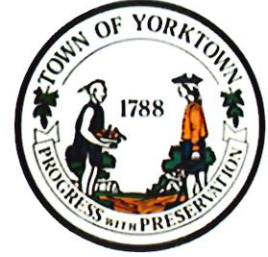


Town of Yorktown

Office of the Town Clerk
Diana L. Quast



FINAL TOWN BOARD MEETING AGENDA

May 6, 2024

**Spadaccia Meeting Room
363 Underhill Avenue, Yorktown, NY 10598**

6:30 PM EXECUTIVE SESSION

The Town Board may move into Executive Session to discuss personnel and/or litigation matters.

7:30 PM TOWN BOARD MEETING

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. MOMENT OF SILENCE
4. INTRODUCTIONS
5. REPORT FROM SUPERVISOR EDWARD LACHTERMAN
6. REPORTS FROM TOWN OFFICIALS
7. PRESENTATIONS
 - Yorktown Volunteer Ambulance Corp
 - The FlowerHouse, Myra and Ken Marsocci
 - Lupus Awareness Month – Brittany and Cheryl Sanchez
 - Rochambeau Festival – Lynn Briggs, Heritage Preservation Commission
 - Yorktown Museum – Amy Swan, Assistant Curator - LEGO Building Competition
8. PROCLAMATION
 - National Military Appreciation Month
 - Military Spouse Appreciation Day
 - Jewish American Heritage Month
 - Mental Health Awareness Month
9. POET LAUREATE
 - John McMullen

10. PERSONNEL

Accept the retirement received from Maria DeRubeis from the Water Department

Resolved, that the Town Board accepts the retirement received from Maria DeRubeis from the Water Department with thanks for her twenty-four (24) years of service to the town, effective May 31, 2025.

Accept resignation received from Justin Guaragna as a Motor Equipment Operator in the Yorktown Highway Department

BE IT RESOLVED, that Justin Guaragna has resigned his appointment as a Motor Equipment Operator in the Town of Yorktown Highway Department effective end of business on April 22, 2025.

Reappoint Ken Belfer as a member of the Community Housing Board

Be It Resolved, that Ken Belfer is hereby reappointed to the Community Housing Board for a Six (6) year term expiring on December 31, 2031.

Reappoint Maura Gregory as a member of the Community Housing Board

Be It Resolved, Maura Gregory is hereby reappointed to the Community Housing Board for a Six (6) year term expiring on December 31, 2031.

Amend list of Managerial Employees by adding Deputy Town Engineer

Whereas, Resolution Number 592 of 2012 was adopted by the Town Board on December 18, 2012, and revised on December 3, 2024, and

Whereas, the Town Board defined its list of Managerial Employees by Office title, now

Therefore Be It Resolved, that paragraph 13 is amended by adding Deputy Town Engineer to the list.

11. OPEN FLOOR FOR PUBLIC COMMENT (3 minutes per speaker)

12. PUBLIC HEARINGS

Decision

Chapter 216 of the Code of the Town of Yorktown entitled "Peace and Good Order" regarding snow and ice removal

Decision

Chapter 250 of the Code of the Town of Yorktown entitled "Streets and Sidewalks" regarding the deletion of Article VI "Snow and Ice Removal" in its entirety

Convene

Public Hearing to consider a Stormwater Management Permit and a Tree Permit application submitted by Michael Panny, SMP Homes Inc., for property located on Louella Road (SBL: 27.05-1-33) for the purpose of excavation of the site to accommodate a new house, septic, and driveway

Supervisor Edward Lachterman will convene a public hearing to consider a Stormwater Management Permit and a Tree Permit application submitted by Michael Panny, SMP Homes Inc., for property located on Louella Road (SBL: 27.05-1-33) for the purpose of excavation of the site to accommodate a new house, septic, and driveway.

Convene

Public Hearing to consider amending Chapter 300 of the Code of the Town of Yorktown entitled “Zoning” regarding Accessory Dwelling Units

Supervisor Edward Lachterman will convene a public hearing to consider amending Chapter 300 of the Code of the Town of Yorktown entitled “Zoning” regarding Accessory Dwelling Units.

Convene

Public Hearing to consider amending Chapter 300 of the Code of the Town of Yorktown entitled “Zoning” Battery Energy Storage Systems

Supervisor Edward Lachterman will convene a public hearing to consider amending Chapter 300 of the Code of the Town of Yorktown entitled “Zoning” Battery Energy Storage Systems.

Set Public Hearings

Section 8 Administrative Plan

NOTICE IS HEREBY GIVEN that The Town of Yorktown will hold a public hearing to allow comments on revisions to the Section 8 administrative plan.

A copy of the proposed revisions to comply with updated HUD requirements can be found on the Town's website at <https://www.yorktownny.gov/section8/proposed-administrative-plan-housing-choice-voucher-program>. The revisions may also be inspected on computers available at the Hart Library during regular business hours.

The public hearing has been placed on the agenda and will be held during the regular scheduled Town Board Meeting on **June 10, 2025** in the Town Board Room, Yorktown Town Hall, located at 363 Underhill Avenue, Yorktown Heights, NY 10598. At that time, the Town Board will consider all comments.

The public comment period begins on Sunday, April 27, 2025 and ends on Tuesday, June 10, 2025. All written public comments may be directed by mail to Sandrine Nseng, Section 8-HCV Program Director, at Yorktown Section 8, 363 Underhill Ave, PO Box 703, Yorktown Heights, NY 10598, or emailed to sec8adminplan@yorktownny.gov. To be considered, all written comments must be received no later than 4:00 p.m. on Tuesday, June 10, 2025.

The Town of Yorktown is committed to equal housing opportunity. The Yorktown Section 8 housing voucher program does not discriminate on the basis of race, color, national origin, religion, creed, disability, familial status, sex, marital status, age, military status, sexual orientation, citizenship or alienage status, or against victims of domestic violence, sexual assault, dating violence, stalking or sex trafficking.

Proposed local law to amend Chapter 300-81.4 entitled “Solar Power Generation Systems and Facilities”

NOTICE IS HERE GIVEN that a public hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York on Tuesday, May 20, 2025 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York at 7:30 o'clock PM, or as soon thereafter as the same can be heard, to consider a proposed local law to amend Chapter 300-81.4 entitled “Solar Power Generation Systems and Facilities”

A copy of the proposed local law is on file in the Office of the Town Clerk at the said Town Hall, where the same may be inspected during regular office hours. It can also be viewed at www.yorktownny.org under Town Clerk/Pending Legislation.

13. RESOLUTIONS

From the Office of the Town Clerk

Authorize Town Clerk to attend the International Institute of Municipal Clerks Annual Meeting and Training Conference in Latham, NY from July 13-17, 2025

Resolved, that the Town Clerk is authorized to attend the 2025 International Institute of Municipal Clerks Annual Meeting and Training Conference to be held in Latham, NY from July 13-17, 2025.

Authorize Town Clerk to advertise Bid for the Mohegan Beach Park District for the Mohegan Lake Bathroom Rehabilitation Project

NOTICE IS HEREBY GIVEN that sealed bids will be received by the Town Clerk, Town of Yorktown, Westchester County, NY until 10:00 A.M. on Friday, May 30, 2025 at Town Hall, 363 Underhill Avenue, Yorktown Heights, NY 10598 for the Mohegan Lake Bathroom Rehabilitation Project.

From the Engineering Department

Authorize Supervisor to sign an agreement with Underhill Soundview, LLC for the Route 118 & Underhill Avenue Intersection Improvement project

RESOLVED, that the Supervisor is authorized to sign an agreement with Underhill Soundview, LLC for funding a portion of the Route 118 – Underhill Avenue intersection Project.

Award Bid for the Route 118 & Underhill Avenue Intersection Improvement Project

WHEREAS, THE Town advertised for bids for the Route 118 & Underhill Avenue Intersection Improvement Project, with Alternative R2, and Alternative R3 and the bid amounts are as follows:

<u>Bidder</u>	<u>Base Bid</u>	<u>Alt. R2</u>	<u>Alt. R3</u>	<u>Total</u>
Abbott & Price Inc. 5 Schuman Road Millwood, NY 10546	\$996,120.00	\$46,241.00	\$10,860.00	\$1,053,221.00
Scape-Tech Landscape Technology, Inc. 19 Sunderland Lane Katonah, NY 10536	\$1,049,789.	\$30,774.00	\$13,790.00	\$1,094,353.00
Morano Brothers, Corp. 2045 Albany Post Road Croton, NY 10520	\$1,108,726.	\$43,347.00	\$12,300.00	\$1,164,373.00
Paleen Construction Corp. Mill Pond Offices, Ste. 208 Somers, NY 10589	\$1,284,294.70	\$49,230.00	\$12,990.00	\$1,346,514.70

Paladino Concrete Creations, Corp. 315 N. Mac Questen Pkwy Mount Vernon, NY 10550	\$1,171,424.20	\$48,591.50	\$30,900.00	\$1,250,915.70
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Montesano 76 Plain Avenue New Rochelle, NY 10801	\$1,747,055.	\$55,014.00	\$36,900.00	\$1,838,969.00
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R. Pugni and Sons, Inc. 25 Bedell Road Katonah, NY 10536	\$1,981,312.	\$73,480.00	\$41,000.00	\$2,095,792.00
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NOW, THEREFORE BE IT RESOLVED, that the Route 118 & Underhill Avenue Intersection Improvement Project base with Alt. R2 and R3 is hereby awarded to the low bidder, Abbott & Price, Inc. for a total price of \$1,053,221.00.

Award Bid for the Route 118 & Underhill Avenue Traffic Signal Installation Project

WHEREAS, the Town advertised for bids for the Route 118 – Underhill Avenue Traffic Signal Installation Project and the bid amounts received are summarized as follows:

<u>Bidder</u>	<u>Base Bid</u>	<u>Alt S1</u>
Verde Electric Maintenance Corp. 89 Edison Avenue Mount Vernon, NY 10550	\$315,526.00	\$69,160.00

Power Line Constructors, Inc. 24 Robinson Road, PO Box 385 Clinton, NY 13323	\$349,248.80	\$56,888.51
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NOW, THEREFORE BE IT RESOLVED, that the Route 118 & Underhill Avenue Intersection Improvement Project traffic signal base bid hereby awarded to the low bidder, Verde Electric for a total price of \$315,526.80.

From the Finance Department

Authorize Comptroller to process the following budget transfer for the Engineering Department

Be It Resolved, the Comptroller is authorized to process the following budget transfer to fund from revenue collected by Unicorn Contracting on October 30, 2024 for the Rt 118 & Underhill Avenue Intersection Project:

From: A.1002 General Fund - Fund Balance	\$551,166.03
To: JI.5110.1 Underhill Ave & Rt 118 Intersection Imp.	\$551,166.03

Be It Resolved, the Comptroller is authorized to process the following budget transfer to fund the town share of the Rt 118 & Underhill Avenue Intersection Project:

From: A.1002 General Fund - Fund Balance	\$543,032.44
To: JI.5110.1 Underhill Ave & Rt 118 Intersection Imp.	\$543,032.44

for the payments to Verde Electric and Abbott & Price in regards to the intersection of Underhill Avenue & Rt 118.

Authorize Comptroller to release Erosion Control Bond to WM1, LLC in the amount of \$500.00

WHEREAS, Wilson Campoverde - WM1, LLC as applicant, posted check #516 in the amount of \$500, which was deposited to the T33 account on February 20, 2024, to serve as the Erosion Control Bond, and

WHEREAS, the applicant has requested their money be released as the project is complete, and

WHEREAS, the Town Engineer has informed this Board that the monies may be released,

NOW, THEREFORE BE IT RESOLVED, that the above referenced monies totaling \$500 be released to WM1, LLC, 1500 Christine Road, Mohegan Lake, NY 10547, Attn: Wilson Campoverde.

From the Highway Department

Authorize Comptroller to pay Revan Design for Professional Services rendered to the Highway Department

RESOLVED, that upon the request of the Superintendent of Highways, the payment to Revan Design for Professional Services rendered to the Highway Department in the amount of \$3,400.00 be paid from Hwy line D5130.425.

Extend "MILLING" Section of Bid for Asphaltic Laid In-Place to Intercounty Paving Company

WHEREAS, invitation to bid for the Asphaltic Concrete Laid In-Place for the Town of Yorktown was duly advertised; and

WHEREAS, said bids were received and opened on June 9, 2022; now

RESOLVED, that upon recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Asphaltic Concrete Laid In-Place for the Town of Yorktown be and is hereby extended for one year, per the terms of the Bid to Kect Construction Corporation, PO Box 201, Patterson, NY 12563; now

BE IT FURTHER RESOLVED, that upon the recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Asphaltic Laid In-Place "MILLING" Section of the Bid be and is hereby extended to Intercounty Paving Company, Inc., PO Box 360, Carmel, NY 10512; now

BE IT FURTHER RESOLVED, the dates of the extension will be August 1, 2025 to July 31st, 2026.

From the Parks and Recreation Department

Authorize Supervisor to execute a lease agreement with St. Patrick's Church, to provide facilities for a half day summer camp program

Whereas, the Town wishes to obtain space for a period of five (5) weeks in which to operate a Half day summer camp program under the Department of Parks and Recreation;

Now, Therefore Be It Resolved, that the Supervisor is authorized to execute a lease agreement on behalf of the Town, as tenant, with St. Patrick's Church, landlord, at 137 Moseman Road, Yorktown Heights, NY, from June 30th, 2025 through August 1st, 2025, at a rent of \$3,000.00, to provide facilities for the Parks and Recreation Department's half day summer camp program.

Authorize Supervisor to execute an agreement with Weston & Sampson in an amount not to exceed \$5,000.00 for Engineering Services, to updated and complete the Junior Lake Aquatic Facilities Sodium Hypochlorite Tanks Spill Prevention Report

Be It Resolved, As recommended by the Superintendent of Parks and Recreation, that the Town Supervisor is authorized to execute an agreement with Weston & Sampson in an amount not to exceed \$5,000.00 for Engineering Services, to updated and complete the Junior Lake Aquatic Facilities Sodium Hypochlorite Tanks Spill Prevention Report. Payment for the service shall be charged to 7180.0453 Beach & Pool Facilities – Pool Maintenance.

From the Police Department

Approve overnight stay for a member of the Police Department to attend the Sig Sauer sponsored Pistol Mounted Optics Instructor course in Hampton, NH

RESOLVED, that a member of the Yorktown Police Department is approved for an overnight stay on April 8, 9 & 10, 2025 to attend the Sig Sauer sponsored Pistol Mounted Optics Instructor course in Hampton, New Hampshire. Lodging fee and Instructor course to be paid.

From the Town Attorney

Adopt Amendment to Procurement Policy

RESOLVED, the Town Board acknowledges that its procurement policy is subject to and incorporates applicable New York State and local requirements, and applies to housing choice voucher administrative funds, and hereby adopts the attached policy.

14. **ADJOURN MEETING**

A motion will be made to adjourn the Town Board meeting.

Dated: May 6, 2025

DIANA L. QUAST, TOWN CLERK
MASTER MUNICIPAL CLERK
TOWN OF YORKTOWN

Americans with Disabilities Act: If you need special assistance to participate in a Town meeting or other services offered by this Town, please contact the Town Clerk's office, (914) 962-5722, x210.

****AGENDAS ARE SUBJECT TO CHANGE****

7. PRESENTATIONS

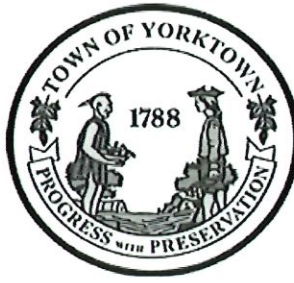
Yorktown Volunteer Ambulance Corp

The FlowerHouse, Myra and Ken Marsocci

Lupus Awareness Month – Brittany and Cheryl Sanchez – Proclamation

Rochambeau Festival – Lynn Briggs, Heritage Preservation Commission

Yorktown Museum – Amy Swan, Assistant Curator - LEGO Building Competition



Proclamation this 6th day of May 2025

WHEREAS, lupus is an unpredictable and misunderstood autoimmune disease that can cause severe damage to the tissue and organs in the body and, in some cases, death; and

WHEREAS, more than five million people worldwide suffer the devastating effects of this cruel and mysterious disease, and each year over a hundred thousand young women, men, and children around the world are newly diagnosed with lupus; and

WHEREAS, medical research efforts into lupus and the discovery of safer, more effective treatments for lupus patients are under-funded in comparison with diseases of comparable magnitude and severity; and

WHEREAS, many physicians worldwide are unaware of symptoms and health effects of lupus, causing people to suffer for many years before they obtain a correct diagnosis and medical treatment; and

WHEREAS, there is an urgent need to increase awareness in communities worldwide of the debilitating impact of lupus.

NOW, THEREFORE, I, Edward A. Lachterman, do hereby declare that May is hereby designated as Lupus Awareness Month, with lupus organizations calling for increases in public and private sector funding for medical research, and recognition of lupus as a significant public health issue.

*Edward A. Lachterman, Town Supervisor,
Sergio Esposito, Luciana Haughwout,
Patrick Murphy, Susan Siegel, Town Council*

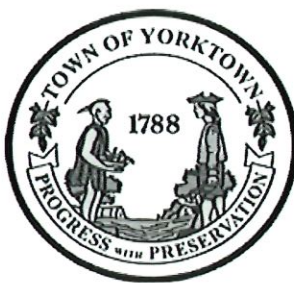
8. PROCLAMATION

National Military Appreciation Month

Military Spouse Appreciation Day

Jewish American Heritage Month

Mental Health Awareness Month



Proclamation this 6th day of May 2025

WHEREAS, the United States Congress has designated the month of May as National Military Appreciation Month, and we join this tribute by acknowledging the many accomplishments and dedication that members of the military have made during their time of service; and

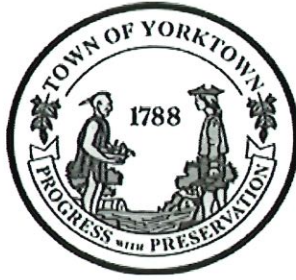
WHEREAS, our brave servicemen and women, their families, and loved ones have made immeasurable sacrifices to protect the freedoms we enjoy; and

WHEREAS, Military Appreciation Month is intended to honor and recognize the contributions and sacrifices made by past and present military personnel in the Army, Marine Corps, Navy, Air Force, Space Force, Coast Guard, and National Guard, in addition to their spouses and families, including those who have made the ultimate sacrifice; and

WHEREAS, these servicemembers and veterans are true leaders in our communities who impart courage, honor, valor, and dignity, and during Military Appreciation Month, we are reminded of the essential role that the United States Armed Forces have played in the history and development of our great nation and the world; and

NOW, THEREFORE, I, Edward A. Lachterman, declare that May is Military Appreciation Month, and commend its observance to all citizens.

*Edward A. Lachterman, Town Supervisor,
Sergio Esposito, Luciana Haughwout,
Patrick Murphy, Susan Siegel, Town Council*



Proclamation this 6th day of May 2025

WHEREAS, military spouses take on different roles like teacher, financial planner, culinary specialist, and more. Many sacrifice their own career to keep their family unit together. They fill critical job roles in the government, hospitals, and in their local communities, as well as coaches and in peer support roles; and

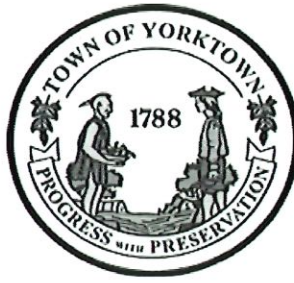
WHEREAS, the role of the military spouse can be very challenging, as they relocate the family and attend military events when called on and often with little notice. Being a military spouse is not just a description based upon a husband or a wife's job, it's a total lifestyle commitment that requires each spouse to have his or her own sense of duty, honor, and patriotism; and

WHEREAS, America's military spouses are the backbone of the families who support our troops during mission, deployment, reintegration, and reset. Military spouses are silent heroes who are essential to the nation's strength, and they serve our country just like their loved ones; and

WHEREAS, as Military Spouse Appreciation Day, we realize the profound importance of spouse commitment to the readiness and well-being of service members on active duty and in the National Guard and Reserve.

NOW, THEREFORE, I, Edward A. Lachterman, do hereby declare that May 6th is Military Spouse Appreciation Day, and call upon the residents of Yorktown to honor military spouses with appropriate ceremonies and activities.

*Edward A. Lachterman, Town Supervisor,
Sergio Esposito, Luciana Haughwout,
Patrick Murphy, Susan Siegel, Town Council*



Proclamation this 6th day of May 2025

WHEREAS, during May, our nation celebrates Jewish American Heritage Month to highlight the inspiring history of Jewish Americans and amplify joyful, powerful stories of Jewish life in America; and

WHEREAS, Jewish people, often fleeing persecution, have played a vital role in American history since this country's founding. Jewish Americans are racially, ethnically, socially, politically, and economically diverse, and include many people of color, and New York State is home to approximately 960,000 Jews, one of the nation's largest Jewish populations; and

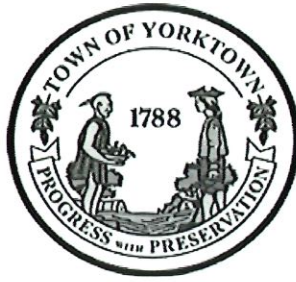
WHEREAS, honoring Jewish American Heritage Month must also include acknowledging the pain and anguish every Jewish American is experiencing now because of attacks on Jews at home and abroad; and

WHEREAS, there has been a dramatic increase in antisemitic incidents involving Jewish Americans since the October 7, 2023 terrorist attack on Israel by Hamas, and Israel's response in Gaza - more than 10,000 incidents. These incidents include physical attacks, verbal and physical harassment, and vandalism; and

WHEREAS, the Town of Yorktown shares an obligation to condemn and combat antisemitism wherever it exists and to stand with the Jewish American community against hatred and bigotry.

NOW, THEREFORE, I, Edward A. Lachterman, proclaim May as Jewish American Heritage Month, and further proclaim that we should promote human dignity and confront hate whenever and wherever it occurs.

*Edward A. Lachterman, Town Supervisor,
Sergio Esposito, Luciana Haughwout,
Patrick Murphy, Susan Siegel, Town Council*



Proclamation this 6th day of May 2025

WHEREAS, mental health is an essential part of overall well-being, impacting individuals, families, and communities across the nation; and

WHEREAS, as an example, nearly 60 million adults experienced a mental illness in the past year, with nearly 13 million reporting serious thoughts of suicide. In 2024, over 5.2 million teens experienced a major depressive episode, yet more than half did not receive treatment; and

WHEREAS, despite its prevalence, mental health remains shrouded in stigma, preventing many from seeking help. Early intervention and access to quality care are crucial for managing mental health conditions and improving quality of life; and

WHEREAS, May is recognized nationally as Mental Health Awareness Month, providing an opportunity to raise awareness, combat stigma, and promote mental health resources.

NOW, THEREFORE, I, Edward A. Lachterman, do hereby declare that May is National Mental Health Awareness Month, and encourage all citizens, private businesses, and nonprofit organizations to join in activities and take action to strengthen the mental health of our community.

*Edward A. Lachterman, Town Supervisor,
Sergio Esposito, Luciana Haughwout,
Patrick Murphy, Susan Siegel, Town Council*

10. PERSONNEL

Accept the retirement received from Maria DeRubeis from the Water Department

Resolved, that the Town Board accepts the retirement received from Maria DeRubeis from the Water Department with thanks for her twenty-four (24) years of service to the town, effective May 31, 2025.

Accept resignation received from Justin Guaragna as a Motor Equipment Operator in the Yorktown Highway Department

BE IT RESOLVED, that Justin Guaragna has resigned his appointment as a Motor Equipment Operator in the Town of Yorktown Highway Department effective end of business on April 22, 2025.

Reappoint Ken Belfer as a member of the Community Housing Board

Be It Resolved, that Ken Belfer is hereby reappointed to the Community Housing Board for a Six (6) year term expiring on December 31, 2031.

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Amend list of Managerial Employees by adding Deputy Town Engineer

Whereas, Resolution Number 592 of 2012 was adopted by the Town Board on December 18, 2012, and revised on December 3, 2024, and

Whereas, the Town Board defined its list of Managerial Employees by Office title, now

Therefore Be It Resolved, that paragraph 13 is amended by adding Deputy Town Engineer to the list.

April 24, 2025

To The Honorable Supervisor Edward A. Lachterman, Town Board and Tracey Kuzemczak:

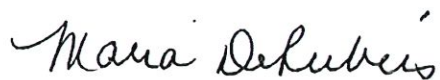
This letter is to inform you that I have decided to retire from my position as Senior Account Clerk for the Yorktown Consolidated Water District. My last day will be May 30, 2025.

I have been an employee of the Town of Yorktown for 24 years, starting my career as the Building Office Manager at the then called Yorktown Community and Cultural Center and later transferring to the Water Department. I am very grateful for everything that I have learned and for meeting such great people Town-wide.

Thank you for the opportunity of having a career with the Town of Yorktown and for all of your support throughout the years.

I would be more than happy to assist during the transition with any training of my replacement.

Sincerely,

A handwritten signature in cursive script that reads "Maria DeRubeis".

Maria DeRubeis

April 22, 2025

I, Justin Guaragna, am resigning from the Town of Yorktown. My last day will be
4/22/2025.

Signed,

Justin Guaragna

Justin Guaragna

Be It Resolved, Ken Belfer is hereby appointed to the Community Housing Board for a 6-year term expiring on December 31, 2031.

Be It Resolved, Maura Gregory is hereby reappointed to the Community Housing Board for a 6-year term expiring on December 31, 2031.

WHEREAS Resolution Number 592 of 2012 was adopted by the Town Board on December 18, 2012, and revised on December 3, 2024

WHEREAS, the Town Board defined its list of Managerial Employees by Office title

RESOLVED, that paragraph 13 is amended by adding Deputy Town Engineer to the list.

12. PUBLIC HEARINGS

Decision

Chapter 216 of the Code of the Town of Yorktown entitled “Peace and Good Order” regarding snow and ice removal

Decision

Chapter 250 of the Code of the Town of Yorktown entitled “Streets and Sidewalks” regarding the deletion of Article VI “Snow and Ice Removal” in its entirety

Convene

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Convene

Public Hearing to consider amending Chapter 300 of the Code of the Town of Yorktown entitled “Zoning” regarding Accessory Dwelling Units

Supervisor Edward Lachterman will convene a public hearing to consider amending Chapter 300 of the Code of the Town of Yorktown entitled “Zoning” regarding Accessory Dwelling Units.

Convene

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Set Public Hearings

Section 8 Administrative Plan

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A copy of the proposed revisions to comply with updated HUD requirements can be found on the Town's website at <https://www.yorktownny.gov/section8/proposed-administrative-plan-housing-choice-voucher-program>. The revisions may also be inspected on computers available at the Hart Library during regular business hours.

The public hearing has been placed on the agenda and will be held during the regular scheduled Town Board Meeting on **June 10, 2025** in the Town Board Room, Yorktown

Town Hall, located at 363 Underhill Avenue, Yorktown Heights, NY 10598. At that time, the Town Board will consider all comments.

The public comment period begins on Sunday, April 27, 2025 and ends on Tuesday, June 10, 2025. All written public comments may be directed by mail to Sandrine Nseng, Section 8-HCV Program Director, at Yorktown Section 8, 363 Underhill Ave, PO Box 703, Yorktown Heights, NY 10598, or emailed to sec8adminplan@yorktownny.gov. To be considered, all written comments must be received no later than 4:00 p.m. on Tuesday, June 10, 2025.

The Town of Yorktown is committed to equal housing opportunity. The Yorktown Section 8 housing voucher program does not discriminate on the basis of race, color, national origin, religion, creed, disability, familial status, sex, marital status, age, military status, sexual orientation, citizenship or alienage status, or against victims of domestic violence, sexual assault, dating violence, stalking or sex trafficking.

Proposed local law to amend Chapter 300-81.4 entitled "Solar Power Generation Systems and Facilities"

NOTICE IS HERE GIVEN that a public hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York on Tuesday, May 20, 2025 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York at 7:30 o'clock PM, or as soon thereafter as the same can be heard, to consider a proposed local law to amend Chapter 300-81.4 entitled "Solar Power Generation Systems and Facilities"

A copy of the proposed local law is on file in the Office of the Town Clerk at the said Town Hall, where the same may be inspected during regular office hours. It can also be viewed at www.yorktownny.org under Town Clerk/Pending Legislation.

A LOCAL LAW to amend Chapter 216 of the
Code of the Town of Yorktown entitled
“PEACE AND GOOD ORDER”

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

Section I. Statement of Authority.

This local law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Yorktown and the general police power vested with the Town of Yorktown to promote the health, safety and welfare of all residents and property owners in the Town.

Section II. Section 216 of the Code of the Town of Yorktown is hereby amended by adding the following section 216-10:

§ 216-10 Sidewalk maintenance.

It shall be the duty of the owner and occupant, jointly, of every parcel of real estate adjoining a public sidewalk, notwithstanding whether the parcel of real estate is occupied by a structure, to keep all adjoining sidewalks free from snow and ice for the full width of the sidewalk.

- A. Snow and ice shall be removed within twelve hours after a precipitation event has concluded. Sidewalks abutting a commercial establishment or parking lot shall be kept free and clear of snow and ice.
- B. In such cases where the snow and ice on any sidewalk cannot be removed without injury to the sidewalk, it shall be strewn and kept strewn with ashes, sand, salt or other suitable material as so said sidewalk shall be safe for public use. Said maintenance shall occur in the time periods prescribed above and the sidewalk shall be cleared as soon as practically safe.

Section III. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section IV. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed, to the extent of such inconsistency.

Section V. Effective Date.

This local law shall become effective upon filing in the office of the Secretary of State in accordance with the provisions of the Municipal Home Rule Law.

A LOCAL LAW to amend Chapter 250 of the
Code of the Town of Yorktown entitled
"STREETS AND SIDEWALKS"

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

Section I. Statement of Authority.

This local law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Yorktown and the general police power vested with the Town of Yorktown to promote the health, safety and welfare of all residents and property owners in the Town.

Section II. Section 250 of the Code of the Town of Yorktown is hereby amended by deleting Article VI entitled Snow and Ice Removal, in its entirety.

Section III. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section IV. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed, to the extent of such inconsistency.

Section V. Effective Date.

This local law shall become effective upon filing in the office of the Secretary of State in accordance with the provisions of the Municipal Home Rule Law.

**TOWN OF YORKTOWN – ENGINEERING – PLANNING BOARD – TOWN BOARD
MS4 STORMWATER MANAGEMENT / EXCAVATION PERMIT APPLICATION
WETLAND PERMIT APPLICATION and/or TREE PERMIT APPLICATION**

SECTION: 27.05

BLOCK: 1

LOT#: 33

Job Site Address: Lovella Road

City/State/Zip: Yorktown NY 10598

APPLICANT:

NAME: Mike Panny

COMPANY: _____

ADDRESS: _____

ZIP: _____

PHONE: _____

EMAIL: _____

Approval Authority: TE ☒ PB ☒ TB ☒

Application # TSWPP-043-24

Date Received: 10-17-24

Date Issued: _____

Date Expires: _____

Fee Paid: \$ 1,500

NOTE: Application fees are doubled with issuance of a Stop Work Order / Notice of Violation as per Town Code.

OWNER:

NAME: _____

COMPANY: _____

ADDRESS: _____

ZIP: _____

PHONE: _____

EMAIL: _____ *can*

APPROVED PLANS AND PERMIT SHALL BE ON-SITE AT ALL TIMES

#	✓	Type	Approval Authority	Cost
1.		MS4 Stormwater Management Permit – Administrative	Town Engineer	\$300.00
		MS4 Stormwater Management Permit – Non-Administrative	Town Board / Planning Board	\$1,500.00
		Renewal Administrative MS4 Stormwater Management Permit	Town Engineer	\$150.00
2.		Wetland Permit – Administrative	Town Engineer	\$800.00
		Wetland Permit – Non-Administrative	Town Board / Planning Board	\$1,800.00
		Renewal Administrative Wetland Permit	Town Engineer	\$150.00
3.		Tree Permit	All	\$0.00

Complete the sections for the permits selected on page 1:

1. MS4 STORMWATER MANAGEMENT / EXCAVATION PERMIT (Dirt Disturbance)

Description of proposed activity. Description of proposed activity reflected on plan(s) / map(s):

EXCAVATE SITE TO ACCOMMODATE NEW HOUSE, SEPTIC AND DRIVEWAY AS SHOWN ON PLANS.

2. WETLAND PERMIT N/A

If project is in a wetland or wetland control area (buffer), description of wetlands:
(check all that apply)

Lake/Pond _____
Stream/River/Brook _____
Wetlands _____

Control area of Lake/Pond _____
Control area of Stream/River/Brook _____
Control area of Wetlands _____

Description of proposed activity in the wetland and/or wetland buffer. Description of proposed activity reflected on plan(s) / map(s):

Describe the proposed work including the following: i.e. maintenance, construction of dwelling, addition, driveway, culverts, including size and location.

3. TREE PERMIT

Description of Tree Removal:

Number of trees and/or stumps to be removed: _____

Sizes; approximate DBH: _____

Species of trees to be removed if known (i.e. Birch, Spruce): _____


Reason for removal: _____

Tree removal contractor: _____

Attach survey/sketch indicating property boundaries, existing structures, driveways, roadways and location of existing trees. Trees must be marked in the field before inspection.

PROPERTY OWNER CONSENT: If another entity (e.g. contractor, consultant) is applying on the owner's behalf, the PROPERTY OWNER is to complete, sign and date this authorization:

I, JOHN HARKINS hereby authorize MIKE PANK to apply for this Stormwater/Wetland Permit/Tree Permit on my behalf.

Signature: 

Date: 12.14.24

Must be original signature. Digital signatures not accepted.

No application will be processed without the above-mentioned, required information.

GENERAL CONDITIONS – PLEASE READ WHAT YOU ARE SIGNING FOR:

1. The permittee is responsible for maintaining an active application. If no activity occurs within a six (6) month period, as measured from the date of application, the application will become null and void. Applications fees are non-refundable.
2. The Town of Yorktown reserves the right to modify, suspend or revoke this permit at any time after due notice when:
 - a. Scope of the project is exceeded or a violation of any condition of the permit or provision of the law pertinent regulations are found; or
 - b. Permit was obtained by misrepresentation or failure to disclose relevant facts; or
 - c. Newly discovered information or significant physical changes are discovered.
3. The permittee is responsible for keeping the permit active by requesting renewal from the Approval Authority. Any supplemental information that may be required by the Approval Authority, including forms and fees, must be submitted 30 days prior to the expiration date. The expiration date is one year from the date the bond is paid to the Engineering Department. In accordance with Chapter 178 of the Town Code, Freshwater Wetlands, Section 178-16 -Expiration of a Permit. Renewal fee for an additional year is \$150.
4. This permit shall not be construed as conveying to the applicant any right to trespass upon private lands or interfere with the riparian rights of others in order to perform the permitted work or as authorizing the impairment of any right, title or interest in real or personal property held or vested in person not party to this permit.
5. The permittee is responsible for obtaining any other permits, approvals, easements and right-of-way, which may be required.
6. Any modification of this permit granted by the Approval Authority must be in writing and attached hereto.
7. Granting of this permit does not relieve the applicant of the responsibility of obtaining any other permission, consent or approval from the U.S. Army Corps of Engineers, N.Y.C. Department of Environmental Protection, N.Y.S. Department of Environmental Conservation or local government, which may be required.

Mike Panny
PRINT NAME


SIGNATURE OF APPLICANT

12/17/2024
DATE

Must be original signature. Digital signatures not accepted.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information							
HARKINS							
Name of Action or Project: HARKINS NEW HOUSE							
Project Location (describe, and attach a location map): LUOELLA ROAD							
Brief Description of Proposed Action: CONSTRUCT NEW HOUSE, SEPTIC AND DRIVEWAY							
Name of Applicant or Sponsor: JOHN HARKINS		Telephone: 914-804-9882					
		E-Mail:					
Address: 895 HERITAGE HILLS							
City/PO: SOMERS		State: NY	Zip Code: 10589				
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; text-align: center;"> <tr> <td>NO</td> <td>YES</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>	NO	YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO	YES						
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: BUILDING PERMIT			<table border="1" style="width: 100%; text-align: center;"> <tr> <td>NO</td> <td>YES</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
3. a. Total acreage of the site of the proposed action?		.9273 acres					
b. Total acreage to be physically disturbed?		.45 acres					
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		.9273 acres					
4. Check all land uses that occur on, are adjoining or near the proposed action:							
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)							
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):							
<input type="checkbox"/> Parkland							

	NO	YES	N/A
5. Is the proposed action,			
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: HOUSE WILL HAVE FOAM INSULATION IN COMPLIANCE WITH 2020 NYS ENERGY CODE _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ NEW SEPTIC SYSTEM _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>JOHN HARKINS <i>Mike Panny</i></u> Date: <u>12/11/2024</u> Signature: <u><i>[Signature]</i></u> Title: <u>OWNER</u>		

From: Vernon, Michael V
To: Maura Weissleder
Cc: Diana Quast
Subject: RE: Correction to Referral Cover Sheet - Louella Road
Date: Thursday, March 13, 2025 8:57:27 AM
Attachments: image003.png

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Hello Maura,

Thank you for the referral submission. After review, we have determined that the proposed action takes place outside the jurisdiction of the County Planning Board.

Have a good day,

Michael Vernon

Associate Planner

Westchester County Department of Planning

148 Martine Avenue, 4th Floor

White Plains, NY 10601

(914) 995-2673

www.westchestergov.com



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Diane Dreier, Co-Chair
Phyllis Bock, Co-Chair

Ed Lachterman
Town Supervisor

TOWN OF YORKTOWN CONSERVATION BOARD

Town of Yorktown Town Hall, Yorktown Heights, New York 10598, Phone (914) 962-5722

To: Town Board
From: Conservation Board
Date: March 24, 2025
Subject: Town Board Referral – Louella Road; 27.05-1-33
Application for a stormwater management permit and tree permit to construct a single-family house with driveway and septic field.

The Conservation Board reviewed the above referenced subject at their meeting held on Wednesday, March 19, 2025. A representative from SMP Homes, Mike Panny, was present.

The Board has the following comments:

1. The applicant is reviewing the curtain drainage along the property line with the engineers to reduce tree removal.
2. The applicant is to recalculate the tree mitigation required as per the Tree Commission direction.
3. All revisions are to be submitted to the Conservation Board for review.

Respectfully submitted:

Diane Dreier

For the Conservation Board

cc: Applicant
Engineering Department
Tree Commission
Planning Board
Conservation Board

From: Keith Schepart
To: Dquast@yorktown.gov; Maura Weissleder
Subject: Fwd: Louella Road Mitigation
Date: Monday, March 24, 2025 2:26:04 PM

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----- Forwarded message -----

From: **Keith Schepart** <keith@taconictreecare.com>
Date: Mon, Mar 24, 2025 at 2:23 PM
Subject: Louella Road Mitigation
To: Keith Schepart <keith@taconictreecare.com>

To : Town Clerk Diana Quast

From: Yorktown Tree Conservation Advisory Commission (TCAC)

Date : March 24, 2025

Re : Louella Road

The Tree Commission Advisory Committee met with Mike Panny on March 19, 2025. We discussed removing the number of trees within the septic area from his plan before determining the mitigation ratio.

The TCAC can determine payment to the tree bank when this is provided.

Mike was receptive to working on the town owned property on Gomer Street/ Solomons Farm. He has the equipment needed to start establishing a trail towards Quinlan Street.

Submitted:

TCAC Members

Tom Schmitt

From: Garcia, Cynthia
To: Maura Weissleder
Cc: Guzman, Nelsi
Subject: RE: Correction to Referral Cover Sheet - Louella Road
Date: Wednesday, March 26, 2025 11:48:30 AM

Good morning Maura,

DEP has not maintain any discretionary regulatory authority over the proposed activity. As such, DEP has no further comments on this action.
Thank you for the opportunity to comment.

Cynthia Garcia | Bureau of Water Supply | SEQRA Coordination Section

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From: Garcia, Cynthia
To: Maura Weissleder
Subject: RE: Correction to Referral Cover Sheet - Louella Road
Date: Friday, March 28, 2025 10:45:08 AM

Good morning Maura,

Upon further review, DEP offers the following comment:

DEP shares SavATree's concern that the required replanting of 217 trees may not be practical due to the size of the lot and proposed residence. However, it is recommended that additional smaller trees and shrubs be planted as mitigation. Instead of singular shrubs, it is suggested that natural clumps of 3-5 be planted to increase viability. Areas for consideration are the front corners of the lot. Some species recommendations include black chokecherry (*Aronia melanocarpa*) and witch hazel (*Hamamelis virginiana*).

Thank you again for the opportunity to comment.

Best,

Cynthia Garcia | Bureau of Water Supply | SEQRA Coordination Section

1'

From: Garcia, Cynthia
Sent: Wednesday, March 26, 2025 11:48 AM
To: Maura Weissleder <mauraw@yorktownnv.gov>
Subject: RE: Correction to Referral Cover Sheet - Louella Road

DEP has not maintained any discretionary regulatory authority over the proposed activity. As such, DEP has no further comments on this action.

Thank you for the opportunity to comment.

Cynthia Garcia | Bureau of Water Supply | SEQRA Coordination Section

1.2



From: Keith Schepart
To: Maura Weissleder
Subject: Re: Louella Road
Date: Monday, March 31, 2025 6:52:51 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Maura,
The TCAC met with Mike and discussed the changes that are now documented. The TCAC thanks Mike for his payment of \$1600 to the tree bank.
Respectfully
TCAC Members

Note: This e-mail message is intended only for the use of the individual or entity to whom it is addressed, and may contain information that is privileged or confidential. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering this message to the identified addressee, you are hereby notified that any unauthorized use, disclosure, reproduction, dissemination or disruption of this communication is strictly prohibited. Please note that it is your responsibility to scan this e-mail for viruses. If you receive this e-mail message in error, please delete all copies of this message and notify the sender immediately by telephone at (914) 962-5722 x210. Thank you.

A LOCAL LAW to amend Chapter 300 of the
Code of the Town of Yorktown entitled
“ZONING”

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

Section I. Statement of Authority.

This local law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Yorktown and the general police power vested with the Town of Yorktown to promote the health, safety and welfare of all residents and property owners in the Town.

Section II. Section 300-38 of the Code of the Town of Yorktown is hereby amended as follows:

Section 300-38(B)(1) shall be replaced in its entirety with the following language:

Accessory dwelling units. Such units are permitted in single family homes in accordance with the requirements in this Section 300-38. Such units shall also be permitted in existing detached accessory buildings on lots that are 40,000 square feet or greater, provided that the accessory building complies with all setback and yard requirements of the zone for the main building and the accessory dwelling unit is no larger than 800 square feet.

Section 300-38(B)(5) shall be replaced in its entirety with the following language:

Floor area. The usable floor area of the accessory unit shall have a minimum of 400 square feet and a maximum of 1,000 square feet, except that the area of the accessory unit shall not exceed 40% the usable floor area of the main building.

Section 300-38(B)(8) shall be replaced in its entirety with the following language:

Ownership. One dwelling unit must be owner-occupied.

Section 300-38(B)(9) shall be replaced in its entirety with the following language:

Number of accessory dwelling units per lot. There shall be no more than one accessory apartment nor a total of more than two dwelling units permitted per lot.

Section 300-38(J) shall be replaced in its entirety with the following language:

All owners of dwellings who have not previously obtained special permits for accessory dwelling units located within their dwellings or who have allowed such permits to expire shall apply to the Zoning Board of Appeals for a special permit within twelve months of the effective date of this section. If application is so made within said twelve-month period and pursued with due diligence, the owner of the dwelling shall not be deemed in violation of this section. If application to the Zoning Board of Appeals is not made within said

twelve-month period, the owner of the dwelling shall be deemed in violation of this section and shall be subject to the penalties provided herein.

Section 300-38 shall be amended by adding the following new section 300-38(M):

Renewal of Special Use Permits for Accessory Dwelling Units. Unless use of the accessory dwelling unit has been discontinued, owners of properties with such units are required to apply to the Zoning Board of Appeals for renewal of said permits prior to the expiration date thereof. Continued use of accessory dwelling units after expiration of the special use permits shall be subject to the penalties provided herein, unless application for renewal has been made and is being pursued with due diligence and the decision by the Zoning Board of Appeals on such application is still pending.

Section III. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section IV. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed to the extent of such inconsistency.

Section V. Effective Date.

This local law shall become effective upon filing in the office of the Secretary of State in accordance with the provisions of the Municipal Home Rule Law.

Chapter 300. Zoning

Article VII. Permitted Special Uses

§ 300-38. Accessory dwelling units in single-family homes.

[Added 2-15-1983 by L.L. No. 2-1983]

- A. It is the purpose of this section to legalize and control existing accessory dwelling units in single-family homes and to regulate new conversions. It is the intent that neighborhoods zoned as single-family primary maintain their single-family character. The adoption of this section will further the Town's goal to provide affordable rental housing in Yorktown without thereby changing the low-density, predominantly single-family character of the Town. At the same time, this section will act towards easing the financial burden of homeowners, particularly senior citizens. It is the further purpose and intent of these provisions to provide for the health, safety and welfare of the inhabitants of the Town of Yorktown and of the occupants of accessory dwelling units and to ensure that said accessory dwelling units meet minimum health, fire and safety standards.

[Amended 6-5-1984 by L.L. No. 6-1984; 6-4-1996 by L.L. No. 6-1996]

- B. The Zoning Board of Appeals of the Town of Yorktown may permit the construction of an accessory dwelling unit within an existing single-family home pursuant to the following standards.

[Amended 1-5-1988 by L.L. No. 3-1988; 6-4-1996 by L.L. No. 6-1996; 12-19-2006 by L.L. No. 17-2006]

- (1) Accessory dwelling units. Such units shall be permitted in detached accessory buildings on lots that are 40,000 square feet or greater in the R1-80 Zone and greater zones, provided that the accessory building complies with all setback and yard requirements of the zone for the main building ~~and that the unit is on the second story of the accessory building and does not displace or reduce the original accessory building's use. No accessory dwelling units are allowed in accessory buildings in the R1-10, R1-20 and R1-40 Zones.~~
- (2) Lot size. No less than the legal size as required by the zoning district, except that in the R1-10 Zone, 10,000 square foot lots will qualify if they have been in existence prior to 1970 and/or have been legalized by the Zoning Board of Appeals.
- (3) Age of principal structure. Any existing house for which a certificate of occupancy has or should have been issued prior to the effective date of this section is eligible. Any new house which has received a certificate of occupancy subsequent to the effective date of this section shall not be eligible for this special permit for a period of two years from the issuance of such certificate of occupancy. The Zoning Board may waive the two-year waiting period in order to allow creation of an accessory apartment for a disabled person or a senior citizen 62 years of age or older, but in no other circumstance.
- (4) Architectural treatment. The architectural treatment of the structure shall be such as to portray the character of the single-family dwelling. Only one main entrance will be permitted on the front side of the building; all other entrances shall be at the side or in the rear.
- (5) Floor area. The usable floor area of the accessory unit shall have a minimum of 400 square feet and a maximum of 1,000 ~~800~~ square feet, except that the area of the accessory unit shall not exceed

40% 33% of the usable floor area of the main building.

- (6) Bedrooms. There shall be a maximum of two bedrooms in the accessory unit.
- (7) Parking. One and one half off-street spaces shall be provided for each unit; provided that the existing number of bedrooms is not increased. If the existing number of bedrooms is increased, the Zoning Board may require additional off-street spaces.
- (8) Ownership. One dwelling unit must be owner-occupied, ~~which must be the larger unit, except for accessory units approved prior to June 1, 1996.~~
- (9) Number of accessory dwelling units per lot. There shall be no more than one accessory apartment nor a total of more than two dwelling units permitted per lot.
- (10) Permits. A building permit shall be obtained as otherwise required, and a certificate of occupancy must be issued prior to utilization of an accessory unit. No permit shall be issued until the Town Engineer or the Board of Health, whichever is appropriate, has made a written approval regarding the sewage disposal capacity for the unit created.

C. Application.

- (1) Application for special permit for an accessory apartment unit shall be made in accordance with the procedures set out in this section to the Zoning Board of Appeals. The application shall consist of the following:
 - (a) A letter requesting the special permit listing the name of the owner of the dwelling and the address of the property to contain the accessory apartment unit.
 - (b) Floor plans showing proposed changes to the dwelling.
 - (c) Property survey.
 - (d) An initial application fee in an amount as set forth in the Master Fee Schedule,^[1] and a fee for each renewal in an amount as set forth in the Master Fee Schedule, provided that no changes are made.
[Amended 6-6-2017 by L.L. No. 9-2017]
^[1] *Editor's Note: See § 168-1, Master fee schedule for permits, licenses and land development applications.*
- (2) Upon receipt of the application, the Board will conduct at least one public hearing for every application for special permits for accessory apartment units. The Board may, at its discretion, conduct a public hearing in connection with any renewal application. Legal notice of such hearing shall be published in the official newspaper at least 10 days prior to the public hearing. At the public hearing, the applicant shall certify that written notice of the date, time and place of the hearing and a brief statement describing the application, on forms to be obtained from the Zoning Board, was sent not less than 15 nor more than 25 days prior to the date of such hearing to every owner of property immediately adjoining the property for which this application is made. Each such notice shall be sent by the applicant by first class mail by the United States Post Office. Prior to the hearing, the applicant shall submit a separate certificate of mailing issued by the United States Post Office for each notice mailed, together with a copy, certified by the applicant or his attorney as true and correct, of the notices actually mailed.
[Amended 6-4-1996 by L.L. No. 6-1996; 7-18-2017 by L.L. No. 11-2017]
- (3) In case of extensive changes to the exterior of the existing structure, the Zoning Board may refer the application to ABACA for its review and recommendation.
- (4) The special permit shall be granted for a maximum period of three years to the owner who applies for it. If any of the provisions set forth in this section are not met, and/or if ownership changes, the special permit shall be null and void.

D. Applicable standards.

[Amended 6-5-1984 by L.L. No. 6-1984]

- (1) When considering an application for a special permit for an accessory dwelling unit, the Zoning Board of Appeals shall apply the following standards, in addition to those general standards (§ 300-36) found in this chapter:

- (a) The use will not restrict the use of adjacent properties.
- (b) The use will not adversely affect the character of the neighborhood. The following criteria shall be given consideration in the determination of whether or not the proposed use adversely affects the character of the neighborhood:
 - [1] Impact upon neighboring property values;
 - [2] Traffic generation by the proposed use; and
 - [3] If the proposed use endangers the health, safety or general welfare of the neighborhood or the community.^[2]

[2] *Editor's Note: Former Subsection D(2)(d) was repealed 6-4-1996 by L.L. No. 6-1996.*

- (2) It is the Town Board's intent that neighborhoods zoned as single-family primary remain their single-family character. The Town Board finds that there may come a time when the number of accessory dwelling units in a zoned single-family neighborhood will adversely affect the character thereof. The Zoning Board of Appeals shall deny a special permit for an accessory dwelling unit should it find that the number of such units, including the one proposed, will adversely affect the character of a zoned single-family neighborhood.

- E. In considering the legalization of an existing accessory unit created before February 15, 1983, the Zoning Board may waive some or all of the required standards listed in Subsections B(1), (3), (4) and (5).
- F. The standards and provisions of all special uses as provided for in §§ 300-28, 300-33, 300-34, 300-35 and 300-36 shall be applicable to this special permit procedure to the extent that the same are not inconsistent herewith.
- G. In order to provide an assessment of this section's operation, its effect upon the Town and whether or not this provision of law shall be continued, further amended or terminated, the Town Board shall review the same no later than two years subsequent to the date of this amendment.

[Amended 6-5-1984 by L.L. No. 6-1984]

- H. In the event that a dwelling with a valid special permit for an accessory dwelling unit is sold, the special permit shall lapse unless, within 90 days after the transfer of title, the new owner shall apply for renewal under this chapter of the previous special permit. If such application is timely made, the new owner shall not be deemed in violation of this chapter so long as the renewal application is pursued with due diligence. If such renewal application is granted, the new special permit shall run three years from the date of transfer of title. If, after transfer of title, a renewal application shall not be made within 90 days and an application pursuant to this section shall be made at any time within three years following the date of transfer of title, any special permit issued pursuant to such application shall be granted for a maximum period of three years from the transfer of title.

[Added 6-5-1984 by L.L. No. 6-1984; amended 6-4-1996 by L.L. No. 6-1996^[3]]

[3] *Editor's Note: This local law also repealed former Subsection (I), dealing with accessory dwellings, as amended 6-4-1984 by L.L. No. 6-1984 and 1-5-1988 by L.L. No. 3-1988.*

- I. No boarders shall be permissible in a dwelling which has an accessory dwelling unit. A dwelling may not receive a special permit for a tourist home, rooming house or boardinghouse, pursuant to § 300-60, and a special permit for an accessory dwelling unit.

[Added 6-5-1984 by L.L. No. 6-1984]

- J. All owners of dwellings who have not previously obtained special permits for accessory dwelling units located within their dwellings or who have allowed such permits to expire shall apply to the Zoning Board of Appeals for a special permit

within ~~twelve six~~-months of the effective date of this section. If application is so made within said ~~twelvesix~~-month period and pursued with due diligence, the owner of the dwelling shall not be deemed in violation of this section. If application to the Zoning Board of Appeals is not made within said ~~twelvesix~~-month period, the owner of the dwelling shall be deemed in violation of this section and shall be subject to the penalties provided herein.
[Added 6-5-1984 by L.L. No. 6-1984]

- K. Any lot with respect to which a special use permit for an accessory dwelling unit has been granted shall be ineligible for a special use permit to store, park or stand any commercial vehicle or trailer.
[Added 6-5-1984 by L.L. No. 6-1984; amended 1-5-1988 by L.L. No. 3-1988; 6-4-1996 by L.L. No. 6-1996; 12-19-2006 by L.L. No. 17-2006]
- L. Penalty. Any owner or builder or agent of either of them who fails to secure a special permit for an accessory dwelling unit, as provided in this chapter, who allows occupancy of an accessory dwelling unit in violation of the provisions of this chapter or who constructs or causes to be constructed a dwelling with an accessory dwelling unit shall be guilty of an offense punishable by a fine of not less than \$500 nor more than \$1,000 or imprisonment not to exceed 15 days, or both, upon conviction of a first offense and, for the second and each subsequent conviction, by a fine not less than \$1,500 nor more than \$2,000 or imprisonment not to exceed 15 days, or both. Each week's continued violation shall constitute a separate additional violation.
[Added 1-5-1988 by L.L. No. 3-1988]

M. Renewal of Special Use Permits for Accessory Dwelling Units. Unless use of the accessory dwelling unit has been discontinued, owners of properties with such units are required to apply to the Zoning Board of Appeals for renewal of said permits prior to the expiration date thereof. Continued use of accessory dwelling units after expiration of the special use permits shall be subject to the penalties provided herein, unless application for renewal has been made and is being pursued with due diligence and the decision by the Zoning Board of Appeals on such application is still pending.

TOWN OF YORKTOWN PLANNING BOARD

Albert A. Capellini Community and Cultural Center, 1974 Commerce Street, Yorktown Heights, New York 10598, Phone (914) 962-6565, Fax (914) 962-3986

To: Town Board
From: Planning Board
Date: May 6, 2025
Subject: Town Board Referral – Chapter 300
Accessory Dwelling Units

At its meeting of April 21, 2025, the Planning Board discussed the proposed amendments to Chapter 300 in regards to accessory dwelling units. The Planning Board believes that more information and data is necessary to understand the implications of the proposed expansion of this type of use. There should be an understanding developed of the potential build-out in Yorktown's residential neighborhoods under the proposed law, what effect a potential full build-out would have, and what reasonable, achievable limitations can be developed to preserve the character of the neighborhoods and the safe efficient living conditions within them.

Further comments as follows:

1. The setbacks of accessory buildings (typically 10-feet) should be fully reconsidered to prevent impacts to abutting properties associated with dwelling units.
2. The Board should determine and publish how many ADU's currently exist whether currently permitted or not.
3. Sections 300-39(B)(1) and 300-39(B)(5) are contradictory. The maximum area for an accessory dwelling unit should be consistent across both subsections. Will the maximum area be 800 or 1000 square feet?
4. The Board is apprehensive to increase the maximum area of a detached ADU to 1000 square feet as it may facilitate an increase in people living there regardless of the 2-bedroom maximum.

Respectfully submitted,


Ian Richey
Assistant Planner

Diane Dreier, Co-Chair
Phyllis Bock, Co-Chair

Ed Lachterman
Town Supervisor

TOWN OF YORKTOWN CONSERVATION BOARD

Town of Yorktown Town Hall, Yorktown Heights, New York 10598, Phone (914) 962-5722

To: Town Board
From: Conservation Board
Date: March 27, 2025
Subject: Town Board Referral – Proposed local law to amend Chapter 300 – Accessory Dwelling Units

The Conservation Board reviewed the above referenced subject and have no comments.

Respectfully submitted:

Diane Dreier

For the Conservation Board

cc: Conservation Board

Christopher Taormina, RA
Chairman

Ed Lachterman
Town Supervisor

TOWN OF YORKTOWN

ADVISORY BOARD ON ARCHITECTURE & COMMUNITY APPEARANCE (*ABACA*)

Albert A. Capellini Community and Cultural Center, 1974 Commerce Street, Yorktown Heights, New York 10598, Phone (914) 962-6565

To: Diana Quast, Town Clerk *for the Town Board*
From: ABACA
Date: April 4, 2025
Subject: Town Board Referral - Proposed Amendment to Chapter 300 – Accessory Dwelling Units

Documents Received and Reviewed:	Produced By:
Town Board Referral dated March 26, 2025 with associated documents	Town Clerk

The Advisory Board on Architecture and Community Appearance reviewed the above referenced subject and have no objections to the proposed amendment.

Christopher Taormina

Christopher Taormina, RA
Chairman

/nc

cc: Town Board



Westchester County Planning Board Referral Review
Pursuant to Section 239 L, M and N of the General Municipal Law and
Section 277.61 of the County Administrative Code

Kenneth W. Jenkins
Westchester County Executive

April 7, 2025

Diana L. Quast, Town Clerk
Town of Yorktown
363 Underhill Avenue
Yorktown Heights, NY 10598

**County Planning Board Referral File YTN 25-006 – Accessory Dwelling Units
Zoning Text Amendment**

Dear Ms. Quast:

The Westchester County Planning Board has received a proposed local law to amend the regulations regarding Accessory Dwelling Units (ADUs). The proposed amendments would expand ADU eligibility to any single-family property on a lot 40,000 square feet or greater. The amendments also clarify that ADUs can be located within the principal building or within an accessory building, and that only a total of two housing units are permitted on a property. ADU floor area would be regulated to between 400 and 1,000 square feet., but not exceeding 40% of the main building floor area. Existing provisions that require the owner to live in the larger unit would be removed. The amendments also clarify that an ADU special permit and subsequent renewals are required.

We have no objection to the Yorktown Town Board assuming Lead Agency status for this review.

We have reviewed this matter under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code. We appreciate the Town for expanding their ADU permissions, which will add to the availability of needed housing. However, we do note that the County recommends ADUs not be subject to special permit requirements, as the associated fees and administrative work that must be conducted can be onerous to residents. We recommend that ADU applications be subject only to the building permit process, as opposed to requiring hearings and approvals by the Town Zoning Board.

Please inform us of the Town's decision so that we can make it a part of the record.

Thank you for calling this matter to our attention.

Respectfully,
WESTCHESTER COUNTY PLANNING BOARD

Bernard Thombs
Chair, Westchester County Planning Board

BT/mv

cc:


TOWN OF YORKTOWN PLANNING BOARD

Albert A. Capellini Community and Cultural Center, 1974 Commerce Street, Yorktown Heights, New York 10598, Phone (914) 962-6565, Fax (914) 962-3986

To: Town Board
From: Planning Board
Date: April 10, 2025
Subject: Town Board Referral – Chapter 300
Accessory Dwelling Units

At its meeting of April 7, 2025, the Planning Board discussed the subject referral. The Board respectfully requests a time extension to discuss the referral again at their next meeting on April 21, 2025.

Respectfully submitted,


Ian Richey
Assistant Planner

From: Garcia, Cynthia
To: Maura Weissleder
Subject: Amendment to Section 300-38: Accessory Dwelling
Date: Thursday, April 10, 2025 2:42:06 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Maura,

DEP has not maintain any discretionary regulatory authority over the proposed activity. As such, DEP has no further comments on this action.

Thank you for the opportunity to comment.

Cynthia Garcia | Bureau of Water Supply | SEQRA Coordination Section

From: [Diana Quast](#)
To: [Maura Weissleder](#)
Subject: FW: Chapter 300 - ADU Referral
Date: Monday, April 14, 2025 9:21:27 AM
Attachments: [ADU Local Law.pdf](#)

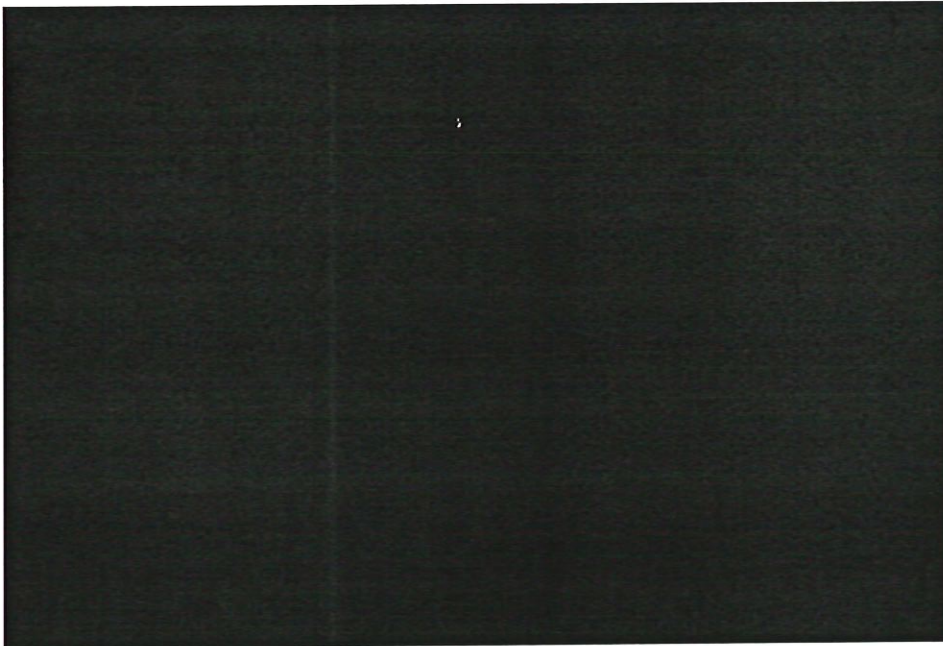
Sent: Sunday, April 13, 2025 2:26 PM
To: Diana Quast <dquast@yorktownny.gov>
Subject: Fwd: Chapter 300 - ADU Referral

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Diana,
I have reviewed the local law, and have no further comments. The law as proposed incorporated input that the ZBA provided to the community housing board in our February meeting.

Sincerely,
John Meisterich

Sent from my iPad



WHEREAS, the Town Board conducted a public hearing on the proposed local law amending Town Code § 300-38, entitled "Accessory dwelling units in single-family homes";

WHEREAS, in accordance with the NYSEQRA the Town Board must make a decision regarding the environmental impact of such proposed action;

WHEREAS, the Town Board is the only agency required to approve the proposed action;

WHEREAS, an environmental assessment form has been prepared for the proposed action;

WHEREAS, the Town Board has analyzed all of the potential environmental aspects of the proposed action;

REOLVED, based on a review of the proposed action and the information obtained at the public hearing and the environmental assessment form, the proposed action will not have significant environmental impact;

BE IT FURTHER RESOLVED, that the Town Board hereby adopts the attached negative declaration.

A LOCAL LAW to amend Chapter 300 of the
Code of the Town of Yorktown entitled
“ZONING”

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

Section I. Statement of Authority.

This local law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Yorktown and the general police power vested with the Town of Yorktown to promote the health, safety and welfare of all residents and property owners in the Town.

Section II. Chapter 300 of the Code of the Town of Yorktown entitled “ZONING” is hereby amended in its entirety by replacing section 300-81.5 entitled “Battery Energy Storage Systems” with the following:

§ 300-81.5. Battery energy storage systems.

- A. Authority. This Battery Energy Storage System Law is adopted pursuant to Article IX of the New York State Constitution, § 2(c)(6) and (10), New York Statute of Local Governments, § 10, Subdivisions 1 and 7, §§ 261 through 263 of the Town Law, and § 10 of the Municipal Home Rule of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety, and welfare of the community.
- B. Statement of purpose. This Battery Energy Storage System Law is adopted to advance and protect the public health, safety, and welfare of the Town by creating regulations for the installation and use of battery energy storage systems, with the following objectives:
- (1) To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;
 - (2) To protect the health, welfare, safety, and quality of life for the general public;
 - (3) To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;
 - (4) To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and
 - (5) To create synergy between battery energy storage system development and other stated goals of the community pursuant to Yorktown's Comprehensive Plan.
- C. Definitions. As used in this section, the following terms shall have the meanings indicated:
- ANSI — American National Standards Institute.
- BATTERY — A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this section, batteries utilized in consumer products are excluded from these requirements.

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM — An electronic system that protects storage batteries from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected. The system generates an alarm and trouble signal for off normal conditions.

BATTERY ENERGY STORAGE SYSTEM — A system consisting of electrochemical storage batteries, battery chargers, controls, power conditioning systems and associated electrical equipment, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone twelve-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 battery energy storage system as follows:

- (1) Tier 1 battery energy storage systems have an aggregate energy capacity less than or equal to 80 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.
 - (a) Battery energy storage systems for one- to two-family residential dwellings within or outside the structure with an aggregate energy capacity that shall not exceed:
 - [1] Forty kWh within utility closets and storage or utility spaces.
 - [2] Eighty kWh in attached or detached garages and detached accessory structures.
 - [3] Eighty kWh on exterior walls.
 - [4] Eighty kWh outdoors on the ground.
- (2) Tier 2 battery energy storage systems have an aggregate energy capacity greater than 80 kWh or are comprised of more than one storage battery technology in a room or enclosed area.

CELL — The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

COMMISSIONING — A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

DEDICATED-USE BUILDING — A building that is built for the primary intention of housing battery energy storage system equipment and is classified as Group F-1 occupancy as defined in the International Building Code. It is constructed in accordance with the Uniform Code, and it complies with the following:

- (1) The building's only permitted primary use is for battery energy storage, energy generation, and other electrical grid-related operations.
- (2) No other occupancy types are permitted in the building.
- (3) Occupants in the rooms and areas containing battery-energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
- (4) Administrative and support personnel are permitted in incidental-use areas within

the buildings that do not contain battery energy storage system, provided the following:

- (a) The areas do not occupy more than 10% of the building area of the story in which they are located.
- (b) A means of egress is provided from the incidental-use areas to a public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy systems.

DWELLING UNIT — A building or portion thereof or immobile house trailer, which is used, occupied or maintained as living quarters for one family only and providing complete housekeeping facilities; except that for specialized housing as provided for in RSP Districts, living quarters may consist of sleeping accommodations only, plus individual bathrooms, such dwelling unit having one full kitchen only, free access within the dwelling unit on all floors, one main entrance and only one meter each for gas, electricity and water.

ENERGY CODE — The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

FIRE CODE — The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL) — A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

NEC — National Electric Code.

NFPA — National Fire Protection Association.

NONDEDICATED-USE BUILDING — All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements, including all other occupancy types such as, but not limited to, commercial, industrial, offices, and multifamily housing.

NONPARTICIPATING PROPERTY — Any property that is not a participating property.

NONPARTICIPATING RESIDENCE — Any residence located on nonparticipating property.

OCCUPIED COMMUNITY BUILDING — Any building in Occupancy Group A, B, E, I, R, as defined in the International Building Code, including but not limited to schools, colleges, day-care facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

PARTICIPATING PROPERTY — A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

SPECIAL FLOOD HAZARD AREA — The land area covered by the floodwaters of the base

flood is the special flood hazard area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

UL — Underwriters Laboratory, an accredited standards developer in the United States.

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

D. Applicability.

- (1) The requirements of this section shall apply to all battery energy storage systems permitted, installed, or modified in the Town after the effective date of this section, excluding general maintenance and repair. Battery energy storage systems constructed or installed prior to the effective date of this section shall not be required to meet the requirements of this section.
- (2) Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this section.

E. General requirements.

- (1) A building permit and an electrical permit shall be required for installation of all battery energy storage systems.
- (2) Issuance of special permits and approvals by the Planning Board shall include review pursuant to §§ 300-28 through 300-37 of the Zoning Code of the Town of Yorktown and the State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and its implementing regulations at 6 NYCRR Part 617 (SEQRA).
- (3) All battery energy storage systems, all dedicated use buildings, and all other buildings or structures that contain or are otherwise associated with a battery energy storage system and subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town Code.

F. Permitting requirements for Tier 1 battery energy storage systems. Tier 1 battery energy storage systems shall be permitted in all zoning districts, shall be authorized through the issuance of a building permit, and shall be subject to the general requirements set forth above.

G. Tier 2 battery energy storage systems are prohibited within all zoning districts in the Town of Yorktown. Notwithstanding that prohibition, any battery energy storage systems with an aggregate energy capacity greater than 600 kWh or that is comprised of more than one storage battery technology in a room or enclosed area existing within the Town as of January 1, 2025 ("Existing Tier 2 battery energy storage system") shall be considered a legal non-conforming use. All approvals, including special permits, for an Existing Tier 2 battery energy storage system shall continue in full force and effect until expiration, nullification or abandonment. All Existing Tier 2 battery energy storage system shall comply with the following requirements and any conditions of Town approvals applicable to such system:

- (1) Applications for the modification of Existing Tier 2 battery energy storage system shall:
 - (a) Address all matters listed in this section, including, but not necessarily limited to, compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code and matters relating to the proposed battery energy storage system and floodplain, utility lines and electrical circuitry, signage, lighting, vegetation and tree-cutting, noise, decommissioning, site plan and development, special use and development, ownership changes, safety, permit time frame and abandonment. The Planning Board may require additional information pursuant to requirements in Chapter 195, Land Development, and Chapter 300, Zoning, of the Code of the Town of Yorktown.
 - (b) Subject to a public hearing to hear all comments for and against the application pursuant to Town Law § 274-b and Chapter 205 of the Code of the Town of Yorktown.
 - (c) Be referred to the County Planning Department pursuant to General Municipal Law § 239-m if required and referred to interested and involved agencies pursuant to the State Environmental Quality Review Act, Article 8, of the Environmental Conservation Law and its implementing regulations at 6 NYCRR Part 617 (SEQRA).
- (2) Floodplain. Battery energy storage systems are prohibited in designated floodplains and flood zones.
- (3) Utility lines and electrical circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
- (4) Signage.
 - (a) Signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and twenty-four-hour emergency contact information, including reach-back phone number.
 - (b) As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light-reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- (5) Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
- (6) Vegetation and tree cutting. Areas within 20 feet on each side of Existing Tier 2 battery energy storage systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover, such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be

exempt, provided that they do not form a means of readily transmitting fire.

- (7) Noise. The one-hour average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of 60 dBA as measured at the outside wall of any nonparticipating residence and occupied community building. Applicants may submit equipment and component manufacturers' noise ratings to demonstrate compliance. The applicant may be required to provide operating sound pressure level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.

(8) Decommissioning.

- (a) Decommissioning plan. The applicant shall submit a decommissioning plan developed in accordance with the Uniform Code, containing a narrative description of the activities to be accomplished for removing the energy storage system from service, and from the facility in which it is located. The decommissioning plan shall also include:

- [1] A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
- [2] Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
- [3] The anticipated life of the battery energy storage system;
- [4] The estimated decommissioning costs and how said estimate was determined;
- [5] The method of ensuring that funds will be available for decommissioning and restoration;
- [6] The method that the decommissioning cost will be kept current;
- [7] The manner in which the battery energy storage system will be decommissioned, and the site restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
- [8] A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

- (b) Decommissioning fund. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town, for the removal of the battery energy storage system, in an amount to be determined by the Town, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed financial institution. All costs of the financial security shall be borne by the applicant.

(9) Site plan amendment application. Modifications to Existing Tier 2 battery energy storage systems shall require site plan approval. Any site plan application shall include the following information:

- (a) Property lines and physical features, including roads, for the project site.
- (b) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
- (c) A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- (d) A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit.
- (e) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of a building permit.
- (f) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
- (g) Zoning district designation for the parcel(s) of land comprising the project site.
- (h) Commissioning plan.

[1] Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, battery energy storage system commissioning shall be conducted by a New York State (NYS) licensed professional engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Planning Board prior to final inspection and approval and maintained at an approved on-site location.

[2] Energy storage system commissioning shall not be required for lead-acid and nickel-cadmium battery systems at facilities under the exclusive control of communications utilities that comply with NFPA 76 and operate at less than 50 VAC and 60 VDC.

- (i) Fire safety compliance plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.
- (j) System and property operation and maintenance manual. Such plan shall describe

continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code.

- (k) Erosion and sediment control and stormwater management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- (l) Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS licensed professional engineer.
- (m) An emergency operations plan. A copy of the approved emergency operations plan shall be given to the system owner, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:
 - [1] Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
 - [2] Procedures for inspection and testing of associated alarms, interlocks, and controls.
 - [3] Procedures to be followed in response to notifications from the battery energy storage management system, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
 - [4] Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire. Procedures must follow all applicable local, state and national codes.
 - [5] Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
 - [6] Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
 - [7] Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
 - [8] Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate

response procedures.

- [9] The Planning Board may require additional information not specifically contained herein that would be necessary to provide to the greatest extent practicable, maximum protection of the health, safety and welfare of the general public.

(10) Special use permit standards. All Existing Tier 2 battery energy storage systems shall comply with the following requirements:

- (a) Lot size. Existing Tier 2 battery energy storage systems shall be located on lots with a minimum lot size of 40,000 square feet.
- (b) Lot coverage. Lot coverage shall not exceed 15% of the area of the lot or 33,000 square feet, whichever is less. "Lot coverage" shall mean the area formed by the outermost perimeter of the footprint of all of the equipment and battery storage units, including the clearance spaces between the individual equipment.
- (c) Setbacks. Existing Tier 2 battery energy storage systems shall comply with the setback requirements of the underlying zoning district for principal structures, provided that adequate screening can be accomplished within the allotted setback. The Planning Board may determine that the setback be increased to accommodate such required screening.
- (d) Height. Existing Tier 2 battery energy storage systems shall not exceed 15 feet in height, unless part of a larger structure housing a main use as allowed in the underlying zoning district.
- (e) Fencing requirements. Existing Tier 2 battery energy storage systems, including all mechanical equipment, shall be enclosed by a seven-foot-high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports. Type and design of fencing shall be determined by the Planning Board.

(11) Screening and visibility. An Existing Tier 2 battery energy storage system shall be fully screened from adjacent residential properties, streets or roads on which it fronts or is visible from, and any other views, which the Planning Board determines is necessary. Views from adjacent commercial properties shall be minimized to the extent reasonably practicable and screened from streets or roads on which it fronts. Screening and buffering may be accomplished using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfere with ventilation or exhaust ports. Ownership changes. If the owner of the Existing Tier 2 battery energy storage system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the applicable Town approvals, including the site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Building Inspector of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification to the Building Inspector in writing. All approvals for the Existing Tier 2 battery energy storage system would be void if a new owner or operator fails to provide written notification to the

Building Inspector in the required time frame.

H. Safety.

- (1) System certification. Battery energy storage systems and equipment shall be listed by a nationally recognized testing laboratory to UL 9540 or CAN 9540 (Standard for Battery Energy Storage Systems and Equipment). The systems shall comply with the following codes and regulations along with all other applicable local, state, and national codes for installation, operation, and emergency procedures:
 - (a) UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications).
 - (b) UL 1642 (Standard for Lithium Batteries).
 - (c) UL 1741 or UL 62109 (inverters and power converters).
 - (d) Certified under the applicable electrical, building, and fire prevention codes as required.
 - (e) Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 and applicable codes, regulations and safety standards may be used to meet system certification requirements.
 - (f) NFPA 855, Standard for the Installation of Stationary Energy Storage Systems, 2020 Edition.
- (2) Site access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal, in accordance with the conditions and parameters set forth in the special use permit, building permit, or electrical permit, and notwithstanding any provisions therein, at a level acceptable to the local fire department and , if the Existing Tier 2 battery energy storage system is located in an ambulance district, the local ambulance corps. All battery energy storage systems must undergo regular inspections at intervals specified in the plans and documents approved under this section.
- (3) Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

I. Permit time frame and abandonment.

- (1) The building permit approval for a Tier 1 battery energy storage system shall be valid for a period of 12 months, provided that a building permit is issued for construction and construction is commenced.
- (2) A battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than one year. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the available bond and/or security for the removal of a Existing Tier

2 battery energy storage system and restoration of the site in accordance with the decommissioning plan.

- J. Enforcement. Any violation of this battery energy storage system section shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of Town.
- K. Severability. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.
- L. Conflicts with other provisions of this Chapter 300, Zoning. Any provision of this section that conflicts with other provisions of this chapter take precedence and shall be enforceable as it pertains to uses under this section only.

Section III. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section IV. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed to the extent of such inconsistency.

Section V. Effective Date.

This local law shall become effective upon filing in the office of the Secretary of State in accordance with the provisions of the Municipal Home Rule Law.



Woodfield Renewable Partners

Town Board

Town of Yorktown
363 Underhill Avenue
Yorktown Heights, NY 10598

May 6, 2025

Dear Members of the Yorktown Town Board,

I write to provide comments on the proposed amendment to Chapter 300 of Yorktown's zoning code, which would effectively ban Battery Energy Storage Systems (BESS) with capacities exceeding 80 kWh. The proposed law is overbroad and lacks a clear rationale grounded in safety or land-use compatibility, disregards advancements in battery technologies, contradicts New York State's urgent clean energy goals, undermines local and regional grid reliability and overly restricts the property rights of local landowners. Below, I outline key concerns and urge the Board to reconsider this excessively prohibitive approach.

1. Lack of Justification and Overly Restrictive Scope

The amendment's stated goal of protecting "health, safety, and welfare" fails to explain how Tier 2 BESS threatens Yorktown residents. Many communities in Westchester and throughout the U.S. have successfully permitted BESS without incident, demonstrating that responsible siting and oversight are achievable. Indeed, there are 4 BESS currently operating in the Town of Yorktown without incident.

Prohibiting systems above 80 kWh (a threshold suitable only for single-family homes, and smaller than the batteries of most electric vehicles) ignores the need for community-scale storage to support the increasing energy needs of residents, schools, hospitals, businesses and new development.

BESS installations are rigorously regulated at federal, state, and local levels. New York's Inter-Agency Fire Safety Working Group have studied BESS safety for over a decade and issued draft fire codes and safety standards in 2023. The Fire Safety Working Group is currently updating the Fire Code to further improve BESS safety standards. BESS safety requirements have increased significantly over the last few years, and new technologies, such as EticaAG's immersion cooling solution can eliminate fire & thermal runaway risk of Tier 2 lithium BESS. A blanket ban ignores these improved safety standards and proven regulatory frameworks and disregards these new technologies.

2. Proposal Is Overbroad in that it Bans non-Lithium Battery Technologies with No Fire Risks

The proposed ban on its face appears to apply to non-lithium battery technologies (e.g., iron-air, sodium-ion, or flow batteries) that pose no fire risk. It is unclear what rationale or public purpose is served by banning these technologies and restricting local property owners from installing them.



For example, my company - Woodfield Renewables - is currently partnering with Eos Energy to deploy its aqueous zinc batteries, which are safe (inherently non-flammable) and sustainable (no toxic materials used in batteries) and manufactured in the U.S. Eos is headquartered in Edison NJ and is a publicly traded company with a market capitalization of over \$1.2 billion. Under the proposed ban, BESS projects incorporating technologies such as the Eos Energy aqueous zinc battery would be prohibited entirely in Yorktown.

3. Grid Resilience, Reliability and Economic Impacts on Residents

BESS enhances grid resilience and reliability by mitigating outages, stabilizing and supplementing energy supply, and reducing strain during extreme weather and increased energy consumption. For example, state-owned BESS facilities already provide backup power sufficient to power thousands of homes, and expanding BESS capacity is projected to save New Yorkers \$2 billion in future statewide utility electric system upgrades. During emergency events like Superstorm Sandy, BESS facilities can provide critical emergency backup power when the grid is down.

Deploying BESS, which is typically funded by private investment, provides an alternative source of energy at times of peak consumption, thereby reducing the need for utilities to build highly expensive power plants, the cost of which is borne by local ratepayers. Restricting BESS in Yorktown would force reliance on outdated and limited fossil fuel infrastructure, increasing costs for residents and businesses while delaying the economic benefits of cheaper sources of energy and clean energy jobs.

4. Conflict with New York's Clean Energy Mandates

New York has set ambitious targets to achieve **70% renewable electricity by 2030** and a **zero-emission grid by 2040** under the Climate Leadership and Community Protection Act (CLCPA). Battery storage is indispensable for integrating renewable energy sources like solar and wind, storing excess energy generation, and dispatching power to the grid during times of peak demand. In addition, the widescale deployment of BESS allows for the reduced reliance on heavily-polluting and costly “peaker” plants. By banning systems over 80 kWh, Yorktown would impede the rollout of this critical infrastructure, undermining statewide efforts to clean up the grid, replace aging fossil fuel-dependent plants, reduce emissions and keep energy costs down.



New York's clean energy transition requires proactive local leadership. I hope the Board will tailor the proposed law to align with specific risks to the health, safety and well-being of Yorktown residents after taking into consideration not only how these systems are sited, maintained and monitored, but also the variety of BESS technologies available, some of which pose no fire or safety risks to residents.

We also recommend that the Town Board extend the moratorium as requested by Westchester County. The additional time resulting from an extension of the moratorium offers several key benefits including:

1. Alignment with State Regulations: it allows the Town to review and align with the State's finalized fire code before proceeding with BESS development
2. Informed Decision Making: the extension provides time to thoroughly assess the benefits, risks, and mitigation strategies associated with safe BESS deployment and further consult with fire safety experts.
3. Technology Evaluation: it enables the Town to further explore and evaluate non-lithium battery technologies that provide enhanced safety and environmental advantages.

We appreciate the Town's time and effort in carefully considering this matter, and we welcome the opportunity to continue collaborating with Yorktown and its residents to support the safe and responsible development of Battery Energy Storage Systems (BESS).

Sincerely,

Peyton Boswell
Managing Partner
Woodfield Renewable Partners

From: Diana Quast
To: Paul Liberatore
Cc:
Subject:
Date:

Thank you for your comments, I will forward them to the Town Board.

Diana

Sent: Friday, February 7, 2025 2:22 PM

To: Diana Quast <dquast@yorktownny.gov>

Subject: Referral of Proposed Local Law - Chapter 300 (Battery Energy Storage Systems)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.
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Diana,

I would like to discuss some changes to this law, such as placarding, access, and something to the lines of

"At the request of the local fire chief, any applicant for a commercial charging/array, solar or battery energy storage project shall provide the fire department with the necessary emergency equipment. Such equipment shall include, but not be limited to an emergency plug, EV blankets, hose, nozzles, deluge nozzles or other equipment as deemed necessary by the local fire chief. "

Paul Liberatore
Fire Chief
Yorktown Heights Fire District

Christopher Taormina, RA
Chairman

Ed Lachterman
Town Supervisor

TOWN OF YORKTOWN

ADVISORY BOARD ON ARCHITECTURE & COMMUNITY APPEARANCE (*ABACA*)

Albert A. Capellini Community and Cultural Center, 1974 Commerce Street, Yorktown Heights, New York 10598, Phone (914) 962-6565

To: Diana Quast, Town Clerk *for the Town Board*
From: ABACA
Date: February 19, 2025
Subject: Town Board Referral - Proposed Amendment to Chapter 300 – Battery Energy Storage Systems

Documents Received and Reviewed:	Produced By:
Town Board Referral email dated February 7, 2025 with associated documents	Town Clerk's Office

The Advisory Board on Architecture and Community Appearance reviewed the above referenced subject at their meeting held on Tuesday, February 18, 2025 and have no comments.

Christopher Taormina
Christopher Taormina, RA
Chairman

/nc
cc: Town Board



Westchester County Planning Board Referral Review
Pursuant to Section 239 L, M and N of the General Municipal Law and
Section 277.61 of the County Administrative Code

Kenneth W. Jenkins
Westchester County Executive

February 19, 2025

Diana L. Quast, Town Clerk
Town of Yorktown
363 Underhill Avenue
Yorktown Heights, NY 10598

**County Planning Board Referral File YTN 25-005 – Battery Energy Storage System Prohibition
Zoning Text Amendment**

Dear Ms. Quast:

The Westchester County Planning Board has received a proposed local law to amend the regulations regarding Battery Energy Storage Systems (BESS). Tier One BESS classification would be reduced from an energy capacity of 600 kWh to a capacity of 80 kWh. Tier Two BESS would be classified as a capacity greater than 80 kWh, and would be prohibited within the Town.

We have no objection to the Yorktown Town Board assuming Lead Agency status for this review.

We have reviewed this matter under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code. We disagree that a ban on the installation of larger BESS facilities is appropriate. As the County, State, and Nation transfers from the use of fossil fuels to renewable energy sources, BESS serve as an important means for enabling that energy to be used by consumers. Energy storage is a crucial factor in the utilization of renewable sources, as fluctuations in energy creation from these sources necessitate a means to balance electricity generation against usage throughout the day. For instance, BESS units can be used to store solar power gathered during the daytime for later use at night. As such, BESS technologies are important as the State and County works towards reducing carbon emissions and the use of fossil fuels for energy creation, while supplying enough electricity to avoid supply disruptions.

By prohibiting BESS systems within the Town, direct adverse impacts would affect energy resources and facilities, as the transmission of electricity from renewable sources would be hindered within the Town and possibly neighboring municipalities. The more that power generation from renewable sources is hindered, the longer it will take to transition away from fossil fuels, and the associated effects of pollution, environmental degradation, and climate change will be extended.

While we understand that there are important questions in regards to fire safety, BESS systems have been recognized as a means of land utilization that bolsters the energy supply and facilitates green sources, while also allowing landowners to utilize areas of their property that might not be suitable for an occupiable building, but is nevertheless practical for BESS development. We note that the State is currently updating the Fire Code in order to create enhanced safety standards for BESS facilities. As such, some municipalities in Westchester have passed limited moratoriums on the development of

BESS projects, awaiting the outcome of the Fire Code amendments. We understand that Yorktown has been under a BESS moratorium, and recommend the Town consider extending the moratorium until State safety guidance are released, as opposed to the permanent prohibition of BESS installation.

Finally, please note that the County Board of Legislators is considering a new notification law that would require municipalities to notify the County Department of Emergency Services of any new BESS installations, to account for the locations of these systems should shared emergency services be needed. Further information regarding this law will be sent to municipalities should it be adopted.

Please inform us of the Town's decision so that we can make it a part of the record.

Thank you for calling this matter to our attention.

Respectfully,
WESTCHESTER COUNTY PLANNING BOARD

A handwritten signature in black ink, appearing to read "Bernard Thombs".

Bernard Thombs
Chair, Westchester County Planning Board

BT/mv

cc:

TOWN OF YORKTOWN PLANNING BOARD

Albert A. Capellini Community and Cultural Center, 1974 Commerce Street, Yorktown Heights, New York 10598, Phone (914) 962-6565, Fax (914) 962-3986

To: Town Board
From: Planning Board
Date: March 5, 2025
Subject: Town Board Referral – Chapter 300
Battery Energy Storage Systems

At its meeting of February 10, 2025, the Planning Board discussed the subject referral. The Planning Board respectfully requests that the current section of code not be removed in its entirety. Existing battery energy storage systems that were approved under the current law must be regulated as such, and therefore the law should remain in the code as a separate section for this purpose.

Respectfully submitted,


Ian Richey
Town Planner

TOWN OF YORKTOWN PLANNING BOARD

Albert A. Capellini Community and Cultural Center, 1974 Commerce Street, Yorktown Heights, New York 10598, Phone (914) 962-6565, Fax (914) 962-3986

To: Town Board
From: Planning Board
Date: April 30, 2025
Subject: Town Board Referral – Chapter 300
Battery Energy Storage Systems

At its meeting of April 21, 2025, the Planning Board discussed the subject referral. The Board believes that electrical infrastructure, like all infrastructure, is important and necessary to the health, safety, and welfare, of Yorktown's residents. The Planning Board respectfully submits that given the closure of Indian Point and more frequent incidents such as black-outs, brown-outs, and storm related outages, that it would be the more prudent course to plan for Tier 2 BESS installations, rather than eliminate them. The Board believes that all our endeavors come with certain risks and that these must be, and can be, managed to reduce these risks to an acceptable level. In this way, the Town can manage the reinforcement of our electrical infrastructure so it is able to provide more consistent, reliable, and in this case, clean electrical energy in a safe way. The Planning Board therefore recommends against a complete ban on Tier 2 BESS installations. The Board recommends amending the law to provide for the most optimal conditions for these systems.

Some considerations are as follows:

1. Require additional inspections by qualified industry experts during construction.
2. Require periodic inspections by qualified industry experts of operating systems.
3. Require initial and periodic training of first responders.
4. Require an adequate emergency response plan vetted by industry experts which can also be used as a training tool for emergency responders.
5. Investigate and determine if additional criteria are warranted.

Lastly, the Board reiterates an earlier comment that the law, if amended to ban such systems, remain in force to continue to regulate existing systems.

Respectfully submitted,


Ian Richey
Assistant Planner



Westchester County Planning Board Referral Review
Pursuant to Section 239 L, M and N of the General Municipal Law and
Section 277.61 of the County Administrative Code

Kenneth W. Jenkins
Westchester County Executive

April 21, 2025

Diana L. Quast, Town Clerk
Town of Yorktown
363 Underhill Avenue
Yorktown Heights, NY 10598

**County Planning Board Referral File YTN 25-005B – Battery Energy Storage System Prohibition
Zoning Text Amendment**

Dear Ms. Quast:

The Westchester County Planning Board has received an updated proposed local law to amend the regulations regarding Battery Energy Storage Systems (BESS). Tier One BESS classification would be reduced from an energy capacity of 600 kWh to a capacity of 80 kWh, with only 40 kWh systems permitted within a closet or utility space. Tier Two BESS would be classified as a capacity greater than 80 kWh, and new Tier Two systems would be prohibited within the Town.

We have previously reviewed this matter under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code, and responded in a letter dated February 19, 2025 (YTN 25-002). We continue to disagree that a ban on the installation of larger BESS facilities is appropriate. As the County, State, and Nation transfers from the use of fossil fuels to renewable energy sources, BESS serve as an important means for enabling that energy to be used by consumers. Energy storage is a crucial factor in the utilization of renewable sources, as fluctuations in energy creation from these sources necessitate a means to balance electricity generation against usage throughout the day. For instance, BESS units can be used to store solar power gathered during the daytime for later use at night. As such, BESS technologies are important as the State and County works towards reducing carbon emissions and the use of fossil fuels for energy creation, while supplying enough electricity to avoid supply disruptions.

By prohibiting BESS systems within the Town, direct adverse impacts would affect energy resources and facilities, as the transmission of electricity from renewable sources would be hindered within the Town and possibly neighboring municipalities. The more that power generation from renewable sources is hindered, the longer it will take to transition away from fossil fuels, and the associated effects of pollution, environmental degradation, and climate change will be extended.

While we understand that there are important questions in regards to fire safety, BESS systems have been recognized as a means of land utilization that bolsters the energy supply and facilitates green sources, while also allowing landowners to utilize areas of their property that might not be suitable for an occupiable building, but is nevertheless practical for BESS development. We note that the State is currently updating the Fire Code in order to create enhanced safety standards for BESS facilities. As such, some municipalities in Westchester have passed limited moratoriums on the development of

BESS projects, awaiting the outcome of the Fire Code amendments. We understand that Yorktown has been under a BESS moratorium, and recommend the Town consider extending the moratorium until State safety guidance is released, as opposed to the permanent prohibition of BESS installation.

Finally, please note that the County Board of Legislators has passed a new notification law that would require municipalities to notify the County Department of Emergency Services of any new BESS installations, to account for the locations of these systems should shared emergency services be needed. Further information regarding compliance with this law will be sent to municipalities.

Please inform us of the Town's decision so that we can make it a part of the record.

Thank you for calling this matter to our attention.

Respectfully,
WESTCHESTER COUNTY PLANNING BOARD

A handwritten signature in black ink, appearing to read "Bernard Thombs".

Bernard Thombs
Chair, Westchester County Planning Board

BT/mv

cc:

WHEREAS, the Town Board conducted a public hearing on the proposed local law amending Town Code § 300-81.5, entitled "Battery Energy Storage Systems";

WHEREAS, in accordance with the NYSEQRA the Town Board must make a decision regarding the environmental impact of such proposed action;

WHEREAS, the Town Board is the only agency required to approve the proposed action;

WHEREAS, an environmental assessment form has been prepared for the proposed action;

WHEREAS, the Town Board has analyzed all of the potential environmental aspects of the proposed action;

REOLVED, based on a review of the proposed action and the information obtained at the public hearing and the environmental assessment form, the proposed action will not have significant environmental impact;

BE IT FURTHER RESOLVED, that the Town Board hereby adopts the attached negative declaration.

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that The Town of Yorktown will hold a public hearing to allow comments on revisions to the Section 8 administrative plan.

A copy of the proposed revisions to comply with updated HUD requirements can be found on the Town's website at <https://www.yorktownny.gov/section8/proposed-administrative-plan-housing-choice-voucher-program>. The revisions may also be inspected on computers available at the Hart Library during regular business hours.

The public hearing has been placed on the agenda and will be held during the regular scheduled Town Board Meeting on **June 10, 2025** in the Town Board Room, Yorktown Town Hall, located at 363 Underhill Avenue, Yorktown Heights, NY 10598. At that time, the Town Board will consider all comments.

The public comment period begins on Sunday, April 27, 2025 and ends on Tuesday, June 10, 2025. All written public comments may be directed by mail to Sandrine Nseng, Section 8-HCV Program Director, at Yorktown Section 8, 363 Underhill Ave, PO Box 703, Yorktown Heights, NY 10598, or emailed to sec8adminplan@yorktownny.gov. To be considered, all written comments must be received no later than 4:00 p.m. on Tuesday, June 10, 2025.

The Town of Yorktown is committed to equal housing opportunity. The Yorktown Section 8 housing voucher program does not discriminate on the basis of race, color, national origin, religion, creed, disability, familial status, sex, marital status, age, military status, sexual orientation, citizenship or alienage status, or against victims of domestic violence, sexual assault, dating violence, stalking or sex trafficking.

PUBLIC NOTICE

NOTICE IS HERE GIVEN that a public hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York on Tuesday, May 20, 2025 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York at 7:30 o'clock PM, or as soon thereafter as the same can be heard, to consider a proposed local law to amend Chapter 300-81.4 entitled "Solar Power Generation Systems and Facilities"

A copy of the proposed local law is on file in the Office of the Town Clerk at the said Town Hall, where the same may be inspected during regular office hours. It can also be viewed at www.yorktownny.org under Town Clerk/Pending Legislation.

All persons in interest and citizens may be heard at the public hearing as aforesaid.

DIANA L. QUAST, TOWN CLERK
MASTER MUNICIPAL CLERK
YORKTOWN TOWN CLERK

A LOCAL LAW to amend Chapter 300 of the Code
of the Town of Yorktown entitled "ZONING"

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

Section I. Statement of Authority.

This local law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Yorktown and the general police power vested with the Town of Yorktown to promote the health, safety and welfare of all residents and property owners in the Town.

Section II. Chapter 300 of the Code of the Town of Yorktown entitled "ZONING" is hereby amended in its entirety by replacing section 300-81.4 entitled "Solar power generation systems and facilities" with the following:

§ 300-81.4. Solar power generation systems and facilities.

A. Statutory authority and jurisdiction.

- (1) This section is hereby enacted pursuant to the provision of § 10 of the Municipal Home Rule Law and §§ 261 and 263 of the Town Law of the State of New York, which authorize the Town of Yorktown to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor."
- (2) The authority to issue special use permits pursuant to this section is hereby delegated to the Planning Board.
- (3) References herein to zoning districts in the Town of Yorktown are references to such districts as described in this Chapter 300 of the Code of the Town of Yorktown.

B. Statement of purpose and intent.

- (1) Solar energy is an abundant and nonpolluting energy resource that reduces fossil fuel emissions, reduces dependence on the electrical power grid that generates power from nonrenewable and nuclear sources of fuel, reduces impacts to residential and commercial property resulting from power interruptions resulting from man-made or natural events, and reduces the Town's energy load.
- (2) The use of solar energy to provide electrical power for the needs of the Town's residents and businesses is consistent with the Town of Yorktown's commitment to green infrastructure and practices, and consistent with its goal of promoting long-term sustainability.
- (3) This section is intended to regulate solar energy systems and the requisite provision of, and access to, adequate sunlight; to mitigate the potential impacts to neighboring properties, while promoting the use of solar energy systems in commercial and industrial districts, in accordance with applicable laws and regulations.
- (4) This section is adopted to advance and protect the public health, safety, and welfare of

the Town of Yorktown, including:

- (a) Taking advantage of a safe, abundant, and nonpolluting energy resource;
- (b) Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and
- (c) Increasing employment and business development in the region by furthering the installation of solar energy systems;
- (d) Decreasing the use of fossil fuels, which reduces the carbon footprint of the Town, aids in energy independence of the Town and nation, and reduces polluting greenhouse gas emissions;
- (e) Increasing resiliency of the energy grid during storm events and times of peak energy demand.

- (5) The Town values its open space, naturalized areas, and rural character. Maintaining high environmental quality and values are a mainstay of the Town's efforts in its guidance and regulation of development in the Town. As such, the Town, in guiding the development of solar installations, will prioritize their placement on commercial properties over roofs and parking areas.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

ABACA — An acronym that refers to the Advisory Board on Architecture and Community Appearance.

ACCESSORY USE — A use which is customarily incidental and subordinate to the principal use of a lot, water area or a building and located on the same lot or water area therewith.

ALTERNATING CURRENT (AC) — An electric current that reverses direction at regular intervals, having a magnitude that varies continuously in sinusoidal manner.

BUFFER, BUFFERING --- methods such as landscape vegetation, fencing, earth berms and any other materials or methods used to enhance the visual quality of a view or viewshed.

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM — A combination of photovoltaic building components integrated into any building envelope system, such as vertical facades, including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

DIRECT CURRENT (DC) — An electric current of constant direction, having a magnitude that does not vary or varies only slightly.

GROUND-MOUNTED SOLAR ENERGY SYSTEM — A solar energy system that is anchored to the ground or supported on a foundation, and attached to a pole, column, or other mounting system, and detached from any other structure for the primary purpose of producing electricity for on-site or off-site consumption.

KILOWATT (kW) — A unit of electrical power equal to 1,000 watts, which constitutes the basic unit of electrical demand. A watt is a metric measurement of power (not energy) and is the rate (not the duration) at which electricity is used. One thousand kW is equal to one megawatt (MW).

KILOWATT-HOUR (kWh) — A unit of energy equivalent to one kilowatt (kW) of power expended for one hour of time.

LARGE-SCALE SOLAR ENERGY SYSTEM — A solar energy system that exceeds 25 kilowatts (kW) DC as rated by its nameplate capacity. The maximum system capacity and the maximum area of land upon which the system shall be erected are as follows:

- (1) Up to one megawatt AC on an area of land no larger than 10 acres, excluding any easement for accessing the parcel; or over one but not to exceed five megawatt AC on an area of land no larger than 20 acres, excluding any easement for accessing the parcel.

LOT COVERAGE — That percentage of the lot area covered by the combined area of all buildings or structures on the lot.

MAIN USE — A term used for purposes of this Chapter 300, Zoning, as denoting a set of specific uses of land for which each zone has as its intended primary permitted uses.

MEGAWATT (MW) — Equal to 1,000 kilowatts; a measure of the use of electrical power.

MEGAWATT-HOUR (MWh) — A unit of energy equivalent to one megawatt (MW) of power expended for one hour of time.

PRINCIPAL USE — The main use conducted on a lot, dominant in area, extent or purpose to other uses which may also be on the lot.

ROOF-MOUNTED SOLAR ENERGY SYSTEM — A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for on-site or off-site consumption.

SMALL-SCALE SOLAR ENERGY SYSTEM — A solar energy system that does not exceed more than 25 kW DC as rated by its nameplate capacity, and serves only the buildings or structures on the lot upon which the system is located. Nothing contained in this provision shall be construed to prohibit the sale of excess power through a net billing or net metering arrangement made in accordance with New York Public Service Law (§ 66-j) or similar state or federal statute.

SCREEN, SCREENING --- Measures such as landscape vegetation, fencing, earth berms and any other materials or methods used to reduce or eliminate the ability to view or see solar panels and their supporting structures, accessory or supporting equipment.

SOLAR ACCESS — Space open to the sun and substantially clear of overhangs or shade, including the orientation of streets and lots to the sun so as to permit the use of a solar energy system on individual properties.

SOLAR ENERGY EQUIPMENT — Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

SOLAR ENERGY SYSTEM — An electrical generating system composed of a combination of both solar panels and solar energy equipment.

SOLAR PANEL — A photovoltaic device capable of collecting and converting solar energy into electrical energy and is normally attached to a building by mechanical means and is readily removable and replaceable or ground-mounted utilizing structural components.

SOLAR POWER GENERATION SYSTEMS — See "solar energy system" definition.

D. Applicability.

- (1) The requirements of this section shall apply to all solar energy systems and equipment installed or modified after the effective date of this section, excluding general

maintenance and repair and building-integrated photovoltaic systems.

- E. Roof-mounted small-scale solar energy systems installed on single- and two-family residential properties are subject to compliance with this chapter under authority of the Building Inspector, and do not require review and approval from the Planning Board. Roof-mounted solar energy systems mounted facing front yards or any yard facing the street must be referred to the ABACA for review and recommendation. The Building Inspector may refer the application and associated materials to the Planning Board for review and recommendation. Solar as an accessory use or structure.

(1) Small-scale solar energy systems are permitted through the issuance of a special use permit within all zoning districts, subject to the requirements set forth in this section, including site plan approval. Applications for the installation of a small-scale solar energy system shall be reviewed by the Planning Department and referred, with comments, to the Planning Board for its review and action, which can include approval, approval with conditions, and denial, unless otherwise cited by Subsection D(2) of this section. Where a solar energy system will require a tree removal permit, the application shall be referred to the Tree Conservation Advisory Commission.

(2) Roof-mounted solar energy systems.

- (a) Roof-mounted solar energy systems that use the electricity on site or off site are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
- (b) Height. Solar energy systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
- (c) Aesthetics. Roof-mounted solar energy system installations shall incorporate, when feasible, the following design requirements:

[1] Panels installed on pitched roofs and facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system. Panels installed on flat roofs must be installed so that they are not visible or suitably screened.

(3) Ground-mounted solar energy systems.

- (a) Ground-mounted solar energy systems that use the electricity primarily on site are permitted as accessory structures in all zoning districts.
- (b) Setback and height. Ground-mounted solar energy systems shall adhere to the setback requirements of the underlying zoning district but shall not be less than 30 feet in the R2, R1-10, R1-20, and R1-40 and 50 feet in all other residential zones. Solar panels shall not exceed 10 feet in height in residential zones and 20 feet in height in all other zones.
- (c) The surface area covered by ground-mounted solar panels shall be included in total lot coverage and shall not exceed 50% of the area of the lot, inclusive of all principal and accessory structures on the lot, as required by the underlying zone. The Planning Board, in its discretion, may increase the allowable lot coverage, if the applicant can demonstrate that there are no adverse impacts to the surrounding neighbors and community character.

- (d) All such systems in residential districts shall be installed on properties that are a minimum of two acres in size or more and shall be installed in the side or rear yards.
- (e) Landscape screening and buffering shall be required. A ground-mounted solar energy system shall be screened from adjacent residential properties, streets or roads on which it fronts or is visible from, and any other views which the Planning Board determines is necessary.

F. Approval standards for large-scale solar systems as a main use permitted by special permit.

- (1) Large-scale solar energy systems are prohibited in residential districts, but permitted through the issuance of a special use permit within all other zoning districts, subject to the requirements set forth in this section, including site plan approval. Large-scale solar energy systems are not permitted as a sole, principal use on properties within nonresidential zones. Applications for the installation of a large-scale solar energy system shall be submitted to the Planning Board for its review and action, which can include approval, approval with conditions, and denial. Where a solar energy system will require a tree removal permit, the application shall be referred to the Tree Conservation Advisory Commission. Notwithstanding the prohibition of Large-scale solar energy systems in residential districts, any Large-scale solar energy systems existing within the Town as of January 1, 2025 ("Existing Large-scale solar energy system") shall be considered a legal non-conforming use, and shall be governed by the provisions set forth herein.
- (2) Special use permit application requirements. For a special permit application, the requirements of § 195-40 shall be met unless otherwise waived by the Planning Board, and as supplemented by the following provisions.
 - (a) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
 - (b) Site plans, survey and other documentation required by the Planning Board showing the layout of the solar energy system signed by a professional engineer or registered architect shall be required.
 - (c) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
 - (d) Property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
 - (e) A statement detailing the loss of trees and other vegetation to be removed and the quantity of carbon sequestered by said trees and vegetation using the "Method for Calculating Carbon Sequestration by Trees in Urban and Suburban Settings" of the U.S. Department of Energy, or other recognized methodology and a comparison of this data to the reduction of carbon emissions representative of the electrical output of the proposed facility that would have been produced from a traditional fossil fuel electrical generation plant.
- (3) Special use permit standards.

- (a) Height and setback. Large-scale solar energy systems shall adhere to the setback requirements of the underlying zoning district, except that the Planning Board may impose greater setbacks if it determines that the minimum setbacks do not provide adequate protection against identified negative impacts. Screening pursuant to paragraph (g) shall not be required to comply with setbacks requirements. The height of ground-mounted systems shall be 20 feet in all zones. Roof-mounted systems shall be limited to the height requirements of the underlying zone except that panels installed on flat roofs must be installed so that they are not visible or are suitably screened.
- (b) Lot size. Large-scale energy systems in nonresidential zones shall comply with the requirement in the underlying zone.
- (c) Lot coverage. A large-scale solar energy system that is ground-mounted shall not exceed 50% of the lot on which it is installed. The surface area covered by solar panels shall be included in total lot coverage. Where a solar energy system is not the principal use of the site, the lot coverage may exceed that of the underlying zone, but in no case shall exceed 50%, including all principal and accessory structures on the lot as required by the underlying zone.
- (d) All ground-mounted large-scale energy systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Planning Board. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts. Fencing for ground-mounted systems that function as canopies or carports above parking areas may not be required, provided that the Planning Board determines the visual and aesthetic impacts to the surrounding area is not significantly adversely affected.
- (e) Any application under this section shall meet any substantive provisions contained in site plan requirements in the Chapter 195 of the Town Code entitled "Land Development" and Chapter 300 of the Town Code entitled "Zoning" that, in the judgment of the Planning Board, are applicable to the system being proposed. The Planning Board may waive one or more of the requirements therein.
- (f) The Planning Board may impose conditions on its approval of any special use permit under this section in order to enforce the standards referred to in this section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).
- (g) Screening and buffering shall be required. A landscape plan shall be submitted and approved by the Planning Board. Large-scale solar energy systems shall be screened from residential structures on adjacent properties, streets or roads on which it fronts or is visible from, and any other views, which the Planning Board determines is necessary. Where grade differential from adjacent residential properties is of such magnitude that nullifies the effectiveness of screening and buffering measures, the Planning Board shall only be required to minimize the views of the solar facility to the greatest extent reasonably practicable. Views from adjacent commercial properties shall be minimized to the extent reasonably practicable and screened from streets or roads to the extent reasonably practicable on which it fronts. Screening and buffering of systems that function as canopies or

carports above parking areas may not be required, provided that the Planning Board determines the visual and aesthetic impacts to the surrounding area is not significantly adversely affected. Screening and buffering may be accomplished using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area. Native pollinator (birds, bats, bees, and multiple species of insects) habitats may be required to be established on a solar energy system where appropriate. Such habitats may consist of short-growing, low-maintenance, native seed mix underneath and around panels, diverse pollinator seed mix in between panels, buffers of vegetation that attract and benefit pollinators, and native flowering plants and grasses

- (h) Mitigation for tree loss under Chapter 270, when required, will be developed to mitigate for the carbon sequestration ability of the removed trees to the greatest extent practicable.
- (i) The owner, operator or manager of any large-scale solar power generation system shall be required to conduct annual inspections of the site's approved landscaping, screening, buffering, and any other required vegetative plantings or structures required under the approval. The inspection shall ascertain the health, effectiveness, condition and viability of such landscaping, screening, buffering, and any other required vegetative plantings or structures. The findings of each annual inspection shall be reported to the Town Engineer as a written report with photographs where necessary. Any dead or diseased vegetative material or any other deficiencies shall be promptly replaced or repaired by the site owner, operator, or manager. If such diseased, dead or deficient material is not promptly replaced or repaired to the satisfaction of the Town Engineer, the Town Engineer shall exercise enforcement action pursuant to § 300-199, Screening, drainage facilities and buffer strips.
- (j) For large-scale solar energy systems proposed to be installed on protected woodlands, the applicant shall provide an in-depth analysis of the functions of the woodlands to include, as appropriate, the items listed in § 270-3.

G. Abandonment and decommissioning.

- (1) All applications for a solar farm shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility, prior to issuance of a building permit. The Planning Board shall require the applicant to file a decommissioning bond prior to the issuance of any permits in an amount sufficient to cover the cost of decommissioning.
- (2) If the applicant begins but does not complete construction of the project within 18 months after receiving final site plan approval, this may be deemed abandonment of the project and require implementation of the decommissioning plan to the extent applicable.
- (3) The decommissioning plan must ensure that the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:
 - (a) A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a professional engineer or contractor. Cost estimations shall

take into account inflation.

- (b) Removal of aboveground and below-ground equipment, structures and foundations.
 - (c) Restoration of the surface grade and soil after removal of equipment.
 - (d) Revegetation of restored soil areas with native seed mixes, excluding any invasive species. The Planning Board may require restoration of former forested areas using native species formerly on the site, and at a rate that will ensure the survival and maturation of the forest.
 - (e) The plan shall include a timeframe for the completion of site restoration work.
- (4) Solar energy systems are deemed abandoned after one year without electrical energy generation and must be removed from the property. Applications for extensions are reviewed by the Planning Board and may be extended for a period of one year. The maximum number of extensions is five. At the expiration of the system, it must be decommissioned.
- (5) If the large scale solar energy system is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover the costs to the municipality.
- H. Enforcement. Any violation of this Solar Energy Law shall be subject to the same civil and criminal penalties provided for in Chapter 300, Zoning, of the Code of Town of Yorktown.
- I. Payments in lieu of taxes. To the extent any real property with a solar energy system authorized hereunder is exempt from taxation to the extent of any increase in the assessed value thereof by reason of the inclusion of such solar energy system under New York Real Property Tax Law § 487, the property owner shall be required to enter a contract with the Town for payments in lieu of taxes ("PILOT"), as set forth in NY RPTL § 487(9). The amount of such PILOT shall be set by the Town Board, upon recommendation of the Town Assessor. Said recommendation shall be based upon industry-recognized standards [e.g., the New York State Energy Research and Development Authority (NYSERDA) PILOT calculators]. Under NY RPTL § 487, solar energy systems are not exempt from special district ad valorem taxes, which will be the responsibility of the property owner in addition to any PILOT payments.
- J. Lock box. All large-scale solar energy systems shall maintain an emergency key box on site to provide for emergency access to the system and to provide for the storage of vital system information.
- K. Compliance with all laws. Solar energy systems shall comply with all applicable laws, including, as applicable, the Fire Code of the State of New York.

Section III. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section IV. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed to the extent of such inconsistency.

Section V. Effective Date.

This local law shall become effective upon filing in the office of the Secretary of State in accordance with the provisions of the Municipal Home Rule Law.

13. RESOLUTIONS

From the Engineering Department

Authorize Supervisor to sign an agreement with Underhill Soundview, LLC for the Route 118 & Underhill Avenue Intersection Improvement project

RESOLVED, that the Supervisor is authorized to sign an agreement with Underhill Soundview, LLC for funding a portion of the Route 118 – Underhill Avenue intersection Project.

Award Bid for the Route 118 & Underhill Avenue Intersection Improvement Project

WHEREAS, THE Town advertised for bids for the Route 118 & Underhill Avenue Intersection Improvement Project, with Alternative R2, and Alternative R3 and the bid amounts are as follows:

<u>Bidder</u>	<u>Base Bid</u>	<u>Alt. R2</u>	<u>Alt. R3</u>	<u>Total</u>
Abbott & Price Inc. 5 Schuman Road Millwood, NY 10546	\$996,120.00	\$46,241.00	\$10,860.00	\$1,053,221.00
Scape-Tech Landscape Technology, Inc. 19 Sunderland Lane Katonah, NY 10536	\$1,049,789.	\$30,774.00	\$13,790.00	\$1,094,353.00
Morano Brothers, Corp. 2045 Albany Post Road Croton, NY 10520	\$1,108,726.	\$43,347.00	\$12,300.00	\$1,164,373.00
Paleen Construction Corp. Mill Pond Offices, Ste. 208 Somers, NY 10589	\$1,284,294.70	\$49,230.00	\$12,990.00	\$1,346,514.70
Paladino Concrete Creations, Corp. 315 N. Mac Questen Pkwy Mount Vernon, NY 10550	\$1,171,424.20	\$48,591.50	\$30,900.00	\$1,250,915.70
Montesano 76 Plain Avenue New Rochelle, NY 10801	\$1,747,055.	\$55,014.00	\$36,900.00	\$1,838,969.00
R. Pugni and Sons, Inc. 25 Bedell Road Katonah, NY 10536	\$1,981,312.	\$73,480.00	\$41,000.00	\$2,095,792.00

NOW, THEREFORE BE IT RESOLVED, that the Route 118 & Underhill Avenue Intersection Improvement Project base with Alt. R2 and R3 is hereby awarded to the low bidder, Abbott & Price, Inc. for a total price of \$1,053,221.00.

Award Bid for the Route 118 & Underhill Avenue Traffic Signal Installation Project

WHEREAS, the Town advertised for bids for the Route 118 – Underhill Avenue Traffic Signal Installation Project and the bid amounts received are summarized as follows:

<u>Bidder</u>	<u>Base Bid</u>	<u>Alt S1</u>
Verde Electric Maintenance Corp. 89 Edison Avenue Mount Vernon, NY 10550	\$315,526.00	\$69,160.00
Power Line Constructors, Inc. 24 Robinson Road, PO Box 385 Clinton, NY 13323	\$349,248.80	\$56,888.51

NOW, THEREFORE BE IT RESOLVED, that the Route 118 & Underhill Avenue Intersection Improvement Project traffic signal base bid hereby awarded to the low bidder, Verde Electric for a total price of \$315,526.80.

From the Finance Department

Authorize Comptroller to process the following budget transfer for the Engineering Department

Be It Resolved, the Comptroller is authorized to process the following budget transfer to fund from revenue collected by Unicorn Contracting on October 30, 2024 for the Rt 118 & Underhill Avenue Intersection Project:

From:A.1002 General Fund - Fund Balance \$551,166.03

To:JI.5110.490 Underhill Ave & Rt 118 Intersection Imp. Prof. Svcs \$551,166.03

Be It Resolved, the Comptroller is authorized to process the following budget transfer to fund the town share of the Rt 118 & Underhill Avenue Intersection Project:

From:A.1002 General Fund - Fund Balance \$ 543,032.44

To:JI.5110.1 Underhill Ave & Rt 118 Intersection Imp. \$ 543,032.44

for the payments to Verde Electric and Abbott & Price in regards to the intersection of Underhill Avenue & Rt 118.

Authorize Comptroller to release Erosion Control Bond to WM1, LLC in the amount of \$500.00

WHEREAS, Wilson Campoverde - WM1, LLC as applicant, posted check #516 in the amount of \$500, which was deposited to the T33 account on February 20, 2024, to serve as the Erosion Control Bond, and

WHEREAS, the applicant has requested their money be released as the project is complete, and

WHEREAS, the Town Engineer has informed this Board that the monies may be released,

NOW, THEREFORE BE IT RESOLVED, that the above referenced monies totaling \$500 be released to WM1, LLC, 1500 Christine Road, Mohegan Lake, NY 10547, Attn: Wilson Campoverde.

From the Highway Department

Authorize Comptroller to pay Revan Design for Professional Services rendered to the Highway Department

RESOLVED, that upon the request of the Superintendent of Highways, the payment to Revan Design for Professional Services rendered to the Highway Department in the amount of \$3,400.00 be paid from Hwy line D5130.425.

Extend "MILLING" Section of Bid for Asphaltic Laid In-Place to Intercounty Paving Company

WHEREAS, invitation to bid for the Asphaltic Concrete Laid In-Place for the Town of Yorktown was duly advertised; and

WHEREAS, said bids were received and opened on June 9, 2022; now

RESOLVED, that upon recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Asphaltic Concrete Laid In-Place for the Town of Yorktown be and is hereby extended for one year, per the terms of the Bid to Kect Construction Corporation, PO Box 201, Patterson, NY 12563; now

BE IT FURTHER RESOLVED, that upon the recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Asphaltic Laid In-Place "MILLING" Section of the Bid be and is hereby extended to Intercounty Paving Company, Inc., PO Box 360, Carmel, NY 10512; now

BE IT FURTHER RESOLVED, the dates of the extension will be August 1, 2025 to July 31st, 2026.

From the Parks and Recreation Department

Authorize Supervisor to execute a lease agreement with St. Patrick's Church, to provide facilities for a half day summer camp program

Whereas, the Town wishes to obtain space for a period of five (5) weeks in which to operate a Half day summer camp program under the Department of Parks and Recreation;

Now, Therefore Be It Resolved, that the Supervisor is authorized to execute a lease agreement on behalf of the Town, as tenant, with St. Patrick's Church, landlord, at 137 Moseman Road, Yorktown Heights, NY, from June 30th, 2025 through August 1st, 2025, at a rent of \$3,000.00, to provide facilities for the Parks and Recreation Department's half day summer camp program.

Authorize Supervisor to execute an agreement with Weston & Sampson in an amount not to exceed \$5,000.00 for Engineering Services, to updated and complete the Junior Lake Aquatic Facilities Sodium Hypochlorite Tanks Spill Prevention Report

Be It Resolved, As recommended by the Superintendent of Parks and Recreation, that the Town Supervisor is authorized to execute an agreement with Weston & Sampson in an amount not to exceed \$5,000.00 for Engineering Services, to updated and complete the Junior Lake Aquatic Facilities Sodium Hypochlorite Tanks Spill Prevention Report. Payment for the service shall be charged to 7180.0453 Beach & Pool Facilities – Pool Maintenance.

From the Police Department

Approve overnight stay for a member of the Police Department to attend the Sig Sauer sponsored Pistol Mounted Optics Instructor course in Hampton, NH

RESOLVED, that a member of the Yorktown Police Department is approved for an overnight stay on April 8, 9 & 10, 2025 to attend the Sig Sauer sponsored Pistol Mounted Optics Instructor course in Hampton, New Hampshire. Lodging fee and Instructor course to be paid.

From the Town Attorney

Adopt Amendment to Procurement Policy

RESOLVED, the Town Board acknowledges that its procurement policy is subject to and incorporates applicable New York State and local requirements, and applies to housing choice voucher administrative funds, and hereby adopts the attached policy.

**MUNICIPAL INFRASTRUCTURE PAYMENT
AGREEMENT
TOWN OF YORKTOWN & UNDERHILL SOUNDVIEW
LLC**

THIS MUNICIPAL INFRASTRUCTURE PAYMENT AGREEMENT ("Agreement") entered into this ____ day of April, 2025, by and between the Town of Yorktown ("Town") and Underhill Soundview, LLC ("Underhill LLC" and together, both referred to as "Parties") sets forth the terms of the Route 118 and Underhill Avenue Intersection Improvements ("Intersection Improvements"):

WHEREAS, the Intersection Improvements were subjected to a public works bidding process, and bid proposals were received by the Town;

WHEREAS, the Intersection Improvements include the specific work set forth in the Base Bid (General Contractor) at a cost of \$996,120.00, Base Bid (Traffic Signal) at a cost of \$315,526.00, and the R1-R6 and S1 Alternatives at various costs ("Bid Work");

Now, therefore, it is hereby agreed to among the parties as follows:

1. REVISED IMPROVEMENT PLAN OF THE IMPROVEMENTS TO THE INTERSECTION:

Intersection Improvements shall be undertaken as follows:

- a. Base Bid (General Contractor), Base Bid (Traffic Signal), and the R2, R3, R5 and S1 Alternatives shall be pursued through the public bidding process. Notwithstanding, subject to all necessary approvals: (1) the contemplated improvements set forth in Bid Alternate S1 will not be considered Bid Work, if the N.Y.S. D.O.T. approves said modification; and (2) the contemplated improvements to the pedestrian crossings in Bid Alternate R5 will not be considered Bid Work and shall be reduced from four to two crossings, if the N.Y.S. D.O.T. approves said modification.

2. REVISED TOWN IMPROVEMENT OBLIGATIONS:

the Town shall undertake the following work related to the Improvements:

- a. Inspection of roadwork and improvements: the Town, through its Department of Engineering and at its own

expense, shall be responsible for conducting all inspections of the roadwork and improvements, including but not limited to issuing the required permits and reports.

3. DEVELOPER IMPROVEMENT OBLIGATIONS

- a. Underhill LLC will perform, at its sole cost and expense, the scope of work associated with Bid Alternates R1.

4. FUNDING OBLIGATIONS: The Parties agree to fund the Intersection Improvements as follows:

- b. The Town shall contribute no more than \$543,032.44 toward the total cost associated with the Intersection Improvements, including design costs.
- c. Underhill LLC shall fund the remaining cost of the Intersection Improvements, including the Bid Work (*i.e.*, total cost of Intersection Improvements (including design) - \$543,032.44).
- d. Underhill LLC agrees to indemnify the Town against all costs incurred in the event the N.Y.S. D.O.T. fails to approve the revised improved schedule as described in this Agreement.
- e. The Town is pursuing a N.Y.S. grant through the office of N.Y. Senator Peter Harkham, which it shall use all reasonable efforts to procure as a means of reimbursing Underhill LLC up to \$75,000.00 of its contribution to the Intersection Improvements (unless already reimbursed under paragraph 5(a)). In the event that the grant is procured and exceeds \$75,000, any additional grant award up to \$200,000 will be split evenly among the parties to offset their contributions to the Infrastructure Improvements.

5. CREDIT AND OVERAGES:

- a. In the event that a reduced construction cost lowers the expense of the Base Bid (General Contractor) or Base Bid (Traffic Signal) line items below the amounts quoted in the bid documents, said benefit shall apply in the following order: (1) to the first \$75,000 of Underhill LLC funding commitment, unless already reimbursed under grant or similar funding as set forth in paragraph 4(b); and then (2) proportionately to the Town and Underhill LLC, in accordance with their respective financial contributions to the Intersection Improvements.
- b. Overages: If the cost of the Intersection Improvements

exceeds the amounts set forth in the Bid proposals or otherwise, Underhill LLC shall be solely responsible for the payment of such excess costs.

6. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties hereto with respect to the matters herein and supersedes any and all prior agreements, whether oral or written, concerning such matters. If one or more of the provisions in this Agreement are deemed by a Court of competent jurisdiction to be void by law, then the remaining provisions will continue in full force and effect. This Agreement may not be amended or modified except by an instrument in writing signed by all Parties. There will be no presumption against any Party (or its counsel) on the ground that such Party (or its counsel) was responsible for preparing this Agreement or any part of it.

7. REQUIRED PROVISIONS OF LAW

Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any required contractual provision is not inserted, through mistake or otherwise, then upon the application of either party, this Contract shall be physically amended forthwith to make such insertion.

8. CHOICE OF LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of New York without giving effect to that State's choice of law rules. The Parties hereby submit to the exclusive jurisdiction of the Supreme Court of the State of New York, County of Westchester, in any action or proceeding arising out of or relating to this Agreement.

9. BINDING EFFECT

This Agreement shall be binding upon the parties and their respective legal representatives, successors, and assigns. This agreement is subject to the approval of the Town Board of the Town of Yorktown.

10. MISCELLANEOUS

In the event of any dispute with regard to this Agreement, the

prevailing party shall be entitled to receive from the non-prevailing party and the non-prevailing party shall pay upon demand all reasonable fees and expenses of counsel for the prevailing party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

TOWN OF YORKTOWN

UNDERHILL LLC

By: _____

By: _____

Edward A. Lachterman, Town Supervisor Paul F. Guillaro, President

Approved as to Form

Adam Rodriguez, Esq.
Town Attorney

NOTICE TO BIDDERS
MOHEGAN LAKE BATHROOM REHABILITATION

NOTICE IS HERE GIVEN that sealed bids will be received by the Town Clerk, Town of Yorktown, Westchester County, NY until 10:00 A.M. on Friday, May 30, 2025 at Town Hall, 363 Underhill Avenue, Yorktown Heights, NY 10598 for the Mohegan Lake Bathroom Rehabilitation Project.

Specifications for the bid may be obtained at the office of the Town of Yorktown Town Clerk located at 363 Underhill Avenue, Yorktown Heights, NY 10598, as well as the Town's website, www.yorktownny.gov, or on BidNet Direct, www.bidnetdirect.com. Proposals should be submitted in a sealed envelope designated "Bid: Mohegan Lake Bathroom Rehabilitation."

The bidder assumes the risk of any delay in the mail or in the handling of mail by the employees of the Town of Yorktown. Whether sent by mail or means of personal delivery, the bidder assumes the responsibility for having bids in on the time and the place specified above. If mailed, sealed proposals must be addressed in care of the Town Clerk at the above address.

The Town of Yorktown reserves the right to waive any informalities in the bids, to reject any or all bids and reserves the right to accept that bid which it deems most favorable to the interests of the Town of Yorktown. No bidder may withdraw his bid within sixty (60) days after the actual date of the opening thereof.

DIANA L. QUAST, TOWN CLERK
MASTER MUNICIPAL CLERK
TOWN OF YORKTOWN

Be It Resolved, the Comptroller is authorized to process the following budget transfer to fund from revenue collected by Unicorn Contracting on October 30, 2024 for the Rt 118 & Underhill Avenue Intersection Project:

From:		
A.1002	General Fund - Fund Balance	\$ 551,166.03

To:		
Jl.5110.1	Underhill Ave & Rt 118 Intersection Imp.	\$ 551,166.03

Be It Resolved, the Comptroller is authorized to process the following budget transfer to fund the town share of the Rt 118 & Underhill Avenue Intersection Project:

From:		
A.1002	General Fund - Fund Balance	\$ 543,032.44

To:		
Jl.5110.1	Underhill Ave & Rt 118 Intersection Imp.	\$ 543,032.44

For the payments to Verde Electric and Abbott & Price in regards to the intersection of Underhill Avenue & Rt 118.

TOWN OF YORKTOWN
ENGINEERING DEPARTMENT

Town of Yorktown Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598, Phone (914) 962-5722

MEMORANDUM

TO: Town Board
Town Comptroller

FROM: Daniel Ciarcia, P.E.

DATE: May 1, 2025

RE: Campoverde – #BSWPPP-002-24
Bond Release

The Engineering Department received a bond release request for the subject property. The Engineering Inspector performed a follow-up field visit and confirmed all required work has been completed satisfactorily. Accordingly, we request that the Town Board adopt the following resolution at its next meeting:

WHEREAS, Wilson Campoverde - WM1, LLC as applicant, posted check #516 in the amount of \$500, which was deposited to the T33 account on February 20, 2024, to serve as the Erosion Control Bond, and

WHEREAS, the applicant has requested their money be released as the project is complete, and

WHEREAS, the Town Engineer has informed this Board that the monies may be released, NOW, THEREFORE BE IT

RESOLVED, that the above referenced monies totaling \$500 be released to WM1, LLC, 1500 Christine Road, Mohegan Lake, NY 10547, Attn: Wilson Campoverde.

DAC:lmk:
F:\ENG\TOWN_BOARD\TB.25\04-15-25\campoverde_christine road_bond release.doc

Attachments

YORKTOWN
HIGHWAY
DEPARTMENT

***INTEROFFICE
MEMORANDUM***

TO: *Edward Lachterman, Town Supervisor
Town Board*

FROM: *Dave Paganelli, Supt. of Highways*

CC: *Diana Quast, Town Clerk
Gennelle MacNeil, Town Comptroller
Lorraine Morano, Asst. to Town Supervisor*

DATE: *May 1, 2025*

RE: *Revan Design*

RESOLVED, the Town Supervisor approves payment to Revan Design for Professional Services rendered to the Highway Department in the amount of \$3400.00, to be paid from Hwy line D5130.425.

YORKTOWN
HIGHWAY
DEPARTMENT

**INTEROFFICE
MEMORANDUM**

TO: *Edward Lachterman, Town Supervisor
Town Board*

FROM: *Dave Paganelli, Supt. of Highways*

CC: *Diana Quast, Town Clerk
Gennelle MacNeil, Town Comptroller
Lorraine Morano, Asst. to Town Supervisor*

DATE: *May 2, 2025*

RE: *Asphaltic Concrete Laid In-Place Bid*

I respectfully request the Town Board approve the following Resolution.

WHEREAS, invitation to bid for the Asphaltic Concrete Laid In-Place for the Town of Yorktown was duly advertised; and

WHEREAS, said bids were received and opened on June 9, 2022; now

RESOLVED, that upon recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Asphaltic Concrete Laid In-Place for the Town of Yorktown be and is hereby extended for one year, per the terms of the Bid to Kect Construction Corporation, PO Box 201, Patterson, NY 12563; now

BE IT FURTHER RESOLVED, that upon the recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Asphaltic Laid In-Place "MILLING" Section of the Bid be and is hereby extended to Intercounty Paving Company, Inc., PO Box 360, Carmel, NY 10512; now

BE IT FURTHER RESOLVED, the dates of the extension will be August 1, 2025 to July 31st, 2026.

FACILITIES USE AGREEMENT

This Facilities Use Agreement is made this 30th day of April, 2025 between St. Patrick's Church ("Licensor") a New York religious corporation, located at 137 Moseman Road, Yorktown Heights, New York and Town of Yorktown ("Licensee"), with offices at 363 Underhill Avenue, Yorktown Heights, New York 10598 (the "Agreement").

WHEREAS, Licensee desires to use the Family Education Building at St. Patrick's Church (the "Licensed Space") for the limited purpose of operating a summer camp for elementary school aged children as set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and as illustrated on Exhibit A, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. License; Term

- A. In consideration of the licensing fees and charges noted below payable by Licensee to Licensor as set forth herein, Licensor hereby grants to Licensee a non-transferable license to enter the Family Education Building, located at 137 Moseman Road, Yorktown Heights, New York and use the Licensed Space described in Exhibit A attached hereto on the dates and at the times specified:

Dates: June 30, 2025 through August 1, 2025

- B. Licensor warrants and represents that it lawfully owns the Licensed Space, and that said premises may lawfully be used for as a summer camp facility during the term of this License.
- C. Unless earlier terminated by Licensee pursuant to Section 8 hereof, this Agreement shall terminate on August 1, 2025; provided that Licensee's obligation under Sections 4 and 7 shall survive any termination of this Agreement.

2. **Purpose** - Licensee shall use the Licensed Space exclusively for the purpose of a summer camp facility for elementary school aged children. No representations are made by Licensor as to the suitability of the Licensed Space for such purpose. Licensee is an independent contractor and not the agent, partner, or employee of Licensor. Under no circumstances shall this Agreement be deemed to create any partnership or joint venture between the parties.
3. **Safety Mulch** – Licensee agrees to remove the existing safety mulch in the playground of the Licensed Space, and replace with new safety mulch, such mulch provided and paid for by Licensee. Licensor release and discharges

Licensee, and all its officers, employees, agents, attorneys, and members, and their respective heirs, executors, administrators, successors and assigns (collectively the "Releasee") from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty or equity, which against the Releasee, the Licensor, Licensor's heirs, executors, administrators, successors and assigns ever had, now have or hereafter can, shall or may, have for, upon, or by reason of any matter, cause or thing whatsoever arising from any mulching work performed by Licensee at the Licensed Space.

4. **Fees and Charges** - Licensee shall pay Licensor a total license fee of \$3,000.00 (the "Fee") payable on August 1, 2025 and a \$___N/A_____ security deposit payable at least two (2) weeks prior to the date of arrival.
5. **Security** - Licensee is responsible for providing any necessary and appropriate security. Licensee agrees to provide adequate supervision at all times for any minors on the site. Licensor shall have no responsibility for the supervision or control of minors or for security provided. Failure by Licensee to provide adequate supervision or security shall be deemed a material breach.
6. **Prohibited Uses** - Licensee hereby expressly acknowledges that Licensor is related to the Roman Catholic Church and subject to the religious, moral, and ethical principles and directives of the Church and the Archdiocese of New York and that certain activities, if conducted on the premises, might be offensive to those principles and directives. In deference thereto, Licensee agrees that Licensee will not conduct or allow the following types of activities and programs to be conducted on the premises:
 - A. sex education programs or activities;
 - B. family planning and/or birth control programs or activities; or
 - C. programs relating to human sexuality.

Licensee shall not occupy, permit or suffer the premises to be occupied for the purpose of performing any abortions or providing any counseling or advice advocating abortions or placing any signs or advertising promoting abortions on or about the premises.

Licensee recognizes that the value of the premises and the reputation of Licensor will be seriously injured if Licensee uses or allows the premises to be used for any obscene or pornographic purposes or activities. Licensee agrees that Licensor will not permit or conduct any obscene performances on the premises, or use the premises, or permit the premises to be used, for any other obscene or pornographic purpose or activity including, without limitation, the promotion, sale or distribution of obscene or pornographic material of any kind. Licensee agrees

that Licensor shall, for the purposes of this Article, be the sole and absolute judge of the meanings of the terms "obscene", "pornographic" and "obscene or pornographic material."

Licensee further agrees that if at any time Licensee violates any of the provisions of this Section, such violation shall be deemed a breach of a substantial obligation of the terms of this license agreement as to which Licensor shall be entitled to exercise any and all rights reserved to it under this license agreement in the event of a default by Licensee.

7. Licensee Obligations

- A.** Licensee shall not cause harm or damage to any property of Licensor, its guests or invitees, and their respective property, and will promptly restore the Licensed Space to its original condition, normal wear and tear excepted. Licensee shall not disrupt the operations at Licensor's adjacent campsite in any manner whatsoever and will follow the directions of authorized Licensor officials.
- B.** Licensee hereby agrees to defend, hold harmless, indemnify, release and forever discharge the Archdiocese of New York, Timothy Cardinal Dolan, and Licensor, its trustees, directors, officers, agents, employees, students, and their successors and assigns, from and against any and all claims, demands, actions, causes of action, judgments, suits and debts whatsoever including, but not limited to, claims for property damage, personal injury and death, which are related in any manner whatsoever to Licensee's activities excluding claims occasioned by Licensor's negligence. Said indemnity shall include reasonable costs and legal fees incurred by the such organization in defense of any such claims, demands, actions, causes of action, judgments, suits and debts. Licensee further agrees to reimburse Licensor for the costs of restoring, repairing or replacing any damage to Licensor grounds, building, equipment, and any other property arising out of the Licensee's activities.
- C.** Licensee will, at its own expense, procure and maintain the following insurance coverage:

 - i. Comprehensive General Liability Insurance for personal injury (including death) and property damage with a combined single limit of at least \$5,000,000 per occurrence, including Contractual Liability Insurance covering all liability assumed by Licensee under this Agreement;
 - ii. Workers' Compensation as required by New York State law or any other applicable law or laws for all Licensee's employees;
 - iii. If applicable, Commercial Auto Insurance for liability (including owned, non-owned and hired autos), bodily injury and property

damage with a combined single limit of \$5,000,000 each accident;
and

The **Archdiocese of New York, Timothy Cardinal Dolan, and Licensor** shall be additional name insureds. Certificates evidencing insurance shall be delivered to Licensor prior to Licensee's activities and use of the Licensed Space, and shall provide that the policy shall not be terminated, cancelled, or materially altered for any reasons without at least ten (10) days prior written notice thereof to Licensor. Licensee's insurance shall be considered primary to any similar insurance carried by Licensor.

- D. Licensee shall not use or depict in any form or manner Licensor name, the names of any of Licensor buildings, employees or clients or any other readily identifiable characteristic of Licensor without the prior or written permission of Licensor.
- E. Licensee shall comply with all federal, state and local laws, codes, ordinances, rules and regulations applicable to this Agreement and to the Licensee's activities.
- F. Licensee shall be responsible for all federal, state and local taxes, fees and other charges due as a result of Licensee's operation.
- G. Licensee, its agents, participants, and invitees shall not:
 - i. Behave in an unsafe, careless, or negligent manner on the Licensor property or while engaging in Licensee's activities;
 - ii. Overload or cause to be overloaded any wall, floor, ceiling, stage, bandstand, or electric wiring;
 - iii. Cause any act to be done which will or may foreseeably injure or harm any person or persons or which will or foreseeably deface or injure any Licensor property or the property of others;
 - iv. Permit the use of unlawful drugs. There will be NO ALCOHOLIC BEVERAGES OF ANY KIND in the possession of any employee, agent, participant or guest of Licensee;
 - v. Produce any unusual, noxious or objectionable smoke, gases, vapors or odors;
 - vi. Post any signs or advertisements on Licensor's property without the prior written approval of Licensor; or
 - vii. Use Licensor property for any unlawful or unauthorized purposes, or in

any manner that is offensive in the sole judgment of Licensor.

I. [This section has been intentionally deleted.]

J. Licensee hereby waives and releases any and all claims, suits demands, actions, or liabilities of any kind which may at any time arise against the Archdiocese of New York, Timothy Cardinal Dolan, and Licensor, its trustees, directors, officers, agents, and employees related to, or arising from, the use, possession, occupancy, or conduct of operations while using the premises, except claims, suits, demands, actions, or liabilities arising out of the gross negligence or willful misconduct of Licensor, its trustees, directors, officers, agents and employees.

8. **Force Majeure** - Licensor reserves the right to cancel this Agreement if, in the sole discretion of Licensor, events beyond the control of the parties hereto make it impractical to perform this Agreement. Such events shall include, but not limited to, storm, fire, flood, earthquake, damage, or destruction of facilities, labor disputes, war, pandemic, civil commotion, shortages or unavailability of labor or goods, governmental law, ordinance, regulation, order or act. The Licensee expressly agrees to release Licensor from any liability or claim for damages which may result from such cancellation, and agrees to indemnify and hold Licensor harmless from any such liability or claims brought by event participants in regards to such cancellation. In the event of the cancellation of the event pursuant to this Section 8, Licensor agrees to refund all payments made by the Licensee up to the date of notification of cancellation.
9. **Termination** - Licensor reserves the right to terminate this Agreement and the license herein granted to Licensee, without penalty, for breach by the Licensee of any of the terms contained herein, provided that Licensee is given written notice and three (3) days to remedy any alleged violation. Licensor reserves the right to terminate this Agreement immediately for a material breach by Licensee. Licensee shall have the right to terminate this Agreement without penalty by giving thirty days written notice to Licensor.
10. **No Assignment** - Licensee may not assign this Agreement in whole or in part without the prior written consent of Licensor.
11. **Entire Agreement** - This Agreement contains the entire Agreement between the parties concerning the subject matter hereof. Any modifications must be in writing signed by both parties.
12. **Governing Law** - This Agreement shall be governed and construed in accordance with New York Law.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

ST. PATRICK'S CHURCH

LICENSEE

Mgr. Joseph R. Giandurco
Mgr. Joseph R. Giandurco
Pastor
Date: 4/30/2025

By: _____
Title: _____
Date: _____

EXHIBIT A
FACILITIES USE AGREEMENT

The Licensed Space shall consist of the Family Education Center Building, the Gym building and outdoor space including playground on the property of St. Patrick's Church.

Msgr. Joseph Randurco
4/30/2025

April 25, 2025

James J. Martorano, Jr.
Superintendent
Yorktown Parks & Recreation
176 Granite Springs Road
Yorktown Heights, NY 10598

Re: Spill Prevention Report update for the sodium hypochlorite tanks, located at Junior Lake Park Pool.

Dear Mr. Martorano,

In accordance with your request, we propose updating the spill prevention report as part of a task order under the on-call professional service agreement with The Town of Yorktown.

Scope of Work: We will perform the work within two weeks after authorization to proceed by the town. We will conduct a site visit to confirm the measurements of the new construction of the tanks and document what we need to update the spill prevention report.

Fee for Services: The fee for services will be an estimated cost of \$5,000.

The billing will be in accordance with the professional service agreement based on the 2025 billing rates. Should the town find this proposal satisfactory please issue a task order or purchase order in accordance with the on-call agreement.

We will begin the work within five days after being notified to proceed. We will complete the work within two weeks after that.

If you have any questions, please don't hesitate to call me.

Very truly yours,

Weston & Sampson, PE, LS, LA, Architects, PC



Brian Brooker, P.E.
Vice President | Regional Manager

Please sign and return one copy of this Agreement signifying your acceptance of the assignment described herein and the associated terms and conditions.

ACCEPTED BY:

(Title)

(Date)

On-Call Rate Schedule

The following hourly billing rates are effective **January 1, 2025 – December 31, 2025** and will be applied to work performed by the Weston & Sampson team.

Functional Positional Title	2025 Hourly Rates
Principal-in-Charge	\$270-281
Sr. Technical Leader	\$216-249
Sr. Project Manager	\$178-195
Project Manager	\$140-157
Project Engineer / Project Landscape Architect	\$151-162
Engineer II / Landscape Architect II	\$135-157
Engineer I / Landscape Architect I	\$106-130
CAD / GIS Technician	\$113-124
Administrative Coordinator	\$93-110

Note: The rates are subject to a 4% annual rate increase on January 1st of each year.

D R A F T

This is a resolution adopted by the Yorktown Town Board of the Town of Yorktown at its regular meeting held on April 22, 2025.

RESOLVED, that a member of the Yorktown Police Department is approved for an overnight stay on April 8, 9 & 10, 2025 to attend the Sig Sauer sponsored Pistol Mounted Optics Instructor course in Hampton, New Hampshire. Lodging fee and Instructor course to be paid.

Diana L. Quast, Town Clerk
Certified Municipal Clerk

Date: _____

To: Chief Robert Noble

cc: Ed Lachterman, Town Supervisor
Gennelle MacNeil, Town Comptroller
Adam Rodriguez, Town Attorney
Lt. J. Graham, Staff Commander

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please place below reso on agenda for tomorrow.

RESOLVED, the Town Board acknowledges that its procurement policy is subject to and incorporates applicable New York State and local requirements, and applies to housing choice voucher administrative funds, and hereby adopts the attached policy.

TOWN OF YORKTOWN

Procurement Policy 2025

Section I. Overview and Purpose

The purpose and objective of the Procurement Policy is to ensure that the purchases of goods and services are as competitive as possible rendering the greatest value for the Town's taxpayer's dollars.

The Procurement Policy is designed to:

- Simplify, clarify, and streamline the procurement process to ensure that the Departments obtain the necessary supplies, equipment and services for the daily operation of the Town;
- Make the Town's purchasing policies and procedures as consistent as possible;
- Promote prudent spending of Town funds by obtaining maximum value for purchasing dollars spent by ensuring competition;
- Provide guidance, oversight, and problem resolution to the Departments, and ensure compliance with purchasing policies and procedures.

Departmental expenditures should be planned sufficiently in advance to obtain the best price for the goods and services necessary for the efficient operation of the Town. Purchase orders are based on information and specifications listed in the requisition forms. Therefore, the purchase orders need to be clear enough to allow someone with little or no knowledge of the goods or services to place the order accurately. For example, when requesting parts for machines or equipment, a manufacturer and part and/or model number must be stated in the purchase order.

Purchases made with grant money must also follow the procurement policy.

No official or employee shall be interested financially in any contract entered into by the Town. This also precludes acceptance of gratuities, financial or otherwise, from any vendor or supplier of goods and services.

When for reasons of efficiency or economy, there is need for standardization for the purchase of a particular type or kind of equipment, material or supplies, the Town Board may specify specific brands in either the request for written quotes or in the bid specifications depending on the dollar thresholds in Section II, providing that adequate documentation explaining the reasons for the standardization request.

Notably, this procurement policy is subject to and incorporates all applicable state and law laws, and applies to housing choice voucher administrative funds administered by the Town's Section 8 Office.

Section II. Purchasing Procedures

A. General

The dollar amount of the purchase is the basis for determining the correct purchasing procedure. This policy is implemented for purchases of goods and services made on a Town-wide basis and not a department-wide basis. No purchase may be made without a purchase order signed by the Comptroller.

The Comptroller has the right to make alternative suggestions to the Department if, in the judgment of the Comptroller, the specifications would restrict competition, or otherwise preclude the most economical purchase of the required items.

The Department will confirm the accuracy of the vendor price quotes which will be attached to the requisition when submitting to Comptroller.

The Department will attach to requisitions for all professional services and bid purchases any Town Board Resolutions and reference the Town Board resolution date on the requisition.

The Town Attorney and Comptroller are to be notified in writing of any default in contractor or vendor performance. Records are to be kept by the Department of vendor or contractor inconsistency and any evidence of unsatisfactory vendor or contractor performance. The records must be forwarded to the Town Attorney who will determine the appropriate course of action on a case by case basis.

B. Requisitions

A completed requisition form submitted through the KVS system will include the following:

- Department name
- Detailed description of goods or services requested
- Unit measure (each or pack)
- Quantity required
- Account to be charged
- Special instructions
- Vendor information
- Price quotes
- Town Board Resolution date (if applicable)

The Comptroller's Office will review the requisition for its completeness and will determine the correct purchasing procedures for the order. For example, requisitions with incomplete product descriptions will be rejected and returned to the submitting Department for correction.

C. The Purchase Order Process

The Purchase Order

When the requisition is properly processed through the KVS system the requisition will be released to be a purchase order. Notification will be forwarded by email to the individual who entered the requisition in the KVS system.

Emergency Purchase Order:

Emergency purchase order requests must be discussed with the Comptroller prior to any purchase. An emergency purchase form must be completed by the Department and signed by the Comptroller before an emergency purchase may be made.

The Comptroller will require the following information before processing an emergency purchase request: (1) What is needed? (2) Why is the item needed immediately? (3) Identity of the proposed vendor?

Emergency purchase requests must be kept to a minimum and must be for essential items when the normal delay in processing will significantly affect the operation of the Department. For example, routine items, which the Department has forgotten to maintain in inventory or anticipate a requirement, will not meet the guidelines for an emergency purchase order.

Blanket Purchase Orders:

The blanket purchase order will be issued when several minimal purchases are made to the same vendor. A blanket purchase order eliminates the processing of many individual purchase orders and allows the Department flexibility in ordering small quantities of materials/supplies. The procedures for processing a blanket purchase orders will be the same as processing a purchase order above. The remaining balance of a blanket purchase order can be liquidated by the Department when the last invoice has been entered against it.

Section III. Purchase of Like Material Supplies

In instances where competitive bidding is not required by General Municipal Law 103, the Town Board has adopted the following conditions under which procurements of materials/supplies shall be made. These conditions are in addition to the terms and conditions of Section II of this policy. If services or labor are only minimal or incidental to the acquisition of goods, the purchase shall be considered a purchase contract.

In determining whether the threshold for the below tiers will be exceeded, the Comptroller will, consider the aggregate amount spent on all purchases of the same commodity, services or technology in a calendar year irrespective of whether from a single vendor or multiple vendors. No purchase shall be divided or split for the purpose of making the value of the order lesser to avoid the requirements of the procurement policy.

The purchasing tiers are as follows.

A. \$0.01 - \$9,999.99

Requisition to purchase at the discretion of the Department Head.

B. \$10,000.00 - \$19,999.99

Minimum of three quotes from vendors confirmed in writing (e.g. correspondence, e-mail or fax).

C. \$20,000.00 - and over

Sealed bids in conformance with General Municipal Law, Section 103. Consult with the Town Attorney and Town Clerk for procedure and processing.

Section IV. Public Works Projects

In instances where competitive bidding is not required by General Municipal Law 103, the Town Board has adopted the following conditions under which, and the manner in which, public works project procurements shall be made. These conditions are in addition to the terms and conditions of Section II of this policy. A public works project is defined as an improvement to a public facility that includes a charge for labor. Any public works project requires New York State Prevailing Wage certifications and compliance with all New York State Department of Labor Regulations.

As a general rule, if the contract involves a substantial amount of services, such that it is the focal point and the acquisition of goods is incidental, it will be considered a contract for public works.

In determining whether the threshold for the below tiers will be exceeded, the Town will consider the aggregate amount spent on all purchases of the same commodity, services or technology in a calendar year whether from a single vendor or multiple vendors.

A. \$0.01 - \$14,999.99

Requisition to purchase at the discretion of the Department Head.

B. \$15,000.00 - \$34,999.99

Minimum of three vendor price requests with written, e-mail or facsimile price quotes with the award recommendation being made by the department head, and with the approval of the Comptroller.

C. \$35,000.00 - and over

Sealed bids in conformance with General Municipal Law, Section 103. Consult with the Town Attorney and Town Clerk for procedure and processing.

Section V. Professional Services Agreements

Only the Town Board can contract for professional services. For the purpose of this policy, professional services shall be considered those services involving a specialized skill, training, expertise, knowledge, use of professional judgment or discretion and/or a high degree of creativity. Among the services covered under this exception are auditors, architects, attorneys, engineers, land surveyors, environmental consultants and insurance brokers. The determination of whether a purchase falls under the professional services procurement guidelines shall be made by the Town Board on a case-by-case basis after examining the particular service to be acquired.

There are two approval formats for a professional services contract: stated hourly rate for the professional services; or specific dollar amount for the professional service. The purchase of professional services shall be subject to the following comparative pricing procedures in order to ensure that the Town is receiving the best possible price and also to avoid any appearance of favoritism toward a particular individual or firm..

Under \$15,000.00 At the discretion of the Department Head, subject to the approval of the Town Board

Oyer \$15,000,00 The Department must obtain three written quotes or submit an RFP, subject to the approval of the Town Board

In selecting the most appropriate individual or firm for a specific service; the Town Board will be guided by a combination of pi-ice, and the experience, knowledge, expertise and skills of the vendors. If a Department Head recommends to the Town Board that a vendor be selected without adhering to the above comparative pricing requirements, the Department Head must submit a memo to the Town Board explaining why the selected vendor should be awarded the contract in the absence ,of competition from similar firms. Reasons for not adhering to the comparative pricing requirement may include a vendor's existing familiarity with the Town, past history working for the Town, or possession of a particular skill or expertise that is related to the service that is being requested. Once a vendor has been selected as a result of a competitive RFP process and has satisfactorily completed the agreed upon Scope of Services, the Town Board may re-engage the same vendor without issuing a new RFP provided that the additional work is related to the Scope of Services covered in the initial RFP. Professional services include services rendered by a person who exercises a specialized or technical skill, expertise or knowledge or exercises professional judgment.

Once the vendor has been selected by the Town Board, the Town Attorney will either draft or review the Professional Services Agreement. Before the Professional Services Agreement is submitted to the Supervisor for signature the Town Attorney will endorse the Professional Services Agreement as approved as to form.

Section VI. Exemptions to Public Bidding Requirements

A. Sole Source

Competitive bidding proposals are not required under Section 103 in the General Municipal Law in those limited situations when there is only one possible source from which to procure goods and services required in the public interest such as in the case of certain patented goods or services or public utility services. This exemption applies to the procurement of goods or services where only one vendor can supply the commodity, technology and/or perform the services required and where there is no substantial equivalent.

The New York State Comptroller's Office, Division of Municipal Affairs, requires that any municipal officers executing sole source documents should be prepared to "factually verify that the goods or services sought might only be obtained from a single source."

The following are examples of circumstances which may justify sole source purchase:

- The compatibility of proposed equipment accessories or replacement parts to existing equipment is essential and the required item is available from only a single supplier.
- An item for trial, testing or teaching purposes is available from only a single supplier.
- A one-of-a-kind item is sold only on a "direct from manufacturer" basis.
- Proprietary software, which is licensed by a company and sole support, is only provided by that company.

Procurement under this sole source exemption must be documented with the following explanations:

- the unique nature of the requirement;
- the basis upon which it was determined that there is only one known vendor able to meet the need (i.e., the steps taken to identify potential competitors);
- the basis upon which the cost was determined to be reasonable (i.e., a fair market price was inferred based upon the sole source provider's product catalogs, published price lists and the like.)

In making these determinations, the Department Head should be prepared to demonstrate, among other things, the unique benefits of the patented item as compared to other items available in the marketplace; that no other item provides substantially equivalent or similar benefits; and that, considering the benefits received, the cost of the item is reasonable, when compared to conventional methods. In addition, the department head should be prepared to document, as a matter of fact, that there is no possibility of competition for the procurement of the goods.

B. Goods purchased from agencies for the blind or severely handicapped, with appropriate documentation. Consult with Comptroller and Town Attorney for applicability.

C. Goods purchased from correctional facilities, with appropriate documentation. Consult with Comptroller and Town Attorney for applicability.

D. Goods purchased from, or through, another governmental agency, such as NYS or Westchester County Contracts, when the price, or list price with discount, including all applicable additional charges such as, but not limited to, delivery charges, is available, and with appropriate documentation. Consult with Comptroller and Town Attorney for applicability.

E. Goods purchased at auction, with appropriate documentation. Consult with Comptroller and Town Attorney for applicability.

Section VI. Annual Review

This policy shall be reviewed annually by the Town Board at its organizational meeting or as soon thereafter as is reasonably practicable.