

October 24, 2016

WORKSHOP MEETING  
TOWN BOARD TOWN OF MARLBOROUGH  
21 MILTON TURNPIKE, MILTON NEW YORK  
OCTOBER 24, 2016 7:00 PM  
MINUTES OF MEETING

Present: Supervisor Lanzetta  
Councilman Molinelli  
Councilman Corcoran  
Councilman Baker  
  
Danielle Cherubini, Deputy Town Clerk

Absent: Councilman Koenig

*The regular meeting began at 7:45 p.m.*

ITEM #1 Call to order - Pledge of Allegiance

ITEM #2 Moment of Silence

ITEM #3 Motion to approve agenda

*Councilman Corcoran made a motion to approve the agenda. Motion seconded by Councilman Baker.*

*Yea*s: 4                    *Nay*s: 0                    *Carried*

ITEM #4 Motion to approve minutes from the October 10, 2016 Town Board Meeting

*Councilman Molinelli made a motion to approve minutes from the October 10, 2016 Town Board Meeting. Motion seconded by Councilman Baker.*

*Yea*s: 4                    *Nay*s: 0                    *Carried*

ITEM #5 Authorize payments of bills

*Councilman Baker made a motion to authorize payment of the abstract in the amount of \$148,624.64. Motion seconded by Councilman Molinelli.*

*Yea*s: 4                    *Nay*s: 0                    *Carried*

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ITEM #6 Presentations

A). Legislator Richard Gerentine

*Richard Gerentine, County Legislature, presented a packet of information to the Board. He stated that there will be a proposition on the back of the November 8, 2016 ballot to relocate the Ulster County Family Court to the Business Resource Center (BRC) which is in the Town of Ulster (about 800 feet out of the City of Kingston). The New York State Unified Court System has told the county that they need a facility to meet their needs or the state may impose financial sanctions on the county. The county rents the current building and owns the BRC. There is approximately 30,000 square feet that is vacant for use at the BRC. The Department of Social Services also occupies the BRC. Mr. Gerentine explained the status of the current building and the benefits to moving to the BRC. He also said they have looked at other options. He encouraged everyone to vote yes for the move and that many millions of dollars would be saved by the taxpayers over time by moving the family court to the BRC.*

*There were a few brief discussions with the public at this time.*

B). Nick Galella-Drainage District fees

*Nick Galella stated that he did an 8 lot subdivision off of Ridge Road about 5 years ago. He had built on 5 and combined the remaining 3 into one. He explained that part of the subdivision process was to create a drainage district that all of the property owners pay into. The fee was set at \$1,500.00. Mr. Galella gave a sketch to the Board showing the section that was not built, the retention pond that wasn't built (and doesn't need to be maintained), and also the berm on Ridge Road (that he says is the only drainage area to be maintained). He asked the Board to consider making the fee \$750.00 since there isn't as much to maintain.*

*There was a brief discussion regarding the cost to maintain the drainage district.*

*Supervisor Lanzetta asked the Board for permission to ask Pat Hines for his opinion on this matter.*

***Councilman Corcoran made a motion to give permission to Supervisor Lanzetta to ask Pat Hines for his opinion regarding the drainage district off of Ridge Road. Motion seconded by Councilman Molinelli.***

Yea: 5

Nays: 0

Carried

ITEM #7 Comments on the agenda

*No comments on the agenda*

ITEM #8 Workshop topics

A). Park Maintenance

*Supervisor Lanzetta stated that Zambito & Sons was awarded a bid for about \$38,000.00 to maintain Cluett Schantz Park. He said Councilman Corcoran suggested bidding out all Town*

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properties and Councilman Molinelli suggested having two separate Request for Proposals (RFP), one for the park and one for the other properties.

*Councilman Corcoran stated that the other properties would include: 1650 Route 9W, Milton Landing and Train Station, Riverside Cemetery, Quaker Hill Cemetery, and Friends Cemetery. The Board discussed the option of doing two separate RFP's and how they might like to proceed. There was a brief discussion concerning the cost of the maintenance.*

*Councilman Molinelli made a motion to put together two separate Request for Proposals for maintenance of Town properties; one for Cluett Schantz Park and one for 1650 Route 9W, Milton Landing and Train Station, Riverside Cemetery, Quaker Hill Cemetery, and Friends Cemetery. Motion seconded by Councilman Corcoran.*

*Supervisor Lanzetta took public comment at this time.*

## B). Sign Law

Supervisor Lanzetta read part of the (draft) sign law regarding billboards. He stated that the sign law has been updated with information that pertains to Marlborough. The Board discussed billboards and phasing them out (sunset) and if they want to sunset in five years or ten years. There was a disagreement concerning how the sunset rule would affect property owners who have them on their property and also affect Highway Displays (the company who puts up the bill board and pays the property owner).

*There was a brief discussion at this time regarding communication with the property owners who would be affected by the changes in the sign law and also communication with tow companies about the proposed changes in the tow law.*

*Councilman Baker made a motion to change the section in the draft sign law that pertains to nonconforming signs (Letter I, Number 1, Letter b - Nonconforming billboards, Numbers 1 and 2) to read “such billboards shall be removed within five years” and “Upon the expiration of the five year period”. Motion seconded by Councilman Corcoran.*

*Yeas: 3 Nays: 1 (Molinelli) Carried*

*Supervisor Lanzetta took public comment at this time.*

ITEM #9 Correspondence  
*No correspondence*

## ITEM #10 Public Comment

*Ralph Walters asked if the 2015 audit has begun and do they know when they will have it completed. He also asked if they are going to put out an RFP for new auditors.*

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*Supervisor Lanzetta stated that the auditors were at Town Hall, they may be done by the end of the year, and they will continue to use the same auditors. Ralph Walters commented that the ad for the Ethics Board didn't say what political party they need to be. It was explained that there wasn't a decent way to word the ad, so it is generic.*

*James Garofalo suggested putting a map on the website showing where the property is that is referenced in Resolution #101.*

*Dare Thompson asked what the process is for the budget and is it in the newspaper. Supervisor Lanzetta explained the budget process and said yes that there is a notice for a public hearing in the legal notice section of the newspaper. Supervisor Lanzetta also explained what revenues they increased and other changes they made since the tentative budget that kept the town a good amount below the 2% cap.*

## ITEM #11 Resolutions

A). Resolution#98 To adopt the 2017 Final Budget

B). Resolution#99 To hereby authorizes the filing of this Negative Declaration pursuant to the requirements of the State Environmental Quality Review Act as contained in its regulations at 6 NYCRR 617.12.

*Councilman Corcoran made a motion to table Resolution #99. Motion seconded by Councilman Molinelli.*

C). Resolution #100 To adopt Local Law #2 of the year 2016

*Councilman Corcoran made a motion to table Resolution #100. Motion seconded by Councilman Molinelli.*

D). Resolution #101 To Introduce a local law of the Town of Marlborough, Ulster County, New York, amending the zoning map of the Town of Marlborough to establish a business corridor overlay district under town code section 155-12(h) covering property at 1609-1611 Route 9W, Milton, New York, more particularly described as tax parcel number 103.3-4-20.

## ITEM #12 Adjournment

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A). Resolution #98 To adopt the 2017 Final Budget

Supervisor Lanzetta proposes the following:

Whereas, the Town Board of the Town of Marlborough duly held a public hearing on the 2017 budget on October 10, 2016, and

Whereas, said hearing was duly advertised and held at appointed time and place and all persons interested in the subject thereof were given the opportunity to be heard, and

Whereas, the Town Board of the Town of Marlborough, desires to adopt the 2017 Final Budget.

Now therefore be it resolved that the 2017 final Budget is hereby adopted.

And moves for its adoption

Councilman Corcoran	Yes
Councilman Molinelli	Yes
Councilman Koenig	Absent
Councilman Baker	Yes
Supervisor Lanzetta	Yes

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***RESOLUTION #99 TABLED***

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B). Resolution#99 To hereby authorizes the filing of this Negative Declaration pursuant to the requirements of the State Environmental Quality Review Act as contained in its regulations at 6 NYCRR 617.12.

Supervisor Lanzetta proposes the following:

**TOWN OF MARLBOROUGH TOWN BOARD**

**A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK TO AMEND CHAPTER 140 “TOW TRUCKS”**

**NEGATIVE DECLARATION  
NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

WHEREAS, the Town of Marlborough Town Board proposes to adopt a resolution adopting a local law to amend Chapter 140 “Tow Trucks;” and

WHEREAS, this negative declaration is prepared in accordance with Article 8 of the Environmental Conservation Law; and

WHEREAS, the name and address of the lead agency is: Town of Marlborough Town Board, 21 Milton Turnpike, Milton, NY 12547; and

WHEREAS, the Town of Marlborough Town Board has determined that this action is an unlisted action pursuant to 6 NYCRR Part 617 of the NY State Environmental Quality Review Act (SEQRA) and that the action need not be subject to optional coordinated review by all involved agencies; and

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WHEREAS, the Town of Marlborough Town Board, as lead agency in this matter, has caused the preparation of a Short Environmental Assessment Form (EAF), parts 1, 2 and 3; and

WHEREAS, the Town of Marlborough Town Board has reviewed the action and all relevant supporting documentation and has compared the action with 6 NYCRR 617 and has determined that no significant adverse impacts associated with the proposed action have been identified. The Board offers the following information supporting and substantiating this determination:

1. The action will not result in a substantial adverse change in existing air quality, ground or surface water quality, traffic or noise levels, a substantial increase in solid waste production; or a substantial increase in potential for erosion, flooding, leaching or drainage problems.

2. The action will not result in the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movements of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial impacts on a threatened or endangered species of animal or plant or the habitat of such a species or other significant adverse impacts to natural resources.

3. The action will not create a material conflict with the community's current plans or goals as officially approved or adopted. The action is entirely consistent with and supportive of the goals and objectives of the Town of Marlborough.

4. The action will not result in the impairment of the character or quality of important historical, archeological, architectural or aesthetic resources of the existing community or neighborhood character.

5. The action will not create a hazard to human health.

6. The action will not cause a substantial change in the use or intensity of use of land, including agricultural, open space or recreational resources or in its capacity to support existing uses.

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7. The action will not result in the creation of a material demand for other actions that would result in one of the above consequences.

8. The action does not involve changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment.

NOW, THEREFORE, BE IT RESOLVED THAT the Town of Marlborough Town Board acting as Lead Agency has examined the impacts which may be reasonably anticipated to result from the action, and has determined that these actions will not have any significant adverse impact on the environmental and that a Draft Environmental Impact Statement need not be prepared.

BE IT FURTHER RESOLVED THAT the Town of Marlborough Town Board hereby issues a Negative Declaration pursuant to the requirements of the State Environmental Quality Review Act.

BE IT FURTHER RESOLVED THAT the Town of Marlborough Town Board hereby authorizes the filing of this Negative Declaration pursuant to the requirements of the State Environmental Quality Review Act as contained in its regulations at 6 NYCRR 617.12.

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The foregoing resolution was voted upon with all councilmen voting as follows:

Supervisor Lanzetta	_____
Councilman Baker	_____
Councilman Corcoran	_____
Councilman Koenig	_____
Councilman Molinelli	_____

This Negative Declaration is adopted this \_\_\_\_\_ of \_\_\_\_\_, 2016 and is ordered into the record of the Town of Marlborough Town Board with respect to the local law to amend Chapter 140 "Tow Trucks."

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COLLEEN CORCORAN, TOWN CLERK

Contact Person:  
Colleen Corcoran, Town Clerk  
Town of Marlborough  
21 Milton Turnpike  
Milton, NY 12547  
845-795-5100

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***RESOLUTION #100 TABLED***

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B). Resolution #100 To adopt Local Law #2 of the year 2016

Supervisor Lanzetta proposes the following:

WHEREAS, a local law was introduced entitled A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULMSTER COUNTY, NEW YORK TO AMEND CHAPTER 140 "TOW TRUCKS;" and

WHEREAS, a public hearing in relation to said local law was held on October 24, 2016 at 7:00 p.m., Prevailing Time; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of Marlborough for at least seven (7) days, exclusive of Sunday;

NOW, THEREFORE, BE IT RESOLVED that the following local law is hereby enacted:

**TOWN OF MARLBOROUGH LOCAL LAW NO. 2 OF THE YEAR 2016**

Section 1. Existing Chapter 140 of the Town Code is hereby deleted.

Section 2. A new Chapter 140 is hereby adopted as follows:

## **CHAPTER 140 “TOW TRUCKS”**

### **140-1 Declaration of purpose and intent**

- A. It is the intention of this Chapter of the Town Code to allow the Town of Marlborough, through its Police Department, to supervise and administer the removal of vehicles from the public highways of the Town that are disabled, abandoned, or otherwise need to be removed via a tow truck operators list from which the Police Department will call and request services in a rotating basis. This Chapter only applies to tow trucks called into service by the Town of Marlborough as agent for any Town, county, state or federal police agency.
- B. It is hereby declared and found that it is of vital importance to the travelling public that disabled vehicles are removed from the roadways and highways as promptly as possible, that delay in removal results in restricting the movement of traffic unnecessarily and causes street accidents. The towing of disabled motor vehicles from the roadways and highways of the Town of Marlborough is a matter affecting the public interest and consequently should be subject to supervision and administrative control for the purpose of safeguarding the public against traffic problems and confusion at the scene of accidents, fraud and exorbitant rates and similar abuses. The Town Board believes that establishing a tow list for use by the police can accomplish this purpose.
- C. It is the intent of the Town Board of the Town of Marlborough to establish a fair and uniform regulation and procedure for the towing of vehicles. The following issues have been taken into consideration in the development of this Chapter:
  1. The needs of the public: To meet the needs of the public, the business practices on the part of private towing companies acting at the direction of the Town police must be regulated. Towing companies who wish to participate in the Town towing program must demonstrate that they can give prompt, safe, and professional service. The community needs tow operators who are competent and able to respond to calls within a minimum of time delay. This requirement mandates an appropriate

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administrative response to deal with those towing agencies which do not provide services which meet Town Standards.

2. The needs of the towing industry: The needs of the towing industry must be met by providing them with a consistent system for the equitable distribution of tow calls within the Town. This provides the towing industry with clear and precise requirements for continued service to the community. This Chapter also allows for a fair and equitable means to resolve disputes between tow operators.
3. The needs of the Town police. The needs of the Town police must be met by providing for a clear procedure for contacting towing companies.

## **140-2 Definitions**

For purposes of this Chapter, the following terms shall have the following meanings:

**Permittee** – the person, corporation or other entity to whom a permit has been issued pursuant to this Chapter.

**Police Department** - the Police Department of the Town of Marlborough

**Towing** - The moving of a vehicle where a fee, charge or other consideration is directly or indirectly imposed for such moving.

**Towing Company or Towing Operator or Towing Business** - A person or entity engaged in the business of offering towing services whereby motor vehicles are moved by use of a motor vehicle designated or adapted for that purpose.

**Towing permit or Towing license** – A permit issued pursuant to this chapter.

**Tow truck** - A vehicle used for towing usually equipped with a crane, winch, tow bar, push plate or other device designed to pull or push a vehicle or to raise a vehicle or the front or rear end thereof or a flatbed tow truck.

**Town Board** – the Town Board of the Town of Marlborough

**Vehicle** - A motor vehicle as defined in § 125 of the Vehicle and Traffic Law, a tractor as defined in § 151-a of such law or a trailer as defined in § 156 of such law.

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**140-3 Permit required**

- A. A valid permit issued pursuant to this Chapter shall be required before a tow truck operator or towing company will be permitted to tow a vehicle upon request by the Town of Marlborough Police Department.
- B. Nothing herein shall prohibit tow truck operators from outside the Town of Marlborough from entering the Town of Marlborough to remove a motor vehicle from a registered repair shop, garage, and salvage yard.
- C. It shall be unlawful for any person, corporation, or other entity to service or tow away any motor vehicle which has been involved in an accident without the prior consent of the owner or operator or the police officer at the scene of the accident.

**140-4 Criteria**

Every person, corporation, or other entity who desires to operate, except as herein otherwise provided, the business of automotive towing by a tow truck(s) or car carrier(s) owned, controlled or leased by him upon the public highways within the Town shall comply with the following criteria:

- A. The applicant must own or lease a licensed and registered New York repair shop within the Town of Marlborough or own or lease an impound or storage yard within the Town of Marlborough. All towing businesses must have a secure indoor and outdoor storage area within the Town of Marlborough available in which to store specific vehicles out of the public access. All outdoor lots utilized to store vehicles in conjunction with the Town tow list must be secured with a fence designed to limit or restrict access to the public.
- B. All locations must be staffed with at least one employee of the repair shop or storage location, who shall be present at least on week days between the hours 8:00 p.m. and 6:00 p.m. and who shall be authorized to accept payment and release towed vehicles to claimants.
- C. All towing business shall maintain adequate equipment to perform the required towing task.

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- D. All towing business must be capable of a twenty-minute response time to the scene of the tow after receiving the request for their service.
- E. All towing companies must make their facilities and equipment available for scheduled inspections. These inspections will be made to ensure that each company has the appropriate registration, equipment, insurances and an employee on site. The Police Department will give 48 hours' notice to the towing business for the inspection.
- F. All towing business shall comply with the requirement for the charging of fees as established from time to time by resolution of the Town Board.
- G. Required equipment. In addition to the required equipment specified in § 375 of the Vehicle and Traffic Law or as promulgated by the Commissioner of Motor Vehicles, all tow trucks shall be equipped with:
  1. Lettering on the truck identifying the exact name of the holder of the permit issued pursuant to this Chapter, as well as a phone number for the holder of the permit.
  2. An amber rotating light mounted at the top of the cab or on a light bar so that the light is visible for not less than 500 feet under normal atmospheric conditions.
  3. At least two red flashing lights to show the width of the vehicle from the rear.
  4. Speedy Dry or similar materials to absorb minor fluid spills.
  5. Garbage bags for the removal of debris at the scene.
  6. A broom for clean up at the scene.

#### **140-5 Application**

- A. The Town Board, through the Town Clerk, shall accept all applications for permits from persons desiring to engage in the business of towing on such forms as adopted by the Town Board. Every person, corporation, or other entity who desires to operate, except as herein otherwise provided, the business of automotive towing by a tow truck(s) or car carrier(s) owned, controlled or leased by him upon the public highways within the Town shall be duly licensed as a tow truck operator in the Town upon written application, made under oath, as follows:

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1. The name and address of the applicant and the address of the place from which tow trucks are proposed to be garaged or dispatched, specifying, in the case of any corporation, the names and addresses of each member thereof and, in the case of any unincorporated association or other entity, the names and addresses of each officer, director and stockholder.
2. A copy of the valid registration and inspection for each of their towing vehicles. The registration on said towing vehicles must be registered in the name of the towing business that is located within the geographical location of the Town of Marlborough.
3. A list of drivers including a copy of their New York State issued driver's license indicating the appropriate classification to operate the tow trucks listed on the application, as well as a driver's abstract for each driver showing the license is valid and is not currently suspended or revoked. This list will be updated annually with each permit renewal.
4. The number of vehicles proposed to be operated by the applicant and a description of each vehicle, including make, model, year of manufacture, New York State registration number and vehicle identification number. This will be updated yearly with the Town at the time of permit renewal.
5. All crimes, if any, of which that applicant or any member thereof has been convicted and, if an unincorporated association, of which any officer or director has been convicted and, if a corporation, of which any officers, directors or stockholders thereof have been convicted, stating the name, if any, and location of the courts and the dates on which such convictions were had and the penalties imposed thereon
6. Proof of insurance in the minimum amount of \$500,000 personal liability and \$150,000 property damage liability, which shall include a garage keeper's legal liability policy to cover fire, theft, and property damage that will fully cover any vehicle towed, impounded or stored and will keep such policy in effect

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throughout their permit period. Additionally, all towing companies will name the Town of Marlborough as coinsured on their policies.

7. That the applicant satisfies all the criteria of subsection 140-4, above.
8. Any additional information as reasonably requested by the Town.

B. The Town Board may, in its sole discretion, adopt a renewal application form to be submitted each year by existing permit holders.

#### **140-6 Review of Application; Recommendation to Town Board**

- A. All applications shall be reviewed by the Police Liaison Committee, consisting of the Chief of Police and two (2) members of the Town Board. The Police Liaison Committee shall:
  1. Review the application for compliance with the criteria of this Chapter; and
  2. Verify that the repair shop or impound or storage yard within the Town of Marlborough is in compliance with all applicable planning, zoning and building laws; and
  3. Conduct any necessary inspections of either vehicles and/or the repair shop or impound or storage yard in order to determine compliance.
- B. The Police Liaison Committee shall make a recommendation to the full Town Board on whether to approve or deny the application for a towing permit within 20 business days from the date the application was submitted to the Town Clerk. The Town Board shall then review the application and adopt a resolution approving or denying the application within 30 days from the date it receives the recommendation of the Police Liaison Committee. The Town Board is not bound by the recommendation of the Police Liaison Committee but shall consider the recommendation in addition to the information set forth in the application.

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**140-7 Approval: Issuance of Permit for Vehicles.**

Upon passage of a resolution by the Town Board approving the application, the Town Clerk shall issue a permit to the applicant after a review process. Before the permit is issued, the applicant shall pay the fee for a permit in an amount set by resolution of the Town Board. Every permit issued hereunder shall expire on the 31st day of December next succeeding the date of its issuance unless sooner revoked, as hereinafter provided.

**140-8 Denial of permit: Appeal**

The Town Board may deny a permit to any applicant whom the Town Board shall find does not satisfy the criteria set forth in this Chapter or that the Town Board shall determine to be undesirable or incapable of properly conducting a road service or tow truck business. If the Town Board shall deny any application for a license, such denial shall be in writing and state the reasons therefor. Any applicant who shall be denied a license shall have the right to appeal such denial to the Town Board within 20 business days with a written submission explaining why the Town Board's denial was in error and why the application should be approved. A decision of the Town Board to approve or deny such an application after an appeal to it shall be in writing and entered into the minutes. Such decision shall be final.

**140-9 Nontransferability of Permit**

Each license shall not be transferred from one person to another or from vehicle to vehicle. Notification of vehicle replacement must be made within 30 days to the Chief of Police, who in turn will notify the Town Clerk and have the application updated.

**140-10. Permit list; General Procedure**

- A. Lists: Two Rotational lists shall be kept. Only permitted towing companies located within the Town of Marlborough will be included on these lists. An up to date copy of the rotational tow list will be made available to the public. This list will be maintained in the lobby of the police station. The public can view the list 24 hours a day and it will be

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updated at least once per business day to reflect the current state of the rotation.

1. One list shall be for normal passenger vehicles and light trucks.
2. The second list shall be used for towing companies capable of towing larger commercial type vehicles otherwise known as the heavy duty list.

A. Priority for contacting towing companies shall be made in the following sequence:

1. Emergency needs at the towing scene.
2. Owners request for a specific towing agency (within a reasonable distance and if applicable).
3. Next permittee from the rotational towing list.

B. Permittees will initially be placed on the towing list in random order. Once the use of the towing list has been commenced, a new permittee to be included on the list shall be placed on the bottom of the list.

C. Each company shall be allowed 10 rings to answer the phone.

D. Once a tow company has not answered a call or is not available, they will be deemed a declination and the next company on the list contacted and afforded the same opportunity. This practice will be repeated until the list is exhausted. A permittee who does not answer a call or is not available when called shall lose his turn on the towing roster and must wait for the roster to be called again in its entirety before he is eligible to be called again. If the entire tow list has been called and those calls have failed to obtain a response to an incident, then the closest available tow from an adjacent town shall be utilized. The same principal shall apply when seeking a heavy duty tow truck. If there are none available in Town, then the closest to the scene from an adjacent town will be utilized.

E. In the event that a permittee called for towing or service assistance is unable or fails to arrive at the location within a twenty-minute time period, the next permittee on rotation shall be called and the first permittee shall lose its turn in rotation. If a permittee uses an answering service, the twenty-minute response time shall commence when the original phone call is made and not from the time voice contact is made with that tow company.

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- F. If a permittee accepts a call from the established list, they must respond to the scene. In the event that the responding company cannot complete the task at hand or requires assistance, the original responding company may seek the assistance of another permittee on the established tow list without a loss of turn or spot for either company responding. In the event the two companies together cannot complete the task, then the next company on the list will be called and the original accepting company will lose their spot on the list and be marked as unable to provide services requested.
- G. In the event that the permittee responds and the vehicle is no longer in need of tow or the vehicle is no longer present at the site, he will not lose his turn on the rotational list.
- H. It shall be unlawful for a permittee to transfer or exchange his place on the roster to any other license on the roster. Additionally, participating tow companies may not send another company's tow truck in their place to handle a tow request they have in fact accepted.
- I. If more than one tow truck is needed at the scene of an accident, the dispatcher shall call the next permittee in rotation. In that event, the choice of disabled motor vehicles to be towed shall be determined by the officer in charge.
- J. A permittee shall have but one place on the towing roster although he maintains several licensed tow trucks in the Town of Marlborough.
- K. Any permittee willfully refusing to tow away a motor vehicle shall lose his turn in rotation.
- L. All participating tow companies will provide up to three telephone numbers to be called for tow assignments in priority order. Pager numbers will not be utilized.

#### **140-11 General Regulations**

- A. Tow companies shall be available 24 hours per day, seven days a week. Tow companies must be willing to respond to any type of tow call, whether it be a collision, disabled vehicle, impound, etc. Tow companies who do not desire to tow at night or weekends, etc. or who elect to respond only to certain types of tow calls, will not be considered for

placement on the towing list. (This does not preclude the tow company from being called as a result of an owner's request.)

- B. Failure to respond to three calls, absent extenuating circumstances, will result in temporary suspension from the towing list for a period of 20 consecutive days.
- C. Permittee shall accept standard forms of payment including credit cards shall not be restrictive to "cash only" transactions. Personal checks may be accepted in the discretion of the permittee.
- D. All permittees called upon to impound a vehicle for the Town of Marlborough Police Department must store the vehicle within the limits of the Town of Marlborough unless otherwise directed by a member of the Police Department.
- E. The permittee shall be responsible for the collection of all fees for service, towing or storage of any vehicle. Neither the Town of Marlborough nor the Town of Marlborough Police Department shall act as agent for the collection of any fees, nor shall they be held responsible in the event of nonpayment of any moneys due to any permittee as a result of service performed in accordance with this chapter.
- F. When called to the scene of an accident, the permittee shall be responsible for removing debris from the roadway.
- G. Absent extenuating circumstances (such as severe snow storms, states of emergency, etc. where tow companies will be extremely busy), tow companies will not contact the Town Police and attempt to leave phone numbers of an on call tow truck operator. It shall be in the sole discretion of the Chief of Police whether such extenuating circumstances exist to permit tow truck operators to leave on call numbers with the Police Department.
- H. Town Police and Town Employees shall comply with the following guidelines:
  1. The towing of vehicles will be completed in accordance with both the Town Police Manual/Rules and Regulations and the procedures set forth in this Chapter.
  2. The tow company, whether an owners request or from the tow list, shall not be changed once the company has been notified to respond to the scene.
  3. Police Officers and Town Employees shall avoid offering personal recommendations

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to motorists who wish to request the tow, but have no preference of a tow company. Members shall inform the person in need that a tow list is maintained, comprised of certain companies which have all met certain criteria, thus offering them the opportunity to be utilized for towing calls. If an “owner’s request” is made, an owners request form will be completed by the officer at the scene and signed by the person making such request. This list will be maintained at the Police Department for record keeping purposes.

4. A towing log shall be maintained at the Town Police Department answering point (Dispatch). After a towing agency has been contacted, or failed to answer after 10 rings, the call shall be logged onto the towing log. The log shall include the name of permittee, the time of call, the blotter number associated with the event requiring a tow and whether or not the company responded. Upon the companies’ response to the scene, the officer on the scene shall advise dispatch of the arrival. The arrival time shall then be recorded on the towing log.

**140-12 Soliciting prohibited.**

It shall be unlawful for any person, corporation, or other entity to solicit towing or repair work at the scene of any motor vehicle accident on private property or on a public highway in the Town of Marlborough. Any participating tow company truck alleged to be in violation of this section will be subject to an investigation by the Chief of Police or his designee and potential penalties as set forth in this Chapter.

**140-13 Penalties for offenses.**

A. Permit Suspension or Revocation

1. The Town Board may, in each case, after a hearing on seven (7) days’ notice to the permittee of the alleged violations of this Chapter, impose penalties against any permittee that the Town Board shall determine has violated any provisions of this Chapter. The permittee shall be permitted to submit its response to the

October 24, 2016

allegations either in person during the hearing or in writing. If the Town Board should find that the permittee has violated this Chapter, penalties are as follows:

- a. First offense: 20-day suspension from the rotation towing program.
- b. Second offense: A suspension from the rotation towing program for up to one year.
- c. Third offense: Permanent revocation of towing permit. If revoked, the towing company will not be eligible to reapply for a towing permit.

2. A decision of the Town Board to impose a suspension or revocation of a permit shall be in writing and entered into the minutes. Such decision shall be final.

A. In addition to the penalties provided in subsection 140-13(A), any person, corporation, or other entity that violates any provision of this Chapter shall, upon conviction, be subject to a fine of up to \$100 for a first offense, and up to \$250 for each additional offense thereafter. The Chief of Police and/or his designee is hereby given the duty, power and authority to enforce the provisions of this Chapter.

**140-14. Severability.**

If any section, paragraph, subdivision, clause or provision of this chapter shall be adjudicated as invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudicated and the remainder of this chapter shall be deemed valid and effective.

Section 3. This Local Law shall take effect immediately upon filing with the Secretary of State.

RESOLVED that the Town Clerk shall file a certified original of this local law in the office of the Town Clerk and one (1) certified copy in the Office of the Secretary of State, State of New York.

October 24, 2016

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

Supervisor Lanzetta	_____
Councilman Baker	_____
Councilman Corcoran	_____
Councilman Koenig	_____
Councilman Molinelli	_____

DATED: Milton, New York  
October 24, 2016

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COLLEEN CORCORAN, TOWN CLERK

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D). Resolution #101 To Introduce a local law of the Town of Marlborough, Ulster County, New York, amending the zoning map of the Town of Marlborough to establish a business corridor overlay district under town code section 155-12(h) covering property at 1609-1611 Route 9W, Milton, New York, more particularly described as tax parcel number 103.3-4-20.

Supervisor Lanzetta proposes the following:

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

Section 1. The zoning map of the Town of Marlborough established within Section 155-8 of the Town Code is amended to change the district designation of Marlborough Tax Parcel 103.3-4-20 from its current zoning district designation to the Business Corridor Overlay designation.

Section 2. This local law is conditioned that use and development of the subject property shall be limited to the site plans approved by the Marlborough Planning Board on October 17, 2016.

Section 3. This local law is based on findings by the Town Board that the standards set forth in Section 155-12(H) (5)(f) (1) through (7) are satisfied.

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Section 4. The Town Board hereby establishes that the lot, height, yard, bulk, and area requirements for the use of the parcel shall be as they appear within the approved site plans and the current development on site. The Town Board hereby authorizes the continuation of mixed use on the subject parcel to continue the preexisting uses for retail landscaping and apartment use to the extent existing as of the site plan approval of the Planning Board.

Section 5. 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.

Section 6. This local law shall take effect immediately upon filing with this state's Secretary of State.

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, to be held at the Town Hall, 21 Milton Turnpike, Milton, New York, on November 28, 2016, at 7 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 five (5) days before such hearing and that notice shall be in the following form:

October 24, 2016

**NOTICE OF PUBLIC HEARING**

TAKE NOTICE, that the Town Board of the Town of Marlborough will hold a public hearing at the Town Hall, 21 Milton Turnpike, Milton, New York on November 28, 2016 at 7 o'clock, p.m., on Local Law No. \_\_ of the Year 2016, on a proposed Local Law of the Town of Marlborough, Ulster County, New York, amending the zoning map of the Town of Marlborough to establish a Business Corridor Overlay district under Town Code Section 155-12(H) covering property at 1609-1611 Route 9W, Milton, New York, more particularly described as Tax Parcel Number 103.3-4-20.

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, at the Town Hall, 21 Milton Turnpike, Milton, New York, between the hours 8:00 a.m. to 12:30 p.m. and 1:30 p.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 persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED:       Milton, New York  
                  October 24, 2016

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COLLEEN CORCORAN, TOWN CLERK

October 24, 2016

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

Supervisor Lanzetta	Yes
Councilman Molinelli	Yes
Councilman Corcoran	Yes
Councilman Baker	Yes
Councilman Koenig	Absent

DATED: Milton, New York  
October 24, 2016

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## COLLEEN CORCORAN, TOWN CLERK

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***Councilman Molinelli made a motion to adjourn the meeting at 9:07 p.m. Motion seconded by Councilman Corcoran.***

*Respectfully submitted,  
Danielle Cherubini  
Deputy Town Clerk*