



City of Newburgh Council Work Session

5:00 pm

November 7, 2013

1. Finance:

- a. Reminder that the public hearing will be held on Tuesday to receive comments on the City Manager's proposed budget for 2014.
- b. 2014 Budget discussion – possible continuation of last night's meeting

2. Presentations:

- a. 86 Wisner Avenue - Vinnie Cappelletti
- b. 255 Broadway – Ted and Jean Doering

3. Economic and Community Development/Real Estate:

- a. Independence Square project
 - (Res. 228) SEQRA and Easements
- b. Mid-Broadway – Special Permit Application
- c. Film Ordinances
- d. Reminder that the public hearing will be held on Tuesday to receive comments on the proposed CDBG 2014 Budget.

4. Parking Violations Bureau:

- a. Reminder that the public hearing will be held on Tuesday to receive comment on a proposed local law to increase the fines for certain parking violations.
 - Amendment to Chapter 70 entitled "Parking Violations" to increase fines for certain parking violations

5. Discussion:

- a. Board openings:
 - Board of Assessment Review
 - Civil Service Commission
 - Conservation Advisory Council

6. Executive Session:

- a. Pending Litigation

RESOLUTION NO.: 228-2013

OF

NOVEMBER 12, 2013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH ASSUMING LEAD AGENCY STATUS UNDER STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) FOR A STORMWATER SEWER EASEMENT AND SANITARY SEWER EASEMENT IN CONNECTION WITH SITE PLAN APPROVAL FOR THE CONSTRUCTION OF THE INDEPENDENCE SQUARE APARTMENTS NEWBURGH, NEW YORK, DECLARING THE EASEMENTS TO BE AN UNLISTED ACTION, ADOPTING THE ENVIRONMENTAL ASSESSMENT FORM, ISSUING A NEGATIVE DECLARATION AND AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE ALL SEQRA DOCUMENTS AND THE AMENDED AND RESTATED STORMWATER SEWER EASEMENT AND SANITARY SEWER EASEMENT

WHEREAS, The City of Newburgh, as the Grantee, is the holder of a Stormwater Sewer Easement (the "Stormwater Sewer Easement") which was originally conveyed by agreement from Bard Chevrolet, Inc. to the City of Newburgh dated October 14, 1957, and recorded in the Orange County Clerk's Office on November 22, 1957 in Liber 1447 at page 136; and

WHEREAS, The City of Newburgh, as the Grantee, is the holder of a Sanitary Sewer Easement (the "Sanitary Sewer Easement") which was originally conveyed by deed from the Muchattoes Lake Ice Company to the City of Newburgh dated May 1, 1894, and recorded in the Orange County Clerk's Office on May 2, 1894 in Liber 407 at page 251, as amended by a deed from Harry R. Lydecker and Minnie A. Lydecker to the City of Newburgh dated April 27, 1896, and recorded in the Orange County Clerk's Office on April 30, 1896 in Liber 422 at page 521; and

WHEREAS, Independent Living, Inc. applied for and received a conditional site plan approval for the construction of the Independence Square Apartments on property located at 70 Lake Street, Newburgh, New York; and

WHEREAS, the site plan approval requires amendments and revisions to both the Stormwater Sewer Easement and Sanitary Sewer Easement (collectively referred to as "the Easements"); and

WHEREAS, Independent Living Inc., as the Grantor, and Grantee wish to amend and restate the terms and conditions of the Easements, as provided in the instruments, copies of which are attached hereto, and review preceding execution of the Easements must comply with New York

State Environmental Quality Review Act ("SEQRA") and the regulations contained within 6 NYCRR Part 617 (the "Regulations") with respect to the Easements; and

WHEREAS, pursuant to the SEQRA Regulations, the City has considered the significance of the potential environmental impacts of accepting the Easements by (a) using the criteria specified in Section 617.7 of the SEQRA Regulations, and (b) examining the EAF for the Easements, including the facts and conclusions in Parts 1 and 2 of the EAF, together with other available supporting information, to identify the relevant areas of environmental concern and wishes to establish itself as Lead Agency for accepting the Easements.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York as follows:

1. The City Council of the City of Newburgh hereby declares itself as the Lead Agency for the environmental review of the action pursuant to 6 NYCRR 617.6;
2. the Easements constitute an "Unlisted" action, as that term is defined in the SEQRA Regulations;
3. The Council hereby adopts Part 1 of the Environmental Assessment Form;
4. The Council hereby determines, based upon an examination of the EAF and other available supporting information and considering the magnitude and importance of each area of environmental concern, and based on the City's knowledge of the area surrounding the Easements, that the granting of the Easements will not have a significant adverse environmental impact, will not require the preparation of a Draft Environmental Impact Statement;
5. Having determined that there are no areas of potentially large impact of environmental concern, the City Council hereby issues a Negative Declaration pursuant to SEQRA with respect to the impact of the Easements upon the environment; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that the Interim City Manager be and hereby is authorized to sign and file any/and all other documents that may be necessary to complete the SEQRA process for the Easements and execute the Easement instruments.

617.20
Appendix B
Short Environmental Assessment Form

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			
Name of Action or Project: Independence Square Easements			
Project Location (describe, and attach a location map): 70 Lake Street Newburgh, New York 12550 (See Map)			
Brief Description of Proposed Action: Proposed Action involves the amending and restating of an existing sanitary sewer easement and an existing stormsewer easement for the purposes of construction, operation and maintenance of each respective utility crossing through the property located at 70 Lake Street.			
Name of Applicant or Sponsor: Douglas J. Hovey, Executive Director of Independent Living		Telephone: 845-565-1162 (Ext. 210) E-Mail: DHovey@myindependentliving.org	
Address: 5 Washington Terrace			
City/PO: Newburgh		State: New York	Zip Code: 12550
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.			NO <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		2.56 acres	
b. Total acreage to be physically disturbed?		N/A acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		2.56 acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other (specify): <u>Vacant</u> <input type="checkbox"/> Parkland			

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	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 AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>Douglas J. Hovey</u>	Date: <u>10/23/13</u>	
Signature: <u><i>Douglas J. Hovey</i></u>		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

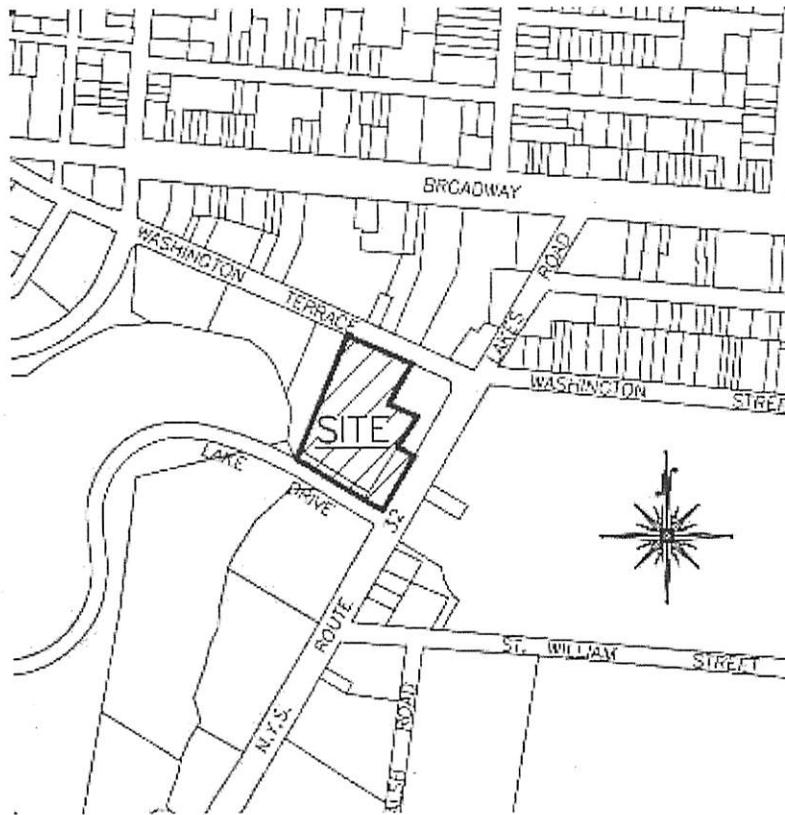
	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

The proposed Action involves amending and restating two existing easements that currently contain existing sanitary and stormsewer utilities. The proposed Action is administrative and does not involve the approval of any physical construction or land disturbance activities associated with the easements. It is unlikely that any significant adverse environmental impacts will occur as a result of this administrative action.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input checked="" type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
City Council of the City of Newburgh	
_____	_____
Name of Lead Agency	Date
James Slaughter	Interim City Manager
_____	_____
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
_____	_____
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT



AMENDED AND RESTATED DRAINAGE EASEMENT

This Indenture made as of _____, 2013, by and between INDEPENDENT LIVING, INC., a New York not-for-profit corporation, with a business address at 5 Washington Terrace, Newburgh, New York 12550 ("Grantor") and the CITY OF NEWBURGH, a municipal corporation with its principal offices located at City Hall, 83 Broadway, City of Newburgh, County of Orange, State of New York 12550 ("Grantee").

WITNESSETH

WHEREAS, the Grantee is the holder of a Stormwater Sewer Easement (the "Stormwater Sewer Easement") which was originally conveyed by agreement from Bard Chevrolet, Inc. to the City of Newburgh dated October 14, 1957, and recorded in the Orange County Clerk's Office on November 22, 1957 in Liber 1447 at page 136; and

WHEREAS, the Grantor and Grantee wish to amend and restate the terms and conditions of the Stormwater Sewer Easement as provided in this instrument.

The Grantor, for and in consideration of the sum of Ten and 00/100 (\$10.00) Dollars and other good and valuable consideration, paid by the Grantee, the receipt and sufficiency of which is hereby acknowledged, does hereby grant, convey and release unto the Grantee, its successors or assigns forever, a permanent easement for the purpose of constructing, operation and maintenance of drainage facilities, and such other utility lines and accessory facilities, including but not limited to stormwater sewer, and drainage purposes, as the Grantee may elect, upon the terms and conditions hereinafter stated in, on, under, over and through the property of the Grantor in the City of Newburgh, County of Orange and State of New York and more particularly described as set forth in Schedule "A" annexed (the "Easement Premises").

1. The Grantor hereby grants and conveys to the Grantee a permanent easement over the Easement Premises for the construction, reconstruction, installation, repair, replacement, maintenance, operation, and removal of such lines, pipes, mains, cleanouts, and other necessary or incidental appurtenances thereto, as the Grantee, in its sole judgment, shall deem necessary, together with the right for such purposes to enter onto and over the Grantor's premises.

2. The Grantor hereby grants and conveys to the Grantee the right, at any time, to trim, cut and remove any trees, limbs, shrubs, debris or other objects located within the Easement Premises which, in the sole reasonable judgment of the Grantee, may interfere with, obstruct or endanger the use of the Easement Premises for the Easement purposes herein stated.

3. The Grantee, its successors and assigns, hereby covenants and agrees that whenever it excavates or otherwise substantially disturbs the surface of the Easement Premises, it shall, at its own cost and expense, and to the extent possible without interfering with the Easement

purposes stated herein, restore said land to substantially the same condition as existed prior to such excavation or disturbance.

4. The Grantor hereby reserves the right to full use and enjoyment of the Easement Premises, except as is otherwise limited herein and provided such use and enjoyment does not interfere with the use for which this easement is granted.

5. The Grantee shall defend, hold harmless and indemnify Grantor, its successors and/or assigns, against any and all claims and liability for property damage, environmental contamination, bodily injury and/or death which may arise out of the exercise by the Grantee or its agents, successors, or assigns, of the easement purposes stated herein.

6. All rights, title and privileges herein granted, including all benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors, assigns and legal representatives.

IN WITNESS WHEREOF, the parties have duly executed this instrument as of the day and year first above written.

GRANTOR:

GRANTEE:

INDEPENDENT LIVING, INC.

THE CITY OF NEWBURGH

By: _____

By: _____

STATE OF NEW YORK)
)
COUNTY OF ORANGE) ss.:

On the _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
)
COUNTY OF ORANGE) ss.:

On the _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

Notary Public

SCHEDULE A

**LEGAL DESCRIPTION
FOR
INDEPENDENCE SQUARE APARTMENTS
PROPOSED 20 FOOT WIDE DRAINAGE EASEMENT
TO THE CITY OF NEWBURGH
P&P NO. 13101.01**

ALL that certain piece or parcel of land situated in the City of Newburgh, County of Orange, State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of Washington Terrace, said point being S65°58'00"E 170.30 feet from the lands now or formerly of Masjid A Ikhlas, Inc. (City of Newburgh Section 33, Block 7, Lot 10.12); thence through lands now or formerly of Independent Living, Inc. the following courses and distances: S31°47'54"W 52.95 feet; thence S30°54'11"W 153.36 feet; thence S29°57'35"E 177.76 feet to a point on the westerly side of NYS Route 32 (a.k.a. Lake Street); thence along said NYS Route 32 (a.k.a. Lake Street) S31°24'55"W 6.57 feet; thence continuing through lands now or formerly of Independent Living, Inc. S39°42'32"W 130.44 feet; thence N74°02'01"W 76.17 feet to a point on the northerly side of Lake Drive; thence along Lake Drive N58°47'59"W 76.12 feet; thence running through lands now or formerly of Independent Living, Inc. the following courses and distances: S74°02'01"E 136.55 feet; thence N39°42'32"E 109.62 feet; thence N29°57'35"W 176.60 feet; thence N30°54'11"E 165.27 feet; thence N31°47'54"E 50.38 feet to the northerly side of Washington Terrace; thence along the southerly side of said Washington Terrace S65°58'00"E 20.19 feet to the point or place of beginning.

Containing 12,360± square feet of land.

VAP/tmp

AMENDED AND RESTATED SANITARY SEWER EASEMENT

This Indenture made as of _____, 2013, by and between INDEPENDENT LIVING, INC., a New York not-for-profit corporation, with a business address at 5 Washington Terrace, Newburgh, New York 12550 ("Grantor") and the CITY OF NEWBURGH, a municipal corporation with its principal offices located at City Hall, 83 Broadway, City of Newburgh, County of Orange, State of New York 12550 ("Grantee").

WITNESSETH

WHEREAS, the Grantee is the holder of a Sanitary Sewer Easement (the "Sanitary Sewer Easement") which was originally conveyed by deed from the Muchattoes Lake Ice Company to the City of Newburgh dated May 1, 1894, and recorded in the Orange County Clerk's Office on May 2, 1894 in Liber 407 at page 251, as amended by a deed from Harry R. Lydecker and Minnie A. Lydecker to the City of Newburgh dated April 27, 1896, and recorded in the Orange County Clerk's Office on April 30, 1896 in Liber 422 at page 521; and

WHEREAS, the Grantor and Grantee wish to amend and restate the terms and conditions of the Sanitary Sewer Easement as provided in this instrument.

NOW, THEREFORE, the Grantor, for and in consideration of the sum of Ten and 00/100 (\$10.00) Dollars and other good and valuable consideration, paid by the Grantee, the receipt and sufficiency of which is hereby acknowledged, does hereby grant, convey and release unto the Grantee, its successors or assigns forever, a permanent easement for the purpose of constructing, operation and maintenance of sewer lines, and such other utility lines and accessory facilities, including but not limited to wastewater sewer, and drainage purposes, as the Grantee may elect, upon the terms and conditions hereinafter stated in, on, under, over and through the property of the Grantor in the City of Newburgh, County of Orange and State of New York and more particularly described as set forth in Schedule "A" annexed (the "Easement Premises").

1. The Grantor hereby grants and conveys to the Grantee a permanent easement over the Easement Premises for the construction, reconstruction, installation, repair, replacement, maintenance, operation, and removal of such lines, pipes, mains, cleanouts, pressure reducing station, and other necessary or incidental appurtenances thereto, as the Grantee, in its sole judgment, shall deem necessary, together with the right for such purposes to enter onto and over the Grantor's premises.

2. The Grantor hereby grants and conveys to the Grantee the right, at any time, to trim, cut and remove any trees, limbs, shrubs, debris or other objects located within the Easement Premises which, in the sole reasonable judgment of the Grantee, may interfere with, obstruct or endanger the use of the Easement Premises for the Easement purposes herein stated.

3. The Grantee, its successors and assigns, hereby covenants and agrees that

whenever it excavates or otherwise substantially disturbs the surface of the Easement Premises, it shall, at its own cost and expense, and to the extent possible without interfering with the Easement purposes stated herein, restore said land to substantially the same condition as existed prior to such excavation or disturbance.

4. The Grantor hereby reserves the right to full use and enjoyment of the Easement Premises, except as is otherwise limited herein and provided such use and enjoyment does not interfere with the use for which this easement is granted.

5. The Grantee shall defend, hold harmless and indemnify Grantor, its successors and/or assigns, against any and all claims and liability for property damage, environmental contamination, bodily injury and/or death which may arise out of the exercise by the Grantee or its agents, successors, or assigns, of the easement purposes stated herein.

6. All rights, title and privileges herein granted, including all benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors, assigns and legal representatives.

IN WITNESS WHEREOF, the parties have duly executed this instrument as of the day and year first above written.

GRANTOR:

GRANTEE:

INDEPENDENT LIVING, INC.

THE CITY OF NEWBURGH

By: _____

By: _____

STATE OF NEW YORK)
)
COUNTY OF ORANGE) ss.:

On the _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
)
COUNTY OF ORANGE) ss.:

On the _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

Notary Public

SCHEDULE A
**LEGAL DESCRIPTION
FOR
INDEPENDENCE SQUARE APARTMENTS
PROPOSED 20 FOOT WIDE SANITARY SEWER EASEMENT
TO THE CITY OF NEWBURGH
P&P NO. 13101.01**

ALL that certain piece or parcel of land situated in the City of Newburgh, County of Orange, State of New York, bounded and described as follows:

BEGINNING at a point, said point being on the northerly side of Lake Drive, also being N58°17'59"W 232.97 feet from the northwesterly intersection of Lake Drive and Lake Street (a.k.a. NYS Route 32); thence along the northerly side of Lake Drive N58°47'59"W 28.63 feet to a point; thence through the lands now or formerly of Independent Living, Inc. the following courses and distances: N14°29'16"W 38.37 feet to a point; thence N08°35'16"W 35.34 feet to a point; thence N05°34'57"W 54.72 feet to a point in common with lands now or formerly of Masjid A Ikhlas, Inc.; thence along said lands of Masjid A Ikhlas, Inc. the following courses and distances: N24°02'00"E 33.23 feet to a rebar found; thence S65°58'00"E 10.00 feet to a point; thence continuing through the lands now or formerly of Independent Living, Inc. the following courses and distances: S05°34'57"W 80.60 feet to a point; thence S08°35'16"E 31.82 feet to a point; thence S14°29'16"E 57.83 feet to said point being the point or place of beginning.

Containing 3,153± square feet of land.

VAP/tmp

ORDINANCE NO.: _____ - 2013

OF

_____, 2013

**AN ORDINANCE CREATING CHAPTER 168 ENTITLED "FILMING"
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH**

BE IT ORDAINED by the City Council of the City of Newburgh that the Code of Ordinances is hereby amended to add new Chapter 168 entitled "Filming" to read as follows:

Section 1. Chapter 168: "FILMING"

Section 168-1. Purpose.

It is the purpose and intent of the City of Newburgh to encourage the motion picture and television industries to utilize the scenic beauty and variety of backdrops afforded in the City of Newburgh as locations for filming and/or video taping for commercial production. It is the purpose and intent of this Chapter to provide the means by which such activities may be reasonably regulated to preserve the public health and safety and provide for the protection of property, to not unduly restrict such activities, and to maintain harmonious relations between the community and those engaged in such activities.

Section 168-2. Definitions.

CHARITABLE FILMS - means commercials, motion pictures, television, OR videotapes produced by a nonprofit organization, which qualifies under Section 501 (c) (3) of the Internal Revenue Code as charitable organization. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, or tapes.

CITY PRODUCED GOVERNMENT ACCESS FILMS - means motion pictures or programs produced by or in association with the City of Newburgh. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films or tapes.

CONCERT FILMING - means the filming a concert event for Not-for-Profit or religious entity but shall not include activities occurring for businesses, corporations and for-profit entities that will be distributed, sold and/or broadcast for commercial purposes.

FILM or FILMING or FILMING ACTIVITY - means all activity in preparation of, and attendant to, staging, making, striking, filming or video recording commercial motion pictures, television shows, programs and commercials, including magazines or documentary programs.

FILM OFFICE - means the City Manager's designee responsible for routing and processing film permits.

NEWS MEDIA - means the photographing, filming or videotaping for the purpose of spontaneous, unplanned television news broadcast or reporting for print media by reporters, photographers or camera operators.

STUDENT FILMS - means motion pictures, television programs or commercials produced to satisfy a course or curriculum requirement at an educational institution. The student filmmaker must supply proof that he/she is currently enrolled.

STUDIO - means a fixed place of business where filming activities are regularly conducted upon the premises.

Section 168-3. Permit required; Exemptions.

A. Film Permit required: No person shall, for commercial purposes, use any kind of public property, facility or residence herein or portion thereof owned and/or controlled by the City of Newburgh to cause, direct or conduct filming activities as defined without first applying for and obtaining a film permit from the City Manager or his/her designee.

B. Exemptions:

1. The following activities shall not require an application or film permit under the provisions of this Chapter:

- a. News Media: Reporters, photographers or camera operators in the employ of a newspaper, news service, or similar entity engaged in on-the-spot print media, publishing or broadcasting, of news events concerning those persons, scenes or occurrences which are in the news and of general public interest.
- b. Family or personal use video: The filming or videotaping of motion pictures solely for private-family use.
- c. Photographers engaged in still photography.
- d. City Produced Government Access Films.

2. A film permit application as required by this Chapter shall be completed and submitted without a fee for the following activities:

- a. Charitable Films: Projects that qualify under Section 501 (c) (3) of the Internal Revenue Code.
- b. Student Films.
- c. Concert film by a Not-for-Profit or religious entity.

Section 168-4. Application requirements.

The Application for such Film Permit shall be made upon forms prescribed therefor by City and require, at minimum, the following information:

1. The name, address, telephone number and e-mail address of the applicant.
2. The name, address and telephone number of the production company and the name, address and telephone number of the production company owner.
3. The name, address, telephone number and e-mail address of the person(s) in charge of the film production as the contact person.
4. The anticipated genre of the film.
5. Anticipated MPAA, (Motion Picture Association of America) movie rating.
6. The street address(es) of the location(s) at which filming will take place.
7. The dates and hours during which filming activity will occur.
8. The exact number of persons, including cast and crew, to be involved.
9. List of equipment and generator, if any.
10. Number and type of vehicles.
 - a. Identify historic or period vehicles or equipment that will be used in the production.
11. List of any animals, pyrotechnics, hazardous chemicals, demolition of buildings or structures and/or use of residential vehicles proposed to be used and a safety plan to be used by the applicant in the event such items are used during the production.
12. Plan to minimize disruption of traffic and parking.
13. Requests for City services and equipment including but not limited to signs, barricades.
14. Insurance:
 - a. Certificate of liability insurance covering the event to be held and naming the City of Newburgh as an additional insured with limits of liability of at least \$1,000,000 for each occurrence and \$2,000,000 aggregate for bodily injury and \$50,000 for each occurrence and \$100,000 aggregate for property damage. All such policies must be written in the broadest form available by a company authorized to do business in New York State and of recognized financial standing which has been fully informed about the proposed event.

b. Worker's Compensation Insurance: An applicant shall conform to all applicable Federal and State requirements for Worker's Compensation Insurance for all persons operating under a film permit.

c. Hold Harmless Agreement: Applicants shall execute a hold harmless agreement as provided by the City prior to the issuance of a film permit under this ordinance wherein the applicant shall defend, hold harmless and indemnify the city of Newburgh against any and all claims, proceedings or action brought in connection with or as a result of the filming and/or recording activities.

Section 168-5. Filing of application and issuance of permit.

A. The application for a film permit shall be filed with the office of the City Manager in completed form together with all applicable fees no less than fourteen (14) days prior to the commencement of such filming activities.

B. The issuing authority shall be the City Manager or his/her designee. The City Manager may deny a permit in his or her sole and absolute discretion.

C. Any change in the applicant's/permittee's planned activities as set forth in the film permit applications shall be submitted to the City Manager or his/her designee at least 24 hours in advance of the change and approved or denied in the same manner as the original film permit application.

Section 168-6. Fees.

The fees for each filming permit shall be as set forth in Chapter 163, Fees, of this Code and shall include a non-refundable application fee, a fee for each permit issued, and a refundable security deposit all of which shall be paid to the City Manager or his/her designee. No film permit shall be issued to an applicant who owes the City money on a prior permit.

Section 168-7. Additional restrictions.

A. The applicant/permittee shall in the credits of the motion picture or television program, acknowledge the production was filmed in the City of Newburgh.

B. All filming activities, including set up and takedown activities, shall take place in the hours specified in the film permit.

C. Filming and/or recording activities as permitted under a film permit shall comply with all the requirements and standards of Chapter 212, Noise, of this Code of Ordinances.

D. The permittee shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use and the cleanup of trash and debris. The area used shall be cleaned of trash and debris upon completion of shooting at the scene and restored to the original condition before leaving the site.

E. The permittee is required to obtain the property owner's permission, consent and/or lease for use of property not owned or controlled by the City. No film permit may be issued for filming on a property with open Zoning Code, Building Code, Property Maintenance and/or Fire Code violations.

F. Filming and/or recording under a film permit shall comply with all requirements of the New York State Vehicle and Traffic Law and Chapter 288, Vehicles and Traffic, of this Code of Ordinances, except as follows:

1. The applicant/permittee shall obtain permission of the City Manager to park equipment, trucks, and/or cars in no parking, no standing and no stopping zones. The City Manager or his or her designee shall provide temporary "No Parking" signs which shall be posted by the applicant/permittee at least 24 hours prior to parking vehicles or equipment.
2. The applicant/permittee shall obtain the permission of the City Manager to string cable across sidewalks, or from generator to service point. Such cable or electrical lines shall be marked, taped and/or secured to avoid creating a hazardous condition.
3. The applicant/permittee shall furnish and install advance warning signs and any other traffic control devices required in order to take all appropriate safety precautions.
4. Traffic may be restricted to one 12-foot lane of traffic and/or stopped intermittently. The period of time that traffic may be restricted will be determined by the City, based on location.
5. Traffic shall not be detoured across a double line without prior approval of the City of Newburgh.
4. Unless authorized by the City, the camera cars must be driven in the direction of traffic and must observe all traffic laws.

G. Any emergency roadwork or construction by City crews and/or private contractors, under permit or contract to the appropriate department, shall have priority over filming activities.

H. A permittee under a film permit shall be required to personally deliver or to mail a copy of the film permit or a letter of intent to film to all owners of real property located within 100 feet of the property line of the filming and/or recording site as shown on the latest assessment roll of the City Assessor and to all owners of real property located on the same street as the filming and/or recording site who are located within 300 feet of a property line of such site at least two days for personal delivery or four postmarked delivery days for mailing prior to the first day of filming and/or recording. The City Manager may require notice to additional owners of real property in the vicinity if conditions of the filming and/or recording so require.

Section 168-8. Authority to promulgate regulations; waiver of provisions.

A. The City Manager may promulgate additional regulations in furtherance of the findings and purpose of this Chapter.

B. The City Manager may grant a waiver of a part or parts of this Chapter, and/or other City ordinances if the City Manager is so authorized therein, for a particular filming and/or recording event on the City Manager's written finding that such waiver would be in the public interest of the surrounding neighborhood and/or City as a whole.

Section 168-9. Permit revocation, suspension, appeal.

A. Permit Revocation. A film permit may be revoked by the City Manager if the permittee, or any agent, employee, or contractor of the permittee fails to comply with the requirements set forth in this Chapter, or in the film permit, or if it is determined that the film permit application was false in any material detail.

1. Notice of the grounds for revocation of the film permit shall be provided in writing to the permit applicant or person in charge at the location of the filming activity.

2. Appeals of the film permit revocation shall be conducted in the manner specified in this Chapter.

B. Permit Suspension. The City police department and/or fire department officers assigned to supervise the filming activity site may suspend the film permit if at any time the filming activity poses an immediate hazard to persons or property and the location manager will not, or cannot, prevent the hazard after being instructed to do so by the officer. The grounds for the film permit suspension shall be provided in writing by the City film office to the permittee within two working days of the suspension.

C. Appeals. The film permit applicant or permittee may appeal a denial of a film permit, or a revocation, suspension, or permit condition. Such appeal shall be filed with the City Manager or his/her designee not later than five working days after the date written notice of the decision is made. Failure to timely file an appeal shall result in a waiver to the right to appeal. The appeal shall be reviewed by the City Manager or his/her designee. The decision of the City Manager or his/her designee shall be rendered in five working days and shall be final and is subject to judicial review pursuant to Article 78 of the New York Civil Practice Law and Rules.

Section 168-10. Penalties for offenses.

A. Each and every violation of this Chapter shall be punishable by a fine of not less than \$250.00 and/or imprisonment not exceeding 15 days for each and every day a violation of this Chapter is found to exist.

B. The imposition of such fine and/or imprisonment shall not be the City's exclusive remedy in the event of a violation and the City shall have the right to pursue any and all other legal and equitable remedies available to it in connection with any violation of this Chapter.

Section 168-11. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

Section 2. This ordinance shall take effect immediately.

DRAFT

ORDINANCE NO.: _____ - 2013

OF

_____, 2013

AN ORDINANCE AMENDING CHAPTER 163 ENTITLED "FEES" OF THE CODE OF THE CITY OF NEWBURGH TO ADD FEES FOR FILMING

BE IT ORDAINED by the City Council of the City of Newburgh that:

Section 1. Chapter 163 entitled "Fees" of the Code of the City of Newburgh be and hereby is amended as follows:

Code Section	Type of Fee	Amount
<u>Chapter 168, Filming</u>		
<u>§ 168-6</u>	<u>Non-refundable application fee</u>	<u>\$350.00</u>
	<u>Permit fee</u>	<u>Actual cost of City Services</u>
	<u>Refundable security deposit</u>	<u>\$1,500.00</u>

Section 2. This ordinance shall take effect upon the adoption of Ordinance No. _____ - 2013 of _____, 2013 entitled "An Ordinance Creating Chapter 168 Entitled "Filming" of the Code of Ordinances of the City of Newburgh

Underlining denotes additions
~~Strikethrough~~ denotes deletions

LOCAL LAW NO.: 2 - 2013

OF

_____, 2013

A LOCAL LAW AMENDING CHAPTER 70 ENTITLED "PARKING VIOLATIONS BUREAU" OF THE CODE OF THE CITY OF NEWBURGH TO INCREASE FINES FOR CERTAIN PARKING VIOLATIONS

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending Chapter 70 Entitled 'Parking Violations Bureau' of the Code of Ordinances of the City of Newburgh to Increase Fines for Certain Parking Violations ."

SECTION 2 - AMENDMENT

Chapter 70 entitled "Parking Violations Bureau" is hereby amended to read as follows:

§ 70-17. Schedule of fines and penalties.

The schedule of fines and penalties shall be as follows:

Violation	Fine
Failure to deposit required coins in a parking meter, overtime parking in a metered space or other meter violation	\$15.00

NOTE: Notwithstanding any other provision of this Section 70-17 of this Chapter, the penalty for a failure to deposit required coins in a parking meter, overtime parking in a metered space or other meter violation shall be satisfied by the payment of the sum of \$10.00 if such payment is made within 48 hours of the time of the issuance of such notice/summons, exclusive of Saturday, Sundays or legal holidays.

Parking prohibited beyond time limit allowed, other than parking meter	\$10.00 <u>25.00</u>
Parking over lines	\$10.00 <u>15.00</u>
Improper Angle Parking	\$10.00 <u>15.00</u>
Parking on the sidewalk	\$10.00 <u>25.00</u>
Parking prohibited upon publicly or privately owned premises	

Underlining denotes additions

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without permission	\$10.00 <u>30.00</u>
Parking in City lot without permit	\$10.00 <u>25.00</u>
Restricted Parking near Newburgh Free Academy and St. Luke's Cornwall Hospital; <u>Gidney Avenue Parking Lot</u>	\$10.00 <u>15.00</u>
Stopped, standing or parked facing wrong direction	\$10.00 <u>25.00</u>
Stopped, standing or parked more than 12 inches from curb	\$10.00 <u>15.00</u>

Parking prohibitions:

Parking prohibited at any time	\$10.00 <u>25.00</u>
Parking prohibited during certain hours	\$10.00 <u>25.00</u>
Parking prohibited on alternate days	\$25.00
Parking prohibited on alternate days – snow emergency	\$50.00
Parking prohibited on alternate days – street cleaning	\$50.00
Parking prohibited on snow emergency routes	\$50.00
Parking prohibited in a taxi stand	\$10.00 <u>25.00</u>
Parking prohibited in a bus stop	\$10.00 <u>25.00</u>
Parking prohibited in a loading zone	\$10.00 <u>25.00</u>
Parking prohibited in boat trailer parking zone	\$10.00 <u>50.00</u>

Standing prohibitions:

Standing prohibited at any time	\$10.00 <u>25.00</u>
Standing prohibited during certain hours	\$10.00 <u>25.00</u>
Standing prohibited from here to corner	\$20.00 <u>30.00</u>

Stopping prohibitions:

Stopping prohibited at any time	\$10.00 <u>25.00</u>
Stopping prohibited during certain hours	\$10.00 <u>25.00</u>
Stopping prohibited from here to corner	\$20.00 <u>30.00</u>
Stopped, standing or parked on a sidewalk	\$20.00 <u>30.00</u>

Standing or parked in front of a public or private driveway	\$25.00
Expired certificate of inspection or registration	\$20.00 <u>30.00</u>
Stopped, standing or parked within 15 feet of a fire hydrant	\$25.00 <u>100.00</u>

Double parking	\$25.00 <u>50.00</u>
Obstructing traffic	\$25.00 <u>50.00</u>
Interfering with snow removal	\$50.00
Public Safety Reserved Parking	\$10.00 <u>25.00</u>
<u>Abandoned vehicle</u>	<u>\$100.00</u>
Parking/Standing within 50 ft of Firehouse	\$10.00 <u>50.00</u>
Handicapped parking violations per § 1203-c of the Vehicle and Traffic Law	\$100.00

NOTE: In addition, a surcharge of \$30 has been levied by the state of New York for handicapped parking violations pursuant to § 1809-b of the Vehicle and Traffic Law.

Underlining denotes additions
~~Strikethrough~~ denotes deletions

SECTION 3 - VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION 4 - EFFECTIVE DATE

This Local Law shall be effective immediately upon adoption in accordance with the provisions of New York State Municipal Home Rule Law.