



City of Newburgh Council Work Session

6:00 pm

December 9, 2010

AGENDA

1. Procedural Items related to the City Council meeting on December 13:
 - a. Minutes of the meeting of November 22, 2010
 - b. City Clerk's Report for November
 - c. Registrar of Vital Statistics Report for November
 - d. Civil Service Administrator's Report for November
 - e. Notices of Claim:
 - Summons and Order to Show Cause: Town of New Windsor v. City of Newburgh
 - Notice of Claim: David Plotkin v. City of Newburgh
 - f. A public hearing will be held to receive comment on the proposed local law related to the licensing of dogs (in response to the State's relinquishment of responsibilities)
 - (Local Law 12) Amendment to Chapter 150 "Dogs and Other Animals" to provide procedures for the licensing of dogs
 - (Ord. No. 18) Amending Chapter 163 as it relates to the fees associated with dog licenses

2. Presentations at Work Session:
 - a. Armory – Dr. William Richards, President SUNY Orange and Deirdre Glenn
 - b. Insurance RFP – Phil Platzer, President Regent Consultants
 - c. Hiring Center – (see info)
 - d. Charter Revision – Jonathan Drapkin, Mid-Hudson Pattern for Progress (see Program Work Plan)
 - e. (Res. 265) A resolution requested by Mountco Construction and Safe Harbors for the affordable housing and commercial development project of at 97-101 Broadway – Joel Mouny and Trisha Haggerty Wentz
 - f. Update on Fire Department Operations – Chief Michael Vatter

3. Executive Session: 7pm
 - a. Discussions regarding proposed, pending or current litigation

4. Planning and Development/Real Estate:

- a. CDBG Advisory Committee – Courtney Kain (see info)
- b. Old Business: Abatement Legislation (see three pieces of proposed legislation; local law and two ordinances) – Chief Michael Vatter
- c. (Ord. 19) Amendment to the Code to add a section regulating window signs
- d. (Res. 266) Request for an extension of time in which to rehabilitate the premises known as 29 Lander Street

5. Finance Department:

- a. Installment Payments of Taxes
- b. Financial Advisory Board – Change in duties; increase membership; reappoint members (see info)
- c. (Res. 267) Amendment to Resolution No. 264-2010 to reflect changes made by the County to the homestead assessed value.
- d. (Res. 268) Amendment to the 2010 Budget to reflect changes to the Enterprise fund and “A” Fund.

6. Grants/Contracts/Agreements:

- a. Discussion of the MEGA Energy Contract with Hess Corporation - Craig Marti
- b. (Res. 269) Sales Tax Agreement between the County of Orange and the Cities of Middletown, Newburgh and Port Jervis.
- c. (Res. 270) Request from Cablevision to amend Resolution No. 48-95 to confirm the re-routing of the cable line as part of the Robinson Avenue reconstruction project
- d. (Res. 271) Acceptance of a donation of a Chevy Suburban from Newburgh Park Motors to be used by the Newburgh Police Department.
- e. (Res. 272) Acceptance of a donation of \$15,000.00 from Bernis Nelson to be used for the new equipment and furniture at the Armory.
- f. (Res. 273) Six-month extension of the agreement with J. Dwight Hadley

7. Executive Session: 9pm

- a. Sale of Real Estate
- b. Discussions regarding proposed, pending or current litigation

LOCAL LAW NO.: 12 - 2010

OF

DECEMBER 13, 2010

A LOCAL LAW TO AMEND CHAPTER 150 "DOGS AND OTHER ANIMALS"
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH
TO PROVIDE PROCEDURES FOR THE LICENSING OF DOGS

BE IT ENACTED, by the Council of the City of Newburgh, New York that the Chapter 150, "Dogs and other Animals", be and is hereby amended to read as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law to Amend Chapter 150 "Dogs and other Animals" of the Code of Ordinances of the City of Newburgh to Provide Procedures for the Licensing of Dogs".

SECTION 2 - PURPOSE AND INTENT

The purpose of this local law is to amend Chapter 150 of the Code of the City of Newburgh to provide for the licensing and identification of dogs, the control and protection of the dog population and protection persons, property, domestic animals and deer from dog attacks and damage in the City of Newburgh in accordance with recent changes to New York State Law. Effective January 1, 2011, the State of New York has relinquished the responsibility of dog licensing functions to the local municipalities and eliminated the Animal Population Control Fund. This local law is enacted under the authority granted to municipalities under the New York State Constitution and Municipal Home Rule Law of the State of New York.

SECTION 3 - AMENDMENTS OF CHAPTER 150

Chapter 150 entitled "Dogs and Other Animals", Article II "Dog Control" of the Code of the City of Newburgh is hereby repealed in its entirety and that the same is hereby amended to read as follows:

Chapter 150, DOGS AND OTHER ANIMALS

ARTICLE II, Dog Control

§ 150-12. Title, scope.

This Article shall be known as the "Dog Control Ordinance of the City of Newburgh" and shall apply to the entire City of Newburgh. It shall be enforceable by bringing an action or prosecution in the City Court of the City of Newburgh or other court of general jurisdiction.

§ 150-13. Purpose; findings.

The City of Newburgh finds that the running at large and other uncontrolled behavior of dogs have caused physical harm to domestic animals and persons damage to property and have created nuisances within the City. The purpose of this Article is to provide for the licensing and identification of dogs, to control and protect the dog population and to protect the health, safety and well-being of persons, property and other animals by imposing restrictions and regulations upon the keeping or running at large of dogs and the seizure thereof within the City of Newburgh.

§ 150-14. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

AT LARGE - Any dog that is unleashed and on property open to the public or is on private property not owned or leased by the owner of the dog. No dog shall be deemed to be "at large" if it is a police work dog or in use for police work or accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on unposted land or on posted land with the permission of the owner of the land.

CITY - The City of Newburgh.

CLERK - The City Clerk or Deputy City Clerk of the City of Newburgh, where licenses are to be validated or issued.

DETECTION DOG - Any dog that is trained and is actually used for such purposes or is undergoing training to be used for the purpose of detecting controlled substances, explosives, ignitable liquids, firearms, cadavers, or school or correctional facility contraband.

DOG - Both male and female and neutered dogs, and shall include the singular and plural.

GUIDE DOG - Any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog owned by a recognized guide dog training center located within the State of New York during the period such dog is being trained or bred.

HARBOR - To provide food or shelter to any dog.

HEARING DOG – Any dog that is trained to a person who hearing impaired and is actually used for such purpose, or any dog owned by a recognized training center located within the State of New York during the period such dot is being trained or bred for such training.

IDENTIFICATION TAG – A tag which sets forth an identification number, as required by the provisions set forth in this article.

OWNER – Any person, firm, association or corporation owning, harboring, keeping or otherwise responsible for a dog or dogs, or for property or premises whereon a dog or dogs are found or kept.

PERSON WITH DISABILITY – any person with a disability s that term is defined in Subdivision 22 of Section 292 of the New York State Executive Law.

POLICE WORK DOG – Any dog owned or harbored by any municipal police department or any State or Federal law enforcement agency which has been trained to aid law enforcement officers and is actually being used for police work purposes.

SERVICE DOG – Any dog that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability, provide that the dog is or will be owned by such person or that person’s parent, guardian or other legal representative.

THERAPY DOG – Any dog that is trained to aid the emotional and physical health of patients in hospitals, nursing homes, retirement homes and other settings and is actually used for such purpose or any dog owned by a recognized training center located within the State of New York during the period such dog is being trained or bred for such purpose.

WAR DOG – Any dog which has been honorably discharged from the United States armed services.

WORKING DOG – Any dog that is trained to aid in the search for missing persons and is actually used for such purposes; provide, however, that such services provided by said dog shall be performed without charge or fee.

§ 150-15. Dog Licensing Requirements and Procedures.

A. License required.

1. All dogs within the City of Newburgh four (4) months of age or older, unless otherwise exempted, shall be licensed. The owner of each dog required to be licensed shall obtain, complete and return to the Clerk a dog license application together with the license application fee, any applicable license surcharges and such additional fees as may be established by the City of Newburgh.

2. Exemptions.

(a) No license shall be required for any dog under the age of four (4) months that is not at large.

(b) Any dog harbored within the City which is owned by a non-resident of New York State and licensed by a jurisdiction outside the State of New York, shall for a period of thirty (30) days be exempt from the licensing and identification provisions of this Article.

B. Application. Applications for a dog license shall be made to the Clerk.

1. The application shall state the sex, actual or approximate year of birth, breed, color(s), municipal identification number of the dog, and other identification markers, if any, and the name, address, telephone number, county and town, city or village of residence of the dog owner and such other information as the Clerk may reasonably deem relevant.

2. In the case of a spayed or neutered dog, every application shall also be accompanied by a certificate signed by a licensed veterinarian showing that the dog has been spayed or neutered, provided such certificate shall not be required if the same is already on file with the Clerk.

3. The application shall be accompanied by a non-refundable license fee as set forth in Chapter 163, Fees, of the Code of Ordinances of the City of Newburgh.

4. The Clerk shall provide a copy of the license to the owner and retain a record of the license in either paper or electronic format.

C. Fees. Every person applying to the City for a dog license shall pay an annual license fee for each dog, as set forth in Chapter 163, Fees, of the Code of Ordinances of the City of Newburgh.

1. Exemption from fees. There shall be no fee charged for the license issued for any detection dog, guide dog, hearing dog, police work dog, service dog, therapy dog, war dog or working search dog. Each copy of the license issued by the Clerk shall be conspicuously marked "Detection Dog", "Guide Dog", "Hearing Dog", "Police Work Dog", "Service Dog", "Therapy Dog", or "Working Search Dog".

2. State Surcharge. In addition to the license fee established by Chapter 163, each applicant for a dog license shall pay surcharges to be remitted to New York State as required by the Agriculture and Markets Law. Required surcharges are set forth in Chapter 163, Fees, of the Code of Ordinances of the City of Newburgh.

D. Term of license and renewal. Each dog license issued shall be valid for a period of one year and shall not be transferrable. A license shall be renewed at least 30 days prior to its expiration

upon a form to be furnished by the Clerk with such other information as the Clerk may deem necessary.

E. Transferability. No dog license shall be transferable. Upon the transfer of ownership of any dog, the new dog owner shall immediately make application for a license for such dog. The original issued identification tag shall remain the same for the life of the dog.

F. License required to adopt. No dog which is lawfully in the City's custody and possession or which becomes the legal property of the City may be adopted without first obtaining a license from the Clerk and paying the fee set for the in Chapter 163, Fees, of the Code of Ordinances of the City of Newburgh.

G. Rabies vaccination. The Clerk, at the time of issuing any license pursuant to this Article, shall require the applicant to present a statement certified by a licensed veterinarian showing that the dog or dogs have been vaccinated to prevent rabies or, in lieu thereof, a statement certified by a licensed veterinarian stating that because of age or other reason, the life of the dog or dogs would be endangered by the administration of vaccine. The Clerk shall make or cause to be made from such statement a record of such information and file such record with a copy of the license.

§ 150-16. Identification of Dogs

A. Each dog licensed by the City shall be assigned at the time the dog is licensed for the first time, a permanent official identification number. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar or harness on the dogs at all times.

B. The official identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.

C. At the time a dog is first licensed one identification tag shall be furnished to the owner at no charge. Replacement of identification tags shall be obtained by the owner at his expense for the fee set forth in Chapter 163, Fees, of the Code of Ordinances of the City of Newburgh.

D. No tag carrying an official identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.

E. The identification tag shall be imprinted with the following: "City of Newburgh", "State of New York", a unique identification number and the telephone number of the Clerk's office.

F. A dog participating in a dog show shall be exempt from the identification requirement of this Section during such participation.

§ 150-17. Change in Ownership; Lost or Stolen Dogs.

A. In the event of a change in ownership of any dog which has been assigned an official identification number or change of address of the owner of record or any such dog, the owner of record shall, within ten (10) days of such change, notify the Clerk.

B. If any dog which has been assigned an official identification number is lost or stolen, the owner of record shall, within ten (10) days of the discovery of such loss or theft, notify the Clerk.

C. In the case of a dog's death, the owner of record shall so notify the Clerk either prior to the renewal of license or upon the time of such renewal.

§ 150-16. Committing of nuisances.

Any person in control of an at-large dog shall remove all fecal matter left by such dog off the premises of the owner and off of all City property including streets, sidewalks, parklands and other property. Such fecal matter shall be disposed of in a suitable manner in compliance with the Sanitary Code and other applicable laws, rules and regulations.

§ 150-17. Vicious dogs.

No person owning or having in his possession a dog which has vicious propensities shall allow such dog to go at large at any time within the city. The owner of the premises on which such a dog is kept, maintained or housed shall cause to be posted, at each entrance to the premises, a legible and conspicuous notice as follows: "WARNING: DANGEROUS DOG." All persons in custody or control of such dog shall securely restrain such dog including by the use of a leash, muzzle, harness, collar and all other means necessary whenever such dog is present on any sidewalk, street, park or other public place in the City.

§ 150-18. Seizure and impoundment; redemption.

A. Seizure and impoundment. Any dog found running loose or at large in the City, shall be subject to seizure by any police officer, animal control officer, code enforcement officer or other employee of the City designated by the City Manager and/or the Chief of Police for the purpose of seizing and impounding such dogs.

B. Redemption. After any such seizure and impounding, the owner of such animal, if known, must be notified thereof. Such notice may be given in person, by telephone, mail, facsimile or other physical or electronic means, or by publication or posting of notice or other method which the City deems reasonably practicable. The owner of any dog impounded may redeem such dog within five (5) business days, excluding the day the dog is impounded, from the day the dog is impounded, provided that the owner produces proof that the dog is licensed and identified and pays a fee as set forth in Chapter 163, Fees, of this Code per day for seizure and impounding of

such dog. In addition, such owner shall pay any and all costs and expenses incurred by the City for the care and feeding of any animal for which the owner is responsible to the City, including but not limited to the costs of shelter, boarding, food, veterinary services, medications, treatment, confinement, spaying, neutering, transportation and other costs related thereto. If said dog is not claimed or redeemed by its lawful owner as aforesaid, then said dog may be, in the discretion of the City, adopted by or delivered to any responsible or proper person upon payment of the aforesaid fees including the adoption fee and the reimbursement to the City of its costs as the City may in its discretion determine, and upon production of a license, if required, for said dog.

C. Failure to redeem. If any dog so impounded is not redeemed as provided in this section, the Police Department, animal control officer, code enforcement officer or any person designated for such purpose by the City Manager or Chief of Police may destroy such dog, in keeping with all laws, rules and regulations applicable thereto.

§ 150-19. Adoption of animals.

Any dog or cat which is lawfully in the City's custody and possession or which becomes the legal property of the City may be adopted by any suitable qualified person according to law. No person may adopt a dog from the City without first paying the fee set forth in Section 163, Fees, of the City Code of Ordinances and obtaining a license for such dog in accordance with Section 150-15 above. Before such dog or cat is adopted it shall be spayed or neutered. The payment of all costs thereof, and of the costs referenced in Section 150-18 above, shall be the obligation of the person adopting such animal. This obligation may be reduced or waived by the City Manager as may be necessary or appropriate in any given case.

§ 150-20. Violations and Penalties.

A. Violations enumerated.

1. Section 118 of the Agriculture and Markets Law establishes violations, penalties and procedures pertaining, among other things, to the licensing and identification of dogs and the furnishing of information on forms and notifications to municipalities. The provisions below are in supplementation and not in substitution to Section 118 of the Agriculture and Markets Law.

2. It shall be a violation, punishable as provided in subdivision B of this section for:

- (a) any owner to fail to license a dog;
- (b) any owner to fail to have any dog identified as required by this Article;
- (c) any person to knowingly affix to any dog any false or improper identification tag, special identification tag for identifying any guide, service or hearing dogs.

3. It shall be a violation of this article for any owner of any dog to permit or allow such dog to:

- (a) Run at large, unless said dog is restrained by an adequate collar and leash and is accompanied by its owner or by a person of suitable age and responsibility capable of controlling the dog.
- (b) Engage in habitual loud barking or howling or to conduct itself in such a manner so as to produce an unreasonable noise or noise of a type or volume that a reasonable person under the circumstances would find offensive and/or which creates or causes a public nuisance.
- (c) Cause damage or destruction to property of a person other than the owner of such dog.

4. It shall be a violation of this article for any owner of any dog to permit the premises, structures or enclosures in which such dog is kept to be unclean or unsanitary.

5. It shall be a violation of this Article for any owner of any dog to allow said dog to menace, attack, bite, injure or put in fear thereof any person.

6. It shall be a violation of this Article for any owner of any dog to fail to provide sufficient food, water or care for such dog so as to harm, injure or endanger the health of such dog.

B. Except as provided in § 150-21 of this chapter, any person who shall violate any of the provisions of this article or fail to comply therewith or who shall violate or fail to comply with any order made thereunder shall be punished as provided herein and/or in § 1-12 for violation of this article of the Code of Ordinances of the City of Newburgh.

C. The imposition of any penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within twenty-four (24) hours of the issuance of such citation or accusatory instrument to the violator. Each day that prohibited conditions exist shall constitute a separate offense.

D. The application of the above penalty shall not be held to prevent the enforced correction and/or removal of prohibited conditions by the City in the event the violator shall fail to correct or remedy such condition(s) within twenty-four (24) hours. The City shall have the right to recover from the owner, proprietor or other person(s) responsible for any animals or premises the cost to the City of correcting or removing such conditions. In the event the person(s) responsible fail to reimburse the City for its costs, the City may re-levy such costs as a tax upon the real property where such conditions existed and may thereafter enforce the collection of same as provided by law for the collection of taxes.

§ 150-21. Enforcing officers.

Any animal control officer, code enforcement officer or police officer of the City of Newburgh may enforce the provisions of this Article and may also investigate and report to the City Court any dangerous dog as described in § 121 of the Agriculture and Markets Law and may carry out the order or orders of the City Court Judge in those cases provided for in Article 7 of the Agriculture and Markets Law and may enforce and carry out the duties outlined generally in Article 7 of said Agriculture and Markets Law and of any provision of this Chapter.

§ 150-22. Unsupervised dogs.

No person shall tie, fence or otherwise confine any dog out of doors unless such dog's owner or a person of suitable age and responsibility who is capable of controlling the dog and who has agreed to control the dog is present on the premises during the entire time said dog is thus tied, fenced or confined.

§ 150-23. Dog kennels.

A. No dog kennel as defined in § 300-4B of the Zoning Law of the City of Newburgh shall be permitted within the City of Newburgh except within C-2 (a), I-1 and I-2 Zoning Districts as such are defined in the Zoning Law.

B. No dog kennel shall be constructed, kept or maintained:

- (1) In the front or side yard of any dwelling; or
- (2) On the premises of any two-family dwelling or multiple dwelling or apartment house, except with the permission of an owner of the premises who uses such premises as his actual residence and domicile.

SECTION 4 - EFFECTIVE DATE

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

ORDINANCE NO.: 18 - 2010

OF

DECEMBER 13, 2010

AN ORDINANCE AMENDING CHAPTER 163
ENTITLED "FEES" OF THE CODE OF THE CITY OF NEWBURGH
IN RELATION TO FEES FOR DOG LICENSES

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:

<u>§ 150-15(C)</u>	<u>Dog licenses. Fees for dog licenses shall be charged as follows:</u>	<u>Spayed or neutered dog:</u> <u>\$7.50, plus \$1.00</u> <u>Agriculture and Markets population control fund surcharge</u>
		<u>Unspayed or unneutered dog:</u> <u>\$12.50 plus \$3.00</u> <u>Agriculture and Markets population control fund surcharge</u>
<u>§ 150-16(C)</u>	<u>Replacement Identification Tags</u>	<u>\$10.00</u>
<u>§ 150-18(B)</u>	<u>Redemption of impounded dog</u>	<u>\$35.00, plus an additional \$3.00 for each twenty-four (24) hour period of impoundment for the second, third and each subsequent impoundment of the same dog.</u>

~~Strikethrough~~ denotes deletions

Underlining denotes additions

Boarding:

For each animal which is placed
in the care and custody of a
private boarding facility

Actual cost of such
placement, plus cost of
veterinarian services and
medication expenses
incurred by the City while
caring for such animal

For each animal in the care and
custody of the City of Newburgh
Animal Control Officer boarded
at City facilities

\$25.00 per day or part
thereof; plus cost of
veterinarian services and
medication expenses
incurred by the City while
caring for such animal

§ 150-19 Adoption of Dogs \$10.00, plus the cost of a
dog license

~~§ 150-22~~ In addition to the licensing fees
established by § 110, Subdivision (1)
of the Agriculture and Markets Law of
the State of New York, the following
local fees shall be charged For each spayed or neutered
dog: \$5.00

For each unspayed or
unneutered dog: \$5.00

SECTION 2. This Ordinance shall take effect on January 1, 2011.

~~Strikethrough~~ denotes deletions
Underlining denotes additions

Resolution No: 265 -2010

Of

December 9, 2010

A Resolution in Support of Safe Harbors of the Hudson, Inc. ("Safe Harbors") and Mountco Construction and Development Corp. ("Mountco") for the new construction of Affordable Housing and Commercial Space at 97-101 Broadway in the City of Newburgh, NY

Whereas, 97-101 Broadway is a vacant plot of land in the City of Newburgh within the historic landmark district in downtown Newburgh; and

Whereas, Safe Harbors and Mountco are real estate developers and builders who have partnered together to develop and construct housing and commercial space; and

Whereas, Safe Harbors & Mountco have proposed developing and constructing 68± units of housing and 10,000 square feet of commercial space; and

Whereas, the City Council supports and embraces this plan, one which will provide much needed high-quality affordable housing with targeted income levels at 1/3rd of the units at 50-60% of Orange County (OC) AMI, 1/3rd of the units at 40-50% of OC AMI and 1/3rd of the units at 30-40% of OC AMI; and commercial development in the City bringing more private investment to downtown Newburgh and enhancing the City's central business district.

Now Therefore Be It

Resolved, that the City Council of the City of Newburgh hereby expresses its enthusiastic support of the Safe Harbors/Mountco project and their efforts to develop and construct affordable housing and commercial development at this site; and

Resolved, that the City Council of the City of Newburgh hereby expresses to all agencies to which Safe Harbors/Mountco may apply for funding, its wholehearted support of the funding applications; and be it further

Resolved, that the City Manager is hereby authorized and directed to send a certified copy of this Resolution and a letter of support to all state and federal agencies to which Safe Harbors/Mountco may apply for funding.

LOCAL LAW NO.: _____ - 2010

OF

DECEMBER 13, 2010

A LOCAL LAW AMENDING CHAPTER 126
ENTITLED "BUILDINGS, NUISANCE"
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH
(CITY ABATEMENT)

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 126 entitled "Buildings, Nuisance" of the Code of the City of Newburgh".

SECTION 2. Chapter 126. Buildings, Nuisance.

§ 126-7. Abatement by authorized officials.

The authorized officials of the City, having properly served parties who have committed or are responsible for a nuisance, ~~shall~~ may abate such nuisance ~~at~~ after the expiration of the time limit provided in such notice ~~under the rules of the City Charter and Code for its abatement, and for such abatement by the City the penalties and cost chargeable by the City against the owner as provided in this chapter shall be imposed and collected in the manner provided by law regulating the collection of fines, and if not so collected same may be added to and releived as property tax against the property and enforced and collected in the same manner as provided by law for the enforcement of unpaid taxes, and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.~~

SECTION 3 - Effective Date

THIS LOCAL LAW SHALL TAKE EFFECT immediately upon its filing in the Office of the Secretary of State as provided by Law.

ORDINANCE NO.: _____ - 2010

OF

DECEMBER 13, 2010

**AN ORDINANCE RESCINDING THE LANGUAGE CONTAINED IN
CHAPTER 226, ENTITLED "PERFORMANCE OF WORK BY CITY; ABATEMENT"
OF THE CODE OF ORDINANCES AND AMENDING
CHAPTER 226, "PERFORMANCE OF WORK BY CITY; ABATEMENT"
IN ITS ENTIRETY**

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 226, "Performance of Work by City; Abatement", be and is hereby repealed in its entirety and that the same is hereby amended to read as follows:

SECTION 1. Chapter 226. Performance of Work by City; Abatement.

§ 226-1. Notice.

- A. In the event that any owner of any occupied or unoccupied lot, piece of land, building or structure or any part thereof within the City of Newburgh shall fail to maintain or repair the same as required by the City Code, or if such property or structure be considered a public nuisance as defined by the City Code, such owner may, in addition to or in lieu of other remedies, be served an abatement notice by certified mail, return receipt requested, sent to such owner's last known address as shown on the records of the City Assessor. A copy of such notice shall also be posted on the premises.
- B. The abatement notice shall contain a description of the premises, specify the provisions of the City Code deemed to have been violated, require the owner to correct the condition within twenty (20) days of the date of such notice, and provide that if the owner fails to do so, the City or the City's contractor may undertake or cause to be undertaken the required work, repair, or demolition and the City shall assess a lien against the property for the cost of the work, repair, or demolition together with an additional fifteen (15%) percent administrative fee for costs of inspection and other incidental costs associated with abating the condition, to be added to the total costs of the work, repair, or demolition. The notice shall also contain, pursuant to § 226-2 of this Chapter, a hearing date and location, at which time and place the owner may be heard in regard to the matter contained in the notice. If the City determines that an emergency exists, the City may undertake or cause to be undertaken such work, repair, or demolition prior to the expiration of the

specified period of time and/or prior to the hearing date, provided the notice identifies the violations as constituting such an emergency.

§226-2. Hearing to appeal notice.

- A. Any person affected by an abatement notice issued pursuant to § 226-1 of this Chapter shall be entitled to a hearing before the City Manager or the City Manager's designee, except in the case of an emergency. The City Manager or the City Manager's designee shall set the time and place for such hearing. The hearing shall be scheduled for at least ten (10) days but not more than fifteen (15) days from the date of the notice. At such hearing, the owner shall be given an opportunity to show cause why such notice of abatement should be modified or withdrawn.
- B. After a hearing held in accordance with subsection 226-2A of this Chapter and on consideration of the evidence presented, the City Manager or the City Manager's designee shall sustain, modify, or withdraw the notice of abatement. Such decision shall be deemed a final order and shall be served on the owner in the same manner as provided for in subsection 226-1A of this Chapter.
- C. The City Manager or the City Manager's designee shall keep a summary of testimony and copies of relevant notices or orders; entries of appearance; findings of fact, if any; and the final determination, and such record shall be maintained as a public record.
- D. If the owner does not appear at a hearing scheduled pursuant to this Section, the abatement notice shall be deemed a final order.

§226-3. Remedies; additional notice; additional hearing; expenses and tax liens.

- A. Should the owner fail to comply with a final order, or should the City determine an emergency exists, the City may undertake or cause to undertake the required work, repair, or demolition. The City shall keep records of the cost of such work, repair, or demolition.
- B. Should the required work, repair, or demolition be performed by the City or the City's contractor pursuant to subsection 226-3A of this Chapter, the city shall serve a billing notice on the owner, in the same manner as specified in subsection 226-1A of this Chapter, setting forth the cost of such work, repair, or demolition together with an additional fifteen (15%) percent administrative fee for costs of inspection and other incidental costs associated with abating the condition, to be added to the total costs of the work, repair, or demolition.
- C. An owner served with a billing notice pursuant to subsection 226-3B of this Chapter may request and shall be granted a hearing before the City Manager or the City Manager's designee to dispute the charges, provided that such owner shall file within

ten (10) days of the date of the notice, in the office of the City Manager, a written request for such hearing. Upon receipt of a request for a hearing the City Manager or the City Manager's designee shall set a time and a place for such hearing and shall give the applicant at least ten (10) days written notice thereof. Such hearing shall commence not later than thirty (30) days after the date on which the request was filed; however, hearings may be postponed beyond such thirty (30) day period for good cause shown. At such hearing, the owner shall be given an opportunity to show cause why such costs should be reduced or otherwise modified. The City Manager or the City Manager's designee shall make a final determination on the charges, and such decision shall be deemed a final order. If the owner does not request a hearing on the billing notice, such notice shall be deemed a final order.

- D. The cost of the work, repair, or demolition as finally determined together with an additional fifteen (15%) percent administrative fee for costs of inspection and other incidental costs associated with abating the condition, added to the total costs of the work, repair, or demolition, shall be assessed as a lien against the abated property. Notice shall be given to the Tax Collector's Office specifying the total cost of the work, repair, or demolition together with the fifteen (15%) percent administrative fee and the property affected by section, block and lot numbers as the same appear on the Official Tax Assessment Map of the City of Newburgh. From the hour of filing of said notice, the charges specified shall be a lien upon the property affected thereby. A copy of said notice shall also be served on the owner as provided for in subsection 226-1A of this Chapter. The costs specified, if not paid by or on behalf of the owner within thirty (30) days of the date of the notice, shall be added to and collected with the subsequent City tax levy, and shall bear interest and be enforced as provided by law for City taxes.

§226-4. Judicial review.

Any person or persons, jointly or severally aggrieved by any final order, may seek to have such order reviewed by the Supreme Court, Orange County, in the manner prescribed in Article 78 of the Civil Practice Law and Rules and as otherwise provided for in the laws of the State of New York.

§226-5. City not liable.

No action for damages may be maintained against the City by reason of its failure to comply with any of the provisions of this Chapter.

SECTION 2. THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

ORDINANCE NO.: _____ - 2010

OF

DECEMBER 13, 2010

AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE CODE OF THE CITY OF NEWBURGH WITHIN CHAPTERS 119, "BRUSH, GRASS AND WEEDS," 121, "BUILDINGS, VACANT," 122, "BUILDING CONSTRUCTION," 129, "BUILDINGS, UNSAFE," 190, "HOUSING AND PROPERTY STANDARDS," 234, "PROPERTY DAMAGE" AND 279, "TREES AND SHRUBS" (ABATEMENT BY CITY)

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapters 119, "Brush, Grass and Weeds," 121, "Buildings, Vacant," 122, "Building Construction," 129, "Buildings, Unsafe," 190, "Housing and Property Standards," 234, "Property Damage" and 279, "Trees and Shrubs" of the Code of the City of Newburgh be and the same are hereby amended to read as follows:

SECTION 1. Chapter 119. Brush, Grass and Weeds.

§ 119-5. Correction of condition by city.

If the person upon whom the notice provided for in § 119-4 is served fails, neglects or refuses to cut and remove or to kill by spraying such weeds, grass or other vegetation ~~within five days after the date of the mailing or posting of said notice, then the city, through the official designated by it for said purpose, shall cause such weeds, grass and other vegetation on such lot or land to be cut and removed or killed by spraying, the City may abate such condition and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.~~

~~§ 119-6. Costs of removal.~~

~~The actual cost to the city of cutting and removing or killing by spraying as provided in § 119-5 plus a sum equal to 5% of such actual cost for inspection and other additional costs in connection therewith, shall be certified by the city official in charge of such cutting, removing or killing by spraying, and the amount thereof shall thereupon become and be a lien upon the property on which such weeds, grass or other vegetation were located, and the total amount thereof shall be added to and become a part of the next annual assessment roll at the time and in the manner prescribed by the Charter of the city and subject to all the provisions thereof.~~

SECTION 2. Chapter 121. Buildings, Vacant.

§ 121-3. Responsibility of owner.

C. The Office of Code Compliance shall cause such vacant building to be inspected on a biweekly basis and shall notify the owner or agent at the address filed with the Office of Code Compliance of any accumulation of trash, debris, rodent infestation, the failure to keep said building secured or other violation of law, ordinance, City or state code or regulation at the premises.

(1) The owner shall have seven days from receipt of said notice to correct such conditions.

(2) If the owner fails to correct such condition, the City may ~~enter on the property, correct said condition and assess the cost of such work against the property.~~ abate such condition and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.

~~D. Assessment of any costs incurred by the City for such work performed by the City to correct violations at said property shall be carried out pursuant to Chapter 226 of the Code of Ordinances.~~

SECTION 3. Chapter 122. Buildings, Construction.

§ 122-7. Notice of violations; court action; emergencies; costs; responsibility for violations.

C. Proceedings to compel compliance. In the event that the owner, agent, operator or occupant cannot be found within the time limit set for the abatement of said violations or if such owner, agent, operator or occupant shall fail, neglect or refuse to abate such violation, the Corporation Counsel shall be advised of all facts and ~~shall~~ may institute appropriate action in the court to compel compliance. Additionally, the City may abate such condition and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.

D. Emergency cases. In cases of emergency which, in the opinion of the Code Compliance Supervisor, require immediate action to abate a direct hazard or imminent danger to the health, safety, morals or welfare of the occupants of a building or to the public, ~~he shall promptly cause such action to be taken as is necessary to remove or abate the hazard or danger.~~ the City may abate such condition and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent

administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.

SECTION 4. Chapter 129. Buildings, Unsafe.

§ 129-11. Refusal to comply; procedure; expenses.

In addition to any penalty provided for in this chapter of the Code, upon the refusal or neglect of the person served with the notice for which provision is made in §§ 129-9 and 129-10 to comply with any of the requirements thereof, the Building Inspector may take down, remove, make safe or secure said buildings or structures ~~or may cause such work to be done and shall file a certificate of the expense thereof, together with a description of the property upon which the said buildings or structures are or were located, with the Director of Finance, who shall certify the same to the Council at the next regular meeting thereafter, and the expense of such taking down, removal, making safe or secure shall be paid by the owner of said property and may be collected in a proceeding pursuant to General Municipal Law, § 78-b, or by action at law or may be determined, assessed and collected in the same manner as the general city taxes as provided by law. and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.~~ In the event of demolition, the Building Inspector shall additionally follow the procedures set forth in Section 129-15 hereof.

§ 129-12. Temporary safeguards for dangerous buildings.

In case there shall be, in the opinion of the Building Inspector, actual and immediate danger of the falling of any building or part thereof so as to endanger life or property, and such danger constitutes an emergency, the Building Inspector shall cause the necessary work to be done to render such building or part thereof temporarily safe; and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.

§ 129-15. Procedure.

The procedure for the removal of any building or structure which endangers the health, safety or welfare of the public shall be as follows:

F. In the event that the owner, or any party of interest, fails to repair or remove, as directed in the notice, within the time indicated therein, the City of Newburgh ~~shall~~may enter upon such property and cause to be repaired or removed the building or structure thereon, pursuant to the procedures set forth in Chapter 226 of the City Code. The cost and expenses incurred by the city in connection with the repair or removal of such building or structure, including the cost of actually removing the same, shall be assessed against the land on which said building or structure is located. Said cost and expenses

may also be collected from the owner of said building or structure by special proceeding pursuant to § 78-b of the General Municipal Law.

SECTION 5. Chapter 190. Housing and Property Standards.

§ 190-21. Abatement of hazards; ~~in emergencies;~~ expenses.

~~Whenever any violation of this chapter which, in the opinion of the head of the code enforcement agency, causes a direct hazard or immediate danger to the health, safety, morals or welfare of the occupants of a building or the public has not been corrected in the time specified by the order issued under § 190-20 of this chapter, the head of the code enforcement agency may take such direct action as is necessary to abate the hazard or danger. Expenses incurred in the execution of such orders shall be recovered as provided in Chapter 125, Buildings, Demolition of, of this Code. If, in the opinion of the head of the code enforcement agency, such violations constitute an emergency, or if the owner notified pursuant to § 190-16 fails to correct the specified violations, the City may abate such condition and assess a lien against the property for the cost of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.~~

SECTION 6. Chapter 234. Property Damage.

§ 234-8. Property owners' responsibilities.

C. In any case in which the City takes appropriate action to remedy, remove or paint over graffiti as provided in Subsection B hereinabove, after providing the notice as required therein, then in such case the City shall be entitled to recover from the owner or from the offender or from both, jointly and severally, reimbursements for the actual costs and expenses associated with such remedy, removal or painting over. The City may undertake any and all available actions which may be appropriate and necessary to securing such reimbursement, including but not limited to any or all of the following: negotiation with the responsible party, mediation, arbitration, legal action, and/or ~~adding the sum sought to the tax bill sent to and imposed upon the owner of real property in the City of Newburgh assessing a lien against the property for the costs of such remedy, removal, or painting over together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code. If such sum is added to the tax bill, it may thereafter be enforced in the same manner as provided by law for the enforcement of taxes.~~

SECTION 7. Chapter 279. Trees and Shrubs.

§ 279-14. Removal of branches overhanging public areas.

Where privately owned trees encroach upon any public street, park or public area, the Superintendent of Public Works or the Building Inspector may serve, personally or by mail, upon the owner of such property, a written notice to trim the encroaching branches; ~~and, upon failure to do so within 30 days after service of such notice, the Superintendent of Public Works shall remove branches overhanging any public street, park or public area and assess the costs thereof against the property affected by the assessment, to be levied, collected and enforced in the same manner as taxes upon said property for city purposes are levied, collected and enforced.~~ If such owner fails to comply with such notice, the City may abate such condition and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.

§ 279-15. Removal of dead trees.

Where any dead tree or trees located on private property adjacent to a public street, park or public area constitute a danger or are potentially dangerous to the traveling public, the Superintendent of Public Works or Building Inspector may serve personally or by mail upon the owner of such property a written notice to remove the dead tree, ~~and, upon failure to do so within 30 days after service of said notice, the Superintendent of Public Works shall remove the same and assess the costs thereof against the property affected by such assessment, to be levied, collected or enforced in the same manner as taxes upon said property for city purposes are levied, collected and enforced.~~ If such owner fails to comply with such notice, the City may abate such condition and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.

SECTION 8. THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

| Strikethrough denotes deletions
Underlining denotes additions

ORDINANCE NO.: 19 - 2010

OF

DECEMBER 13, 2010

AN ORDINANCE AMENDING SECTION 250 ENTITLED "SIGNS"
OF THE CODE OF THE CITY OF NEWBURGH TO PROVIDE FOR AN AMENDMENT
TO SECTION 250-2 ENTITLED "DEFINITIONS" AND FOR THE ADDITION OF A
NEW SECTION, 250-26.1 ENTITLED "WINDOW SIGNS"

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 250, entitled "Signs," Section 250-2, entitled "Definitions" of the Code of the City of Newburgh be and is hereby amended to read as follows:

SECTION 1. Chapter 250, SIGNS

§ 250-2. Definitions.

As used in this chapter, unless the context otherwise indicates, the following terms shall have the meanings indicated:

ERECT ~ To build, construct, attach, hang, place, suspend or affix, and shall also include the painting of wall signs.

FACING OR SURFACE ~ The surface of the sign upon, against or through which the message is displayed or illustrated on the sign.

ILLUMINATED SIGN ~ Any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.

INCOMBUSTIBLE MATERIAL ~ Any material which will not ignite at or below a temperature of 1,200° F and will not continue to burn or glow at that temperature.

OTHER ADVERTISING STRUCTURE ~ Any marquee or canopy as further defined herein.

SIGN ~ Includes every sign, billboard, ground sign, wall sign, roof sign, illuminated sign, projecting sign, temporary sign, marquee and canopy and shall include any announcement, declaration, demonstration, display illustration or insignia used to advertise or promote the interests of any person when the same is placed out of doors in view of the general public.

STRUCTURAL TRIM ~ The molding, battens, cappings, nailing strips, latticing and platforms which are attached to the sign structure.

WINDOW SIGN ~ A sign visible from a sidewalk, street or other public place, affixed or painted on glass or other window material, or located inside within two feet of the window, but not including graphics in connection with customary window display of products.

SECTION 2.

§ 250-26.1 Window Signs

Permanent and/or temporary signs on windows and glass doors shall not occupy more than twenty-five percent cumulatively of the total area of windows and doors. The twenty-five-percent computation shall be based on any window and door areas inside of decorative borders, if any. Area should be measured inside of decorative borders.

SECTION 3. This Ordinance shall take effect immediately.

Underlining denotes additions

RESOLUTION NO. 266 - 2010

OF

DECEMBER 13, 2010

A RESOLUTION AUTHORIZING THE CITY MANAGER TO
GRANT AN EXTENSION OF TIME TO REHABILITATE
THE PREMISES KNOWN AS 29 LANDER STREET
(SECTION 30, BLOCK 4, LOT 31)
IN THE CITY OF NEWBURGH

WHEREAS, the City of Newburgh did convey the premises located at 29 Lander Street, more accurately described as Section 30, Lot 4, Block 31 on the Official Tax Map of the City of Newburgh, by deed dated November 26, 2002; and

WHEREAS, said deed included a provision requiring rehabilitation of the conveyed premises to be completed on or about May 26, 2004; and

WHEREAS, Ms. Hayles negotiated a compromise with the City of Newburgh wherein she was to have completed necessary building repairs and obtain the Certificate of Occupancy on or before December 30, 2010.

WHEREAS, due to unforeseen circumstances Ms. Hayles is unable to comply with the deadline, but has attempted a good faith effort and intent to complete the rehabilitation; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh and its future development to grant said extension.

NOW, THEREFORE, BE IT RESOLVED, that the City Manager be and he hereby is authorized to grant Judith Hayles a one (1) year extension to rehabilitate the premises known as 29 Lander Street in the City of Newburgh, until December 31, 2011.

**CITY OF NEWBURGH
BUILDING INSPECTOR'S OFFICE
123 Grand Street
Newburgh, New York 12550**

MEMO TO: Bernis E. Nelson, Corporation Counsel
MEMO FROM: Steve Hunter, Code Compliance Supervisor
DATE: November 16, 2010
RE: Judith Hayles – Reverter Action
29 Lander Street 30-4-31

The above referenced property was purchased by Judith Hayles from the City of Newburgh on November 26, 2002. Ms. Hayles applied to the Architectural Review Commission in June, 2004 for recommendation to the Zoning Board of Appeals. She appeared and was denied by the Zoning Board of Appeals in June, 2004 for a three family dwelling. She again applied before the Zoning Board of Appeals in January, 2006 for a two family dwelling and was approved. A building permit application was submitted in September 2006. In December, 2006 a structural evaluation of the building was submitted. We have received an asbestos report, engineers report and plans. We have also received sprinkler drawings, hydraulic calculations and material submittal. The project plans dated 2004 were returned and requested to be updated to the current New York State Building Code.

I have attached a copy of the most recent denial letter dated March 20, 2008 indicating requirements for completion of review and issuance of the building permit.

Steven C. Hunter

[Faint, illegible stamp or text in the bottom right corner]

City of Newburgh Building Department

Memo

MEMO TO: Judith Hayes, Errol David McIntosh Architect

FROM: Jesse Morrill, Code Enforcement Officer

DATE: 3/20/08

RE: Building permit application (29 Lander St.)

Please resubmit application addressing the following items.

- Building evaluation per (aj106.1 Residential code, 103.6 Existing Building code)
- Was building designed according to Building code or Residential code?
- Specify UL listing for rated wall and ceiling assemblies
- How will appliances in utility room exhaust?
- Specify how building meets Energy code
- Is building receiving a new staircase?
 - If so, provide framing details through floor systems
- Provide detail for sistered floor joists (fastening, length of sister member)
- Is the utility room block wall being constructed directly on wood floor system?
- Show location of bathroom exhaust fan and discharge location
- Provide electrical plan
- Show more detail on basement floor framing

NOV - 1 2010

CAROLYN V. MINTER
ATTORNEY AND COUNSELOR AT LAW

LAW OFFICES OF CAROLYN V. MINTER
BAR BUILDING ■ 79 CROTON AVENUE ■ OSSINING, NY 10562 ■ TELEPHONE (914) 762-1458

October 28, 2010

Tarshis, Catania, Liberth, Mahon & Milligram, PLLC
P. O. Box 1479
Newburgh, NY 12551
Attention: Nicholas A. Pascale, Esq.

Re: Judith Hayles
Property Address: 29 Lander Street
Newburgh, New York

Dear Mr. Pascale:

Please be advised that when we appeared at the Supreme Court, Orange County on November 13, 2009 before the Honorable Elaine Slobod the matter was adjourned to give Ms. Hayles an opportunity to apply for and receive permits and to complete the building repairs on or before December 30, 2010.

Thereafter Ms. Hayles and the undersigned met with Steven Hunter at the Building Department and were informed in detail with reference to what was required for completion.

Ms. Hayles has already spent in excess of Forty Thousand (\$40,000.00) Dollars on the building and has also devoted a great deal of time and effort to bring this building up to Code and to complete the renovation thereof. Unfortunately, during the past month, due to the economy, Ms. Hayles was terminated from her employment.

Ms. Hayles had and has every intention to complete the building, however she cannot do so by December 2010.

We are therefore asking whether or not you would be willing to prepare another stipulation giving her at least nine (9) months or a year to obtain employment and complete the renovation.

Kindly let us hear from you at your earliest possible opportunity.
Thank you.

Very truly yours,
Law Offices of CAROLYN V. MINTER


By: Carolyn V. Minter

CVM/lt
cc: Ms. Judith Hayles

RESOLUTION NO.: 267 - 2010

OF

DECEMBER 13, 2010

A RESOLUTION TO AMEND RESOLUTION No.: 264-2010
OF NOVEMBER 23, 2010 ADOPTING THE AMENDED BUDGET
FOR THE FISCAL YEAR 2011

WHEREAS, the City Manager, on October 4, 2010, submitted to the City Council of the City of Newburgh, New York, a detailed estimate, including the "Manager's Proposed Fiscal Year 2011 Budget" and the "Manager's Proposed Personnel Analysis Book" of same date, of revenues and expenditures necessary and proper for all municipal activities accounted for in the General, Water, Sewer, Sanitation and Self-Insurance Funds during the fiscal year of 2011; and,

WHEREAS, such detailed estimates has been filed in the City Clerk's Office as required by the Charter of the City of Newburgh so that said estimates may be inspected by anyone interested, and a public hearing was held on November 8, 2010 in reference to said estimates for any item thereof; and

WHEREAS, the Council has made such changes, alteration, corrections and amendments to the said budget as it appears to said Council to be proper, including incorporating such changes as deemed necessary in response to the New York State Office of the State Comptroller's budget review report #B8-10-23 dated November 10, 2010.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York does hereby approve, determine and adopts the budget for the year 2011 as appears in the annexed "City Council Adopted Fiscal Year 2011 Budget" dated November 22, 2010, and the "City Council Adopted Personnel Analysis Fiscal Year 2011 Budget" of same date; and,

BE IT FURTHER RESOLVED, that the sum of \$18,807,484 be levied and raised on account of City taxes for the year 2011 on all the taxable property in the City of Newburgh according to the valuation of the last assessment roll of said City for State, County and City purposes, being [\$746,815,200] \$746,998,150 for Homestead Properties and \$440,303,011 for Non-Homestead Properties, including special franchise assessments, in accordance with the Real Property Tax Law of the State of New York; and,

BE IT FURTHER RESOLVED, that the City Collector is authorized and directed to cause said amount of \$18,807,484 to be extended and apportioned on said assessment roll at [\$14.0941] \$14.0907 for Homestead properties and \$18.8091 for Non-Homestead Properties on every \$1,000 of taxable real property, including special franchise assessments; and,

BE IT FURTHER RESOLVED, that the required sewer, water and sanitation fees for the taxable and non-taxable properties for the year 2011 is as set forth in Section 163-3 of the City Code of Ordinances; and,

BE IT FURTHER RESOLVED, that the City Collector is authorized and directed to cause any and all amounts reported as omitted taxes to be levied against the real property subject to said omitted taxes and to cause the amounts reported by the City Collector as overdue and unpaid water rents, sewer rents and sanitation user fees, and unpaid charges of property abatement, with the interest and penalties thereon, to be added to the tax levied against the real property for which or in connection with which such water, sewer and sanitation was provided; and,

BE IT FURTHER RESOLVED, that said City tax roll shall be delivered to the City Collector on the 2nd day of January 2011, signed by the City Manager and under the seal of the City, directing and commanding said City Collector to receive and collect in the manner provided by the law for the levying and collecting of County taxes by City Collectors, these several amounts in the roll specified as against the persons or property therein mentioned and described, and that said warrant shall direct the City Collector to collect said assessments in four equal installments as follows:

The first installment commencing on the 3rd day of January 2011, and collect up to and including the 1st day of February 2011, without fees, and to add 5% from the 2nd day of February 2011, up to and including the 3rd day of April 2011.

The second installment commencing on the 1st day of March 2011, and collect up to and including the 1st day of April 2011, without fees, and to add 5% from the 2nd day of April 2011, up to and including the 30th day of May 2011.

The third installment commencing on the 1st day of May 2011, and collect up to and including the 1st day of June 2011, without fees, and to add 5% from the 2nd day of June 2011, up to and including the 31st day of July, 2011.

The fourth installment commencing on the 1st day of July 2011, and collect up to and including the 1st day of August 2011, without fees, and to add 5% from the 2nd day of August 2011, up to and including the 29th day of September, 2011.

In addition thereto, for all late payments remaining unpaid for ninety (90) days after the first date designated for the collection of same, there shall be added an additional penalty in the amount of 10% per annum computed from said first date of collection; and

BE IT FURTHER RESOLVED, that the amounts, when collected, be deposited daily with the Key Bank of NY, N.A., Bank of America, TD Bank, Citizens, or in any of the said banks in compliance with the requirements set forth in the Newburgh Fiscal Recovery Act by said City Comptroller and credited and applied to the General, Water, Sewer, Sanitation and Self-Insurance Funds and accounts as stated in the Adopted Budget for taxes now confirmed and approved by said City Council, including credit balances heretofore appropriated.

[Brackets] denote deletions

Underlining denotes additions

RESOLUTION NO.: 268 - 2010

OF

DECEMBER 13, 2010

RESOLUTION AMENDING RESOLUTION NO: 185-2009,
THE 2010 BUDGET OF THE CITY OF NEWBURGH,
REGARDING AMENDMENTS TO
THE ENTERPRISE FUND AND THE A FUND

BE IT RESOLVED that Resolution No: 185-2009, the 2010 Budget of the City of Newburgh, is hereby amended regarding amendments to the enterprise Fund and A Fund, as set forth on the spreadsheets attached hereto.

**ENTERPRISE FUND
2010 - EXPENSE**

Fund	Department Description	Account	Account Description	Total	Department Totals
F	Water Fund	F.8310.0860.0001	HEALTH INSURANCE- RETIREES..	(2,970)	
		F.8310.0830	SOCIAL SECURITY..	(316)	
	Water Fund Sum			(3,286)	
	Ponds and Reservoirs	F.8320.0107	LONGEVITY..	(7)	
	Ponds and Reservoirs Sum			(7)	
	Purification	F.8330.0103	OVERTIME..	(4,100)	
		F.8330.0411	OPER OF MOTOR VEHICLES..	(838)	
	Purification Sum			(4,938)	
	Distribution	F.8340.0860.0001	HEALTH INSURANCE- RETIREES..	(3,474)	
		F.8340.0110	TEMPORARY	(3,466)	
	Distribution Sum			(6,940)	
F Total					(15,171)
S	Public Works - Sanitation Department	S.8160.0880	DENTAL & OPTICAL	(1,756)	
		S.8160.0413	OFFICE SUPPLIES & POSTAGE	(63)	
	Public Works - Sanitation Department Sum			(1,819)	
S Total					(1,819)
WATER FUNDS OVER BUDGET				(15,171)	
WATER CONTINGENCY FUND				15,171	
SANITATION FUNDS OVER BUDGET				(1,819)	
SANITATION CONTINGENCY FUND				1,819	

*No accounts over budget for "G - Sewer Fund"

**A FUND
2010 - EXPENSE**

Department	Description	Account	Account Description	Total	Department Total	
21st Century Learning Program Grant B		A.7319.0103	OVERTIME	(4,045)		
21st Century Learning Program Grant B Sum					(4,045)	
Assessment		A.1355.0444	RENTAL OF EQUIPMENT	(71)		
Assessment Sum					(71)	
Broadway School Courthouse		A.1121.0421	TELEPHONE	(126)		
Broadway School Courthouse Sum					(126)	
City Clerk		A.1410.0462	LEGAL NOTICES	(488)		
City Clerk Sum					(488)	
City Comptroller		A.1315.0494	BOND ISSUANCE EXPENSE	(181,449)		
		A.1315.0103	OVERTIME	(519)		
		A.1315.0461	TRAVEL AND CONFERENCE	(55)		
City Comptroller Sum					(182,023)	
Code Enforcement		A.3620.0448	OTHER SERVICES	(274)		
Code Enforcement Sum					(274)	
Data Processing		A.1680.0110	TEMPORARY	(11,358)		
Data Processing Sum					(11,358)	
Engineering		A.1440.0413	OFFICE SUPPLIES & POSTAGE	(220)		
Engineering Sum					(220)	
Fire Department		A.3412.0110	TEMPORARY	(7,712)		
		A.3412.0107	LONGEVITY	(4,822)		
		A.3412.0108	FIRE TRAINING OVERTIME	(1,196)		
		A.3412.0448	OTHER SERVICES	(692)		
		A.3412.0104	SHIFT PAY	(128)		
Fire Department Sum					(14,550)	
Historian		A.7510.0421	TELEPHONE	(43)		
Historian Sum					(43)	
Human Services : PRC Delano-Hitch Pool		A.7181.0419	CHEMICALS	(696)		
Human Services : PRC Delano-Hitch Pool Sum					(696)	
Human Services: Parks, Recreation and Conservation Division		A.7140.0101	SALARY	(1,861)		
		A.7140.0103	OVERTIME	(373)		
		A.7140.0415	BLDG. & GROUNDS/MAINT. & SUPP	(94)		
Human Services: Parks, Recreation and Conservation Division Sum					(2,328)	
Mayor		A.1210.0107	LONGEVITY	(311)		
		A.1210.0106	SEVERANCE PAY	(77)		
Mayor Sum					(388)	
Operating Transfer Out		A.9901.0999	IN KIND SERVICES MATCH	(9,214)		
Operating Transfer Out Sum					(9,214)	
Planning and Development		A.8684.0101	SALARY	(3,312)		
		A.8684.0102	PART-TIME	(3,184)		
		A.8684.0106	SEVERANCE PAY	(530)		
		A.8684.0830	SOCIAL SECURITY	(478)		
		A.8684.0421	TELEPHONE	(238)		
Planning and Development Sum					(7,742)	
Police		A.3120.0106	SEVERANCE PAY	(148,125)		
		A.3120.0443	REPAIRS/OTHER EQUIPMENT	(19,338)		
		A.3120.0119	PSN OVERTIME 2008-GP-CX-0062	(13,818)		
		A.3120.0111	SPECIAL EVENT/DETAIL OVERTIME	(4,305)		
		A.3120.0107	LONGEVITY	(3,739)		
		A.3120.0448	VENDOR SERVICES	(3,487)		
		A.3120.0113	COURT OVERTIME	(1,965)		
		A.3120.0460	TUITION REIMBURSEMENT	(834)		
		A.3120.0110	TEMPORARY	(478)		
		A.3120.0444	RENTAL OF EQUIPMENT	(406)		
		A.3120.0870	LIFE, DBL INSURANCE	(115)		
	Police Sum					(196,610)

**A FUND
2010 - EXPENSE**

Department	Description	Account	Account Description	Total	Department Total
Police - On Street Parking		A.3320.0417	UNIFORMS	(15)	
Police - On Street Parking Sum					(15)
Police - Public Pound		A.3510.0101	SALARY	(390)	
		A.3510.0418	WEARING APPAREL	(138)	
Police - Public Pound Sum					(528)
Public Works - Garage		A.5132.0103	OVERTIME	(647)	
Public Works - Garage Sum					(647)
Public Works - Grand Street Courthouse		A.1120.0448	VENDOR SERVICES	(330)	
Public Works - Grand Street Courthouse Sum					(330)
Public Works - Municipal Buildings		A.1620.0107	LONGEVITY	(111)	
		A.1620.0421.0001	CELL PHONE	(16)	
		A.1620.442	REPAIRS/MOTOR VEHICLES	(189)	
Public Works - Municipal Buildings Sum					(316)
Public Works - Parks		A.7110.0448.0002	OTHER SERVICES GRANT EXPENSES	(1,025)	
Public Works - Parks Sum					(1,025)
Public Works - Police Garage		A.5133.0103	OVERTIME	(5,541)	
Public Works - Police Garage Sum					(5,541)
Public Works - Property Management Maintenance		A.1365.0490	PROP ACQ/TAXES AND SEARCH	(11,196)	
		A.1365.0103	OVERTIME	(382)	
		A.1365.0462	LEGAL NOTICES	(304)	
		A.1365.0422	GAS AND ELECTRIC	(166)	
Public Works - Property Management Maintenance Sum					(12,048)
Public Works - Snow Removal		A.5142.0442	REPAIRS/MOTOR VEHICLES	(355)	
		A.5142.0415	BLDG. & GROUNDS/MAINT. & SUPP	(9)	
		A.5142.0443	REPAIRS/OTHER EQUIPMENT	(333)	
Public Works - Snow Removal Sum					(697)
Public Works - Highway - Street Lighting		A.5182.0422	GAS AND ELECTRIC	(2,534)	
Public Works - Highway - Street Lighting Sum					(2,534)
Public Works - Traffic Control		A.3310.0411	OPER OF MOTOR VEHICLES	(45)	
Public Works - Traffic Control Sum					(45)
Records Management Program		A.1460.0448	OTHER SERVICES	(38,563)	
Records Management Program Sum					(38,563)
Special Items		A.1900.1914	MUNICIPAL ASSOCIATION DUES	(5,348)	
Special Items Sum					(5,348)
Tax Collection		A.1330.0110	TEMPORARY	(12,362)	
Tax Collection Sum					(12,362)
Armory		A.1625.0415	BLDG. & GROUNDS/MAINT. & SUPP	(378)	
Armory Sum					(378)
TOTAL "A" FUND OVER BUDGET					(510,553)
CONTINGENCY FUND					510,533

RESOLUTION NO.: 269 - 2010

OF

DECEMBER 13, 2010

A RESOLUTION APPROVING A SALES TAX AGREEMENT
BETWEEN THE COUNTY OF ORANGE, CITIES OF NEWBURGH,
MIDDLETOWN AND PORT JERVIS FOR 2011 THROUGH 2016

WHEREAS, the County of Orange has imposed a Sales and Compensating Use Tax pursuant to the authority granted to the County by the State of New York; and

WHEREAS, Article 28 and 29 of the Tax Law of the State of New York authorize cities to impose their own Sales and Compensating Use Taxes, subject to certain priorities and preemptive rights set forth in the Tax Law of the State of New York; and

WHEREAS, the County of Orange and the Cities of Newburgh, Middletown and Port Jervis have previously agreed upon a plan of distribution for the Orange County Sales and Compensating Use Tax for the period of March 1, 2011 to February 29, 2016; and

WHEREAS, the County of Orange and the Cities of Newburgh, Middletown and Port Jervis have now agreed upon a plan of distribution for the Orange County Sales and Compensating Use Tax for the period of March 1, 2011 to February 29, 2016,

NOW, THEREFORE, BE IT RESOLVED, that the City Manager of the City of Newburgh is hereby authorized and directed to enter into and sign on behalf of the City of Newburgh the attached agreement for the distribution of the Orange County Sales and Compensating Use Tax in the form agreed to by all the parties; and

BE IT FURTHER RESOLVED, that the City of Newburgh agrees not to preempt the County Sales and Compensating Use Tax during the term of the agreement.

RESOLUTION NO.: 270 - 2010

OF

DECEMBER 13, 2010

A RESOLUTION AMENDING RESOLUTION NO.: 48-95 OF
APRIL 24, 1995 GRANTING PERMISSION TO
U.S. CABLEVISION CORP. TO ROUTE A TELEVISION
CABLE THROUGH THE CITY OF NEWBURGH

WHEREAS, the City Council of the City of Newburgh, New York, by Resolution No.: 48-95 of April 24, 1995 granted permission to U.S. Cablevision Corp. to route a television cable through the City of Newburgh; and

WHEREAS, due to the Route 9W/Robinson Avenue Reconstruction Project it was necessary for Cablevision to re-route the line around a portion of Robinson Avenue; and

WHEREAS, condition Number 4 contained in Resolution No.: 48-95 requires that Cablevision obtain City permission to run additional cables; and

WHEREAS, Cablevision has now requested an amendment to Resolution No.: 48-95 for the new route to include Carter Street (between Robinson Avenue and Prospect Street); Prospect Street (between Carter Street and Gidney Avenue); and Gidney Avenue (between Prospect Street and Robinson Avenue); and with the line to then continue along its original route; and

WHEREAS, this Council has determined that granting such permission is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that Resolution No.: 48-95 of April 24, 1995 granting permission to U.S. Cablevision Corp. to route a television cable through the City of Newburgh be and is hereby amended to provide for the re-routing as described herein above; and

BE IT FURTHER RESOLVED, by this Council that all other terms and conditions provided for in Resolution No.:48-95 remain in full force and effect as adopted by the City Council on April 24, 1995.



Roger Connor
Director of Government Relations
845 296-3564
rconnor@cablevision.com

December 1, 2010

Mr. Richard F. Herbek;
City Manager
City of Newburgh
83 Broadway Street
Newburgh, NY 12550

RECEIVED
DEC 01 2010
CORPORATION COUNSEL

Re: Amendments to City of Newburgh Resolution No. 48-95

Dear Mr. Herbek:

Cablevision is requesting consideration and approval of an amendment to City Resolution 48-95, "granting permission to route a television cable through the City of Newburgh".

In 1995, a fiber-optic cable trunk was built to connect Cablevision's facility in the Town of Lloyd with its facility in the Town of Monroe. That trunk line runs through the City of Newburgh from the City line at Route 9W south along Robinson Avenue and South Robinson Avenue to Deyo Place and Mill Street. The trunk line has never been used by Cablevision or any other companies to provide services within the City; it is strictly a transportation line.

The recent road and sewer project along Robinson and South Robinson Avenue has necessitated re-routing the trunk line around a portion of Robinson Avenue. Cablevision is requesting the resolution reflect this new route and include the following streets:

- Carter Street (between Robinson Avenue and Prospect Street),
- Prospect Street (between Carter Street and Gidney Avenue), and,
- Gidney Avenue (between Prospect Street and Robinson Avenue).

The line then continues along its original route.

Resolution 48-95, condition #4, requires that Cablevision obtain City permission before running additional cables. In order to maintain connectivity and not delay the road and sewer project, Cablevision is temporarily utilizing Time Warner Cable's trunk line along this new route. I've discussed this issue with Corporation Counsel, Bernis Nelson. Amending the original resolution to include the new route is the appropriate procedure to follow before placing any permanent cables along these streets.

Attached is a copy of Resolution 48-95. Please advise me as to any additional information the City may require to amend this resolution most expeditiously.

Sincerely,


Roger Connor
CABLEVISION

Cc: Ms. Bernis Nelson, Esq.; Corporation Counsel

RESOLUTION NO. 48-95

OF Apr. 24 1995

A RESOLUTION GRANTING PERMISSION TO U.S. CABLEVISION
CORP. TO ROUTE A TELEVISION CABLE THROUGH THE
CITY OF NEWBURGH

WHEREAS, U.S. Cablevision Corp., having its principal place of business at 38 Old Route 9, P.O. Box 889 in the Village of Wappingers Falls, Dutchess County, New York (hereinafter referred to as "U.S. Cablevision"), provides cable television services to residents in portions of Orange County and its surrounding areas outside of the City of Newburgh, pursuant to duly authorized municipal franchise agreements; and

WHEREAS, U.S. Cablevision has immediate plans to upgrade its capacity to deliver cable television signals to its customers by installing additional trunk aerial fiber optic cable transportation lines on existing utility poles in various communities in Orange County; and

WHEREAS, certain of the utility poles U.S. Cablevision desires to occupy with such additional trunk aerial fiber optic transportation lines are located on N.Y. Route 9W (Robinson Avenue), N.Y. Route 9W (South Robinson Avenue), Deyo Place and Mill Street in the City of Newburgh; and

WHEREAS, U.S. Cablevision has made application to the City of Newburgh for authority to occupy the aerial rights-of-way along which the referenced utility poles lie; and

WHEREAS, U.S. Cablevision has assured the City that it has obtained from Central Hudson Gas & Electric Corp. and NYNEX and any other necessary parties, the right to use the poles of those corporations and to string the proposed cable line along the proposed route; and

WHEREAS, the aerial fiber optic cable trunk transportation line to be installed is not intended to be used for distribution by U.S. Cablevision or others to parties within the City of Newburgh, but is intended to connect the cable system operation in the Village and Town of Monroe and the Town of Woodbury with the system in the Town of Lloyd and Marlboro in Ulster County and its system in Dutchess County; and

WHEREAS, the trunk transportation line will be placed on existing poles through the entire route within the City and will consist of 1/2" diameter cable on a 1/4" strand and will traverse 1.93 miles within the City starting on Mill Street then on Deyo Place and Route 9W to the north on City line, and

WHEREAS, the Council has considered the request of U.S. Cablevision and has concluded that good cause exists for granting the requested occupancy authority,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the consent and permission of the City of Newburgh to the extent that the City is legally able to give consent is hereby granted and quitclaimed to U.S. Cablevision, its successor or successors to occupy the aerial rights-of-way on N.Y. Route 9W (Robinson Avenue), N.Y. Route 9W (South Robinson Avenue), Deyo Place and Mill Street in the City of Newburgh as necessary to install on the utility poles and after installation, to maintain cable television equipment comprised of a trunk aerial transportation line as herein described.

This consent is granted to U.S. Cablevision upon the following conditions:

FIRST: That it shall comply with the laws of the State of New York and with all the laws and ordinances of the City of Newburgh now enacted or hereafter enacted by said city concerning the use of said streets, avenues, alleys and public places and regulating cable TV companies and cables in said city and shall do no permanent injury to any street, sidewalk, alley, avenue or public place or, in any manner, interfere with any water, gas or sewer pipes which are now laid in said streets, alleys or public places.

SECOND: Said corporation will maintain the cables it installs along with any related necessary equipment in good repair.

THIRD: It will obtain the consent of NYNEX, Central Hudson Gas & Electric Corp., the N.Y.S. Department of Transportation or any other entity or person for permission that it may need other than the City of Newburgh to string its cable along the desired route.

FOURTH: That it will not run additional cable or cables through the City on said route or elsewhere within the City without obtaining City permission therefor.

FIFTH: The cable will be installed on existing poles and no new poles are to be erected except when existing poles are required to be replaced.

SIXTH: It further agrees to indemnify, save and hold harmless and defend the City from and against any liability for damages or bodily injury (including accidental death), which arise out of U.S. Cablevision's construction, operation or maintenance of the transportation line, including, but not limited to, reasonable attorneys' fees and costs, provided that the City gives to U.S. Cablevision written notice of claims for damages or penalties for which such indemnity may be sought, U.S. Cablevision will have the option of selecting the attorney or attorneys to represent the City and U.S. Cablevision.

SEVENTH: To purchase and maintain in full force and effect, at its own expense and for so long as it shall own the transportation line, Commercial General Liability Insurance in an amount no less than \$1,000,000 for bodily injury or death of any person, \$1,000,000 for property damage and \$2,000,000 for any single accident or incident. This insurance will designate the City and its officers and employees as additional insureds. Such insurance shall be non-cancellable except upon thirty (30) days prior written notice to the City and upon such notice, U.S. Cablevision will take steps to replace such insurance with like coverage. A certificate evidencing the insurance required by this commitment will be delivered to the City by U.S. Cablevision prior to commencement of construction of the transportation line. The insurance must be written by a company authorized to do business in the State of New York.

EIGHTH: It will restore to its original condition any property of the City of Newburgh which is disturbed during the construction or maintenance of said cable transportation line.

NINTH: If it transfers ownership or assignment of all or part of its rights to construct or maintain said line to another entity or persons, such assignee or grantee will be bound by this resolution to the same extent that U.S. Cablevision is.

TENTH: Before commencing any work under this consent, the said company shall signify its acceptance of this consent and the terms and conditions thereof by filing a written acceptance thereof, signed by its President, with the City Manager of The City of Newburgh. And before commencing any work and within thirty days after the approval of this resolution by the Council, said company shall file with the City Manager of The City of Newburgh, the insurance certificate required by this resolution

and before any assignment, grant or transfer of the rights or any part of the rights granted by this resolution, the transferee must file a similar consent to be bound by this resolution with the City Manager of The City of Newburgh. Any such transfer shall not become effective until such consent is filed.

I, Nancy A. D'Addio, City Clerk of the city of Newburgh, hereby certify that I have compared the foregoing with the original resolution adopted by the council of the city of Newburgh at a regular meeting held 4/24/95, and that it is a true and correct copy of such original.

Witness my hand and seal of the city of
Newburgh, this 25th day of April 1995
Nancy A. D'Addio
Acting / City Clerk

RESOLUTION NO.: 271 -2010

OF

DECEMBER 13, 2010

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT A DONATION OF A 1999 CHEVROLET SUBURBAN 1500 SERIES
FROM MANHEIM NEW YORK D/B/A NEWBURGH PARK MOTORS
FOR USE BY THE CITY OF NEWBURGH POLICE DEPARTMENT

WHEREAS, Manheim New York d/b/a Newburgh Park Motors has contacted the City of Newburgh with an offer to donate a 1999 Chevrolet Suburban 1500 Series to the City of Newburgh Police Department; and

WHEREAS, such donation shall be at no cost to the City; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh to accept such donation;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager of the City of Newburgh be and he is hereby authorized to accept the 1999 Chevrolet Suburban 1500 Series being donated by Manheim New York d/b/a Newburgh Park Motors, upon assurance by the Corporation Counsel that title and documentation are in order, with the appreciation and thanks of the City of Newburgh.

RESOLUTION NO.: 272 - 2010

OF

DECEMBER 13, 2010

A RESOLUTION AUTHORIZING THE CITY MANGER
TO ACCEPT A DONATION FROM BERNIS E. NELSON IN
THE AMOUNT OF FIFTEEN THOUSAND DOLLARS
TO PROVIDE ASSISTANCE WITH THE PURCHASE OF
NEW EQUIPMENT AND FURNITURE FOR THE ARMORY BUILDING

WHEREAS, the City of Newburgh is the owner of real property known as 321 S. William Street, a/k/a the Armory Building; and

WHEREAS, the Armory Building is being utilized for recreational purposes for the youth and residents of the City of Newburgh; and

WHEREAS, Bernis Nelson wishes to make a contribution in the amount of Fifteen Thousand (\$15,000.00) Dollars to provide assistance with the purchase of new equipment and furniture for the Armory Building; and such donation will be documented and reported to the City Comptroller; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh to accept such donation;

NOW, THEREFORE, BE IT RESOVLED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept the Donation from Bernis E. Nelson in the amount of Fifteen Thousand (\$15,000.00) Dollars to provide assistance with the purchase of new equipment and furniture for the Armory Building; said donation with the appreciation and thanks of the City of Newburgh on behalf of its children, families and citizens, for this support.

RESOLUTION NO.: 273 - 2010

OF

DECEMBER 13, 2010

A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN
THE CITY OF NEWBURGH AND J. DWIGHT HADLEY, CPA FOR
PROFESSIONAL CONSULTING SERVICES IN THE AREA
OF GOVERNMENTAL ADMINISTRATIVE AND FINANCIAL MANAGEMENT

WHEREAS, this Council, by Resolution No.: 14-2010 of January 11, 2010, authorized the City Manager to enter into an agreement with J. Dwight Hadley, CPA for professional consulting services which expired on March 31, 2010; and

WHEREAS, this Council, by Resolution No.: 74-2010 of March 22, 2010, authorized the City Manager to extend the agreement with J. Dwight Hadley, CPA for professional consulting services which expired on June 30, 2010; and

WHEREAS, this Council, by Resolution No.: 129-2010 of June 14, 2010, authorized the City Manager to extend the agreement with J. Dwight Hadley, CPA for professional consulting services which will expire on December 31, 2010; and

WHEREAS, the City of Newburgh wishes to enter into an agreement to provide for an additional six (6) months of service; and

WHEREAS, the agreement is for providing assistance in the area of governmental administrative and financial management in the form of consulting services; and

WHEREAS, the rate for these services is \$70.00 per hour with a minimum of sixteen (16) hours per week; and

WHEREAS, this Council has determined that entering into this agreement is in the best interests of the City of Newburgh;

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the agreement with J. Dwight Hadley, CPA, in substantially the same form as annexed hereto with any other provision that Corporation Counsel may require, at a rate of \$70.00 per hour for consulting services in the area of governmental administrative and financial management.

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of December, 2010, by and between the CITY OF NEWBURGH, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the "CITY," with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and J. DWIGHT HADLEY, CPA, an individual with an address of 14 Mountain Way, Clifton Park, New York 12065, hereinafter referred to as "VENDOR."

ARTICLE 1. SCOPE OF WORK

VENDOR agrees to perform the SERVICES and/or supply the goods identified in Schedule A, (the "SERVICES") which is attached to, and is part of this Agreement. VENDOR agrees to perform the SERVICES and/or supply the goods in accordance with the terms and conditions of this Agreement. It is specifically agreed that the CITY will not compensate VENDOR for any SERVICES and/or goods provided outside those specifically identified in Schedule A.

Any and all reports, documents, charts, graphs, maps, designs, images, photographs, computer programs and software, artwork, creative works, compositions, and the rights to employ, publish, disseminate, amend or otherwise use same, and/or any other intellectual property to be provided by VENDOR to CITY under the terms of this Agreement shall become the property of the CITY, unless otherwise provided for by the parties. As such, CITY, in its sole discretion, shall have the right to use, copy, disseminate and otherwise employ or dispose of such material in any manner as it may decide with no duty of compensation or liability therefore to VENDOR or to third parties. VENDOR shall have the affirmative obligation to notify CITY in a timely fashion of any and all limitations, restrictions or proprietary rights to such intellectual property and/or materials which may be applicable which would have the effect of restricting or limiting the exercise of the CITY's rights regarding same. VENDOR agrees to defend, indemnify and hold harmless the CITY for failing to notify CITY of same.

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning January 1, 2011, and ending on June 30, 2011 or upon termination as provided under ARTICLE 17 TERMINATION of this Agreement.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES and/or receipt of conforming goods or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule B, which is attached to and is part of this Agreement. VENDOR SHALL submit to the CITY a monthly itemized invoice for SERVICES rendered during the prior month, or as otherwise set forth in Schedule B, and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within fourteen (14) days after receipt of a CITY Claimant's Certification form, and if the Claimant's Certification form is objectionable, will notify VENDOR, in writing, of the CITY'S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

ARTICLE 4. EXECUTORY CLAUSE

The CITY shall have no liability under this Agreement to VENDOR or to anyone else beyond funds appropriated and available for this Agreement.

ARTICLE 5. PROCUREMENT OF AGREEMENT

VENDOR represents and warrants that no person or selling agency has been employed or retained by VENDOR to solicit or secure this Agreement upon an agreement or upon an understanding for a commission, percentage, a brokerage fee, contingent fee or any other compensation. VENDOR further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. VENDOR makes such representations and warranties to induce the CITY to enter into this Agreement and the CITY relies upon such representations and warranties in the execution hereof.

For a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

ARTICLE 6. CONFLICT OF INTEREST

VENDOR represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have any interest nor shall they acquire any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the SERVICES herein provided. VENDOR further represents and warrants that in the performance of this Agreement, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the CITY, nor any person whose salary is payable, in whole

or in part, by the CITY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this Agreement or in the proceeds thereof, unless such person submits a letter disclosing such an interest, or the appearance or potential of same, to the City Manager and a copy to the Corporation Counsel of the CITY in advance of the negotiation and execution of this Agreement.

For failure to submit such letter of disclosure, or for a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for, or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if elected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law, in equity or pursuant to this Agreement.

ARTICLE 7. INDEPENDENT CONTRACTOR

In performing the SERVICES and/or supplying goods and incurring expenses under this Agreement, VENDOR shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of the CITY. As an independent contractor, VENDOR shall be solely responsible for determining the means and methods of performing the SERVICES and/or supplying of the goods and shall have complete charge and responsibility for VENDOR'S personnel engaged in the performance of the same.

In accordance with such status as independent contractor, VENDOR covenants and agrees that neither it nor its employees or agents will hold themselves out as, nor claim to be officers or employees of the CITY, or of any department, agency or

unit thereof by reason hereof, and that they will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the CITY including, but not limited to, Worker's Compensation coverage, health coverage, Unemployment Insurance Benefits, Social Security coverage or employee retirement membership or credit.

ARTICLE 9. ASSIGNMENT AND SUBCONTRACTING

VENDOR shall not assign any of its rights, interest or obligations under this Agreement, or subcontract any of the SERVICES to be performed by it under this Agreement, without the prior express written consent of the City Manager of the CITY. Any such subcontract, assignment, transfer, conveyance, or other disposition without such prior consent shall be void and any SERVICES provided thereunder will not be compensated. Any subcontract or assignment properly consented to by the CITY shall be subject to all of the terms and conditions of this Agreement.

Failure of VENDOR to obtain any required consent to any assignment, shall be grounds for termination for cause, at the option of the CITY and if so terminated, the CITY shall thereupon be relieved and discharged from any further liability and obligation to VENDOR, its assignees or transferees, and all monies that may become due under this Agreement shall be forfeited to the CITY except so much thereof as may be necessary to pay VENDOR'S employees for past service.

The provisions of this clause shall not hinder, prevent, or affect any assignment by VENDOR for the benefit of its creditors made pursuant to the laws of the State of New York.

This agreement may be assigned by the CITY to any corporation, agency, municipality or instrumentality having authority to accept such assignment.

ARTICLE 10. BOOKS AND RECORDS

VENDOR agrees to maintain separate and accurate books, records, documents and other evidence and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

ARTICLE 11. RETENTION OF RECORDS

VENDOR agrees to retain all books, records and other documents relevant to this Agreement for six (6) years after the final payment or termination of this Agreement, whichever later occurs. CITY, or any State and/or Federal auditors, and any other persons duly authorized by the CITY, shall have full access and the right to examine any of said materials during said period.

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

All Claimant Certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said Claimant's Certification forms or invoices are based are subject to audit by the CITY. VENDOR shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the CITY so that it may evaluate the reasonableness of the charges, and VENDOR shall make its records available to the CITY upon request. All books, Claimant's Certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the CITY, the State of New York, the federal government, and/or other persons duly authorized by the CITY. Such audits may include examination and review of the source and application of all funds whether from the CITY, State, the federal government, private sources or otherwise. VENDOR shall not be entitled to any interim or final payment under this Agreement if any audit

requirements and/or requests have not been satisfactorily met.

ARTICLE 13. INSURANCE

For all of the SERVICES set forth herein and as hereinafter amended, VENDOR shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, insurance as may be required by law. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the CITY who have been fully informed as to the nature of the SERVICES to be performed. Where applicable, the CITY shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of VENDOR and not those of the CITY. Notwithstanding anything to the contrary in this Agreement, VENDOR irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article 13. The provisions of insurance by VENDOR shall not in any way limit VENDOR'S liability under this Agreement.

To the extent it is commercially available, each policy of insurance shall be provided on an "occurrence" basis. If any insurance is not so commercially available on an "occurrence" basis, it shall be provided on a "claims made" basis, and all such "claims made" policies shall provide that:

- A. Policy retroactive dates coincide with or precede VENDOR'S start of the performance of this Agreement (including subsequent policies purchased as renewals or replacements);
- B. VENDOR will maintain similar insurance for at least six (6) years following final acceptance of the SERVICES;
- C. If the insurance is terminated for any reason, VENDOR agrees to purchase an

unlimited extended reporting provision to report claims arising from the SERVICES performed or goods provided for the CITY; and

D. Immediate notice shall be given to the CITY through the City Manager of circumstances or incidents that might give rise to future claims with respect to the SERVICES performed under this Agreement.

ARTICLE 14. INDEMNIFICATION

VENDOR agrees to defend, indemnify and hold harmless the CITY, including its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether incurred as a result of a claim by a third party or any other person or entity, arising out of the SERVICES performed and/or goods supplied pursuant to this Agreement which the CITY or its officials, employees or agents, may suffer by reason of any negligence, fault, act or omission of VENDOR, its employees, representatives, subcontractors, assignees, or agents.

ARTICLE 15. PROTECTION OF CITY PROPERTY

VENDOR assumes the risk of and shall be responsible for, any loss or damage to CITY property, including property and equipment leased by the CITY, used in the performance of this Agreement and caused, either directly or indirectly by the acts, conduct, omissions or lack of good faith of VENDOR, its officers, directors, members, partners, employees, representatives or assignees, or any person, firm, company, agent or others engaged by VENDOR as an expert consultant specialist or subcontractor hereunder.

In the event that any such CITY property is lost or damaged, except for normal wear and tear, then the CITY shall have the right to withhold further payments hereunder for the purposes of set-off in sufficient sums to cover such loss or damage.

VENDOR agrees to defend, indemnify and hold the CITY harmless from any and all liability or claim for loss, cost, damage or expense (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such CITY property described in this Article.

The rights and remedies of the CITY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or by this Agreement.

ARTICLE 16. CONFIDENTIAL INFORMATION

In the course of providing the SERVICES and/or goods hereunder, VENDOR may acquire knowledge or come into possession of confidential, sensitive or proprietary information belonging to CITY. VENDOR agrees that it will keep and maintain such information securely and confidentially, and not disclose such information to any third parties, including the media, nor use such information in any manner publically or privately, without receiving the prior approval, in writing, of the CITY authorizing such use. VENDORS obligations under this clause to maintain the confidentiality of such information and to refrain from using such information in any manner without the prior written approval of the CITY shall survive the termination or expiration of this Agreement.

ARTICLE 17. TERMINATION

The CITY may, by written notice to VENDOR effective thirty (30) days after mailing, terminate this Agreement in whole or in part at any time (i) for CITY'S convenience, (ii) upon the failure of VENDOR to comply with any of the terms or conditions of this agreement, or (iii) upon the VENDOR becoming insolvent or bankrupt. The VENDOR may, by written notice to CITY effective thirty (30) days after mailing terminate this Agreement in whole or in part at any time (i) for VENDOR'S convenience, (ii) upon the failure of the

CITY to comply with any terms and conditions of this Agreement, or (iii) upon the City becoming insolvent or bankrupt.

Upon termination of this Agreement, the VENDOR shall comply with any and all CITY closeout procedures, including, but not limited to:

A. Accounting for and refunding to the CITY within thirty (30) days, any unexpended funds which have been paid to VENDOR pursuant to this Agreement; and

B. Furnishing within thirty (30) days an inventory to the CITY of all equipment, appurtenances and property purchased by VENDOR through or provided under this Agreement, and carrying out any CITY directive concerning the disposition thereof.

In the event either party terminates this Agreement, as provided in this Article, the CITY may procure, upon such terms and in such manner as deemed appropriate, SERVICES similar to those so terminated,

Notwithstanding any other provision of this Agreement, VENDOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of VENDOR'S breach of the Agreement or failure to perform in accordance with applicable standards, and the CITY may withhold payments to VENDOR for the purposes of set-off until such time as the exact amount of damages due to the CITY from VENDOR is determined.

The rights and remedies of the CITY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

ARTICLE 18. GENERAL RELEASE

The acceptance by VENDOR or its assignees of the final payment under this Agreement, whether by Claimant's Certification form, judgment of any court of competent jurisdiction, or administrative means shall constitute and operate as a general release to

the CITY from any and all claims of VENDOR arising out of the performance of this Agreement.

ARTICLE 19. SET-OFF RIGHTS

The CITY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the CITY'S right to withhold for the purposes of set-off any monies otherwise due VENDOR (i) under this Agreement, (ii) under any other agreement or contract with the CITY, including any agreement or contract for a term commencing prior to or after the term of this Agreement, (iii) from the CITY by operation of law, the CITY also has the right to withhold any monies otherwise due under this Agreement for the purposes of set-off as to any amounts due and owing to the CITY for any reason whatsoever including, without limitation, tax delinquencies, fee delinquencies or monetary penalties or interest relative thereto.

ARTICLE 20. NO ARBITRATION

Any and all disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to arbitration unless specifically agreed thereto in writing by the City Manger of the CITY, but must instead only be heard in the Supreme Court of the State of New York, with venue in Orange County or if appropriate, in the Federal District Court with venue in the Southern District of New York, White Plains division.

ARTICLE 21. GOVERNING LAW

This Agreement shall be governed by the laws of the State of New York. VENDOR shall render all SERVICES under this Agreement in accordance with applicable provisions of all federal, state and local laws, rules and regulations as are in effect at the time such SERVICES are rendered.

ARTICLE 22. CURRENT OR FORMER CITY EMPLOYEES

VENDOR represents and warrants that it shall not retain the SERVICES of any CITY employee or former CITY employee in connection with this Agreement or any other agreement that said VENDOR has or may have with the CITY without the express written permission of the CITY. This limitation period covers the preceding three (3) years or longer if the CITY employee or former CITY employee has or may have an actual or perceived conflict of interests due to their position with the CITY.

For a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

ARTICLE 23. ENTIRE AGREEMENT

The rights and obligations of the parties and their respective agents, successors and assignees shall be subject to and governed by this Agreement, including Schedules A and B, which supersede any other understandings or writings between or among the parties.

ARTICLE 24. MODIFICATION

No changes, amendments or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the party to be bound. Changes in the scope of SERVICES in this Agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the performance of any such SERVICES, the City Manager of the CITY, after consultation with the

Department Head and Corporation Counsel, executes an Addendum or Change Order to this Agreement, which Addendum or Change Order shall specifically set forth the scope of such extra or additional SERVICES and the amount of compensation and the extension of the time for performance, if any, for any such SERVICES. Unless otherwise

specifically provided for therein, the provisions of this Agreement shall apply with full force and effect to the terms and conditions contained in such Addendum or Change Order.

IN WITNESS THEREOF, the parties hereto have executed this Agreement as of the date set forth above.

THE CITY OF NEWBURGH

VENDOR

BY: _____
RICHARD F. HERBEK
ACTING CITY MANAGER

BY: _____
J. DWIGHT HADLEY
TITLE: CPA

DATE: _____

DATE: _____

APPROVED AS TO FORM:

BERNIS E. NELSON,
Corporation Counsel

ANNA MARIE MITCHELL,
Acting City Comptroller

SCHEDULE A
SCOPE OF SERVICES

J. Dwight Hadley, CPA

SCOPE OF SERVICES (Jan – Jun 2011)

I shall be available, upon requested of the City Manager and the City Comptroller, a minimum of sixteen (16) hours per week and will provide the City professional consulting services focused on the following areas:

- Provide assistance to Finance Department staff in preparation of the financial documents required for the independent audit of the City's December 31, 2010 Annual Financial Statements.
- Provide assistance in completing the implementation of the new payroll system with ADP, the new tax collection system with BAS and the new parking ticket system with Complus.
- Provide input and support with the negotiations of union contracts and related personnel policies and procedures.
- Provide assistance on identifying revenue enhancements and cost reductions that can be implemented during 2011.
- Provide assistance in completing the establishment of the various grants, capital projects and the fixed asset records required to be maintain by the City.
- Provide assistance of monitoring operating and capital budgets for 2011.
- Provide assistance in preparing the financial documents required by the Newburgh Fiscal Stability Authority (NFAS).
- Provide training and instruction to Finance Department staff in recording financial transactions, establishing appropriate internal controls, and preparing timely budget and financial statements.
- Such other financial services mutually agreed to with the City Manager.

SCHEDULE B

FEES AND EXPENSES

RATE: In consideration for the consulting services described in Schedule "A" above, the CITY shall pay the VENDOR at the rate of seventy (\$70.00) dollars per hour plus expenses, as defined below, payable within fourteen (14) days after invoices for such services rendered are received by the City.

EXPENSES: The CITY will reimburse the VENDOR for reasonable and necessary travel, meals, lodging and incidental expenses incurred in traveling to/from the City of Newburgh estimated at approximately three hundred (\$300.00) dollars per week. Any request by the CITY to travel to other locations beyond the City's geographic boundaries shall be pre-approved in writing by the CITY. Written documentation and receipts itemizing by date incurred all amounts expended will be submitted for reimbursement within fourteen (14) days of receipt by City.