

WORKSHOP MEETING
TOWN BOARD TOWN OF MARLBOROUGH
21 MILTON TURNPIKE, MILTON NY
FEBRUARY 28, 2022 7:00 PM
MINUTES OF MEETING

Present: Supervisor Corcoran
Councilman Molinelli (Arrived at 7:07 p.m.)
Councilman Zambito
Councilwoman Sessa
Councilman Cauchi

Also Present: Colleen Corcoran, Town Clerk

ITEM #1 Call to order - Pledge of Allegiance

ITEM #2 Moment of Silence

Supervisor Corcoran asked for a special moment of silence for all the brave people who protect our freedoms, the Ukrainians, and the passing of Lois Hepworth.

ITEM #3 Motion to approve agenda

Councilman Cauchi made a motion to replace Resolution #32 - To award the Town of Marlborough Rec Center Phase 1: Asbestos Abatement because the low bidder is not eligible to perform the work. Motion seconded by Councilman Zambito.

*Y*ea*s: 4* *N*ay*s: 0* *C*arried

Councilman Cauchi made a motion to remove Rieger and Baxter-Bayside Project from Presentations on the agenda. Motion seconded by Councilwoman Sessa.

*Y*ea*s: 4* *N*ay*s: 0* *C*arried

Supervisor Corcoran stated that the school and the town are still in discussions with them about the PILOT program.

Councilman Cauchi made a motion to approve the agenda as amended. Motion seconded by Councilman Zambito.

*Y*ea*s: 4* *N*ay*s: 0* *C*arried

ITEM #4 Motion to approve minutes from the February 14, 2022 Town Board Meeting
Councilman Cauchi made a motion to approve minutes from the February 14, 2022 Town Board Meeting. Motion seconded by Councilman Councilwoman Sessa.

*Y*ea*s: 4* *N*ay*s: 0* *C*arried

ITEM #5 Authorize payments of bills

Councilman Cauchi made a motion to authorize payment of the abstract in the amount of \$319,729.10. Motion seconded by Councilwoman Sessa.

Yea: 4

Nays: 0

Carried

ITEM #6 Supervisor Updates

Supervisor Corcoran stated that his updates will be given throughout the meeting.

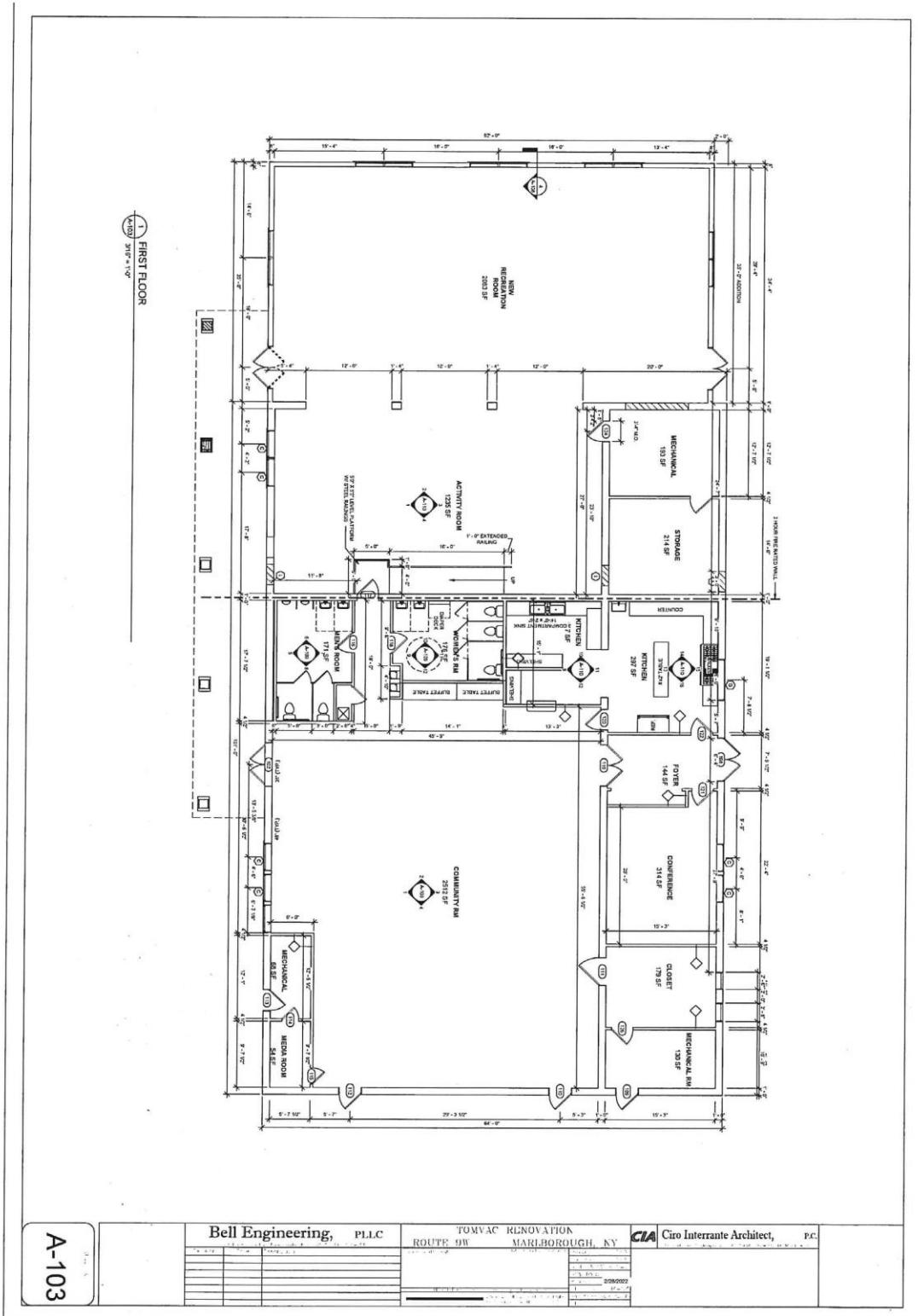
ITEM #7 Presentations

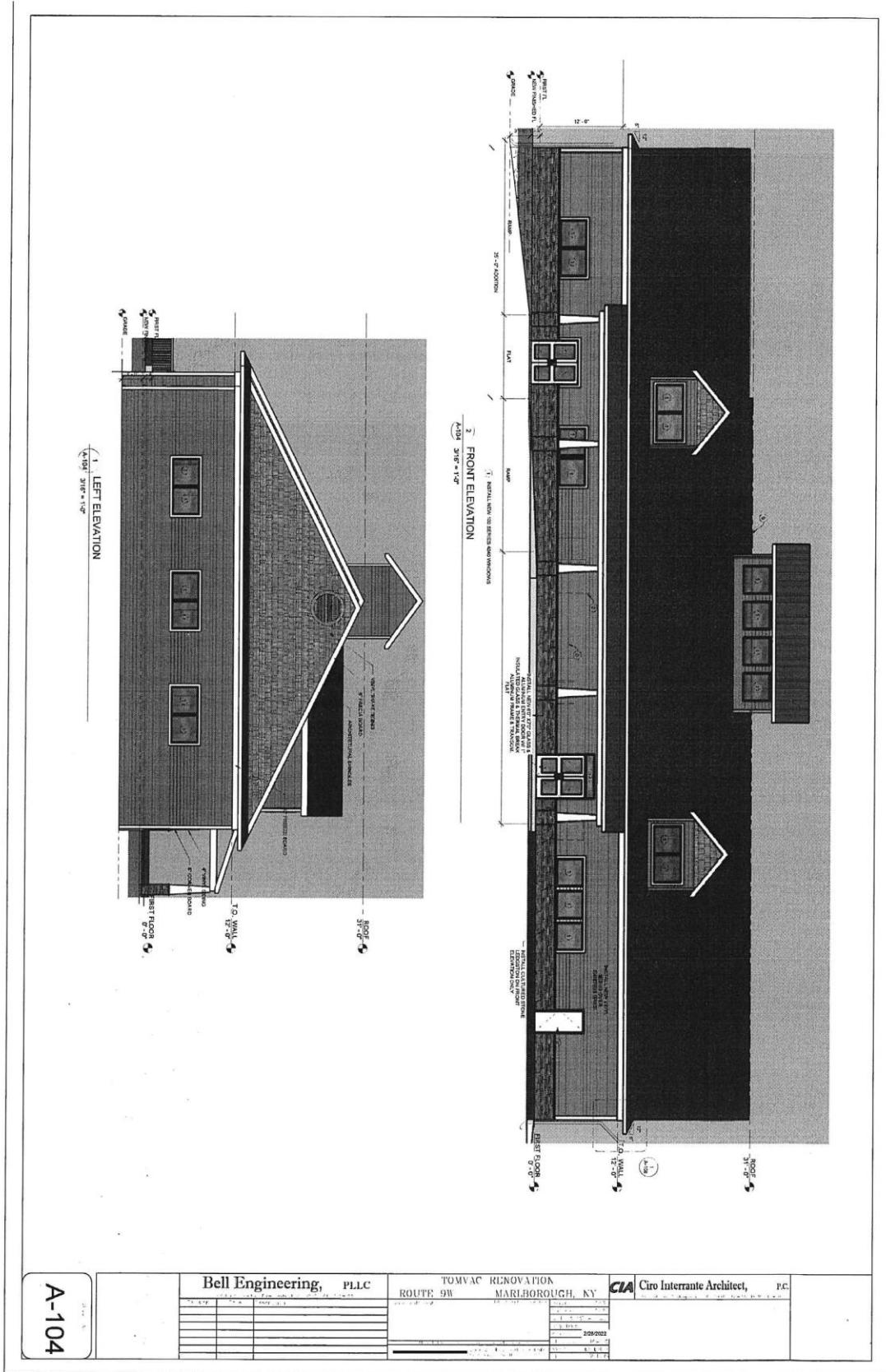
A). Phil Bell and Ciro Interrante- Town of Marlborough Community/Rec Center design update

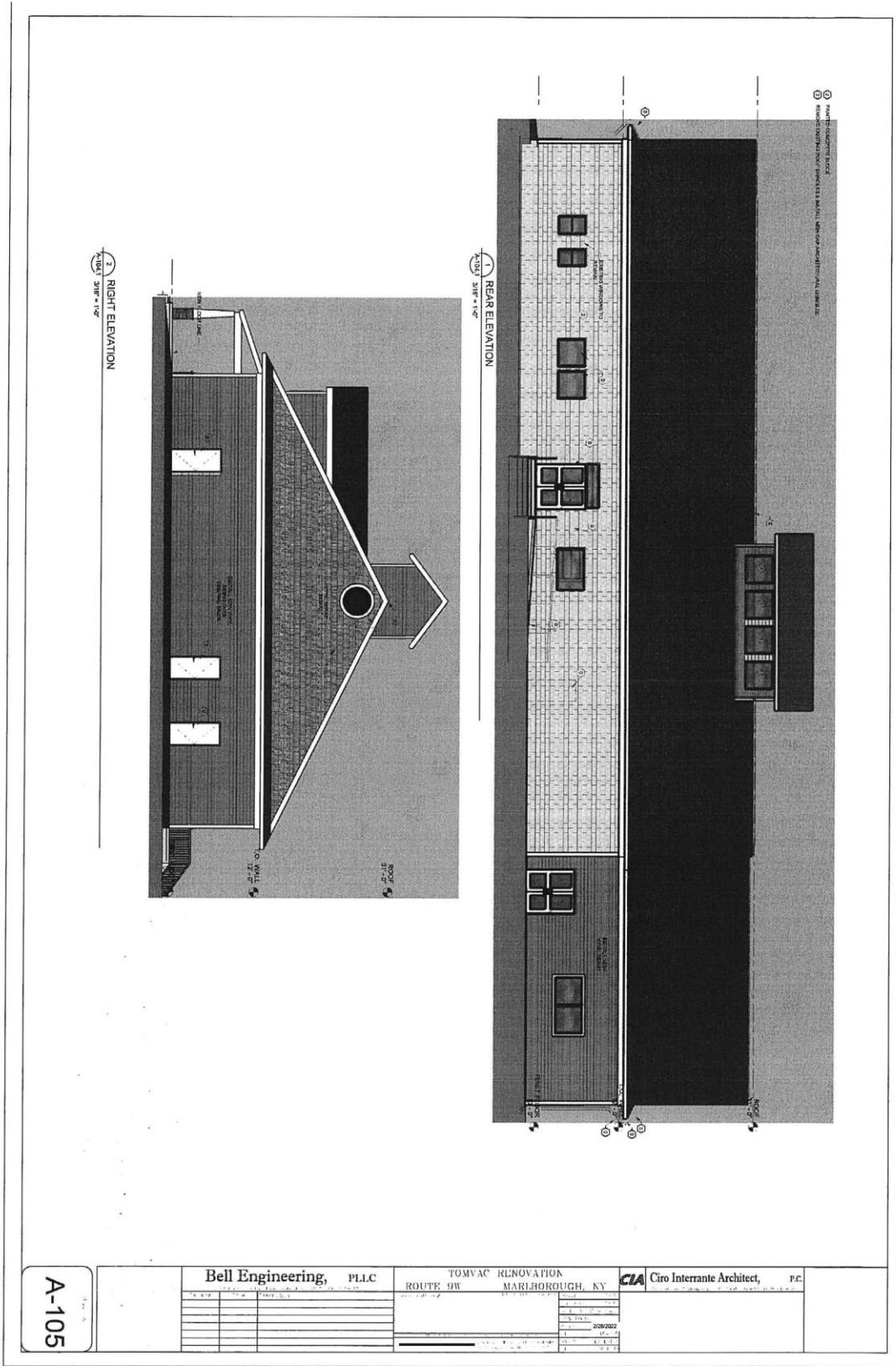
Supervisor Corcoran presented a breakdown of all the costs for the building of the community/recreation center. The renovation cost is estimated at \$687,475.00 and the total cost for the asbestos abatement will be \$89,900.00 totaling \$770,375.00.

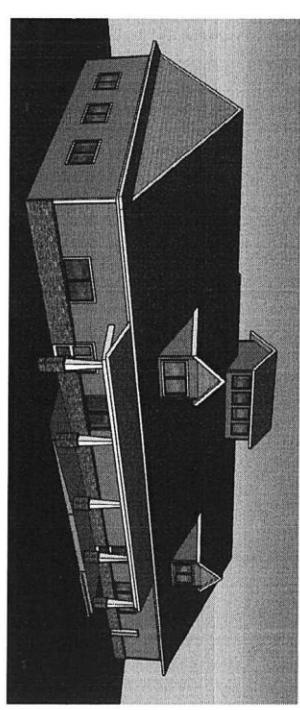
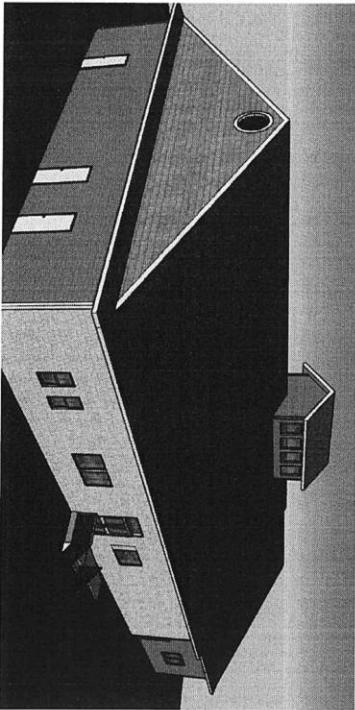
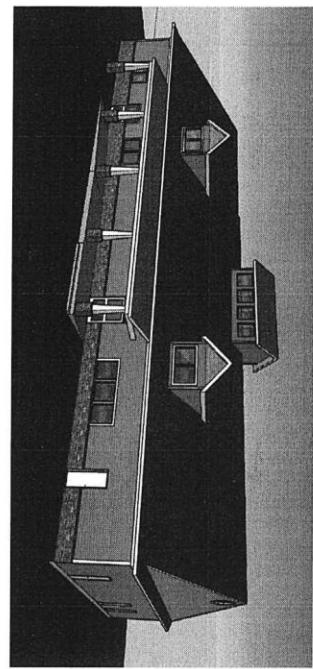
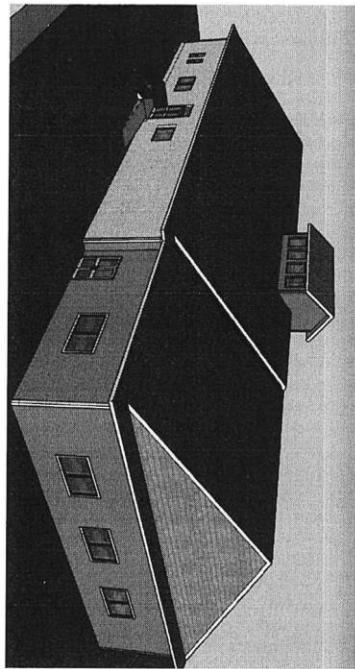
Phil Bell explained that material and labor costs keep changing so they are doing the best they can with the estimate. Lumber costs have decreased; most other items have increased. He included a 10% - 15% buffer in the estimate and the town is saving money by doing work in house. An environmental consultant from Quest will be overseeing the asbestos abatement project. The asbestos abatement project will be awarded tonight and the winner will be notified; the company will have about two weeks to review the contract. Then the contractor will be given a notice to proceed and will have 40 days to complete the project. Of those days, the first 10 are a notification period. The contractor notifies the Department of Conservation and the Environmental Protection Agency. He plans to put the whole renovation project out to bid a few weeks before the asbestos is done. The walkthrough will be mandatory and need to take place after the abatement is completed. There will be five contracts all together: asbestos abatement, general construction, HVAC, electrical, and plumbing. Mr. Bell stated that he will be the construction manager. The estimated time frame to finish construction is 4-5 months. There was a brief discussion about bonding and/or retainers for the project to ensure that there is quality control.

Ciro Interrante explained the layout of the project inside and outside. The project was explained further and discussed by some of the Board and Mr. Interrante and Mr. Bell. Questions from the public based on the renderings and cost estimates were answered. The presentation was shown to the public which is incorporated into the minutes as follows:









A-106

Bell Engineering, PLLC

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ITEM #8 Comments on the agenda

No comments on the agenda.

ITEM #9 New Business

A) SRO contract extension-Motion to sign

Supervisor Corcoran stated that the School Resource Officer (SRO) contract expires and needs to be extended from January 1, 2023 through June 30, 2023 at \$28.60 per hour. The PBA contract expires so once the negotiations are done, they can extend the SRO contract further.

Councilman Molinelli made a motion to allow the Supervisor to sign the School Resource Officer (SRO) contract to extend it through June 30, 2023. Motion seconded by Councilman Cauchi.

Yea: 5

Nays: 0

Carried

ITEM #10 Workshop topics

A). 2022 Code Book review and updates

Supervisor Corcoran stated that the resolutions on the agenda reflect the changes the Board will make to the Town Code. One item is that they are removing the word boarding house from the code because the Town does not have any. Another item is that they are changing off street parking spot size. The last item is that they are changing the distance between structures for multiple dwellings.

B). TOMVAC renovation

Already discussed.

C). Central Arraignment (CAP Court) Evaluation Project

Supervisor Corcoran explained that The New York State Magistrates Association and Ulster County are working on a program to hold all arraignments in the sheriffs building. This will not benefit the Town because it will cost money to transport the officer and pay an additional officer to cover.

Supervisor Corcoran stated that he is going to voice that he would like an opt in or out option or the county will need to pay for transportation. Some other towns are not in favor of this either.

ITEM #11 Correspondence

Supervisor Corcoran read the following correspondence:

- *A resignation letter from Summer Camp Director, Kim Pomeroy. The resignation is effectively immediately.*

Supervisor Corcoran thanked Ms. Pomeroy for all of her years of service to the summer camp.

- *A project request from Girl Scout, Jasmine Taylor, Troop 10287, to complete her Gold Award. The request was to paint 5-7 activities along the walking trail and that the Town maintain it.*

The Board briefly discussed the project and asked that Ms. Taylor be contacted and asked to attend a Board meeting to discuss further.

ITEM #12 Public Comment

Mark Reynolds asked why Suburban Restoration Co. Inc. has been prohibited from performing the Asbestos Abatement at TOMVAC.

Supervisor Corcoran read parts of correspondence from Bell Engineering and information from the New York State Department of Labor Debarment List as to why Suburban Restoration Co. Inc. is debarred and stated that he can give the information to Mr. Reynolds.

ITEM #13 Resolutions

- A). Resolution #31 To approve 2021 budget amendments
- B). Resolution #32 To award the Town of Marlborough Rec Center Phase 1: Asbestos Abatement

Councilwoman Sessa suggested contacting Bidnet to see if they can integrate the debarment check in their process to ban bidders who are on the list.

- C). Resolution #33 To introduce a Local Law of the year 2022 a local law of the Town of Marlborough, Ulster County, New York amending various provisions of Chapter 155 "Zoning" of the Marlborough town code
- D). Resolution #34 To introduce a Local Law of the year 2022 a local law of the Town of Marlborough, Ulster County, New York repealing and replacing Chapter 67, "Building Construction," of the Marlborough town code.
- E). Resolution #35 To appoint an Ethics Board Member

ITEM #14 Executive Session

No executive session.

ITEM #15 ADJOURNMENT

Councilman Molinelli made a motion to adjourn the meeting at 8:45 p.m. Motion seconded by Councilman Zambito.

*Yea*s: 5

*Nay*s: 0

Carried

*Respectfully submitted,
Danielle Cherubini
Deputy Town Clerk*

February 28, 2022

A). Resolution #31 To approve 2021 budget amendments

Supervisor Corcoran proposes the following:

Be it resolved, that the Town Board of the Town of Marlborough approves the attached 2021 budget amendments

And moves for its adoption:

Councilman Molinelli	Yes
Councilwoman Sessa	Yes
Councilman Cauchi	Yes
Councilman Zambito	Yes
Supervisor Corcoran	Yes

2021 BUDGET AMENDMENTS

<u>Budget Line</u>	<u>Increase Expense</u>	<u>Increase Revenue</u>	<u>Decrease Expense</u>	<u>Description</u>
DA.3089.000		\$88,523.00		STATE AID
DA.3501.000		\$112,081.00		CHIPS
DA.5110.400	\$200,604.00			GENERAL REPAIRS CONTRACTUAL
A.1610.400	\$40,646.00			CENTRAL SERVICE ADMIN (IT)
A.2110.000		\$40,646.00		BUILDING FEES
A.1620.400	\$44,968.00			BUILDINGS
A.2110.000		\$44,968.00		BUILDING FEES
A.3120.100	\$56,563.00			POLICE PERSONAL SERVICES
A.3120.400		\$23,536.00		POLICE CONTRACTUAL
A.1990.400		\$33,027.00		CONTINGENT
A.7550.400	\$13,453.00			CELEBRATIONS CONTRACTUAL
A.7310.400		\$13,453.00		YOUTH PROGRAMS CONTRAC
	\$356,234.00	\$286,218.00	\$70,016.00	\$356,234.00

February 28, 2022

B). Resolution # 32 To award the Town of Marlborough Rec Center Phase 1: Asbestos Abatement

Supervisor Corcoran proposes the following:

Whereas, Bell Engineering had prepared bid documents for the Town of Marlborough Rec Center Phase 1: Asbestos Abatement, and

Whereas, the Town of Marlborough Town Clerks office at the direction of the Town Board advertised for bids for the Phase 1: Asbestos Abatement on January 20, 2022, and

Whereas, by 2:00 PM on February 11, 2022, the close of the receipt of bids, the Office of the Town Clerk had received four bids, and

Whereas, the following bids were received:

Suburban Restoration Co. Inc.	\$69,960.00
East Coast Haz Mat Removal Inc.	\$89,900.00
Tosin Adeyemi (Defash Global Inc.)	\$124,750.00
BEAM Enterprises, Inc.	\$127,750.00

Whereas, Bell Engineering had reviewed the bids for completeness and all references were checked as well as items considered within the bidders questionnaire, and

Whereas, the lowest bidder Suburban Restoration Co. Inc was found to be on the current NYS Department of Labor Bureau of Public Works Debarment List, and

Whereas, Suburban Restoration is prohibited from participating in New York State Public Works Projects until 03/29/2026, and

Whereas, references were approved for the second lowest bidder, East Coast Haz Mat Removal Inc., and

Whereas, a notable project was completed at SUNY New Paltz in 2019 with high accommodations from the Purchasing Manager from SUNY New Paltz, and

Whereas, it is the recommendation of Bell Engineering that the contract "Town of Marlborough Community/Rec Center Phase 1: Asbestos Abatement be awarded to East Coast Haz Mat Removal Inc. in the amount of \$89,900.00

Be it resolved, that the Town of Marlborough Town Board accepts the bid from East Coast Haz Mat Removal Inc.

And moves for its adoption:

Councilman Molinelli	Yes
Councilwoman Sessa	Yes
Councilman Cauchi	Yes
Councilman Zambito	Yes
Supervisor Corcoran	Yes

February 28, 2022

C). Resolution #33 To introduce a Local Law of the year 2022 a local law of the Town of Marlborough, Ulster County, New York amending various provisions of Chapter 155 "Zoning" of the Marlborough town code

Supervisor Corcoran, seconded by Molinelli, introduced the following proposed local law, to be known as Local Law No. ___ of 2022, entitled, Local Law No. ___ of 2022, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULMSTER COUNTY, NEW YORK AMENDING VARIOUS PROVISIONS OF CHAPTER 155 "ZONING" OF THE MARLBOROUGH TOWN CODE AS FOLLOWS: AMENDING SECTION 155-1 "TERMS DEFINED" TO REMOVE DEFINITION FOR "BOARDINGHOUSE", SECTION 155-27 "OFF-STREET PARKING; OFF-STREET LOADING; FILLING AND SERVICE STATIONS" PERTAINING TO OFF-PARKING SPACES SQUARE FEET, AND SECTION 155-30, "MULTIPLE DWELLINGS" PERTAINING TO MINIMUM DISTANCES BETWEEN STRUCTURES".

BE IT ENACTED by the Town Board of the Town of Marlborough that the Town Code is amended as follows:

Section 1. Section 155-1 of the Town Code of the Town of Marlborough is amended to remove the following definition:

BOARDINGHOUSE

A building, other than a hotel, with a resident owner or manager, where lodging and meals for five or more persons are provided in return for compensation. Such manager shall also be specifically authorized to undertake such repairs or maintenance as may be ordered by the Building Inspector. Such manager shall also be specifically authorized by the building owner to receive legal summonses pertaining to the building. This definition includes tourist homes.

Section 2. Section 155-27(A)(1)(a) of the Town Code of the Town of Marlborough is amended to read as follows [deletions are stricken and additions are underscored]:

(a) Each off-street parking space shall have an area of not less than ~~200~~ 162 square feet, exclusive of access drives or aisles, and shall be of usable shape and condition. Parking areas shall be suitably drained and shall be paved with an all-weather surface in accordance with the minimum specifications of Chapter 134, Subdivision of Land.

Section 3. Section 155-30(B)(2) of the Town Code of the Town of Marlborough is amended to read as follows [deletions are stricken and additions are underscored]:

(2) Minimum distances between structures in all zones except C-1. Where there are two or more structures on a single lot devoted to multiple dwellings, the minimum distance between structures shall be 1 1/2 times the height of the highest structure.

Section 4. If any of this section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this law.

Section 5. Pursuant to Section 22 of this state's Municipal Home Rule Law, this local law shall modify and supersede any provisions of state statute which are inconsistent with the terms of this local law.

Section 6. This local law shall be effective upon filing with the Secretary of State.

WHEREAS, the Town Board has determined that the action to amend the Town of Marlborough Zoning Law is an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA).

WHEREAS, that because only the Town Board can consider and adopt changes to the Town Code, that it is the only involved agency, and the Board hereby declares that it is the Lead Agency for purposes of coordinating the environmental review of this matter pursuant to Article 8 of the Environmental Conservation Law.

WHEREAS, the Town Board has determined that the amendments must be referred to the Ulster County Planning Board for review and recommendation pursuant to General Municipal Law §239-m.

WHEREAS, the Town Board refers this matter to the Town of Marlborough Planning Board pursuant to Town Code §155-49.

Supervisor Corcoran advised the Town Board that, pursuant to the Municipal Home Rule Law of the State of New York, it will be necessary to hold a public hearing upon this law. He offered the following resolution which was seconded by Councilman Molinelli, who moved its adoption:

WHEREAS, on February 28, 2022, Supervisor Corcoran has introduced this local law for the Town of Marlborough, to be known as "Town of Marlborough Local Law No. ___ of the Year 2021, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULMSTER COUNTY, NEW YORK

AMENDING VARIOUS PROVISIONS OF CHAPTER 155 "ZONING" OF THE MARLBOROUGH TOWN CODE AS FOLLOWS: AMENDING SECTION 155-1 "TERMS DEFINED" TO REMOVE DEFINITION FOR "BOARDINGHOUSE", SECTION 155-27 "OFF-STREET PARKING; OFF-STREET LOADING; FILLING AND SERVICE STATIONS" PERTAINING TO OFF-PARKING SPACES SQUARE FEET, AND SECTION .155-30, "MULTIPLE DWELLINGS" PERTAINING TO MINIMUM DISTANCES BETWEEN STRUCTURES".

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties of interest and citizens shall have an opportunity to be heard. The public hearing will be held on March 14, 2022, at 7:00 o'clock p.m., Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Town of Marlborough, by the Town Clerk, at least ten (10) days before such hearing and that notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE, that the Town Board of the Town of Marlborough will hold a public hearing at the Town Hall facilities at 21 Milton Turnpike, Milton, New York on March 14, 2022, 2022 at 7:00 o'clock, p.m., prevailing time, on proposed Local Law No. ___ of the Year 2022, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK AMENDING VARIOUS PROVISIONS OF CHAPTER 155 "ZONING" OF THE MARLBOROUGH TOWN CODE AS FOLLOWS: AMENDING SECTION 155-1 "TERMS DEFINED" TO REMOVE DEFINITION FOR BOARDINGHOUSE, SECTION 155-27 "OFF-STREET PARKING; OFF-STREET LOADING; FILLING AND SERVICE STATIONS" PERTAINING TO OFF-PARKING SPACES SQUARE FEET, AND SECTION 155-30, "MULTIPLE DWELLINGS" PERTAINING TO MINIMUM DISTANCES BETWEEN STRUCTURES.

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the office of the Clerk of the Town of Marlborough, 21 Milton Turnpike, Milton, New York, 12547 between the hours of 8:00 a.m. to 4:00 p.m. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all person interested, and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Milton, New York
 February 28, 2022

COLLEEN CORCORAN, TOWN CLERK

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Corcoran	Yes
Councilman Molinelli	Yes
Councilman Cauchi	Yes
Councilman Zambito	Yes
Councilwoman Sessa	Yes

DATED: Milton, New York
February 28, 2022

COLLEEN CORCORAN, TOWN CLERK

February 28, 2022

D). Resolution #34 To introduce a Local Law of the year 2022 a local law of the Town of Marlborough, Ulster County, New York repealing and replacing Chapter 67, "Building Construction," of the Marlborough town code.

Supervisor Corcoran, seconded by Councilman Cauchi, introduced the following proposed local law, to be known as Local Law No. ____ of 2022, entitled, Local Law No. ____ of 2022 A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULMSTER COUNTY, NEW YORK REPEALING AND REPLACING CHAPTER 67, "BUILDING CONSTRUCTION," OF THE MARLBOROUGH TOWN CODE.

BE IT ENACTED by the Town Board of the Town of Marlborough that the Town Code is amended as follows:

Section 1. Chapter 67 of the Town Code of the Town of Marlborough is repealed and replaced as follows:

Chapter 67. Building Construction

Article I. Administration and Enforcement

§ 67-1. Purpose.

This article provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Town. This article is adopted pursuant to § 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this article, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this article.

§ 67-2. Definitions.

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

ASSEMBLY AREA

An area in any building, or in any portion of a building, that is primarily used or intend to be used for gathering fifty or more persons for uses including, but not limited to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

BUILDING PERMIT

The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provision of this article.

CERTIFICATE OF COMPLIANCE

A document issued by the Town stating that work was done in compliance with approved construction documents and the Codes.

CERTIFICATE OF OCCUPANCY

A document issued by the certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the Town, and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

CODE ENFORCEMENT OFFICER

The Code Enforcement Officer appointed pursuant to § **67-3B** of this article.

CODE ENFORCEMENT PERSONNEL

The Code Enforcement Officer and all inspectors.

CODES

The Uniform Code and Energy Code.

ENERGY CODE

The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law.

FCNYS

The Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225, as currently in effect and as hereafter amended from time to time.

FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTION

An inspection performed to determine compliance with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference.

HAZARDOUS PRODUCTION MATERIALS

A solid, liquid, or gas associated with semiconductor manufacturing that has a degree-of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard Systems for Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.

INSPECTOR

An inspector appointed pursuant to § **67-3D** of this article.

OPERATING PERMIT

A permit issued pursuant to § **67-10** of this article. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this article.

ORDER TO REMEDY

An order issued by the Code Enforcement Officer subject to § 67-15(A) of this article.

PERMIT HOLDER

The person to whom a building permit has been issued.

PERSON

An individual, corporation, limited-liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

PMCNYS

The Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226, as currently in effect and as hereafter amended from time to time.

RCNYS

The Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220, as currently in effect and as hereafter amended from time to time.

REPAIR

The reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

STOP-WORK ORDER

An order issued pursuant to § **67-6** of this article.

TEMPORARY CERTIFICATE

A certificate issued pursuant to § **67-7D** of this article.

TOWN

The Town of Marlborough.

UNIFORM CODE

The New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of Title 19 of the NYCRR, adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

§ 67-3. Code Enforcement Officer; inspectors.

A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this article. The Code Enforcement Officer shall have the following powers and duties:

(1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy, certificates of compliance, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;

(2) Upon approval of such applications, to issue building permits, certificates of occupancy, certificates of compliance, temporary certificates and operating permits, and to include in building permits, certificates of occupancy, certificates of compliance, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

(3) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy, certificates of compliance, temporary certificates and operating permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this article;

(4) To issue stop-work orders;

(5) To review and investigate complaints;

(6) To issue orders pursuant to § 67-15A, Compliance orders, of this article;

(7) To maintain records;

(8) To collect fees as set by the Town Board of this Town;

(9) To pursue administrative enforcement actions and proceedings;

(10) In consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this article, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this article; and

(11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this article.

B. The Code Enforcement Officer shall be appointed by Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this article.

D. One or more inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this article. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each inspector shall obtain certification from the State Fire Administrator Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

E. The compensation for the Code Enforcement Officer and inspectors shall be fixed from time to time by the Town Board of this Town.

§ 67-4. Building permits.

A. Building permits required. Except as otherwise provided in Subsection **B** of this section, a building permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid-fuel-burning heating appliance, chimney or flue in any dwelling unit. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Code Enforcement Officer.

B. Exemptions. No building permit shall be required for work in any of the following categories:

[Amended 7-23-2018 by L.L. No. 3-2018]

(1) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(2) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely aboveground;

(3) Installation of fences which are not part of an enclosure surrounding a swimming pool;

(4) Construction of temporary motion-picture, television and theater stage sets and scenery;

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

(6) Installation of partitions or movable cases less than five feet nine inches in height;

(7) Painting, wallpapering, tiling, carpeting, or other similar finish work;

(8) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

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

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

C. Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection **B** of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or by an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

(1) A description of the location, nature, extent, and scope of the proposed work;

(2) The Tax Map number and the street address of any affected building or structure;

(3) The occupancy classification of any affected building or structure;

(4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and

(5) At least two sets of construction documents (drawings and/or specifications) which:

(i) describe the location, nature, extent, and scope of the proposed work;

(ii) show that the proposed work will conform to the applicable provisions of the Codes;

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

E. Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements set forth in Subsection **D(5)** of this section. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp, or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the code enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.

F. Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

G. Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

H. Work to be performed in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.

I. Time limits. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this subsection may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

J. Revocation or suspension of building permits. If the Code Enforcement Officer determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a

building permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

K. Fee. The fee specified in or determined in accordance with the provisions set forth in § **67-16**, Fees, of this article must be paid at the time of submission of an application for a building permit, for an amended building permit, or for renewal of a building permit.

§ 67-5. Construction inspections.

A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in Subsection **B** of this section is ready for inspection.

B. Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:

- (1) Work site prior to the issuance of a building permit;
- (2) Footing and foundation;
- (3) Preparation for concrete slab;
- (4) Framing;
- (5) Building systems, including underground and rough-in;
- (6) Structural, electrical, plumbing, mechanical, fire-protection, and other similar service systems of the building;
- (7) Fire-resistant construction;
- (8) Fire-resistant penetrations;
- (9) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
- (10) Inspections required to demonstrate Energy Code compliance, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, and high-performance lighting and controls;
- (11) Installation, connection, and assembly of factory manufactured buildings and manufactured homes; and
- (12) A final inspection after all work authorized by the building permit has been completed.

C. Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform construction inspections, a remote inspection may be performed in lieu of an in-person inspection when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or by such authorized Inspector that the elements of the construction process conform with the applicable requirements of the Uniform Code and Energy Code. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

D. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to the manner in which the work fails to comply with the Uniform Code or Energy Code, including a citation to the specific code provision or provisions that have not been met. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

E. Fee. The fee specified in or determined in accordance with the provisions set forth in § **67-16**, Fees, of this article must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 67-6. Stop-work orders.

A. Authority to issue. The Code Enforcement Officer is authorized to issue stop-work orders pursuant to this section. The Code Enforcement Officer shall issue a stop-work order to halt:

(1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or

(2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or

(3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.

B. Content of stop-work orders. Stop-work orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and, (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by registered mail. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by registered mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.

D. Effect of stop-work order. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the stop-work order, other than work expressly authorized by the Code Enforcement Officer to correct the reason for issuing the Stop Work Order.

E. Remedy not exclusive. The issuance of a stop-work order shall not be the exclusive remedy available to address any event described in Subsection A of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 67-15 of this article or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

§ 67-7. Certificates of occupancy.

A. Certificates of occupancy and certificates of compliance required. A certificate of occupancy or certificate of compliance shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy or certificate of compliance.

B. Issuance of certificates of occupancy and certificates of compliance. The Code Enforcement Officer shall issue a certificate of occupancy or certificates of compliance if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a certificate of occupancy or certificates of compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the certificate of occupancy or certificates of compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy or certificates of compliance:

(1) A written statement of structural observations and/or a final report of special inspections; and

(2) Flood hazard certifications;

(3) a written statement of the results of tests performed to show compliance with the Energy Code, and

(4) where applicable, the affixation of the appropriate seals, insignias, and manufacturer's data plates as required for factory manufactured buildings and/or manufactured homes.

C. Contents of certificates of occupancy and certificates of compliance. A certificate of occupancy or certificate of compliance shall contain the following information:

(1) The building permit number, if any;

(2) The date of issuance of the building permit, if any;

(3) The name (if any), address and Tax Map number of the property;

(4) If the certificate of occupancy or certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy or certificate of compliance is issued;

(5) The use and occupancy classification of the structure;

(6) The type of construction of the structure;

(7) The occupant load of the assembly areas in the structure, if any;

(8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

(9) Any special conditions imposed in connection with the issuance of the building permit; and

(10) The signature of the Code Enforcement Officer issuing the certificate of occupancy or certificate of compliance and the date of issuance.

D. Temporary certificate of occupancy. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary certificate of occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate of occupancy unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely, (2) that any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a temporary certificate of occupancy such terms and conditions as he or she deems necessary or appropriate to ensure health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure. A temporary certificate of occupancy shall be effective for a period of time, not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate of occupancy. During the specified period of effectiveness of the temporary certificate of occupancy, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a certificate of occupancy, certificate of compliance, or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

F.

Fee. The fee specified in or determined in accordance with the provisions set forth in § **67-16**, Fees, of this article must be paid at the time of submission of an application for a certificate of occupancy, certificate of compliance, or for a temporary certificate.

§ 67-8. Notification regarding fire or explosion.

The chief of any fire department providing fire-fighting services for a property within this Town shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent.

§ 67-9. Unsafe buildings, structures, and equipment and conditions of imminent danger.

Unsafe buildings, structures, and equipment and conditions of imminent danger in this Town shall be identified and addressed in accordance with the procedures established by Chapter **67**, Article **II** of the Town Code, as now in effect or as hereafter amended from time to time.

§ 67-10. Operating permits.

A. Operating permits required.

(1) Operating permits shall be required for conducting any process or activity or for operating any type of building, structure, or facility listed below:

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

(b) Hazardous processes and activities, including but not limited to commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

(c) Use of pyrotechnic devices in assembly occupancies;

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

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

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

(iii) Chapter 25, “Fruit and Crop Ripening.” Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;

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

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

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

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

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

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

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

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

(e) Energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS;

(f)Buildings containing one or more assembly areas;

(g)Outdoor events where the planned attendance exceeds 1,000 persons;

(h)Facilities that store, handle or use hazardous production materials; and

(i)Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town; and

(j)Other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the Town Board of Town.

(2) Any person who proposes to undertake any activity or to operate any type of building listed in this Subsection A shall be required to obtain an operating permit prior to commencing such activity or operation.

B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

C. The subsection is intentionally omitted.

D. Inspections. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or Inspector authorized by the Code Enforcement Officer that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the Town sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fail to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provision or provisions that have not been met.

E. Multiple activities. In any circumstance in which more than one activity listed in Subsection A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in their discretion, issue a single operating permit to apply to all such activities.

F. Duration of operating permits. Operating permits shall be issued a specified period of time consistent with local conditions, but in no event to exceed as follows:

(1) 180 days for tents, special event structures, and other membrane structures;

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

(3) One (1) year for all other activities, structures, and operations identified in subdivision (a) of this section.

The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

G. Revocation or suspension of operating permits. If the Code Enforcement Officer determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.

H. Fee. The fee specified in or determined in accordance with the provisions set forth in § **67-16**, Fees, of this article must be paid at the time of submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

§ 67-11. Fire safety and property maintenance inspections.

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

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

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

C. Inspections permitted. In addition to the inspections required by Subsection A of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an authorized to perform fire safety and property maintenance inspections at any time upon:

- (1) the request of the owner of the property to be inspected or an authorized agent of such owner;
- (2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- (3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

provided, however, that nothing in this subsection shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

D. OFPC inspections. Nothing in this section or in any other provision of this article shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator or any other authorized entity under Executive Law § 156-e and Education Law § 807-b. Notwithstanding any other provision of this section to the contrary, the Code Enforcement Officer may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to sections 807-a and 807-b of the Education Law and/or section 156-e of the Executive Law, in lieu of a fire safety and property maintenance inspection performed by the Code Enforcement Officer or by an Inspector, provided that:

- (1) the Code Enforcement Officer is satisfied that the individual performing such inspection satisfies the requirements set forth in 19 NYCRR section 1203.2(e);

- (2) the Code Enforcement Officer is satisfied that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;
- (3) such inspections are performed no less frequently than once a year;
- (4) a true and complete copy of the report of each such inspection is provided to the Code Enforcement Officer; and
- (5) upon receipt of each such report, the Code Enforcement Officer takes the appropriate action prescribed by section 67-15 Violations of this article.

E.Fee. The fee specified in or determined in accordance with the provisions set forth in § **67-16**, Fees, of this article must be paid prior to or at the time each of inspection performed pursuant to this section. This subsection shall not apply to inspections performed by OFPC.

§ 67-12. Complaints.

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this article, or any other local law, ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

A.

Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § **67-15**, Violations, of this article;

C. If appropriate, issuing a stop-work order;

D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

§ 67-13. Recordkeeping.

A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all code enforcement personnel, including records of:

- (1) All applications received, reviewed and approved or denied;
- (2) All plans, specifications and construction documents approved;
- (3) All building permits, certificates of occupancy, certificates of compliance, temporary certificates, stop-work orders, and operating permits issued;
- (4) All inspections and tests performed;
- (5) All statements and reports issued;
- (6) All complaints received;
- (7) All investigations conducted;
- (8) All other features and activities specified in or contemplated by §§ **67-4** through **67-12**, inclusive, of this article; and
- (9) All fees charged and collected.

B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

§ 67-14. Program review and reporting.

A. The Code Enforcement Officer shall annually submit to the Town Board of this Town a written report and summary of all business conducted by the Code Enforcement Officer and the inspectors, including a report and summary of all transactions and activities described in § 67-13, Recordkeeping, of this article and a report and summary of all appeals or litigation pending or concluded.

B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.

C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, true and complete copies of the records and related materials this Town is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town in connection with administration and enforcement of the Uniform Code and/or Energy Code as may be requested by the Department of State.

§ 67-15. Violations

A. Orders to remedy. The Code Enforcement Officer is authorized to order, in writing, the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this article. An order to remedy shall be in writing; be dated and signed by the Code Enforcement Officer; specify the condition or activity that violates the Uniform Code, the Energy Code, or this article; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this article which is/are violated by the specified condition or activity; and shall include a statement substantially similar to the following: "The person or entity served with this order to remedy must completely remedy each violation described in this order to remedy by _____ [specify date], which is thirty (30) days after the date of this order to remedy."

The order to remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the order to remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such order to remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the order to remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail within five (5) days after the date of the order to remedy. The Code Enforcement Officer shall be permitted, but not required, to cause the order to remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the order to remedy.

B. Appearance tickets. The Code Enforcement Officer and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

C. Penalties. In addition to such other penalties as may be prescribed by state law,

(1) any person who violates any provision of the Uniform Code, the Energy Code or this article, or any term, condition, or provision of any building permit, certificate of occupancy, certificate of compliance, temporary certificate, stop-work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article, shall be punishable by a fine of not more than \$1,000.00 per day of violation, or imprisonment not exceeding fifteen (15) days, or both; and

(2) any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any building permit, certificate of occupancy, certificate of compliance, temporary certificate, stop work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article, shall be liable to pay a civil penalty of not more than \$1,000.00 for each day or part thereof during which such violation continues. The civil penalties provided by this paragraph shall be recoverable in an action instituted in the name of this Town.

D. **Injunctive relief.** An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this article, or any term or condition of any building permit, certificate of occupancy, certificate of compliance, temporary certificate, stop-work order, operating permit, order to remedy, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this article, or any stop-work order, order to remedy, or other order obtained under the Uniform Code, the Energy Code or this article, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Town Board of this Town.

E. **Remedies not exclusive.** No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § **67-6**, Stop-work orders, of this article, in any other section of this article, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in § **67-6**, Stop-work orders, of this article, in any other section of this article, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of § 382 of the Executive Law.

§ 67-16. Fees.

A fee schedule shall be established by resolution of the Town Board of this Town. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy, certificate of compliance, temporary certificates, operating permits, firesafety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this article.

§ 67-17. Intermunicipal agreements.

The Town Board of this Town may, by resolution, authorize the Supervisor of this Town to enter into an agreement, in the name of this Town, with other governments to carry out the terms of this article, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

§ 67-18. Climatic and geographic design criteria.

(A) The Code Enforcement Officer shall determine the climatic and geographic design criteria for buildings and structures constructed within this Town as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where applicable, the maps, charts, and other information provided in

the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:

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

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

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

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

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

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

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

§ 67-19 Partial invalidity.

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

§ 67-20 Effective date.

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

Chapter 67. Building Construction

Article II. Unsafe Buildings and Structures

§ 67-21. Inspection; notice; hearing; removal; costs.

A. All buildings which are structurally unsafe, unsanitary or not provided with adequate egress, or which constitute a fire hazard or are otherwise dangerous to human life or which in relation to existing use constitute a hazard to the safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment severally for the purpose of this section are declared unsafe buildings. All such unsafe buildings are hereby declared to be illegal and shall be abated by repair and rehabilitation, or by demolition in accordance with the procedures of this section and of Subdivision 16 of § 130 of the Town Law.

B. The Town Board hereby appoints the Building Inspector of the Town of Marlborough as the official to make an inspection and report as to the unsafe condition of any building within the Town of Marlborough.

C. Upon completion of said inspection, the Building Inspector shall cause to be served a notice on the owner or someone of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the same, either personally or by registered mail addressed to the last known address, if any, of the owner's or someone of the owner's executors, legal representatives, agents, lessees or other persons having a

vested or contingent interest in the same as shown by the records of the Receiver of Taxes containing a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous, and an order requiring that the same be made safe and secure or removed; and if such service be made by registered mail or a copy of such notice to be posted on the premises.

D.

The notice shall further provide for the time which such person served with such notice may commence the securing or removal of the buildings or structures.

E. The Building Inspector shall file a copy of such notice in the office of the County Clerk of the county within which said building or structure is located, which notice shall be filed by such Clerk in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules, and shall have the same effect as a notice of pendency as provided, except as otherwise hereinafter provided in this subsection. A notice so filed shall be effective for a period of one year from the date of filing; provided, however, that it may be vacated upon the order of a judge or justice of a court of record, or upon the consent of the Town Attorney. The Clerk of the county where such notice is filed shall mark such notice and any record or docket thereof as canceled of record upon the presentation and filing of such consent or of a certified copy of such order. Such notice shall further provide for a hearing before the Town Board, notice of which time and place thereof to be specified in the notice to repair or demolish served upon the owner and such person having an interest in the property or structure as is herein prescribed.

F. If after such hearing the Town Board determines that said building is an unsafe building and the owner fails to remove or refuses to repair the same within the time provided, the Town Board may order the removal of such building or structure.

G. If the Town shall be required to remove such structure, the assessment of all costs and expenses incurred by the Town in connection with the proceeding to remove or secure, including the cost of actually removing the building or structure, shall be levied against the land on which building or structures are located.

Section 2. If any of this section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this law.

Section 3. This local law shall be effective upon filing with the Secretary of State.

WHEREAS, this legislation repealing and replacing Chapter 67, "Building Construction" is a Type II Action under the New York State Environmental Quality Review Act ("SEQRA") and will not have a significant adverse effect on the environment.

Supervisor Corcoran advised the Town Board that, pursuant to the Municipal Home Rule of the State of New York, it will be necessary to hold a public hearing upon this law. He offered the following resolution which was seconded by Councilmember Cauchi, who moved its adoption:

WHEREAS, on February 28, 2022, Supervisor Corcoran has introduced this local law for the Town of Marlborough, to be known as "Town of Marlborough Local Law No. ____ of the Year 2022, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK REPEALING AND REPLACING CHAPTER 67, 'BUILDING CONSTRUCTION,' OF THE MARLBOROUGH TOWN CODE."

RESOLVED, that a public hearing be held in relation to the proposed changes set forth in the form of notice, hereinafter provided, at which hearing parties of interest and citizens shall have an opportunity to be heard. The public hearing will be held at the Town Hall, 21 Milton Turnpike, Milton, New York, 12547 on March 14, 2022, at 7:00 p.m., Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Town of Marlborough by the Town Clerk, at least five (5) days before such hearing and that notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE, that the Town Board of the Town of Marlborough will hold a public hearing at the Town Hall facilities at 21 Milton Turnpike, Milton, New York on March 14, 2022 at 7:00 o'clock p.m., prevailing time, on proposed Local Law No. ____ of 2022, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK REPEALING AND REPLACING CHAPTER 67, "BUILDING CONSTRUCTION," OF THE MARLBOROUGH TOWN CODE.

TAKE FURTHER NOTICE, that copies of the aforesaid proposed Local Law will be available for examination at the office of the Clerk of the Town of Marlborough, 21 Milton Turnpike, Milton, New York, 12547 between the hours of 8:00 a.m. to 4:00 p.m. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all citizens and parties of interest shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Milton, New York
 February 28, 2022

COLLEEN CORCORAN, TOWN CLERK

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Corcoran	Yes
Councilman Molinelli	Yes
Councilman Cauchi	Yes
Councilman Zambito	Yes
Councilwoman Sessa	Yes

DATED: Milton, New York
February 28, 2022

COLLEEN CORCORAN, TOWN CLERK

February 28, 2022

E). Resolution #35 To appoint an Ethics Board Member

Supervisor Corcoran proposes the following:

Whereas, the Town of Marlborough as adopted a Code of Ethics in 2009, and

Whereas, the code states that the Town needs a Board of five members appointed by the Town Board, and

Whereas, we currently have an open position, and

Whereas, it is the recommendation to appoint Edward Mackey Jr. effective immediately with a term ending date of December 31, 2025

And moves for its adoption:

Councilman Molinelli	Yes
Councilwoman Sessa	Yes
Councilman Cauchi	Yes
Councilman Zambito	Yes
Supervisor Corcoran	Yes