

December 14, 2022

The Town Board of the Town of Harpersfield held a regular meeting on December 14, 2022.

Present were: James Eisel Sr., Supervisor  
Matthew J. Taylor, Councilmember  
Patrick F. Funk, Councilmember  
Lisa M. Driscoll, Councilmember  
Erik R. Reeve, Councilmember

Also present: Lindsey Dodd, Attorney, Young/Sommer  
Thomas Little, Code Enforcement Officer  
Linda E. Goss, Town Clerk

Absent: Russell Hatch, Supt. of Highways

Others present: Eileen King  
Gloria Anderson  
Elizabeth Page, Editor for The Mountain Eagle

The meeting was called to order at 7:01 PM by Supervisor James Eisel Sr..

Supervisor Eisel led the Board and those present in the Pledge of Allegiance to the Flag.

Supervisor Eisel asked if the Board had received the minutes from the public hearing and regular meeting held on November 9, 2022? The Board had received the minutes. Supervisor Eisel 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 public hearing and regular meeting held on November 9, 2022 as presented was made by Patrick F. Funk seconded by Lisa M. Driscoll. All voting Aye.

Supervisor Eisel informed the Board that a renewal appointment needs to be made for Joseph E. Carroll member of the Board of Assessment Review. The term of office will be from 10/01/2022 to 09/20/2027. A motion to reappoint Joseph E. Carroll as a member of the Town of Harpersfield Board of Assessment Review with the term of 10/01/2022 to 09/30/2027 was made by Patrick F. Funk seconded by Lisa M. Driscoll. All voting Aye.

Supervisor Eisel reported to the Board that he has received a check for the Mortgage Tax in the amount of \$11,737.94. The total amount of Mortgage Tax received for this year is \$28,300.00.

Supervisor Eisel recognized Lindsey Dodd, Attorney for Young/Sommer. Ms. Dodd informed the Board that they have had an initial Court appearance with an enforcement proceeding against a

resident whose property is located on Titus Lake Road regarding Junk Yard violations. This resident has approximately 20 boats, over a dozen unregistered vehicles and other miscellaneous parts and things located on their property in violation of many of the property codes. As well as a violation which amounts to a misdemeanor. Rather than having an arraignment right then and there Ms. Dodd spoke to the resident. She explained what the violations are. The resident seemed a little confused about what the violations are as Ms. Dodd and the Code Enforcement Officer referenced the right-of way issue to show the Judge the chronology of events. The resident was confused that the current violations were the same as the violations from a year ago. The resident informed the Judge that the pictures presented were old. The pictures that were presented to the Judge were taken by the Code Enforcement Officer a week before this Court appearance. Ms. Dodd told the resident instead of getting into testimony she would give the resident sixty days or until February 6, 2023 to either clean the property up, get things registered or apply for a junkyard permit. On February 6, 2023 at that time we will have an arraignment if we have not seen a concerted effort to clean the property up. The discussion continued.

Ms. Dodd informed the Board that the Town needs to pass a local law adopting the Uniform Code Minimum Standards as they have been adopted by the New York State Legislature. That is the base line for any municipality having its own Code Enforcement program. Unless the Board wants to get rid of the Town Code Enforcement program and differ to the County to enforce violations then the local law has to be adopted. Councilmember Driscoll asked Ms. Dodd if this local law includes that everyone has to go electric in so many years. Ms. Dodd answered no. That is not this local law. The Town has had its own Code Enforcement program since 1986. That document has six pages. This local law has twenty five pages. A big change is in Section 10, Operating Permits, on page 12 where the State Legislature has created a pretty exhaustive list of types of buildings and types of activities that are now going to need operating permits. Also number eleven, Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces", on page 13 if you are open burning trash or something like that it is illegal. Burning leaves now requires an operating permit. A question was asked about burning branches in which Ms. Dodd responded that unless you can classify it as a recreational fire like a fire pit in your backyard or a religious celebratory event you will need to get an operating permit. Supervisor Eisel asked where do we get that permit? From the Code Enforcement Officer? The answer was yes. Councilmember Taylor asked Ms. Dodd who polices this? Ms. Dodd answered the Code Enforcement Officer. A discussion was had. Councilmember Funk asked Mr. Little if he has read this local law? Mr. Little responded yes he has read it. The discussion continued. Councilmember Funk asked Ms. Dodd if the Village of Stamford is not enforcing this local law does the Town have an obligation to step in and do something? Ms. Dodd answered no the Town does not have an affirmative duty to reach out and take care of an issue that is dangerous that is located in the Village. It is up to the Village to take care of the issue. The discussion continued. Councilmember Funk asked Ms. Dodd on page twelve, number 5, Chapter 31, "Tents, Temporary Special Event Structures and Other Membrane

Structures” if someone is having a wedding and they hire a company from Bloomville to put up a tent do they need to get a permit? Ms. Dodd answered that it depends, you would have to refer to the fire code. If it is a tent defined in the fire code then yes you will need a permit. This section of the local law is talking about really large tents. Like an air supported tent. Mr. Little added that when they set up the Circus tents on Archibald Field a few years ago, when he inspected them he found violations. To secure the tent, pins which were three feet long were pounded into the ground. There were all kinds of underground electrical lines where those pins had been pounded into the ground. When Mr. Little pointed out the problem to the Circus manager he responded that he did not know that there were underground electrical lines at Archibald Field. Councilmember Funk asked has the Town of Harpersfield updated their fees recently? He is concerned if the fees the Town currently has are keeping up with the times and if they are in line with the surrounding Towns. Mr. Little responded that the fees are low. Linda E. Goss added that in the past the Board tried to keep the fees low so that all of the Town residents could afford them. The discussion continued. It was decided that Ms. Goss should contact the Towns of Davenport, Stamford and Kortright and get their fee schedules to see if any adjustments need to be made. She will have them for the next Town Board meeting. Mr. Little asked Supervisor Eisel if the Town should also be looking into adopting a local law regulating Short Term Rentals. Supervisor Eisel had given Mr. Little a list of 20 Short Term Rentals that he had received from the County to check on. The Town has no regulations for him to do that. The discussion continued. Ms. Dodd informed the Board that she has written Short Term Rental local laws for a couple of Towns and would be glad to help the Town. A Short Term Rental local law comes down to who is going to enforce it and what are the penalties going to be. The discussion continued. Supervisor Eisel added that this is something that the Town should look into. The County has hired a company to find these short term rentals. If there is a fire in one of these Short Term Rentals and it has not been inspected there is a lot of liability on the Town. The discussion continued. Ms. Dodd responded that the Town would not be liable if a Short Term Rental had a fire. The liability would be on the private owner. Mr. Little added that Short Term Rentals have their own insurance policies. The discussion continued.

#### RESOLUTION NO. 014 OF THE YEAR 2022

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

TITLE: RESOLUTION SCHEDULING A PUBLIC HEARING ON A LOCAL LAW ADOPTING 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, the Town Board of the Town of Harpersfield (“Town Board”) has proposed a new local law to update 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 accordance with minimum requirements set forth by the New York State Legislature.

WHEREAS, the proposed local law would provide that the Town of Harpersfield enforce and administer the Uniform Code and Energy Code in accordance with required minimum standards set forth by the New York State Legislature.

WHEREAS, the Town Board members and Town Attorney have reviewed a proposed draft of the Local Law which has now been introduced by a member of the Town Board.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board accepts the proposed draft Local Law that has been introduced; and

BE IT FURTHER RESOLVED, that a copy of the proposed draft Local Law shall be placed in the Town Clerk's office and made available for public inspection; and

BE IT FURTHER RESOLVED, that the Town Board will hold a public hearing for consideration of the Local law on January 11, 2023 at 7:00 PM at the Town Hall; and

BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized and directed to publish notice of said hearing in The Daily Star, and to post copies of such notice in the manner provided by law.

Seconded by Councilmember Lisa M. Driscoll whereupon the Resolution was put to a vote and recorded as follows:

Supervisor	James Eisel Sr.	Aye.
Councilmember	Matthew J. Taylor	Aye.
Councilmember	Patrick F. Funk	Aye.
Councilmember	Lisa M. Driscoll	Aye.

**TOWN OF HARPERSFIELD**

**LOCAL LAW NO. 001 FOR THE YEAR 2022**

**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 as set by the Town Board of this Town;

(9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code, and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code, or this local law; 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; and
- (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 factory manufactured buildings and manufactured homes; and
- (11) a final inspection after all work authorized by the Building Permit has been completed.

(c) Remote inspections. At the discretion of the Code 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 sparking devices as defined by Penal Law section 270;
- (xi) Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces." Conducting open burning, not including recreational fires and portable outdoor fireplaces;
- (xii) Section 308, "Open Flames." Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and

(xiii) Section 319, "Mobile Food Preparation Vehicles." Operating a mobile food preparation vehicle in accordance with the permitting requirements established 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 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, or 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 § 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 [ordinance], or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code 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; and

(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 [specify date not more than six (6) months after the effective date of this local law.

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

(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.

Supervisor Eisel reported to the Board that a resolution needs to be passed for the Town to obtain a Municipal Certificate of Need for the Headwaters of the Delaware Ambulance. Lindsey Dodd informed the Board that the ambulance committees for the three towns, Harpersfield, Kortright and Stamford, had gotten together and come up with questions as to what is the ambulance service going to look like and what are the next steps to make this happen. Headwaters Emergency Medical Services (EMS) has now been formally created. It has hired a director of operations, Ray Baker. Mr. Baker will be running the day to day operations. They are also working with a very well respected law firm, the Pinsky Law Firm. All that Brad Pinsky does is represent ambulance service providers. Mr. Pinsky has done this for the last thirty plus years. Now that Headwaters EMS is ready to go, they are looking to obtain their ambulances and where to house them. They can't really get this ambulance service started without any operating authority from the NYS Department of Health (DOH). There are two way to do this. The first is for Headwaters EMS to apply for a Certificate of Need (CON) from NYS DOH. The process takes a month to complete an application. Then it has to go through NYS DOH Regional Council. If there is any opposition it then has to go to an administrative hearing. Right now due to COVID those NYS DOH hearings are backed up five years. The New York State Legislature many years ago made a work around for this problem. When there is an emergency need in a municipality for emergency services the municipality can apply to NYS DOH and inform them that they need permission to have an emergency service provider. That is what is being proposed. To have the Town apply to NYS DOH for a Municipal CON. The Pinsky Law Firm is very well versed and does this all of the time. They know how to do it. They are happy to do all of that paperwork for the Town for free. Headwaters EMS/Robinson-Broadhurst Foundation is paying for it. This would fast track to get them up and running with operating authority within six weeks from the application. The resolution tonight is just allowing the Town to pursue that CON. Now what the CON means for the Town is that the Town is going to contract with Headwaters EMS as a Not for Profit to provide ambulance services. But because the Town will hold that CON it also has to hold the billing account. It will be a separate account held by the Town. Billing will come to that account and money will go out of that account. Not difficult accounting. It should be very straight forward. Any disputes or anything like that is going to be between the billing company and Headwaters EMS. The Town is not to get into the middle of that at all. Each Town has to have its own Municipal CON and account. Supervisor Eisel asked and that is going to be for three years? Ms. Dodd answered that the CON is good for two years when it is held by a Town. During that time this allows Headwaters EMS to go ahead and make its own application for a CON. So they are going to be working on that. The Municipal CON is just until they can get theirs approved. Councilmember Driscoll asked that the bank account

that we are holding where does the money come in? From the taxpayers? Ms. Dodd answered no from billing. Headwaters EMS has a billing company that will bill whoever their insurance provider is. That payment is put into the Town bank account. Headwaters EMS then sends a bill to the Town either monthly, quarterly or annually how ever the contract is written. The discussion continued. Councilmember Taylor asked if for any reason Headwaters EMS falters does the Town then become responsible for the billing? Ms. Dodd answered no that is between the billing company and Headwaters EMS. It is basically a pass through account. Councilmember Driscoll asked is the amount that has come into this bank account going to be the amount Headwaters EMS is going to bill the Town? Ms. Dodd answered yes and if it is not that is Headwaters EMS's problem. They can not come after the Town. The discussion continued. Ms. Goss asked if the Town goes ahead and does this and we do it for the two year period of the CON are we then going to be responsible to continue to do this if Headwaters EMS fails? Councilmember Taylor agreed and asked let's say that the Town gets the CON, what happens after two years and Headwaters EMS falters? The Town has the CON then do we have to figure out what to do? Ms. Dodd answered that the CON expires when it expires. The Town can reapply to have it extended six months before the deadline. So if the Town sees signs beforehand that Headwaters EMS is not holding up their end of the bargain the Town can say we don't want to do it anymore and do not have to renew the CON. Or the Town can renew the CON and contract with another EMS provider. Councilmember Taylor continued that once the Town puts our name on the CON how in two years do we walk away from it? The tax payers of this Town will ask the Town Board we had the CON and now you are giving it up? Ms. Dodd answered that is the Town's prerogative. Supervisor Eisel added that Mr. Pinsky addressed this question and responded that it is a moral obligation but it is really up to the Town. Ms. Dodd continued that the Town has no legal obligation. Ms. Goss asked that once we provide a service in our Town can the Town become responsible? Ms. Dodd answered no. Councilmember Taylor continued not legally but morally. Supervisor Eisel added that the Town can't afford it. If they falter that is it. There is nothing we can do because the Town does not have the funds to do this. Councilmember Driscoll asked what about the funds that the Towns were working on sending to Headwaters EMS? Supervisor Eisel answered that those funds will be in the budget and sent to Headwaters EMS once a year. Councilmember Funk asked once Headwaters EMS gets their CON, the Town can do away with the Municipal CON and transfer everything over to them because they have their own CON is that correct? Ms. Dodd answered yes. Ms. Goss asked why does the Town have an account for the billed funds? Ms. Dodd answered according to the statute that created the ability for Towns to obtain a municipal CON require each Town holding a CON also hold the billing authority. So you have to hold the account. The discussion continued. Supervisor Eisel asked what will happen if Medicare is slow in paying and Headwaters EMS needs those funds what happens? Ms. Dodd answered it is Headwaters EMS's responsibility to balance their books. The discussion continued. Councilmember Taylor asked if the Town gets the CON will the Town be locked in to signing a contract with Headwaters EMS? Ms. Dodd answered no. That is the beautiful thing about contracts. We can say whatever you want. The discussion continued.

RESOLUTION NO. 015 OF THE YEAR 2022

Councilmember Matthew J. Taylor offered the following resolution and moved its adoption:

WHEREAS, under the provisions of Article 30 of New York State Health Law 3008 (7)(a) towns are permitted to establish and operate an ambulance service; and

WHEREAS, the Town of Harpersfield, a municipality in Delaware County, New York, has determined that it is in the best interest of the health, safety and welfare of the Town and the Town's residents to establish, contract for and/or operate an ambulance service or contract for the operation of the ambulance service pursuant to General Municipal Law § 122-b; and

WHEREAS, the Town Board has determined that all property, property owners and interested persons within the Town will be benefited by the establishment and operation of an ambulance service.

IT IS HEREBY RESOLVED, that the Town of Harpersfield, County of Delaware, State of New York, finding need for ambulance service in the Town of Harpersfield, declares that the Town establish, contract for and/or operate an ambulance service under contract, for operation within the Town's boundaries; and

IT IS FURTHER RESOLVED, the boundaries of the service shall encompass the entire Town.

IT IS FURTHER RESOLVED, the Supervisor of the Town of Harpersfield shall be empowered to take all steps necessary to obtain ambulance operating authority, including forwarding this resolution to the New York State Department of Health, Bureau of Emergency Medical Services; and

IT IS FURTHER RESOLVED, this service shall take effect immediately upon approval by the REMSCO and or State.

Seconded by Councilmember Patrick F. Funk whereupon the Resolution was put to a vote and recorded as follows:

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

THE RESOLUTION WAS THEREUPON DECLARED DULY ADOPTED.

Supervisor Eisel informed the Board the next two resolutions and agreements are to set up an escrow for Delaware River Solar, 21 Weaver Road and Blue Wave Solar, 2 arrays, Bruce Hill

Road. Both companies have submitted Site Plan Review applications to the Planning Board. Town Attorney Allyson Phillips will not be able to represent the Town as Young/Sommer LLC represents one or both solar companies. She has found an Attorney, Robert McKertich at Coughlin & Gerhart from Binghamton, NY that is willing to represent the Town for these two Solar projects. Mr. McKertich has worked with Delaware County Planning Department as well. The Planning Board feels they need to hire an attorney as well as an engineering firm to help them process both of these Site Plan Reviews. In the Agreement both companies will deposit \$10,000.00 in escrow with the Town to pay for the attorney and engineering firm. A discussion was had.

RESOLUTION NO. 016 OF THE YEAR 2022

Councilmember Lisa M. Driscoll offered the following resolution and moved its adoption:

TITLE: DELAWARE RIVER SOLAR, LLC AND ITS AFFILIATE ROSA SOLAR, LLC'S APPLICATION FOR SITE PLAN APPROVAL, A RESOLUTION AUTHORIZING THE TOWN SUPERVISOR TO EXECUTE AN ESCROW FOR PROFESSIONAL COUSULTANT SERVICES.

WHEREAS, Delaware River Solar, LLC and its affiliate Rosa Solar, LLC (collectively, the "Applicant") has proposed the development of one (1) 4.98 MW AC community solar farm (the "Project") located at 21 Weaver Road, in the Town of Harpersfield ("Town"), Delaware County, New York. The Project will involve the installation of ground mounted, fix tilt, photovoltaic panels as well as associated access roads, electric utility upgrades, power inverters and perimeter fencing for the solar farm on an approximately 30 acre portion of a 234.49 acre parcel of land (Parcel ID: 40.-1-12.1); and

WHEREAS, the Project requires Site Plan approval from the Town of Harpersfield Planning Board and an application has been submitted to the Planning Board which includes a proposed site plan and a Full Environmental Assessment Form; and

WHEREAS, prior to granting any site plan amendment, the Planning Board must review the application materials and the environmental impacts of the proposed use in accordance with SEQRA; and

WHEREAS, pursuant to Section 7.070 of the Town of Harpersfield Site Plan Review Law, the Planning Board has the authority to hire professional consultants to assist it in the review of an application at the Applicant's expense; and

WHEREAS, the Planning Board has determined it needs the assistance of a land use attorney and engineer to review the Application and make recommendations to the Planning Board; and

WHEREAS, pursuant to the attached agreement, the Planning Board will designate its consultant engineer and provide the Applicant with notification and a copy of any retainer agreement upon request.

NOW, THEREFORE IT IS HEREBY RESOLVED, the Town of Harpersfield Town Board hereby authorizes the Town Supervisor to execute the proposed Escrow Agreement and engage professional consultants to provide legal counsel and technical assistance to the Planning Board in connection with its review of the Application under the Town of Harpersfield Site Plan Review Law and SEQRA.

Seconded by Councilmember Matthew J. Taylor with a vote as follows:

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

AGREEMENT NO. 006 OF THE YEAR 2022

AGREEMENT FOR THE PAYMENT OF MUNICIPAL EXPENSES, LAND USE COUNSEL AND TECHNICAL CONSULTANT.

This Agreement dated December 14, 2022 by and between the Town of Harpersfield, a municipal corporation with its principal office located at 25399 State Highway 23, Harpersfield, NY 13786, (the "Town"), and Delaware River Solar, LLC and its affiliate Rosa Solar, LLC (collectively "Applicant").

WHEREAS, the Applicant has proposed the development of one (1) 4.98 MW AC community solar farm (the "Project") located at 21 Weaver Road, in the Town of Harpersfield ("Town"), Delaware County, New York. The Project will involve the installation of ground mounted, fixed tilt, photovoltaic panels as well as associated access roads, electric utility upgrades, power inverters and perimeter fencing for the solar farm on an approximately 30 acre portion of a 234.49 acre parcel of land (Parcel ID: 40.-1-12.1); and

WHEREAS, the Project requires Site Plan approval from the Town of Harpersfield Planning Board and an application has been submitted to the Planning Board which includes a proposed site plan and a Full Environmental Assessment Form; and

WHEREAS, prior to granting any site plan amendment, the Planning Board must review the application materials and the environmental impacts of the proposed use in accordance with SEQRA; and

WHEREAS, pursuant to Section 7.070 of the Town of Harpersfield Site Plan Review Law, the Planning Board has the authority to hire professional consultants to assist it in the review of an application at the Applicant's expense; and

WHEREAS, the Planning Board has determined it needs the assistance of a land use attorney and engineer to review the Application and make recommendations to the Planning Board.

NOW, THEREFORE, in consideration of the mutual promises herein, the Town and the Applicant agree that the terms and conditions of this Agreement are the following:

1. Applicant shall reimburse the Town, in full, for all of its out of pocket consultant fees and expenses incurred in connection with the review of this project, including but not limited to all services required to process the application, review the project under the Town's Site Plan Review Law and compliance with SEQRA. Under this agreement, the Applicant shall not be required to reimburse the Town for any legal fees associated with any litigation related to the project.
2. The Planning Board will designate its consultants and provide the Applicant with notification and a copy of any retainer agreement upon request.
3. Upon execution of this Agreement, the Applicant shall deposit \$10,000.00 with the Harpersfield Town Clerk whom shall hold the funds in escrow to be used to pay the consulting engineer and legal fees incurred in the review of the project.
4. Whenever the balance of the escrow fund falls below \$1,000.00, the Applicant shall be notified, through its contact, of the amount remaining in the account and within five business days of such notification the Applicant shall deposit an additional \$5,000.00 or such other amount as the Town and Applicant shall agree in writing signed by both parties, into the account with the Town Clerk. In the event the Applicant fails to replenish the account within five (5) business days of being notified, the Planning Board Chairman may direct its consultants to cease all work on the project until such payment is received from the Applicant.
5. The invoices for consultant legal and engineering services will be submitted to the Town Supervisor for review. Upon approval by the Town Supervisor, the approved invoices shall be delivered to the Town Clerk who will thereafter be directed to disburse funds from the escrow account to pay the invoices. Copies of all invoices shall be provided to the Applicant upon request. The Applicant is entitled to review all invoices, subject to the Town's rights to delete attorney-client or privileged communications/materials.
6. The professionals retained by the Town to assist it and its boards reviewing the application work for the Town and do not have any obligation or fiduciary relationship to the Applicant.
7. The services provided by the professionals subject to reimbursement hereunder shall be limited to those services reasonably necessary to assist the Planning Board in its review of the proposed application under SEQRA and the Town's Site Plan Review Law. The rates charged by the professionals shall not exceed those rates customary within the community for similar services.
8. Upon completion of all the Town's responsibilities with respect to the review of the proposed development, any monies remaining in the escrow account, after paying all outstanding costs, fees and expenses, shall be returned to the Applicant.



9. Upon request by the Applicant, no more frequently than once every two months, the Town shall render an accounting of all monies received and expended in connection with the escrow funds and an estimated of all costs, fees and expenses to be expended in the next two months, subject to the Town’s rights herein stated.

TOWN OF HARPERSFIELD

DELAWARE RIVER SOLAR, LLC

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ROSA SOLAR, LLC

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

RESOLUTION NO. 017 OF THE YEAR 2022

Councilmember Lisa M. Driscoll offered the following resolution and moved its adoption:

TITLE: BLUE WAVE SOLAR / BWC REXMERE LAKES, LLC’S APPLICATION FOR SITE PLAN APPROVAL, A RESOLUTION AUTHORIZING THE TOWN SUPERVISOR TO EXECUTE AN ESCROW FOR PROFESSIONAL COUSULTANT SERVICES.

WHEREAS, Blue Wave Solar and its affiliate BWC Rexmere Lakes, LLC (collectively, the “Applicant”) has proposed the development of two (2) community solar arrays (5 MW and 3 MW) (collectively, the “Project”) located at 1102 Bruce Hill Road, in the Town of Harpersfield (“Town”), Delaware County, New York. The Project will involve the construction of two ground mounted solar arrays and related infrastructure on an approximately 24 acre project area Parcel ID: 40.-1-78.1; and

WHEREAS, the Project requires Site Plan approval from the Town of Harpersfield Planning Board and an application has been submitted to the Planning Board which includes a proposed site plan and a Full Environmental Assessment Form; and

WHEREAS, prior to granting any site plan amendment, the Planning Board must review the application materials and the environmental impacts of the proposed use in accordance with SEQRA; and

WHEREAS, pursuant to Section 7.070 of the Town of Harpersfield Site Plan Review Law, the Planning Board has the authority to hire professional consultants to assist it in the review of an application at the Applicant's expense; and

WHEREAS, the Planning Board has determined it needs the assistance of a land use attorney and engineer to review the Application and make recommendations to the Planning Board; and

WHEREAS, pursuant to the attached agreement, the Planning Board will designate its consultant engineer and provide the Applicant with notification and a copy of any retainer agreement upon request.

NOW, THEREFORE IT IS HEREBY RESOLVED, the Town of Harpersfield Town Board hereby authorizes the Town Supervisor to execute the proposed Escrow Agreement and engage professional consultants to provide legal counsel and technical assistance to the Planning Board in connection with its review of the Application under the Town of Harpersfield Site Plan Review Law and SEQRA.

Seconded by Councilmember Matthew J. Taylor with a vote as follows:

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

AGREEMENT NO. 007 OF THE YEAR 2022

AGREEMENT FOR THE PAYMENT OF MUNICIPAL EXPENSES, LAND USE COUNSEL AND TECHNICAL CONSULTANT.

This Agreement dated December 14, 2022 by and between the Town of Harpersfield, a municipal corporation with its principal office located at 25399 State Highway 23, Harpersfield, NY 13786, (the "Town") and Blue Wave Solar, LLC and its affiliate BWC Rexmere Lakes, LLC, (collectively the "Applicant").

WHEREAS, the Applicant has proposed the development of two (2) community solar arrays (5 MW and 3 MW) (collectively, the Project) located at 1102 Bruce Hill Road, in the Town of Harpersfield ("Town"), Delaware County, New York. The Project will involve the construction of

two ground mounted solar arrays and related infrastructure on an approximately 24 acre project area Parcel ID: 40.-1-78.1; and

WHEREAS, the Project requires Site Plan approval from the Town of Harpersfield Planning Board and an application has been submitted to the Planning Board which includes a proposed site plan and a Full Environmental Assessment Form; and

WHEREAS, prior to granting any site plan amendment, the Planning Board must review the application materials and the environmental impacts of the proposed use in accordance with SEQRA; and

WHEREAS, pursuant to Section 7.070 of the Town of Harpersfield Site Plan Review Law, the Planning Board has the authority to hire professional consultants to assist it in the review of an application at the Applicant's expense; and

WHEREAS, the Planning Board has determined it needs the assistance of a land use attorney and engineer to review the Application and make recommendations to the Planning Board.

NOW, THEREFORE, in consideration of the mutual promises herein, the Town and the Applicant agree that the terms and conditions of this Agreement are the following:

1. Applicant shall reimburse the Town, in full, for all of its out of pocket consultant fees and expenses incurred in connection with the review of this project, including but not limited to all services required to process the application, review the project under the Town's Site Plan Review Law and compliance with SEQRA. Under this agreement, the Applicant shall not be required to reimburse the Town for any legal fees associated with any litigation related to the project.
2. The Planning Board will designate its consultants and provide the Applicant with notification and a copy of any retainer agreement upon request.
3. Upon execution of this Agreement, the Applicant shall deposit \$10,000.00 with the Harpersfield Town Clerk whom shall hold the funds in escrow to be used to pay the consulting engineer and legal fees incurred in the review of the project.
4. Whenever the balance of the escrow fund falls below \$1,000.00, the Applicant shall be notified, through its contact, of the amount remaining in the account and within five business days of such notification the Applicant shall deposit an additional \$5,000.00 or such other amount as the Town and Applicant shall agree in writing signed by both parties, into the account with the Town Clerk. In the event the Applicant fails to replenish the account within five (5) business days of being notified, the Planning Board Chairman may direct its consultants to cease all work on the project until such payment is received from the Applicant.
5. The invoices for consultant legal and engineering services will be submitted to the Town Supervisor for review. Upon approval by the Town Supervisor, the approved invoices shall be delivered to the Town Clerk who will thereafter be directed to disburse funds from the escrow account to pay the invoices. Copies of all invoices shall be provided to

the Applicant upon request. The Applicant is entitled to review all invoices, subject to the Town's rights to delete attorney-client or privileged communications/materials.

6. The professionals retained by the Town to assist it and its boards reviewing the application work for the Town and do not have any obligation or fiduciary relationship to the Applicant.
7. The services provided by the professionals subject to reimbursement hereunder shall be limited to those services reasonably necessary to assist the Planning Board in its review of the proposed application under SEQRA and the Town's Site Plan Review Law. The rates charged by the professionals shall not exceed those rates customary within the community for similar services.
8. Upon completion of all the Town's responsibilities with respect to the review of the proposed development, any monies remaining in the escrow account, after paying all outstanding costs, fees and expenses, shall be returned to the Applicant.
9. Upon request by the Applicant, no more frequently than once every two months, the Town shall render an accounting of all monies received and expended in connection with the escrow funds and an estimated of all costs, fees and expenses to be expended in the next two months, subject to the Town's rights herein stated.

TOWN OF HARPERSFIELD

BLUE WAVE SOLAR, LLC

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

BWC REXMERE LAKES, LLC

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Councilmember Taylor asked Lindsey Dodd if she knew anything about the volunteer first responders in New York that will be eligible for a new local government provided tax credit under a measure signed by Governor Kathy Hochul? The press release states that local governments can adopt a local law that would exempt up to 10% of the assessed value of a primary home for volunteer first responders. Ms. Dodd did not know anything about this new legislation. Linda E. Goss added that she has received some information from Town Assessor

Laurie Bedford. The information that she was able to find was that this legislation is not new. It has been on the books for the last ten years. Ms. Bedford has some concerns about how to implement this new tax credit for volunteer first responders. The only application that she could find was the application that Schoharie County uses. She can continue to look into this to see which Towns in Schoharie County are giving this credit. Ms. Goss can contact the Town that already has a local law and get a copy for the Board to look over. Councilmember Taylor asked if this has been on the books why has this just come up now? While looking over Ms. Bedford's concerns Councilmember Taylor added that some of the questions can be answered just like the Agricultural Exemptions that she is working on now. The discussion continued. Supervisor Eisel asked how many people would qualify for this exemption? How much money are we talking about? Councilmember Taylor continued that what this exemption is trying to do is to get people to volunteer to be first responders. We are never going to get a paid fire service or ambulance service here. We just can't afford it. So to keep volunteers and to get new volunteers this exemption would be helpful. Councilmember Taylor is a volunteer fireman. He goes on many runs a year. The State gives him a \$200.00 tax credit on his income taxes. That pays for his gas for about two runs. What about the other 100 runs he makes a year. You have to do something to keep the volunteers doing this. There is training involved, time involved, fuel involved and much more. If you do not do something for these people they are going to keep dropping off like they have been for the last twenty five years. When your house burns down there is going to be nobody there. The discussion continued. Councilmember Taylor would like the Town to continue to look in to this important matter. The discussion continued.

Supervisor Eisel reported to the Board that Russell Hatch could not be at tonight's Town Board meeting. He just wanted the Board to know that the Highway crew is ready for the storm. Councilmember Funk asked if Russell has found out anything more about keeping the fuel tank full so that he does not run out if there continue to be shortages? Supervisor Eisel does not know what Russell is doing about this. The discussion continued. Councilmember Driscoll asked if we are still on the list to get on the list for a new truck? Supervisor Eisel answered yes as far as he knows. Councilmember Reeve asked if Russell has hired someone to replace the Highway employee that has left? Linda E Goss answered yes Russell has hired a new Highway employee. Councilmember Reeve asked is it due to higher wages for Highway employees being paid in other Towns that we keep losing our valued employees? Councilmember Funk answered that the Highway employee's wages are negotiated through the Union contract. Supervisor Eisel added that the only way to get the Highway employees higher wages is to renegotiate the Union contract. The discussion continued.

Linda E. Goss submitted to the Town Supervisor and Town Board her 2022 annual Tax Collector report. Documents submitted were the Warrant to Collect Taxes, renewal of the Collector's Warrant, receipt of the payment to the Town Financial Officer, receipt of payments made to the County Treasurer, daily cash up sheets, checkbook register, deposit slips, deposit receipts from the bank, bank statements, monthly Tax Collector reports, proof of payment made to the County Treasurer from the utilities, worksheet to cash up with the County Treasurer and the

Tax Collector's settlement sheet. A summary report was also issued to the Supervisor and Town Board. A motion to accept these documents as presented was made by Patrick F. Funk seconded by Matthew J. Taylor. All voting Aye.

A motion to accept the Town Clerk's November report in the amount of \$544.13 was made by Matthew J. Taylor seconded by Patrick F. Funk. All voting Aye.

The abstract and vouchers for the month of November were presented to the Board. Presented were General Claims #267 to #296 in the amount of \$12,678.31; Highway Claims #190 to #202 in the amount of \$224,507.30 and #054 to #061 in the amount of \$2,173.04. A motion to pay the vouchers as presented was made by Matthew J. Taylor seconded by Lisa M. Driscoll. All voting Aye.

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

At 8:41 PM a motion to go into executive session for personnel reasons was made by Patrick F. Funk seconded by Lisa M. Driscoll. All voting Aye.

A motion at 9:03 PM to come out of executive session was made by Matthew J. Taylor seconded by Erik R. Reeve. All voting Aye. No action was taken in executive session.

The organization meeting of the Town Board will be held on Wednesday, January 11, 2023 at 7:00 PM

Linda E. Goss

Town Clerk

