

LOCAL LAW NO.: _____ - 2008

OF

**A LOCAL LAW AMENDING CHAPTER 76 AND CHAPTER 300
OF THE CITY OF NEWBURGH CODE OF ORDINANCES
TO PROVIDE FOR ALTERNATE MEMBERS
OF THE PLANNING BOARD, ARCHITECTURAL REVIEW COMMISSION
AND ZONING BOARD OF APPEALS OF THE CITY OF NEWBURGH**

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

SECTION 1 - TITLE

This Local Law shall be referred to as “A Local Law Amending Chapter 76 and Chapter 300 of the City of Newburgh Code of Ordinances to Provide for Alternate Members of the Planning Board, Architectural Review Commission and the Zoning Board of Appeals of the City of Newburgh”.

SECTION 2 - PURPOSE AND INTENT

Preamble: Applicability and Declaration of Policy:

This local law shall apply to the appointment, terms, functions and powers of alternate members appointed to serve on the Planning Board, Architectural Review Commission and Zoning Board of Appeals in the City of Newburgh.

The City Council hereby finds that it is sometimes difficult to maintain a quorum on the Planning Board, Architectural Review Commission and Zoning Board of Appeals because members are ill, absent from the City, have an unexpected emergency, must recuse due to a conflict of interest or for other reasons, and that in such instances, official business cannot be conducted. Thus being unable to conduct official business, the operations of these important Boards and the disposition of applications before them are thereby delayed, with the result that progress on physical improvements to properties throughout the City cannot take place and often are subject to increase expense. Therefore it is appropriate and necessary and in the best interests of the City of Newburgh for the City Council to enact this Local Law to authorize the use of alternate members pursuant to the provisions of this Local Law.

Underlining denotes additions
[Brackets] denotes deletions

SECTION 3. DEFINITIONS.

A. PLANNING BOARD means the Planning Board of the City of Newburgh as established by the City Council in Chapter 72 of the City Code of Ordinances, pursuant to the provisions of Section 27 of the General City Law.

B. ARCHITECTURAL REVIEW COMMISSION means the Architectural Review Commission established by the City Council in Chapter 300, Article V of the City Code of Ordinances, pursuant to the provisions of Section 96-A of the General Municipal Law.

C. ZONING BOARD OF APPEALS means, the Zoning Board of Appeals of the City of Newburgh as established by the City Council in Chapter 300, Article VII of the City Code of Ordinances, pursuant to the provisions of Section 81 of the General City Law.

D. MEMBER means an individual appointed by the City Manager to serve on the City Planning Board, Architectural Review Commission or the City Zoning Board of Appeals pursuant to the provisions of the local law(s) or ordinance(s) which first established such Planning Board, Architectural Review Commission and Zoning Board of Appeals.

E. ALTERNATE MEMBER means an individual appointed by the City Manager to serve on the City Planning Board, Architectural Review Commission or Zoning Board of Appeals when a regular member is unable to participate on an application or matter before the respective board, as provided herein.

SECTION 4. AMENDMENT/EFFECT.

The City Council of the City of Newburgh hereby amends Chapter 72 entitled "Planning Board", Chapter 300, Article V entitled "Historic and Architectural Design Overlay Districts" and Chapter 300, Article XII entitled "Zoning Board of Appeals" to provide a process for appointing alternate members of the City Planning Board, Architectural Review Commission and Zoning Board of Appeals as follows:

Chapter 76, PLANNING BOARD

§ 76-2. Membership

A. The Planning Board shall continue to consist of seven members. Members shall be appointed for terms of seven years, which terms shall be so fixed that one member's term shall expire at the end of each official year thereafter.

B. Two Alternate members of the Planning Board shall be appointed by the City Manager for a term of two (2) years, commencing on the date of appointment. These members shall serve when members are absent or unable to participate on an application before the Planning Board. The Chairman of the Planning Board may

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designate an alternate substitute for a member when such member is unable to participate on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of every Planning Board meeting at which the substitution is made. All provisions of State law and local law, codes, rules and regulations relating to Planning Board member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of any local law or local ordinance relating to training, continuing education, compensation and attendance, performance of duties, qualifications and others, shall also apply to alternate members.

Chapter 300, Article V, Historic and Architectural Design Overlay Districts

§ 300-23. Architectural Review Commission.

A. Creation; membership. There is hereby created a Commission to be known as the "City of Newburgh Architectural Review Commission." The Review Commission shall consist of seven members to be appointed by the City Manager as follows:

- (1) At least one shall be an historian; such member may be a nonresident of the City;
- (2) At least three shall be residents of a historic district or architectural design district established within the City or residents of a designated individual landmark building;
- (3) At least one shall be an architect; such member may be a nonresident of the City;
- (4) All should have demonstrated significant interest in and commitment to the field of historic preservation or architecture evidenced by involvement in a local historic preservation group, employment or volunteer activities in the field of historic preservation or architecture, and serious interest in the field; and
- (5) Except as provided above, all members shall be residents and shall have an interest in historic preservation and architectural development within the City of Newburgh.

B. Terms of office. Commission members shall serve a term of five years, with the exception of the initial terms of the members, one of which shall be one year, one of which shall be two years, one of which shall be three years, one of which shall be four years, and one of which shall be five years.

C. Two Alternate members of the Architectural Review Commission shall be appointed by the City Manager for a term of two (2) years, commencing on the date of appointment. These members shall serve when members are absent or unable to participate on an application before the Architectural Review Commission. The Chairman of the Architectural Review Commission may designate an alternate substitute for a member when such member is unable to participate on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be

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entered into the minutes of every Architectural Review Commission meeting at which the substitution is made. All provisions of State law and local law, codes, rules and regulations relating to Architectural Review Commission member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of any local law or local ordinance relating to training, continuing education, compensation and attendance, performance of duties, qualifications and others, shall also apply to alternate members.

[C] D. Chairman. The Chairman shall be appointed by the City Manager. If he shall not appoint a Chairman, than the Chairman shall be elected by and from among the members of the Commission.

[D] E. Vacancies. Vacancies occurring other than by expiration of term shall be filled for the remainder of the unexpired term in the same manner as the original appointments.

[E] E. Meetings. The Review Commission shall meet at least monthly, but meetings may be held at any time on the written request of any of the Commission members or on the call of the Chairman or the City Manager.

[F] G. Quorum. A quorum for the transaction of business shall consist of four of the Commission's members, but not less than a majority of the full authorized membership may grant or deny a certificate of appropriateness or recommend the designation of a landmark, historic district or architectural design district.

Chapter 300, Article XII, Zoning Board of Appeals

§ 300-76. Continuation, appointment and organization.

A. The Zoning Board of Appeals, as constituted at the time of the enactment of this chapter, shall continue in existence in accordance with the provisions of the General City Law applicable thereto. Said Board shall consist of seven members. The term of office of each member shall be seven years, and his term shall continue until a successor shall be appointed. If a vacancy shall occur other than by expiration of the term, it shall be filled by appointment for the unexpired term. One member shall be designated by the appointing authority to act as Chairman, or, on the failure to do so, the Board shall elect a Chairman from its own members. The Board shall appoint a Secretary and shall prescribe rules for the conduct of its affairs.

B. Two Alternate members of the Zoning Board of Appeals shall be appointed by the City Manager for a term of two (2) years, commencing on the date of appointment. These members shall serve when members are absent or unable to participate on an application before the Zoning Board of Appeals. The Chairman of the Zoning Board of Appeals may designate an alternate substitute for a member when such member is unable to participate on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of every Zoning Board

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of Appeals meeting at which the substitution is made. All provisions of State law and local law, codes, rules and regulations relating to Zoning Board of Appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of any local law or local ordinance relating to training, continuing education, compensation and attendance, performance of duties, qualifications and others, shall also apply to alternate members.

SECTION 5. SUPERSESSION OF GENERAL CITY LAW.

This Local Law is hereby adopted pursuant to the provisions of Section 10 of the New York State Municipal Home Rule Law and Section 10 of the New York State Statute of Local Governments. It is the intent of the City Council, pursuant to Section 10 of the New York State Municipal Home Rule Law, to supersede the provisions of:

1. Section 27 of the General City Law relating to the appointment of members to City planning boards.
2. Section 81 of the General City Law relating to the appointment of members to City zoning board of appeals.

SECTION 6. SEVERABILITY.

If any provisions of this Local Law are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the local law shall remain in effect.

SECTION 7. EFFECTIVE DATE.

This Local Law shall take effect immediately, upon filing with the Secretary of State and upon completion of the requirements of the Municipal Home Rule Law.