

Regular Town Board Meeting
Public Hearing Proposed Local Law No. 1
Public Hearing Proposed Local Law No. 2
Public Hearing Proposed Water District #2
January 19,2023

Present: Supervisor, David DiSalvo; Deputy Supervisor, Don Huff; Councilmember, Nate Guzzardi; Councilmember, Jeff Coniglio

Also present: Ed Russel, Attorney; Sam Cipriano, Highway Superintendent; Shawn Grasby, Code Enforcement Officer; Chelsey Woodworth, Town Clerk

Others Present: JP Schepp, MRB; Community Members: Tom and Alex Cary, Angelo Callaro, Steve and Sandy Brady, Brenda DiSalvo, Pete DiSalvo, Judith Claprod, Bob Wilcox, Steve Morrison, Karl and Johnna Shrier, Dave Welch, Joseph Eicher, Laura and Tom Thornton, Joseph Steury, Rosie Eicher, Ann Hunt, Gordon and Lynette Mackey, Roger Beach, Bill Lissow, Tom Yorks, Jesse Yorks, and Mark Ewing

At 6:31pm Supervisor DiSalvo opened the Town Board meeting at the Mount Morris Town Hall, 103 Main Street, Mount Morris, NY. Supervisor DiSalvo led the Pledge of Allegiance.

At 6:32pm Supervisor DiSalvo opened the public hearing on proposed Local Law No.1 Creation of a Joint Village and Town Zoning Board of Appeals, proposed Local Law No.2 Update to the Building and Fire Code and The Public Hearing for the proposed Creation of Water District #2.

Supervisor DiSalvo advised that JP Schepp from MRB would present the updated proposal for the Creation of Water District #2. See handout from MRB below.

COMMUNITY COMMENT:

Community Member asked what are the initial costs for the homeowner? JP answered that the property owner is responsible to pay for the initial hookup to the line and for the cost to extend the water line from the main line to their house. Then they will also be required to purchase the meter and pay for the water used.

Community Member wanted to know if the homeowner doesn't want the water service, will they still be required to pay for it?

JP answered that they will not have to hookup to the water, but they would be responsible for the debt service portion of the water.

JP- We have grant opportunities to help offset the cost for rural development. As well as getting the low interest loans. Advantages: consistent quality water, quantity of water, enhance the value of your property,

Per EDU (equivalent dwelling unit) the cost would be approximately \$2480 per year with water costs for 38 years. This is well above the 2023 comptrollers threshold, which is \$1040.

Community Member asked if the town has already been approved for these grants.

JP, advised that the town has not been approved for the grants.

Same Community Member then asked, does that mean the figures are not definite?

JP- They could change but he does not think it would be much.

Community Member: How much would the first year cost be?

JP, stated that the cost varies based on how many feet the dwelling is off the road. He figures, at least \$2000 for each resident plus the annual cost.

Community Member : There is a section that water lines aren't being run by Short Tract Road. Will they have to pay for the water?

JP answered, if the water lines aren't installed past the property, then they will not have to pay the debt off.

Community Member: Do you think it is good to have all the dead areas on the pipe?

JP- No it is not, and the water would have to be checked often.

Community Member: Is there any part of this proposal that addresses multiple dwelling units?

JP- that's what the EDU's are, per equivalent dwelling so if it's a multiple family house they would be charged more EDU's.

Community Member: What if the town destroys the well of a property owner that doesn't want to hookup to the water?

JP stated, that he has never seen where waterline construction destroys a well.

Community Member: Does a vacant property that is not zoned agriculture count as an EDU?

JP stated, it depends but will most likely be charged only a fraction of the price.

Community Member: Is fire protection required for the solar farms? If the water district is turned down, how will they have the fire protection?

JP stated, that the solar companies do not need the water for fire protection. They plan to have holding tanks on the property.

Community Member: If this project is approved and setup in three phases, when do the landowners have to start paying?

JP answered, most likely they will pay when their phase is active.

Clerk Woodworth asked JP if the Town has taken into consideration the new employees, they will need to hire to maintain the water district?

JP answered that the town could decide to hand the district over to the county or if they decide to hire more employees the amount would reflect in the water charges.

Community Member asked if there has been any consideration for the residents that are very low income that cannot afford these costs? Can these people get grants?

JP answered that Rural Development has programs for low-income residents.

Community Member asked: Would the comptroller approve this since its more than twice the amount?

JP answered that the town would have to show evidence that would be compelling and show a great need.

Supervisor DiSalvo stated that when the comprehensive plan was updated it recommended bringing more utilities into the town. The Solar company offered to pay for the water study due to the great need in our area.

Community member asked if no one on Ridge Road wants the water would the town consider not running water on that road?

JP answered that anything is possible, and nothing is set in stone as of yet.

Superintendent Cipriano asked how the water authority is setup? Do they have separate districts as well? Do they charge different rates?

JP answered that they have separate rates throughout their coverage based on where the water comes from.

Superintendent Cipriano asked if Livingston County Water Authority were to take over the water, can they add the town to another district to change the amount owed?

JP stated that they cannot add the debt to other areas so the town residents would still be responsible for the debt incurred.

Supervisor DiSalvo asked if there were any other comments?

Community Member asked what is driving the excessive cost from the Comptroller's threshold amount?

JP stated that there are pumpstations required due to the different elevations in Mount Morris and they are costly.

Community Member asked, Will the Town be responsible for maintenance?

JP answered, yes, they will be. Unless the town agrees to have the county take over the line

maintenance

Supervisor DiSalvo asked again if there are any other comments? No one commented. Supervisor DiSalvo said that the town will keep the public hearing open until next month's meeting and if anyone has questions or comments, they can email the Councilmembers or the Supervisor.

A community member asked if there would be a petition at the next meeting. Supervisor Di Salvo said yes. A petition can't be made until an action is taken by the board.

Supervisor DiSalvo and Attorney Ed Russel talked back and forth. Then Supervisor DiSalvo said that 18 people need to sign the petition to take the water district to public vote.

Supervisor DiSalvo called a 10 minute break.

Meeting resumed at 7:45 P.M

APPROVAL OF MINUTES

The Board reviewed the minutes of last month's meeting on December 15, 2022. A motion was made by Councilmember Coniglio, seconded by Councilmember Guzzardi, to approve the minutes from the meeting on December 15, 2022.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

The Board reviewed the minutes from the Organizational meeting on January 3, 2023. A motion was made by Deputy Supervisor Huff, seconded by Councilmember Guzzardi, to approve the minutes from the organizational meeting on January 3, 2023.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

TRANSFER STATION

Supervisor DiSalvo asked the board if they wanted to run the ad again this month for the part-time positions at the Transfer Station. Everyone agreed that they should due to lack of applicants.

Councilmember Guzzardi thinks that the town should come up with a fee structure for cardboard especially for commercial businesses. Harding's furniture in Mount Morris brings in a lot of cardboard and it isn't easy to dispose of it.

Attorney, Ed Russel is going to look into the legal aspect of changing rates after they have already been approved.

Supervisor DiSalvo informed the board that he signed the contract with E-Waste +. Transfer Station Manager Kitt Ceronie will call Superintendent Cipriano to get the necessary bins.

SUPERVISORS REPORT

A motion was made by Deputy Supervisor Huff, seconded by Councilmember Coniglio to accept the December 2022 Supervisor's Report as presented.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

Supervisor DiSalvo said a preconstruction meeting for Morris Ridge is set for February 7th at 10 am at the Genesee River Restaurant. This meeting is only an informational meeting for the board and legal staff.

Supervisor DiSalvo informed the board that the town received the check for the fly car they purchased for the ambulance. He also said that the town received an extra \$25000.

Supervisor DiSalvo informed the board that he just found out; Livingston County is giving each town \$25,000 for their parks. The board will have to come up with a plan to utilize this money.

Deputy Supervisor Huff said that he would like Clerk Woodworth to put something in the Mount

Morris Shopper thanking the kids that worked up at the Transfer station tearing down cardboard.

BUDGET TRANSFERS

A motion was made by Councilmember Guzzardi, seconded by Deputy Supervisor Huff to make the following budget transfers.

GENERAL FUND A - TOWNWIDE:

<u>FROM</u>	<u>AMOUNT</u>	<u>TO</u>	<u>AMOUNT</u>
A1010.1 Town board services	35	A1010.4 Town board contractual	35
A1410.4 Town clerk contractual	543	A1330.4 Tax collection contractual	543
A3310.4 Traffic control contractual	362	A5010.12 Supt of highways svc- office	362
A3310.4 Traffic control contractual	439	A5182.4 Street lighting contractual	439
A3310.4 Traffic control contractual	209	A6410.4 Publicity contractual	209
A1990.4 Contingency	100	A8810.4 Cemetery contractual	100
A7550.4 Celebrations	366	A8810.1 Cemetery services	366

GENERAL FUND B - TOWNOUTSIDE:

<u>FROM</u>	<u>AMOUNT</u>	<u>TO</u>	<u>AMOUNT</u>
B3620.4 Safety inspection contractual	385	B3620.1 Safety inspection services	385
B1420.4 Attorney contractual	1,210	B8010.4 Zoning office contractual	1,210
B1420.4 Attorney contractual	525	B8989.1 Other home & community services	525
B1420.4 Attorney contractual	164	B9030.8 Employee benefits- social sec	164

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

A motion was made by Deputy Supervisor Huff, seconded by Councilmember Guzzardi to increase/decrease the budget of General Fund A as follows:

Increase A1640 (Ambulance fees) by \$33,422
 Decrease A2770 (Miscellaneous) by \$33,422

Increase A2770 (Miscellaneous) by \$29,041
 Increase A1410.1 (Town clerk services) by \$4,487
 Increase A1420.4 (Attorney contractual) by \$2,116
 Increase A1440.4 (Engineer contractual) by \$12,600
 Increase A1620.2 (Building equipment) by \$4,185
 Increase A1620.4 (Building contractual) by \$4,723
 Increase A4540.2 (Ambulance equipment) by \$930

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

A motion was made by Councilmember Coniglio, seconded by Deputy Supervisor Huff to increase the budget of Highway DB as follows:

Increase DB2770 (Chips) by \$28
 Increase DB5112.2 (Chips) by \$28

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)

No 0
Motion Carried

INTERMUNICIPAL AGREEMENT

Supervisor DiSalvo said he needed a motion to accept the Intermunicipal Agreement with Livingston County.

A motion was made by Deputy Supervisor Huff, seconded by Councilmember Guzzardi to accept the Intermunicipal Agreement with Livingston County.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
No 0
Motion Carried

TECHNOLOGY

Supervisor DiSalvo mentioned that he spoke with Paul Marchese and that the towns server has been ordered and so have the new phone systems. The server will not be in until March.

Clerk Woodworth asked the Supervisor if Paul Marchese had notified Hurricane that we wouldn't be continuing with their IT services. The Supervisor said that Marchese had not notified them yet. Paul Marchese said that he doesn't want to cause any interruptions with the towns IT services until they are able to start the transition.

HIGHWAY SUPERINTENDENT REPORT

Highway Superintendent Cipriano expressed concerns about the two older trucks the Highway Department has. He feels they should keep one for backup snow removal and the other truck for ditching. The main issue is that the truck bodies are falling apart. He feels they are old trucks but doesn't think they are worn out. He doesn't feel the town would get much for them if they were to sell them. He would like to look into fixing the dump bodies.

Supervisor DiSalvo told him to get a price on what it will cost and also checkout Caledonia Diesel for new dump bodies.

Deputy Supervisor Huff feels that the old trucks are more reliable. Superintendent Cipriano would like to replace the body for one of them and get a slide in sander for the other one. This way we could utilize them during the summer and winter months.

Deputy Supervisor Huff wanted to say thank you to Shawn Grasby for all the work he put into the towns solar law and getting the town funding for various important projects. He also would like to thank Superintendent Cipriano for the work he did at the church in Tuscarora. The church was getting flooded, and the ditches needed dug out. Superintendent Cipriano made sure that was done.

Superintendent Cipriano said that the Highway Department needs to trim some trees in front of Dave Swanson residence. He asked if he could be notified. The attorney said that he would write a letter informing Mr. Swanson of this.

Superintendent Cipriano said that the crew has been working pretty close to the shop. They had the center drain taken care. He didn't elect to pump the grease trap because he didn't think it was that bad and wanted to cut the expenses.

Superintendent Cipriano also reported that there is an issue with one of the new trucks. The steering seemed to be leaking. When they took it to the service center, they couldn't see any leaks. International said they will pay for 70% of the new gear box but won't pay for labor.

Superintendent Cipriano thinks the town should wait and see if it was the plow that was causing the issue.

Superintendent Cipriano said the highway workers have been clearing up the back and side of the town barn in preparation for the building he is hoping the town will be able to build.

Superintendent Cipriano said that RG&E still hasn't installed the gas line that they demanded the Town pay for. He asked if there is anything that can be done about it? Attorney Ed Russell said he will write a letter to them. Asked Clerk Woodworth to check and see when the check was issued.

PUBLIC HEARING LOCAL LAW No.1 2023

A motion was made by Deputy Supervisor Huff, seconded by Councilmember Guzzardi to close the Public Hearing for Local Law No. 1 a Local Law to Provide for the Establishment of a Joint Zoning Board of Appeals between the Town of Mount Morris and the Village of Mount Morris.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
No 0
Motion Carried

ADOPTION OF LOCAL LAW NO. 1-2023

Supervisor DiSalvo presented the following resolution pertaining to the enactment of Local Law 1-2023

WHEREAS a public hearing was held on the 19th day of January 2023 by the Town Board of the Town of Mount Morris, notice of which was given as required by the Municipal Home Rule Law, the Open Meetings Law, and the Town Law of the State of New York;

WHEREAS at said public hearing, the Town Board considered the enactment of proposed Local Law No. 1-2023 entitled Local Law No. 1 A Local Law to Provide for the Establishment of a Joint Zoning Board of Appeals between the Town of Mount Morris and the Village of Mount Morris. at said public hearing the Town Board considered the enactment of proposed Local

WHEREAS all interested persons were given an opportunity to be heard with respect to the enactment of said local law;

NOW, THEREFORE, BE IT RESOLVED, that Local Law No.1-2023 be enacted as presented.

All Board members were provided a copy of proposed Local Law No.1-2023 ten days prior to this meeting. A Public Hearing Notice was published in the Livingston County News on December 19, 2022.

A motion was made by Deputy Supervisor Huff, seconded by Councilmember Coniglio to adopt the following Local Law:

**TOWN OF MOUNT MORRIS
Local Law No. 1
of the Year 2023**

**A Local Law to Provide for the Establishment of a Joint Zoning Board of Appeals
between the Town of Mount Morris and the Village of Mount Morris.**

Be it enacted by the Town Board of the Town of Mount Morris as follows:

Title.

This Local Law shall be known as the Local Law to establish a Joint Zoning Board of Appeals between the Town of Mount Morris and the Village of Mount Morris, and which supersedes Section 48-12 of the Town of Mount Morris Code, as well as various applicable provisions throughout the entirety of the Code

Authority; Intent and Purpose; Creation, Appointment, and Organization of Joint Zoning Board of Appeals.

- A. Authority and Intent. This Local Law is intended to be consistent with and is adopted pursuant to the authority to enact zoning laws granted to the Town under the New York State Constitution, and the laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, § 2(c)(ii)(10); Municipal Home Rule Law § 10; and Statute of Local Governments § 10.
- B. Purpose and Creation. A Joint Zoning Board of Appeals is hereby created by the Town of Mount Morris and Village of Mount Morris and shall be known as the "Joint Zoning Board of Appeals", "Board of Appeals". Said Board of Appeals shall replace the Town of Mount Morris Zoning Board of Appeals previously amended by L.L. No. 1-1999. The previously

created Town of Mount Morris Zoning Board of Appeals is hereby abolished.

- C. Matters Transferred to New Joint Zoning Board of Appeals. Upon the effective date of this Local Law, the existing Zoning Board of the Town of Town of Mount Morris shall be abolished and all matters currently pending before the Zoning Board shall be transferred to the new Joint Zoning Board of Appeals serving both the Town of Town of Mount Morris and the Village of Town of Mount Morris. The Board of Appeals shall have the same powers, authority, duties, and responsibilities as are set forth in the New York State Town Law and the New York Village Law, respectively, governing the presently separate zoning boards of the two jurisdictions. The Joint Zoning Board of Appeals shall be empowered and authorized to deal with such matters as would heretofore have come before the separate zoning boards of either municipality.
- D. Organization and Membership of the Joint Zoning Board of Appeals. The Joint Zoning Board of Appeals shall consist of seven members and two alternate members, who shall be appointed and serve as follows:
1. The Board of the Town of Mount Morris shall appoint four (4) members of the Joint Zoning Board of Appeals.
 2. The Mayor of the Village of Mount Morris, subject to the approval of the Board of Trustees of the Village of Mount Morris, shall appoint three (3) members of the Joint Zoning Board of Appeals.
 3. Upon the expiration of the term of a member of the Joint Zoning Board of Appeals, that person or body which appointed the incumbent to the expiring term shall appoint his or her successor to a full five-year term. If a vacancy occurs other than by expiration of a term of office, that person or body which appointed the member who filled such office prior to the vacancy occurring shall appoint a successor for the balance of the term.
- E. Chairperson. The Town of Mount Morris Village Board of Trustees (the "Village Board") and the Town Board of the Town of Town of Mount Morris (the "Town Board") shall annually and jointly select the Chairperson for the Joint Zoning Board of Appeals from the membership thereof. In the absence of such selection by the governing boards, such Joint Board of Appeals may select one of its members to serve as Chair.
- F. Appointments and Terms. Appointment of members of the Board of Appeals and the alternate members shall be as follows:
1. One member shall be appointed by each of the Town Board and the Village Board for an initial term of one year.
 2. One member shall be appointed by each of the Town Board and the Village Board for an initial term of two years.
 3. One member shall be appointed by each of the Town Board and the Village Board for an initial term of three years.
 4. One member shall be appointed by each of the Town Board for an initial term of four years.
 5. Upon the expiration of the initial term of any one member of the Joint Zoning Board, the term of such member shall thereafter be for a term or period of five years.
 6. One alternate member of the Board of Appeals shall be appointed by the Town Board, and one alternate member shall be appointed by the Mayor of the Village, with the approval of the Village Board of Trustees. The term of appointment of the alternate members of the Board of Appeals shall be for a term of two years.
- G. Minimum Training and Attendance Requirements for Board of Appeals Members.
1. Training. Each Board member is required to complete five (5) hours of training per calendar year for a total of twenty five (25) hours of training during each five-year term. Failure to comply with this requirement without good cause shall be grounds for removal from the Board.
 2. Attendance. Each Board member shall be required to attend 75% of the scheduled meetings in each calendar year. At the discretion of the remaining members of the Board of Appeals, failure to attend the required number of meetings without good cause may be grounds for removal from the Board. In addition, failure to attend three consecutive meetings without good cause may be grounds for removal from the Board.

Powers and Duties of Board of Appeals.

The Joint Zoning Board of Appeals shall have all the powers and duties prescribed by § 267-b of the Town Law and § 7-712-b of Village Law of the State of New York and by this chapter. These powers and duties are more particularly specified as follows:

- A. Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- B. Permits for Special Uses. The Board of Appeals shall have the power to hear and decide upon application for special use permits, as specified in this Zoning chapter.
- C. Variances. The Board of Appeals may vary or adopt the strict application of any of the requirements of this Zoning chapter in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case.
 1. No variance in the strict application of this chapter shall be granted by the Board of Appeals unless it finds:
 - i. That there are special circumstances or conditions fully described in the findings of the Board applying to such land or buildings and not applying generally to land or buildings in the neighborhood and that said circumstances or conditions are such that strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or buildings.
 - ii. That, for reasons fully set forth in the findings of the Board, the granting of the variance is necessary for the reasonable use of the land or building and that the variance granted by the Board is the minimum variance that will accomplish this purpose.
 - iii. That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 2. In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.

Application Procedure.

The Board of Appeals shall act in strict accordance with the procedure specified by law and by this Chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board, and available from the Zoning Officer. Every appeal or application shall refer to the specific provision of the chapter involved and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

Board of Appeals Office.

The office of the Town Clerk shall be the office of the Board of Appeals, and every rule, regulation, amendment, or repeal thereof and every order, requirement, decision or determination of the Board shall be filed in said office within five (5) business days as required by Section 267-a of the Town Law of the State of New York.

Notice of Board Hearings.

The Board shall fix a reasonable time for the hearing of appeals and give public notice thereof by the publication in the official paper of a notice of such hearing at least five days prior to the date of the hearing. Notice shall be served upon the applicant and to the regional State Park Commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal at least five days prior to the date of the hearing. The Board shall also notify, in writing, all property owners directly adjacent to the property to be affected by said appeal.

Superseding Intent and Effect.

This Local Law shall supersede any inconsistent provisions of the Town Code, or all other local ordinances, laws, or resolutions of the Town of Mount Morris.

Severability.

If any provision of this Local Law is determined to be unconstitutional or invalid, the validity and

enforceability of the remainder shall not be affected.

Repealer.

All ordinances, Local Law and parts thereof inconsistent with this Local Law are hereby repealed.

Effective Date.

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

Vote of the Board:

Supervisor DiSalvo	Aye
Deputy Supervisor Huff	Aye
Councilmember Guzzardi	Aye
Councilmember Coniglio	Aye

PUBLIC HEARING LOCAL LAW No. 2 2023

A motion was made by Deputy Supervisor Huff, seconded by Councilmember Guzzardi to close the Public Hearing for Local Law No. 2 a Local Law to Update the Building and Fire Code for the Town of Mount Morris.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

ADOPTION OF LOCAL LAW NO. 2-2023

Supervisor DiSalvo presented the following resolution pertaining to the enactment of Local Law 2-2023

WHEREAS a public hearing was held on the 19th day of January 2023 by the Town Board of the Town of Mount Morris, notice of which was given as required by the Municipal Home Rule Law, the Open Meetings Law, and the Town Law of the State of New York;

WHEREAS at said public hearing, the Town Board considered the enactment of proposed Local Law No. 1-2023 entitled Local Law No. 1 A Local Law to Update the Building and Fire Code for the Town of Mount Morris. At said public hearing the Town Board considered the enactment of proposed Local

WHEREAS all interested persons were given an opportunity to be heard with respect to the enactment of said local law;

NOW, THEREFORE, BE IT RESOLVED, that Local Law No.2-2023 be enacted as presented.

All Board members were provided a copy of proposed Local Law No.2-2023 ten days prior to this meeting. A Public Hearing Notice was published in the Livingston County News on December 19, 2022.

A motion was made by Deputy Supervisor Huff, seconded by Councilmember Guzzardi to adopt the following Local Law:

**TOWN OF MOUNT MORRIS
Local Law No. 2
of the Year 2023**

**A Local Law to Update the Building and Fire Code
for the Town of Mount Morris**

Local Law No.2 of 2023.

Be it enacted by the Town Council of the Town of Mt. Morris, in the County of Livingston, as follows:

SECTION 1. PURPOSE AND INTENT

This chapter 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 chapter 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 chapter, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this chapter. It is intended that this chapter shall supersede any provisions of local law not consistent herewith.

SECTION 2. DEFINITIONS

In this chapter, 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 chapter.

“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 chapter.

“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 endproduct, materials that are not hazardous.

“Inspector” shall mean an inspector appointed pursuant to subdivision (d) of section 3 of this chapter.

“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 chapter. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended, or extended pursuant to any provision of this chapter.

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

“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 chapter.

“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 chapter.

“Town” shall mean the Town of Mt. Morris.

“Town Council” shall mean the town council of the Town.

“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 chapter. 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 chapter;
- (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 chapter;
- (7) to maintain records;
- (8) to collect fees as set by the Town Council;
- (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 chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code, or this chapter; and
- (11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this chapter or any other provision of state or local law.
 - (b) The Code Enforcement Officer shall be appointed by the Town Council. 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 the Town Supervisor, with the consent of the Town Council, 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 chapter.
 - (d) One or more Inspectors may be appointed the Town Council to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this chapter. Each Inspector 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 each Inspector shall obtain

certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

(e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Council.

SECTION 4. BUILDING PERMITS.

(a) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, 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 Code Enforcement Officer.

(b) Exemptions. No Building Permit shall be required for work in any of the following categories:

(1) construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses), which are used for tool and storage sheds, playhouses, or similar uses, provided the gross floor area does not exceed 144 square feet;

(2) construction of temporary sets and scenery associated with motion picture, television, and theater uses;

(3) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(4) installation of partitions or movable cases less than 5'-9" in height;

(5) painting, wallpapering, tiling, carpeting, or other similar finish work;

(6) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(7) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(8) repairs, provided that the work does not have an impact on fire and life safety, such as (i) any part of the structural system; (ii) the required means of egress; or (iii) the fire protection system or the removal from service of any part of the fire protection system for any period of time.

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code or Chapter 48 (Zoning) of the Town Code.

(d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code

Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the location, nature, extent, and scope of the proposed work;
- (2) the tax map number and the street address of any affected building or structure;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least 2 sets of construction documents (drawings and/or specifications) which (i) describe the location, nature, extent, and scope of the proposed work; (ii) show that the proposed work will conform to the applicable provisions of the Codes; (iii) show the location, construction, size, and character of all portions of the means of egress; (iv) show a representation of the building thermal envelope; (v) show structural information including but not limited to braced wall designs, the size, section, and relative locations of structural members, design loads, and other pertinent structural information; (vi) show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building; (vii) include a written statement indicating compliance with the Energy Code; (viii) include a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site, distances from lot lines, the established street grades and the proposed finished grades, and, as applicable, flood hazard areas, floodways, and design flood elevations; and (ix) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's Certificate of Authorization number.

(e) 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 (d) 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.

(f) 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.

- (g) 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.
- (h) 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.
- (i) 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 twelve (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.
- (j) 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.
- (k) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this chapter 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.

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 chapter 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 registered 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 registered 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 chapter 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) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

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

(10) 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. A 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.

Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this chapter 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) The Code Enforcement Officer on his or her own initiative, or upon a third-party complaint, shall cause an inspection of any building or structure pursuant to the provisions of this chapter;
- (b) A written report of said inspection shall be prepared and filed in the office of the Town Clerk. A copy of said report shall be served upon the owner of the building or structure by certified mail;
- (c) In the event that the Code Enforcement Officer determines that the building or structure fails to comply with the requirements of this chapter, then the Code Enforcement Officer shall seek enforcement of this chapter pursuant to the authority and procedures set forth in this chapter.

SECTION 10. OPERATING PERMITS.

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

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

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

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

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

(iii) Chapter 25, "Fruit and Crop Ripening." Operating a fruit- or crop-ripening facility or

conducting a fruit-ripening process using ethylene gas;

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

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

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

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

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

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

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

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

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

(xiii) Section 319, “Mobile Food Preparation Vehicles.” Operating a mobile food preparation vehicle in accordance with the permitting requirements established by Local Law Number [_____ of _____], 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 chapter;

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

(9) other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the Town Council.

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.

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

(b) 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) This subdivision is intentionally omitted.

(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) One hundred and eighty (180) days for tents, special event structures, and other membrane structures;

(2) Sixty (60) days for alternative activities at a sugarhouse;

(3) Three (3) years for the activities, structures, and operations determined per paragraph (9) of subdivision (a) of this section, and

(4) 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 chapter must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

SECTION 11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS

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

- (1) at least once every twelve (12) months for buildings which contain an assembly area;
- (2) at least once every twelve (12) months for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities; and
- (3) at least once every thirty six (36) months for multiple dwellings and all nonresidential occupancies.

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

(c) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building,

structure, use, 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 chapter shall supersede, limit, or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (“OFPC”) and the New York State Fire Administrator or other authorized entity under Executive Law section 156-e and Education Law section 807-b.

Notwithstanding any other provision of this section to the contrary, the Code Enforcement Officer may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to sections 807-a and 807-b of the Education Law and/or section 156-e of the Executive Law, in lieu of a fire safety and property maintenance inspection performed by the Code Enforcement Officer or by an Inspector, provided that:

- (1) the Code Enforcement Officer is satisfied that the individual performing such inspection satisfies the requirements set forth in 19 NYCRR section 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 chapter.
- (e) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this chapter 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 chapter, or any other local law or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code.

The process for responding to a complaint shall include 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 chapter;
- (c) if appropriate, issuing a Stop Work Order;
- (d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complainant.

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;

(1)

(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; and

(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 within six (6) months of the effective date of this chapter.

(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 thirty (30) days. 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 shall 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, the Town 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 chapter;

(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 chapter; and/or

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

SECTION 14. CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA.

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

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

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

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

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

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

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

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

SECTION 15. RECORD KEEPING.

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

(1) all applications received, reviewed and approved or denied;

(2) all plans, specifications and construction documents approved;

- (3) all Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
- (4) all inspections and tests performed;
- (5) all statements and reports issued;
- (6) all complaints received;
- (7) all investigations conducted;
- (8) all condition assessment reports received;
- (9) all fees charged and collected; and
- (10) all other features and activities specified in or contemplated by sections 4 through 14, inclusive, of this chapter.

(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 Council 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 chapter 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.

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

(3) Compliance orders. 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 article. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a compliance order. The compliance order shall 1) be in writing; 2) be dated and signed by the Code Enforcement Officer; 3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this article; 4) specify the provision or provisions of the Uniform Code, the Energy Code, or this article which is/are violated by the specified condition or activity; 5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; 6) direct that compliance be achieved within the specified period of time; and 7) state that an action or proceeding to compel compliance may be

instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the compliance 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 being performed at the affected property personally or by certified mail; provided,

however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order

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

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

(1) any Person who violates any provision of this chapter 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 chapter, shall be punishable by a fine of not more than \$200 per day of violation; and

(2) any Person who violates any provision of the Uniform Code, the Energy Code or this chapter, 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 chapter, shall be liable to pay a civil penalty of not more than \$200 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.

(c) 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 chapter, 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 chapter. 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 chapter, or any Stop Work Order, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or this chapter, 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 Council.

(d) 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 chapter, in any other section of this chapter, 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 chapter, in any other section of this chapter, 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 Council. 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 chapter.

SECTION 19. CONSISTENCY WITH ZONING LAW.

This chapter is not intended to supersede any provisions of Chapter 48 (Zoning) of the Code of the Town. However in the event that provisions of Chapter 48 (Zoning) conflict herewith, then the provisions of this chapter shall supersede any inconsistent provisions of Chapter 48 (Zoning).

SECTION 20. INTERMUNICIPAL AGREEMENTS

The Town Council 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 chapter, 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 21. PARTIAL INVALIDITY

If any section of this chapter 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 chapter.

SECTION 22. EFFECTIVE DATE

This chapter 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.

Vote of the Board:

Supervisor DiSalvo	Aye
Deputy Supervisor Huff	Aye
Councilmember Guzzardi	Aye
Councilmember Coniglio	Aye

PUBLIC HEARING SET – PROPOSED LOCAL LAW #3

A motion was made by Deputy Supervisor Huff, seconded by Councilmember Coniglio to set a public hearing for proposed Local Law No. 3 entitled A LOCAL LAW PROVIDING A PARTIAL EXEMPTION FROM REAL PROPERTY TAXES TO PERSONS WITH DISABILITIES WHO HAVE LIMITED INCOME for February 16, 2023 at 6:30pm at the Mount Morris Town Hall, 103 Main Street Mount Morris, NY 14510.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

TOWN CLERK’S REPORT

The Board reviewed the Clerk’s report for the Month of December, 2022. A motion was made by Councilmember Guzzardi, seconded by Deputy Supervisor Huff to accept the report as presented.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
No 0
Motion Carried

OTHER BUSINESS

Supervisor DiSalvo informed the board that the Traffic Safety position needed to be filled.

A motion was made by Deputy Supervisor Huff, seconded by Councilmember Coniglio to reappoint Carl Swanson and Ed Haefner to Traffic Safety.

Vote: Aye 3 (DiSalvo, Huff, Coniglio)
No 1 (Guzzardi)
Motion Carried

Supervisor DiSalvo informed the board that Irene Bodnaruk submitted a letter of resignation from the planning board. As well as Dana Brzenski submitted a letter of Resignation from Planning Board Secretary.

A motion was made by Councilmember Guzzardi, seconded by Councilmember Coniglio to accept Irene Bodnaruk' s resignation from the planning board.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
No 0
Motion Carried

A motion was made by Deputy Supervisor Huff, seconded by Councilmember Guzzardi to accept Dana Brzezinski's resignation from the planning board.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
No 0
Motion Carried

Supervisor DiSalvo asked Clerk Woodworth to advertise for an alternate board member for the planning board as well as advertise for letters of interest for the Zoning Board of Appeals board members.

VOUCHERS/ AUDIT OF CLAIMS

Abstract 1, Year 2023 and related vouchers were reviewed by the Town Board. A motion by Deputy Supervisor Huff, seconded by Councilmember Guzzardi to approve Vouchers 1-24 on General A Abstract in the amount of \$73,775.81.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
No 0
Motion Carried

A motion by Councilmember Guzzardi, seconded by Councilmember Coniglio to approve Vouchers 1-8 on General B Abstract in the amount of \$1,916.81.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
No 0
Motion Carried

A motion by Deputy Supervisor Huff, seconded Councilmember Guzzardi to approve Vouchers 1-13 on the Highway DA Abstract in the amount of \$20,160.47.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
No 0
Motion Carried

A motion by Councilmember Guzzardi, seconded by Deputy Supervisor Huff to approve Voucher 1 on the Highway DB Abstract in the amount of \$1,299.43.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
No 0
Motion Carried

A motion by Councilmember Coniglio, seconded by Councilmember Guzzardi to approve Vouchers 1-3 on the Recycling SR Abstract in the amount of \$1,119.29.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
No 0
Motion Carried

A motion by Councilmember Guzzardi, seconded by Councilmember Coniglio to approve Voucher 1 on the Sewer SS Abstract in the amount of \$315.00.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
No 0
Motion Carried

A motion by Deputy Supervisor Huff seconded by Councilmember Guzzardi to approve Vouchers 1-3 on the Water SW Abstract in the amount of \$6,022.20.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
No 0
Motion Carried

Total Abstract 1 103,609.01

A motion was made by Councilmember Guzzardi, seconded by Councilmember Coniglio to adjourn this meeting.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
No 0
Motion Carried

Meeting adjourned at 8:24 P.M.

Respectively Submitted,

Chelsey N. Woodworth
Town Clerk/Tax Collector

