of the Town of Kortright’s building permit fees and a copy of the Town of Stamford’s building permit fees. She requested copies of building permit fees from the Towns of Stamford, Kortright and Davenport. She still has not received a

response from the Town of Davenport. It was decided that the Board will review this information.

Linda E. Goss informed the Board that in their packets was additional information from Laurie Bedford, Town Assessor about the new exemption for first responders. Deputy Supervisor Taylor asked the Board to read over this information. He would like the Board to come up with whatever questions that they might have and have Ms. Bedford attend a Board meeting to answer them.

Deputy Supervisor Taylor reported to the Board that the Town has received a copy of a letter from NYS Department of Transportation to Susan McIntyre, commissioner for the Delaware County Department of Public Works on a speed limit reduction on County Highway 33. The speed limit will be reduced to 40 MPH as the maximum linear speed for County Highway 33, Harpersfield Road, between the Kortright/Harpersfield Town line and New York State Highway 23, a distance of 0.4 +/- miles in the Town of Harpersfield. Delaware County will be responsible for putting up signs on County Highway 33, Harpersfield Road. Gloria Anderson asked Russell Hatch if he has put up the speed limit signs on Titus Lake Road and Austin Road? Russell answered that the speed limit signs have been put up on Titus Lake Road. He has not put them up yet on Austin Road. Ms. Anderson asked could he put up the signs on Austin Road or is the ground frozen? Russell answered yes the signs can be put up as long as the ground is not frozen. He still has to order the signs for Austin Road and once he receives them he will get them put up.

Deputy Supervisor Taylor informed the Board that he has received the Contract of Agreement between the Town and the Jefferson Fire District North Harpersfield Fire Protection District. This is an annual contract that has been in effect since December 29, 1954.

#### AGREEMENT NO. 01 OF THE YEAR 2023

Councilmember Patrick F. Funk offered the following agreement and moved its adoption:

TITLE: CONTRACT OF AGREEMENT BETWEEN THE TOWN OF HARPERSFIELD AND THE JEFFERSON FIRE DISTRICT NORTH HARPERSFIELD FIRE PROTECTION DISTRICT.

THIS AGREEMENT made this 1<sup>st</sup> day of January 2023, by and between the TOWN OF HARPERSFIELD, Delaware County, State of New York, party of the first part, and the JEFFERSON FIRE DISTRICT of the Town of Jefferson, Schoharie County, State of New York, party of the second part, WITNESSETH:

WHEREAS, the NORTH HARPERSFIELD FIRE PROTECTION DISTRICT has been duly established in the Town of Harpersfield on the 29<sup>th</sup> day of December, 1954, and

WHEREAS, the party of the second part is the owner of motorized fire fighting equipment and maintains an organized Fire Department, and is willing to operate said equipment and provide



firemen for the extinguishment of fires in the territory within the above mentioned Fire Protection District together with General Ambulance Service.

NOW, THEREFORE, the said party of the first part does engage the said party of the second part to furnish Fire Protection and General Ambulance Service to the said NORTH HARPERSFIELD FIRE PROTECTION DISTRICT and the party of the second part agrees to furnish such protection and service in the following manner:

1. The Fire Department of the said party of the second part shall at all times during the period of this agreement be subject to call for attendance upon any fire or general ambulance service occurring in said district, and when notified by alarm or telephone call from any person within the District of a fire or general ambulance call within the District, such Department shall respond as promptly as possible except when the firemen and equipment are attending a fire or providing ambulance service in the Jefferson Fire District and attend upon the fire with suitable ladders, pumping and hose apparatus of the party of the second part. Upon arrival at the scene of the fire, the firemen of the party of the second part attending shall diligently and in every way reasonable suggested to the extinguishment of the fire and the saving of life and property in connection therewith.
2. In consideration of furnishing aid and the use of its apparatus as aforesaid, the party of the second part shall receive from the party of the first part the sum of Forty-three Thousand Five Hundred Dollars (\$43,500.00); such sum shall be assessed and levied upon the taxable property within the District known as the North Harpersfield Fire Protection District.
3. The party of the second part undertakes and agrees to maintain public liability insurance in the amount of not less than Ten Thousand Dollars (\$10,000.00) for property damage and Seventy-five Thousand Dollars (\$75,000.00) for personal injuries arising from the operation of said equipment within said District or in going to and returning from said Fire District.
4. It is understood and agreed that the party of the second part shall secure necessary insurance to insure the party of the first part against liability imposed against it by provisions of Section 290 of the General Municipal Law.
5. Said party of the first part will pay all legal fees and other expenses in connection with the operation of the said North Harpersfield Fire Protection District.
6. The party of the first part warrants that it is insured under a general policy of self-insurance held by the County of Delaware which covers all claims authorized by law for medical expenses, loss of wages, compensation benefits or other claims arising by reason of injury or death of a fireman or member of the Fire Department, Emergency Rescue Squad, Fire Police Squad or Fire Patrol sustained while answering, attending upon or returning from any such call, and in the case the said party of the second part shall be compelled or required to pay such claim, the party of the first part shall reimburse the party of the second part for the amount paid within thirty (30) days after making such payment.

7. All monies to be paid under any provision of this agreement shall be a charge upon the North Harpersfield Fire Protection District, to be assessed or levied upon the taxable property of said District and collected with the Town Taxes.

8. The period of this agreement shall be for one year from the date hereof, until the 31<sup>st</sup> day of December 2023 and shall continue on unless otherwise terminated at the end of any of the above periods by giving written notice thirty (30) days prior to the end of any period. Notices shall be served personally or by certified mail upon the Clerk of the Town of Harpersfield or upon any member of the Board of Fire Commissioners of the party of the second part.

Seconded by Councilmember Lisa M. Driscoll with the vote as follows:

Adopted:	Deputy Supervisor	Matthew J. Taylor	Aye.
	Councilmember	Patrick F. Funk	Aye.
	Councilmember	Lisa M. Driscoll	Aye.
	Councilmember	Erik R. Reeve	Aye.
	Supervisor	James Eisel Sr.	Absent.

Deputy Supervisor Taylor reported to the Board that the agreement between the Town of Harpersfield and the Delaware County Planning Board for the Town Planning Advisory Service which will be from January 1, to December 31, 2023 in the amount of \$3,500.00 has been received.

AGREEMENT NO. 002 FOR THE YEAR 2023.

TITLE: AGREEMENT BETWEEN THE DELAWARE COUNTY PLANNING BOARD AND THE TOWN OF HARPERSFIELD FOR THE TOWN PLANNING ADVISORY SERVICE.

Councilmember Patrick F. Funk offered the following agreement and moved its adoption:

An agreement between the Delaware County Planning Board and the Town of Harpersfield as set forth in Article 11-B of the General Municipal Law.

WHEREAS, in accordance with Section 239-d of the General Municipal Law, Subsection 8, and Resolution No. 102, 1975, as amended, Delaware County Board of Supervisors, the Delaware County Planning Board is authorized to provide planning services to the communities within the County when its services are requested by the municipality, through the Town Planning Advisory Service Program, and to enter into local planning assistance agreements with communities desiring such services.

WHEREAS, this community hereby requests the Delaware County Planning Board to provide planning services to this community's Planning Board and agrees to appropriate municipal

funds for the purposes of the Town Planning Advisory Service for the year January 1, through December 31, 2023, as follows:

- I. The total cost to the community is .....\$3,500.00
- II. For the purpose of providing these funds to carry out the provisions of this AGREEMENT, IT IS AGREED that the community will pay to the Delaware County Planning Board the sum of \$3,500.00.

Seconded by Councilmember Lisa M. Driscoll with the vote as follows:

Adopted:	Deputy Supervisor	Matthew J. Taylor	Aye.
	Councilmember	Patrick F. Funk	Aye.
	Councilmember	Lisa M. Driscoll	Aye.
	Councilmember	Erik R. Reeve	Aye.
	Supervisor	James Eisel Sr.	Absent.

Deputy Supervisor Taylor asked if anyone else would like to be heard on the Local Law to Adopt the New York State Minimum Requirements for Enforcement of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code? No one else came forward to be heard. The public hearing was closed at 7:28 PM.

Deputy Supervisor Taylor informed the Board that a resolution is needed to adopt the Local Law to adopt the New York State Minimum Requirements for Enforcement of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code.

RESOLUTION NO. 005 OF THE YEAR 2023

Councilmember Patrick F. Funk offered the following resolution and moved its adoption:

TITLE: RESOLUTION BY THE TOWN BOARD OF THE TOWN OF HARPERSFIELD ADOPTING LOCAL LAW ENTITLED: "A LOCAL LAW TO ADOPT THE NEW YORK STATE MINIMUM REQUIREMENTS FOR ENFORCEMENT OF THE NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE AND THE STATE ENERGY CONSERVATION CONSTRUCTION CODE".

WHEREAS, in the Matter of the Adoption of Local Law No. 001 of 2023 entitled "Local Law to adopt the New York State Minimum Requirements for Enforcement of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code"; and

WHEREAS, this local law is adopted pursuant to the authority granted in Section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, the Energy Code

or other State law, or other section of local law, all buildings structures and premises, regardless of use or occupancy, are subject to the provisions of this Local Law.

WHEREAS, the Town Board adopted a resolution on December 15, 2022 scheduling a public hearing on the proposed Local Law for January 11, 2023; and

WHEREAS, the public hearing on the proposed Local Law was held on January 11, 2023 at the Town Hall; and

WHEREAS, the Town Board reviewed and considered all public comments received on the proposed Local Law; and

WHEREAS, the proposed Local Law was on file for inspection at the Town Clerk's office prior to the hearing and during the public review process; and

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS BY THE TOWN BOARD OF THE TOWN OF HARPERSFIELD, DELAWARE COUNTY, NEW YORK:

The Town Board of the Town of Harpersfield hereby adopts this Local Law to Adopt the New York State Minimum Requirements for Enforcement of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code, being Local Law No. 001 of 2022, and the Town Clerk is hereby directed to file said Local Law with the Office of the Secretary of State in accordance with State Law.

Councilmember Erik R. Reeve seconded the motion and the resolution was put to a vote and recorded as follows:

Supervisor James Eisel Sr., Absent

Deputy Supervisor Matthew J. Taylor, Aye.

Councilmember Patrick F. Funk, Aye.

Councilmember Lisa M. Driscoll, Aye.

Councilmember Erik R. Reeve, Aye.

TOWN OF HARPERSFIELD LOCAL LAW NO. 01 FOR THE YEAR 2023

A LOCAL LAW TO ADOPT THE NEW YORK STATE MINIMUM REQUIREMENTS FOR ENFORCEMENT OF THE NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE AND THE STATE ENERGY CONSERVATION CONSTRUCTION CODE.

Be it enacted by the Town Board of the Town of Harpersfield as follows:

Section 1. Legislative Intent: It is the intent of this local law to provide for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in the Town of Harpersfield.

Section 2. Authority: This local law is adopted pursuant to Section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, the Energy Code or other State law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this local law.

Section 3. Amendment. Ordinance No. 1 of 1986 of the Town of Harpersfield is hereby repealed as written and replaced with the following law to read as follows:

#### SECTION 1. PURPOSE AND INTENT.

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

#### SECTION 2. DEFINITIONS.

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

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

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

“Certificate of Compliance” shall mean a document issued by the Town stating that work was done in compliance with approved construction documents and the Codes.

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

“Code Enforcement Officer” shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of Section 3 of this local law.

“Code Enforcement Personnel” shall include the Code Enforcement Officer and all Inspectors.

“Codes” shall mean the Uniform Code and Energy Code.

“Energy Code” shall mean the New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law.

“FCNYS” shall mean the 2020 Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225.

“Fire Safety and Property Maintenance Inspection” shall mean an inspection performed to determine compliance with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference.

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

“Inspector” shall mean an inspector appointed pursuant to subdivision (d) of Section 3 of this local law.

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

“Operating Permit” shall mean a permit issued pursuant to Section 10 of this local law. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended, or extended pursuant to any provision of this local law.

“Order to Remedy” shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of Section 17 of this local law.

“Permit Holder” shall mean the Person to whom a Building Permit has been issued.

“Person” shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

“PMCNYS” shall mean the 2020 Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.

“RCNYS” shall mean the 2020 Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

“Repair” shall mean the reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

“Stop Work Order” shall mean an order issued pursuant to Section 6 of this local law.

“Sugarhouse” shall mean a building used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup and/or maple sugar.

“Temporary Certificate of Occupancy” shall mean a certificate issued pursuant to subdivision (d) of Section 7 of this local law.

“Town” shall mean the Town of Harpersfield.

“Uniform Code” shall mean the New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of Title 19 of the NYCRR, adopted pursuant to Article 18 of the Executive Law.

### SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS.

(a) The Office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code, and this local law. The Code Enforcement Officer shall have the following powers and duties:

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

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

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

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivision (a) of Section 17 Violations of this local law;

(7) to maintain records;

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

(9) to pursue administrative enforcement actions and proceedings;

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

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

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

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

(d) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board of this Town.

#### SECTION 4. BUILDING PERMITS.

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

(b) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the location, nature, extent, and scope of the proposed work;
- (2) the tax map number and the street address of any affected building or structure;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least 2 sets of construction documents (drawings and/or specifications) which
  - (i) describe the location, nature, extent, and scope of the proposed work;
  - (ii) show that the proposed work will conform to the applicable provisions of the Codes;
  - (iii) show the location, construction, size, and character of all portions of the means of egress;
  - (iv) show a representation of the building thermal envelope;
  - (v) show structural information including but not limited to braced wall designs, the size, section, and relative locations of structural members, design loads, and other pertinent structural information;
  - (vi) show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building;



(vii) include a written statement indicating compliance with the Energy Code;

(viii) include a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site, distances from lot lines, the established street grades and the proposed finished grades, and, as applicable, flood hazard areas, floodways, and design flood elevations; and

(ix) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's Certificate of Authorization number.

(c) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (b) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp, or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

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

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

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

(g) Time limits. Building Permits shall become invalid unless the authorized work is commenced within six (6) months following the date of issuance. Building Permits shall expire 12 months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this

subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

(h) Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate, or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that:

(1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code; and

(2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(i) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit. If a project commences construction prior to the issuance of a building permit, such applicable fee shall be doubled.

#### SECTION 5. CONSTRUCTION INSPECTIONS.

(a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.

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

(1) work site prior to the issuance of a Building Permit;

(2) footing and foundation;

(3) preparation for concrete slab;

(4) framing;

(5) structural, electrical, plumbing, mechanical, fire-protection, and other similar service systems of the building;

(6) fire resistant construction;

(7) fire resistant penetrations;

(8) solid fuel burning heating appliances, chimneys, flues, or gas vents;

(9) inspections required to demonstrate Energy Code compliance, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, and high-performance lighting and controls;

(10) installation, connection, and assembly of factor manufactured buildings and manufactured homes; and

(11) a final inspection after all work authorized by the Building Permit has been completed.

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

(d) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to the manner in which the work fails to comply with the Uniform Code or Energy Code, including a citation to the specific code provision or provisions that have not been met. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(e) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 18 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

#### SECTION 6. STOP WORK ORDERS.

(a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

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

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

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

(b) Content of Stop Work Orders. Stop Work Orders shall:

(1) be in writing;

(2) be dated and signed by the Code Enforcement Officer;

(3) state the reason or reasons for issuance; and

(4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

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

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

(e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under Section 17 Violations of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

#### SECTION 7. CERTIFICATES OF OCCUPANCY AND CERTIFICATES OF COMPLIANCE.

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

(b) Issuance of Certificates of Occupancy and Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure, or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be

provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:

(1) a written statement of structural observations and/or a final report of special inspections;

(2) flood hazard certifications;

(3) a written statement of the results of tests performed to show compliance with the Energy Code; and

(4) where applicable, the affixation of the appropriate seals, insignias, and manufacturer's data plates as required for factory manufactured buildings and/or manufactured homes.

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

(1) the Building Permit number, if any;

(2) the date of issuance of the Building Permit, if any;

(3) the name (if any), address and tax map number of the property;

(4) if the Certificate of Occupancy or Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy or Certificate of Compliance is issued;

(5) the use and occupancy classification of the structure;

(6) the type of construction of the structure;

(7) the occupant load of the assembly areas in the structure, if any;

(8) any special conditions imposed in connection with the issuance of the Building Permit; and

(9) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.

(d) Temporary Certificate of Occupancy. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate of Occupancy allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate of Occupancy unless the Code Enforcement Officer determines:

(1) that the building or structure, or the portion thereof covered by the Temporary Certificate of Occupancy, may be occupied safely;

(2) that any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational; and

(3) that all required means of egress from the structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate of Occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and

using the building or structure and/or performing further construction work in the building or structure. The Temporary Certificate of Occupancy shall be effective for a period of time, not to exceed six (6) months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate of Occupancy. During the specified period of effectiveness of the Temporary Certificate of Occupancy, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

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

(f) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 18 Fees of this local law must be paid at the time of submission of an application for a Certificate of Occupancy, Certificate of Compliance, or for Temporary Certificate of Occupancy.

#### SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.

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

#### SECTION 9. UNSAFE BUILDINGS, STRUCTURES, AND EQUIPMENT AND CONDITIONS OF IMMINENT DANGER.

Unsafe buildings, structures, and equipment and conditions of imminent danger in this Town shall be identified and addressed in accordance with the following procedures:

A. A building or structure or part thereof which is an imminent danger to life and safety of the public as a result of a fire or explosion is hereby declared to be a public nuisance.

B. Whenever the Building Inspector finds a building or structure or part thereof to be an imminent danger to life and safety of the public as a result of a fire or explosion, the Building Inspector may cause it to be demolished and removed or may cause work to be done in and about the building or structure as may be necessary to remove the danger.

C. The Building Inspector may require the occupants of any such building or structure or part thereof to vacate the premises forthwith. No Person shall use or occupy such building or structure or part thereof until it is made safe. Except for the owner, no person shall enter premises which have been ordered vacated unless authorized to perform inspections or repairs or to demolish and remove such building or structure or part thereof.

D. All costs and expenses incurred by the Town in connection with any work done to remove the danger or in connection with the demolition and removal of any such building or structure is located, and a bill for such expenses shall be presented to the owner of the property, or if the owner cannot be ascertained, then such bill shall be posted in a conspicuous place on the premises. Such assessment shall be and constitute a lien upon such land. If the owner shall fail to pay for such expenses within ten (10) days after the bill is presented or posted, a legal action may be brought to collect such assessment or to

foreclose such lien. As an alternative to the maintenance of any such action, the Building Inspector may file a certificate of the actual expenses incurred as aforesaid, together with a statement identifying the property in connection with which the expenses were incurred and the owner thereof, with the Assessor, who shall, in the preparation of the next assessment roll, assess such amount upon such property. Such amount shall be included in the levy against such property, shall constitute a lien and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town of Harpersfield.

#### SECTION 10. OPERATING PERMITS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) buildings containing one or more assembly areas;

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

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

(7) parking garages as defined in subdivision (a) of Section 13 of this local law;

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

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

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

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



Maintenance Inspections of this local law, and condition assessments are performed in compliance with Section 13 Condition Assessments of Parking Garages of this local law, as applicable.

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

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

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

(1) An interval not to exceed 180 days for tents, special event structures, and other membrane structures;

(2) An interval not to exceed 60 days for alternative activities at a sugarhouse;

(3) An interval not to exceed three (3) years for the activities, structures, and operations determined per paragraph (9) of subdivision (a) of this section; and

(4) An interval not to exceed one (1) year for all other activities, structures, and operations identified in subdivision (a) of this section. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

(g) Revocation or Suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

(h) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 18 Fees of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

SECTION 11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS.

(a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

(1) at least once every twelve (12) months for buildings which contain an assembly area;

(2) at least once every twelve (12) months for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities; and

(3) at least once every thirty-six (36) months for multiple dwellings and all nonresidential occupancies.

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

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

(1) the request of the owner of the property to be inspected or an authorized agent of such owner;

(2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or

(3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

(d) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit, or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator or other authorized entity under Executive Law Section 156-e and Education Law Section 807-b. Notwithstanding any other provision of this section to the contrary, the Code Enforcement Officer may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to Sections 807-a and 807-b of the Education Law and/or Section 156- e of the Executive Law, in lieu of a fire safety

and property maintenance inspection performed by the Code Enforcement Officer or by an Inspector, provided that:

(1) the Code Enforcement Officer is satisfied that the individual performing such inspection satisfies the requirements set forth in 19 NYCRR § 1203.2(e);

(2) the Code Enforcement Officer is satisfied that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;

(3) such inspections are performed no less frequently than once a year;

(4) a true and complete copy of the report of each such inspection is provided to the Code Enforcement Officer; and

(5) upon receipt of each such report, the Code Enforcement Officer takes the appropriate action prescribed by Section 17 (Violations) of this local law.

(e) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 18 Fees of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

## SECTION 12. COMPLAINTS.

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

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

(b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in Section 17 Violations of this local law;

(c) if appropriate, issuing a Stop Work Order;

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

## SECTION 13. CONDITION ASSESSMENTS OF PARKING GARAGES.

(a) Definitions. For the purposes of this section:

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

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

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

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

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

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

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

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

(6) the term “unsafe condition” includes the conditions identified as “unsafe” in Section 304.1.1, Section 305.1.1, and Section 306.1.1 of the PMCNYS.

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

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

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

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

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

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

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

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

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

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

(e) Additional Condition Assessments.

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

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

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

(1) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;

(2) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;

(3) an evaluation and description of the unsafe conditions;

(4) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;

(5) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;

(6) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;

(7) the responsible professional engineer's recommendation regarding preventative maintenance;

(8) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and

(9) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in their professional judgment.

(g) Review Condition Assessment Reports. The Town shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Town shall, by Order to Remedy or such other means of enforcement as the Town may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision (f). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Town to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

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

with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

(i) This section shall not limit or impair the right or the obligation of the Town:

(1) to perform such construction inspections as are required by Section 5 Construction Inspections of this local law;

(2) to perform such periodic fire safety and property maintenance inspections as are required by Section 11 Fire Safety and Property Maintenance Inspections of this local law; and/or

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

#### SECTION 14. CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA.

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

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

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

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

(i) the accompanying Flood Insurance Rate Map (FIRM);

(ii) Flood Boundary and Floodway Map (FBFM); and

(iii) related supporting data along with any revisions thereto.

(b) The Code Enforcement Officer shall prepare a written record of the climatic and geographic design criteria determined pursuant to subdivision (a) of this section, shall maintain such record within the office of the Code Enforcement Officer, and shall make such record readily available to the public.

#### SECTION 15. RECORD KEEPING.

(a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

- (1) all applications received, reviewed and approved or denied;
- (2) all plans, specifications and construction documents approved;
- (3) all Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
- (4) all inspections and tests performed;
- (5) all statements and reports issued;
- (6) all complaints received;
- (7) all investigations conducted;
- (8) all condition assessment reports received;
- (9) all fees charged and collected; and
- (10) all other features and activities specified in or contemplated by Sections 4 through 14, inclusive, of this local law.

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

#### SECTION 16. PROGRAM REVIEW AND REPORTING.

(a) The Code Enforcement Officer shall annually submit to the Town Board of this Town a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in Section 14 Record Keeping of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.

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

#### SECTION 17: VIOLATIONS.

(a) Orders to Remedy. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. An Order to Remedy shall be in writing; shall be dated and signed by the Code Enforcement Officer; shall specify the condition or activity that violates



the Uniform Code, the Energy Code, or this local law; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; and shall include a statement substantially similar to the following: "The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by \_\_\_\_\_ [specify date], which is thirty (30) days after the date of this Order to Remedy."

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

(b) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

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

(1) any Person who violates any provision of this local law or any term, condition, or provision of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be punishable by a fine of not more than \$1,000.00 per day of violation, or imprisonment not exceeding 12 months, or both; and

(2) any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to pay a civil penalty of not more than \$1,000.00 for each day or part thereof during which such violation continues. The civil penalties provided by this paragraph shall be recoverable in an action instituted in the name of this Town.

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this Town in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work

Order, Operating Permit, Order to Remedy, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Supervisor of this Town.

(e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in Section 6 Stop Work Orders of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in Section 6 Stop Work Orders of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of Section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of Section 382 of the Executive Law.

#### SECTION 18: FEES.

A fee schedule shall be established by resolution of the Town Board of this Town. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

#### SECTION 19. INTERMUNICIPAL AGREEMENTS.

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

#### SECTION 20. PARTIAL INVALIDITY.

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

#### SECTION 21. EFFECTIVE DATE.

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Deputy Supervisor Taylor recognized Dean Darling, Chairman of the Planning Board. Mr. Darling informed the Board that last year the Planning Board processed two subdivisions. One was a property on a private Road. This is a concern for the Planning Board. Town Building Code requires if the owner of the subdivided parcel wants to build on that parcel the access to the property has to meet Town Driveway specs. That is so emergency vehicles have access to the property. Deputy Supervisor Taylor asked who inspects those roads, Tom Little or Russell Hatch? Mr. Darling answered both Tom Little and Russell Hatch. The Planning Board is also involved. A discussion was had. Mr. Darling continued that this is going to be a problem as we go forward with some other subdivisions. Linda E. Goss asked to Mr. Darling if the County Advisor and/or the County Planning Department could advise both the Planning Board and Town Board if the current local laws and regulations could help address this situation? Deputy Supervisor Taylor added and maybe stream line the process? Mr. Darling answered that he will approach the County Planning Board Advisor to see if they would be able to help the Town address this issue. There are properties that were purchased before there were any regulations. This is also a County wide issue. Councilmember Reeve asked Mr. Darling if it is a problem for the seller or buyer of such a property? Mr. Darling answered it becomes a problem for the buyer. They buy this property and can't get to it. They bought the property thirty years ago and now they want to retire and build a home or bring their trailer up and they can't get to it. Nobody is going to plow their driveway for them and the Town isn't going to take care of it because there is no road to it. Ms. Goss added that property owners are ageing and want to subdivide the property so that their family members can each have their own parcel. Mr. Darling continued and there is not enough road frontage for multiple driveways. Councilmember Reeve added then there can be easements and/or have to share driveways. Ms. Goss continued that also creates problems in the future. When it is between family members that is one thing. For the most part they get along. When the family members sell the parcels to two different buyers who are not family members and the new owners do not get along then there are problems. A discussion was had. Mr. Darling informed the Board that the second subdivision had an issue as the parcel had to have a survey before it could be completed. The Planning Board with advice from Council worked through this subdivision.

Mr. Darling reported to the Board that the Planning Board has done two Site Plan reviews last year. The Catskill Mountain Little League project has moved along. When the Planning Board was processing the Site Plan Review for the Tractor Supply project the sidewalk that was built now goes to the Catskill Mountain Little League site. So that has worked out well. The second Site Plan review was for S & C Firearms at the top of Mile Hill. They wanted to put up an electric sign which required Site Plan approval. They have received Site Plan approval but have not yet put up the sign.

Mr. Darling informed the Board that the Planning Board has worked on four Boundary Line Adjustments.

Mr. Darling reported to the Board that the Planning Board is continuing to work on two Solar projects, the NY Safety Track project and a possible subdivision on Colonel Harper Drive. Councilmember Driscoll asked Mr. Darling will there be money going back to the Town once the Solar Companies get up and running? Mr. Darling answered that is part of the Site Plan Review application and is the PILOT agreement between the Town and the Solar Company. This has to be done before any Site Plan Review can be finalized. This assessment will be broken up three ways. The Town of Harpersfield, Delaware County and the School District will all get a portion of the assessment. The discussion continued.

Mr. Darling informed the Board that the NY Safety Track has come back to the Planning Board with a Site Plan application for a go cart track. The place they want to locate the new track is a little bit questionable. It is also questionable about what they want to use on the new track. The Planning Board has heard that the new track will be used as for go carts, minibikes, snowmobiles and other apparatus. The use of this new track needs to be more clearly defined. NY Safety Track has never let Town go back to complete a noise study on the motorcycles and cars that are using the current track. They have been in violation of the Site Plan agreement without that noise study. The Planning Board needed to get an escrow account established so that we could get a sound engineer on site to do the study there. The Town Board has approved a resolution and agreement for this escrow account with NY Safety Track. Currently there have been some construction vehicles at the site cutting trees and leveling land before winter set in. This is in violation of the Town Code as well. They have started to clear the site before they had site plan approval. This will be an ongoing project for a while. Councilmember Reeve asked Mr. Darling if NY Safety Track goes ahead and puts in this track without Planning Board approval is there anything the Planning Board can do to stop them from participating on the track? Mr. Darling answered that it is a violation of building code. Councilmember Reeve continued that they have been violation all along. A discussion was had. Mr. Darling continued that the current violation is in the hands of NYS DEC. They were issued an Order to Cease and Desist from all activities related to the site work from NYS DEC. So the work has been stopped. The discussion continued. Councilmember Funk thanked Mr. Darling and the Planning Board for all of their hard work. Mr. Darling thanked the Town Board for all of their support.

Russell Hatch reported to the Board that he has put some surplus equipment on the website Auctions International. The surplus equipment was a 1995 truck, 1991 loader, a dump box, (1) old v-plow and an old sander. For the 1995 truck the Town got \$5,600.00, for the 1991 loader the Town got \$23,700.00, for the dump box the Town got \$6,600.00, for the old v-plow the Town got \$110.00 and for the old sander the Town got \$125.00. The total came to \$36,135.00. He feels that the Town did pretty well auctioning off these surplus items. The old sander and old v-plow the Town probably could have gotten a little bit more. The old v-plow is going to a Town out by Lake Ontario that was hit hard by the last storm. It is going to go to a good cause.

The old sander was pretty much just scrap. If the Town Board approves these figures he can let this surplus equipment go. A motion for Russell Hatch to sell the surplus equipment on Auctions International website for the amounts listed above was made by Patrick F. Funk seconded by Lisa M. Driscoll. All voting Aye.

Russell Hatch informed the Board that to answer their question about can the Town get a full load of fuel and what are the fuel prices, the prices have been coming down. He can check to see how much storage he has in the tank and check on the current price. He then can let the Board know what the current price is. Councilmember Funk stated that the last time Russell had ordered fuel he received less than a tank load without Kerosene. Could the Town run out of Diesel this year? Are things back to normal and will we be getting normal deliveries? Russell answered that he will check the amount that we have, the current price and get the minimum order amount. He thinks the minimum order for a load of fuel is between 6,000 to 6,500 gallons. Because of the weather the Town has not done a lot of plowing this year which has helped.

Councilmember Funk asked Russell if the Town is still on a list, to get on the list, to purchase a new truck this year? Russell answered that he will check on this. He spoke to a sales person in the first part of December. He was not able to get much information at that time. The sales person told Russell that in January the dealership would get a number of how many trucks that they were going to get. The sales person will have more information for Russell after that. Councilmember Driscoll asked did the Town write a grant for the new truck? Russell answered yes the Town has written a grant for the new truck. Councilmember Driscoll asked and have we gotten grant approval for the new truck? Linda E. Goss answered that we have not yet gotten grant approval for the new truck. That information is sent out in June. A discussion was had. Councilmember Driscoll asked will the grant cover the cost of the new truck? Councilmember Funk answered it depends on how much grant funding we get. Ms. Goss added that the amount requested in the grant was for \$200,000.00. Councilmember Driscoll asked how much will a new truck cost? Russell answered that some of the numbers he was able to get were between \$230,000.00 to \$250,000.00. While doing research he found that a company that does the hitches, sanders and stuff like that ended up with ten trucks. What they are doing is they are gearing them up and selling them to municipalities. Selling their gear and making a profit on that. They are doing all of the work on the trucks. These are ten wheelers, like what we run. They have got a different sander on them. The sander that they have on these new trucks sands in front of the truck tires making it a lot safer to drive. These trucks are priced at \$295,000.00. That is quite a bit more money than what we were thinking about. That would be another option. Russell thinks he might be able to purchase one of those trucks if it came down to it. Councilmember Reeve asked are you getting just a frame only or are you getting a dump body on the new truck at \$230,000.00 or \$250,000.00? Russell answered that the new truck is built. The only thing I won't have in it is a sander. We make our own sanders. Councilmember Reeve asked Russell will the new truck have the plow mount and all that stuff on it? Russell answered yes it will have the box installed and painted. Councilmember Driscoll asked are

there roads that the Highway crew are worried about going on that would give them more confidence when they are plowing if the truck is sanding underneath their wheels? Russell answered that the used truck that we just bought has that type of sander. We just haven't been using it as it is still being worked on. We are still waiting for parts. Russell was hoping to get this truck up and running and get a feel for how these sanders work. One of the Town of Harpersfield Highway employees used to work for the Town of Davenport Highway Department. The Town of Davenport trucks have those sanders on them and they like them very much. Deputy Supervisor Taylor added that Gun House Hill Road or Middlebrook Hill Road may be a couple of roads to try this new sander out on. Russell added that every road has a bad spot somewhere. Councilmember Reeve asked Russell do the sanders on our trucks have three different spots it drops sand from? Russell answered it comes out right behind the cab on the driver's side. It throws sand out in front of the tandems, but it can also throw sand out for the other lane too. Councilmember Reeve asked Russell if the sand & salt that is coming out in front of the wheels how would it effect how much the truck would rot out? Russell answered it probably makes it worse. Because it is throwing the sand & salt on the drive shafts and stuff like that. Councilmember Funk added that the cost difference between the two trucks is significant. Councilmember Driscoll asked do we know if we could even get one of the more expensive trucks? Russell answered he thinks he could. Russell will get back in touch with the other truck companies to see what is going on and how many trucks they will be getting.

Russell Hatch reported to the Board that he has reached out to Delaware County Soil and Water Conservation Department about the grants for the Reed Road and Gun House Hill Road projects. They still did not have any information on them. He will reach out to them again to see if they have gotten any further information. Councilmember Funk asked was the Town the only one who put in for a grant? Russell answered that the Town's of Harpersfield, Bovina and Roxbury put in grant applications. A discussion was had.

Councilmember Driscoll asked Russell if he has decided on what big culvert project/s he will be doing this year? Russell answered no he has not. He will be working on it. Normally he does the Agreement for the Expenditures of Highway Money at this meeting but he will have it for the Board at next month's meeting.

Linda E. Goss informed the Board that she has received the Warrant to collect taxes on December 27, 2022. The total amount of the Warrant is \$2,334,155.87. The Town's portion of this is \$1,166,660.25. She has been collecting taxes since January 2, 2023. Councilmember Driscoll asked if Ms. Goss wrote out a check for the remainder of the warrant to the County? Ms. Goss answered it depends on how much she collects. Once she pays the Town Supervisor the \$1,166,660.25 for the Town's budget whatever else she collects she pays monthly to the County. When she goes to the County to cash up in the second week of May she turns over any taxes she has collected along with whatever taxes that have not been collected. Then it is up to the County to collect the remaining uncollected taxes. The discussion continued.

A motion to accept the Town Clerk's December monthly report in the amount of \$264.49 was made by Patrick F. Funk seconded by Erik R. Reeve. All voting Aye.

The abstract and vouchers for the month of December were presented to the Board. Presented were General Claims #297 to #323 in the amount of \$25,375.29; Highway Claims #203 to #216 in the amount of \$9,862.35 and Transfer Station Claims #062 to #068 in the amount of \$4,699.69. Councilmember Driscoll inquired about the voucher from the Transfer Station account to the General account for Sentry Alarm Digital Monitoring & DMP Radio for 2022. Ms. Goss responded that quarterly the Town is charged by Sentry Alarm Company for Digital Monitoring & DMP Radio. The Town pays this bill with one check from the General account. That covers the Town Hall, Highway Garage and Transfer Station. This voucher is to pay the General account back for the Transfer Station portion of the bill. A motion to pay the vouchers as presented was made by Patrick F. Funk seconded by Lisa M. Driscoll. All voting Aye.

The Supervisor's report for the month of November was issued to the Board.

Councilmember Funk inquired about the November 9, 2022 County Board of Supervisor's Minutes in which Resolution No. 214, Title: Direct Town Tax, the Town is charged for assessment rolls, field books, tax bills, etc.. Following Resolution No. 214, Resolution No. 215, Title: Levy of Town Accounts the Town of Harpersfield is to be charged \$5,542.31. Ms. Goss responded that the County Office of Real Property Service prints out the Tentative and Final Assessment Rolls, tax maps, tax bills and postage to mail them, etc. then charges the Town once a year. This covers those fees.

Councilmember Funk has found out that the County Planning Department has a drone which was crashed on a training exercise and they are now estimating the cost for a new drone to be \$45,198.25. Councilmember Reeve asked Councilmember Funk did the County have insurance on this drone? Councilmember Funk answered that a claim has been submitted to the insurance company and was settled in the amount of \$24,704.00. The discussion continued. Councilmember Funk would like the Town Supervisor to say something at the next Town Supervisor's meeting about the high cost to replace this drone. Councilmember Funk would also like some more information about what kind of drone this is. The discussion continued. Deputy Supervisor Taylor will ask Supervisor Eisel if he has any information on this issue and will report back to the Town Board.

A motion at 8:18 PM to go into executive session for a personnel matter was made by Patrick F. Funk seconded by Lisa M. Driscoll. All voting Aye.

A motion at 8:55 PM to come out of executive session was made by Patrick F. Funk seconded by Erik R. Reeve. All voting Aye. No action was taken in executive session.

The meeting was adjourned.

The next regular meeting of the Town Board will be on held on Wednesday, February 8, 2023 at 7:00 PM.

Linda E. Goss

Town Clerk



