

TOWN BOARD AGENDA
TOWN OF YORKTOWN
October 4, 2016

PLACE:
TOWN HALL

TIME:
7:30pm

- I. PLEDGE OF ALLEGIANCE
- II. MOMENT OF SILENCE
- III. REPORT FROM TOWN SUPERVISOR MICHAEL GRACE
- III. REPORTS FROM TOWN COUNCILMEN: GREG BERNARD, TOM DIANA, ED LACHTERMAN, VISHNU PATEL
- V. PRESENTATIONS
 - United for the Troops
 - Pinesbridge Monument

VI. APPOINTMENTS

Appoint Police Sergeant - Kenneth Sgori – Police Department

BE IT RESOLVED, that Kenneth R. Sgori is hereby appointed contingent-permanent as a Police Sergeant, job class code 0133-01, from Eligible List No. 71-198, effective October 5th, 2016 to be paid from Yorktown PBA Salary Schedule, which is \$117,733.00 annually;

BE IT RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 52 weeks, commencing on the first date of appointment on October 5th, 2016.

Appoint Police Sergeant - Timothy Kolkmann – Police Department

BE IT RESOLVED, that Timothy Kolkmann is hereby appointed contingent-permanent as a Police Sergeant, job class code 0133-01, from Eligible List No. 71-198, effective October 5th, 2016 to be paid from Yorktown PBA Salary Schedule, which is \$117,733.00 annually;

BE IT RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 52 weeks, commencing on the first date of appointment on October 5th, 2016.

Appoint Scott Ferreira Park Groundskeeper–Parks and Recreation Department

BE IT RESOLVED, that Scott R. Ferreira is hereby appointed Park Groundskeeper, job class code 0288-05, within the Parks & Recreation Department, effective October 5th, 2016 to be paid from Yorktown CSEA Salary Schedule A, Group 10, Step 2 which is \$51,872.00 annually;

BE IT RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 52 weeks, commencing on the first date of appointment on October 5th, 2016.

Reappoint Michael Resko as a member of the John C. Hart Memorial Library Board

Be It Resolved that Michael Resko is hereby reappointed as a member of the John C. Hart Memorial Library Board for a five-year term expiring on August 31, 2021.

VII. ADVERTISEMENTS

Bid for Stone, Gravel and Concrete Materials – Highway Department

Sealed proposals will be received by the Town Clerk of the Town of Yorktown, Westchester County, New York, at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York, until 11:00 A.M., on Tuesday, November 1, 2016 for Stone, Gravel and Concrete Materials for the Highway Department for the year 2017.

Bid for Amazon Park Community Building Foundation Repair and Swale

Sealed proposals will be received by the Town Clerk of the Town of Yorktown, Westchester County, New York, at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York, until 11:00 A.M., on Tuesday, November 1, 2016 for the Amazon Park Community Building Foundation Repair and Swale Bid.

Advertise Public Hearing to repeal Chapter 300-39 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING” and enact a new Chapter 300 Article XXX1

NOTICE IS HEREBY GIVEN, that a public hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York at 363 Underhill Avenue, Yorktown Heights, New York 10598 on the 1st day of November, 2016 at 7:30 PM, or as soon thereafter as the same can be heard, to repeal Chapter 300-39 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING” and enact a new Chapter 300 Article XXX1 of the Code of the Town of Yorktown entitled “INCLUSION OF ADDITIONAL HOUSING UNITS.”

Advertise public Hearing to repeal in its entirety Chapter 102 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING” and enact a new Chapter 102

NOTICE IS HEREBY GIVEN, that a public hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York at 363 Underhill Avenue, Yorktown Heights, New York 10598 on the 1st day of November, 2016 at 7:30 PM, or as soon thereafter as the same can be heard, to repeal in its entirety Chapter 102 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING” and enact a new Chapter 102 of the Code of the Town of Yorktown entitled “BELOW MARKET HOUSING INCENTIVES.”

Advertise Public Hearing to enact a new Article X entitled “YORKTOWN COMMUNITY HOUSING BOARD” of Chapter 10 of the Code of the Town of Yorktown

NOTICE IS HEREBY GIVEN, that a public hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York at 363 Underhill Avenue, Yorktown Heights, New York 10598 on the 1st day of November, 2016 at 7:30 PM, or as soon thereafter as the same can be heard, to enact a new Article X entitled “YORKTOWN COMMUNITY HOUSING BOARD” of Chapter 10 of the Code of the Town of Yorktown.

VIII. RESOLUTIONS - (Proposed Local Laws inserted at bottom of agenda)
Refer out proposed local laws to repeal Chapter 300-39; Affordable Housing, to repeal Chapter 102; Affordable Housing and enact a new Chapter 102, and to repeal Chapter 10; Yorktown Community Housing Board

Resolved, that the Town Clerk is authorized to refer out the following proposed local laws:

To repeal Chapter 300-39 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING” and enact a new Chapter 300 Article XXX1 of the Code of the Town of Yorktown entitled “INCLUSION OF ADDITIONAL HOUSING UNITS.”

To repeal in its entirety Chapter 102 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING” and enact a new Chapter 102 of the Code of the Town of Yorktown entitled “BELOW MARKET HOUSING INCENTIVES.”

To enact a new Article X entitled “YORKTOWN COMMUNITY HOUSING BOARD” of Chapter 10 of the Code of the Town of Yorktown, now

Therefore Be It Further Resolved, the Town Board declares its intent to act as Lead Agency and would like your comments and/or recommendations back by October 25, 2016.

To: U.S. Department of Housing and Urban Development

New York State Department of Environmental Conservation
New York City Department of Environmental Protection

Westchester County Planning Department
Westchester County Planning Board

Town of Cortlandt – Town Clerk
Town of Somers – Town Clerk
Town of Putnam Valley – Town Clerk
Town of New Castle – Town Clerk

Town of Ossining – Town Clerk

Yorktown Central School District
Lakeland School District
Ossining School District
Croton on Hudson School District

Yorktown Chamber of Commerce

ABACA
Building Inspector
Community Housing Board
Conservation Board
Highway Department
Planning Department/Board
Town Attorney
Town Board
Town Engineer

Be It Further Resolved, that notice is hereby given that these three Public Hearings will be convened by the Town Board, Town of Yorktown, Westchester County, New York at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York on the 1st day of November, 2016 at 7:30 o'clock PM.

Accept General Utility Easement Agreement for Cranberry Hill, Inc.

WHEREAS, the Town of Yorktown promotes the preservation of existing open and/or natural conditions as undeveloped wooded land without improvements; and

WHEREAS, on April 6, 2016 Cranberry Hill, Inc., which owns parcels of property described as tax map ID number part of 5.17-1-1.4. 1.5, 1.6, 1.7 and 1.8 and tax map ID number part of 16.05-1-1.1, 1.2 and 1.3, granted to the Town a conservation easement and a declaration of restrictive covenants for the purpose of maintaining and preserving the existing open and/or natural conditions as undeveloped wooded land without improvements as more fully stated in the Grant of Conservation Easement and Declaration of Restrictive Covenants.

NOW, THEREFORE, BE IT RESOLVED the Town Board of the Town of Yorktown accepts the Grant of Conservation Easement and Declaration of Restrictive Covenants over a parcel of property known as tax map ID number part of 5.17-1-1.4. 1.5, 1.6, 1.7 and 1.8 and tax map ID number part of 16.05-1-1.1, 1.2 and 1.3 for the purpose of maintaining and preserving the existing open and/or natural conditions as undeveloped wooded land without improvements as more fully stated in the Grant of Conservation Easement and Declaration of Restrictive Covenants; and be it further

RESOLVED, the Town Supervisor is hereby authorized to sign the Grant of Conservation Easement and Declaration of Restrictive Covenants together with any required documents or forms and to take such further acts as may be necessary to accept the Conservation Easement and Declaration of Restrictive Covenants.

Accept Grant of Conservation Easement and Declaration of Restrictive Covenants

WHEREAS, on April 6, 2016 Cranberry Hill, Inc., which owns parcels of property described as tax map ID number part of 5.17-1-1.7 and 1.8, granted to the Town a General Utility Easement Agreement for the purpose of entitling the Town to enter onto the Easement Area as defined in the General Utility Easement Agreement to perform work on parcels described as tax map ID number part of 5.17-1-1.7 and 1.8 necessary for the construction, installation, maintenance, operation, reconstruction, repair, replacement, extension and use of the municipal utility systems, including water mains and lateral lines, as well as structures and facilities associated with each of the foregoing and parcels described as tax map ID number part of 16.05-1-1.9 and 1.10 necessary for the construction, installation, maintenance, operation, reconstruction, repair, replacement, extension and use of the municipal utility systems, including storm and sanitary sewers and drainage facilities, as well as structures and facilities associated with each of the foregoing; and

WHEREAS, a survey and description reflecting the perimeters of the Utility Easement have been prepared and submitted as a schedule attached to the General Utility Easement Agreement; and

NOW, THEREFORE, BE IT RESOLVED the Town Board of the Town of Yorktown accepts the General Utility Easement Agreement over a parcel of property known as tax map ID number part of tax map ID number part of 5.17-1-1.7, 1.8 and 16.05-1-1.9 and 1.10; and be it further

RESOLVED, the Town Supervisor is hereby authorized to sign the General Utility Easement Agreement together with any required documents or forms and to take such further acts as may be necessary to accept the General Utility Easement Agreement.

Approve Tax Certiorari Proceeding for Tax Parcel 16.08-1-45 – Lake Osceola Realty Corp.

WHEREAS, tax certiorari proceedings were instituted challenging the assessment for parcel known as Section 16.08 Block 1 Lot 45, 489 East Main Street, on the Tax Map of the Town of Yorktown, now therefore be it

RESOLVED that the tax certiorari proceedings affecting tax parcel 16.08-1-45 Account Number 2219000, owned by Lake Osceola Realty Corp for assessment roll years 2013, 2014 and 2015 are settled as set forth in the proposed stipulation as follows:

Roll Reduction Year	Assessed Value		Assessed Value
	From	To	
2013	41,500	30,470	11,030
2014	41,500	27,610	13,890
2015	41,500	28,160	13,340

Approve Tax Certiorari Proceeding for Tax Parcel 16.07-1-2 – 3665 Barger Street

WHEREAS, tax certiorari proceedings were instituted challenging the assessment for parcel known as Section 16.07 Block 1 Lot 2, 3665 Barger Street, on the Tax Map of the Town of Yorktown, now therefore be it

RESOLVED that the tax certiorari proceedings affecting tax parcel 16.07-1-2 Account Number 0238500, owned by Dina Moundroukas for assessment roll years 2009, 2010, 2011, 2012, 2013, 2014 and 2015 are settled as set forth in the proposed stipulation as follows:

Roll Reduction Year	Assessed Value		Assessed Value
	From	To	
2009	8,850	6,000	2,850
2010	8,850	6,101	2,749
2011	8,850	6,346	2,504
2012	8,850	6,517	2,333
2013	8,850	6,787	2,063
2014	8,000	6,150	1,850
2015	8,000	6,272	1,728

Approve Tax Certiorari Proceeding for Tax Parcels 16.08-1-18, 16.12-1-24 and 16.12-1-30 – Mall at Jefferson Valley

WHEREAS, tax certiorari proceedings were instituted challenging the assessment for parcel known as Section 16.08 Block 1 Lot 18, 16.12-1-24 and 16.12-1-30, Route 6 and Lee Blvd., on the Tax Map of the Town of Yorktown, now therefore be it

RESOLVED, that the tax certiorari proceedings affecting tax parcel 16.08-1-18, 16.12-1-2 and 16.12-1-30 Account Numbers 1884000, 1885500 and 2217500, owned by Mall at Jefferson Valley for assessment roll year 2014, 2015 and 2016 are settled as set forth in the proposed stipulation as follows:

Section 16.08 Block 1 Lot 18

Roll Year	Assessed Value		Assessed Value	Reduction
	From	To		
2014	11,950	11,950	-0-	

2015	11,950	11,950	-0-
2016	11,950	11,950	-0-

Section 16.12 Block 1 Lot 24

Roll Year	Assessed Value From	Assessed Value To	Reduction
2014	1,833,100	1,833,100	-0-
2015	1,833,100	1,582,800	250,300
2016	1,833,100	1,520,300	312,800

Section 16.12 Block 1 Lot 30

Roll Year	Assessed Value From	Assessed Value To	Reduction
2014	5,250	5,250	-0-
2015	5,250	5,250	-0-
2016	5,250	5,250	-0-

Authorize Comptroller to release Escrow Deposit for account #014-007

WHEREAS, a representative of the Highway Department has made an inspection of the following site and found the work to be completed satisfactorily.

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the release of the following Escrow Deposit: Street Opening Permit #014-007 in the amount of \$2,000 to Grotto Plumbing, Inc.

Authorize Supervisor to sign an agreement with John Micewicz for TV and AV Consulting Services

Resolved, that the Supervisor is authorized to sign an agreement with John Micewicz for TV and AV Consulting Services.

Authorize Supervisor to sign an agreement for Geographic Information Services

WHEREAS,

The Assessor and the Town Engineer solicited proposals for professional services for the following scope of work: (1) convert the Town's digital tax map to geodatabase format, (2) create and provide custom mapping documents for tax map plotting, (3) provide introductory GIS training to Town staff, (4) update tax maps for one year and train Town staff to do the same, (5) meet and provide GIS recommendations and training to other Town Departments (Planning, Water, Sewer, Highway, Police).

In accordance with the Town of Yorktown procurement procedures, proposals were solicited from three (4) firms that had the in-house expertise and expressed interest in providing professional services. The firms that provided written proposals were Bowne Management Services, CAI Technologies, and Geographic Information Systems Inc.

In the professional opinion of the Assessor and the Town Engineer, Bowne Management Services provided the best overall proposal and the lowest cost to the Town.

The proposal for services to be provided by Bowne Management Services as described above will be for a lump sum all-inclusive amount of \$38,300. An additional \$3,000 allowance will be included in the agreement as a contingency, which will only be authorized upon written directive of the Town Engineer. Grand total of the agreement shall be \$41,300.

NOW, THEREFORE BE IT RESOLVED, that

The Town Board authorizes the Town Supervisor to sign a Professional Services Agreement with Bowne Management Services Inc. for the scope of work as described in preceding section.

IX. COURTESY OF THE FLOOR

X. ADJOURN

DIANA L. QUAST, RMC
Town Clerk
Town of Yorktown

Dated: October 4, 2016

*** Agendas are Subject to Change ***

Courtesy of the Floor Policy

1. Each speaker shall identify themselves before speaking by stating their Name, and Address
2. Speakers shall limit their comments to three minutes
3. Speakers will address their comments to the Town Board
4. Speakers shall keep their comments to the business of the Town
5. Personal attacks will not be tolerated
6. All speakers are expected to comment with respect and civility
7. The Supervisor reserves the right to stop a speaker's comments if they are not in accordance with this approved Courtesy of the Floor Policy

Anyone wishing to contact the Town Board in writing may send their correspondence to the Town Clerk (townclerk@yorktownny.org) or Town Supervisor (supervisor@yorktownny.org), 363 Underhill Avenue, Yorktown Heights, NY 10598.

PUBLIC HEARINGS SCHEDULED FOR OCTOBER 18, 2016

Public Hearing for Wetlands/Stormwater Pollution Prevention Permit - 2464 Hunterbrook Road

NOTICE IS HEREBY GIVEN, that a public hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York at the Town Hall, Town of Yorktown, 363 Underhill Avenue, Yorktown Heights, New York on the 18th day of October, 2016 at 7:30 o'clock PM, or as soon thereafter as the same can be heard to consider the Wetland/Stormwater Pollution Prevention Permit Application for property located at 2464 Hunterbrook Road in the Town of Yorktown, also known as Section 36.05, Block 2, Lot 45. The request is to perform the following activity: construction of an attached 1 car garage, adding of second floor over existing residence, removal of existing covered deck, construction of a new smaller uncovered deck, removal of existing 1 story addition at rear of house, widening of existing driveway, as well as construction of Cultec 280 infiltrators to mitigate increase in runoff.

Public Hearing for Wetlands/Stormwater Pollution Prevention Permit – 2200 Saw Mill River Road

NOTICE IS HEREBY GIVEN, that a public hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York at the Town Hall, Town of Yorktown, 363 Underhill Avenue, Yorktown Heights, New York on the 18th day of October, 2016 at 7:30 o'clock PM, or as soon thereafter as the same can be heard to consider the Wetland/Stormwater Pollution Prevention Permit Application for the dredging of a pond located at 2200 Saw Mill River Road in the Town of Yorktown, also known as Section 37.10, Block 2, Lot 65. The request is to perform the following activity: suctioning harvest of 15,000 c.y. of bottom material from existing pond within C (T) stream. Material removed pumped into Geotubes for dewatering. Once dry (2 months), material is spread in 8” lifts across existing site material disposal area, then seeded.

CONVENE PUBLIC HEARING FOR NOVEMBER 1, 2016

Rezoning Mohegan Auto and Tire Center, Inc. (Hilltop Gasoline Station)

Repeal Chapter 102 entitled Affordable Housing

For the purpose of repealing Chapter 102 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING.”

PUBLIC HEARINGS ADJOURNED

Amend Special Use Permit – Mobil Gas Station:

To demolish the existing 1000 square foot convenience store and construct a new 3000 square foot convenience store at the Mobil Gasoline Station located at 2035 Saw Mill River Road also known as Section 37.14, Parcel 2, Lot 51 on the Tax Map.

Proposed Local Law amending Chapter 245-5 entitled “SOLID WASTE”

Proposed Local Law amending Chapter 245-5 of the Code of the Town of Yorktown entitled “SOLID WASTE” by amending Section 245-5 entitled “DEFINITIONS” and adding a new Section 245-20-1 entitled “RECEPTACLES: STANDARDS AND

PLACEMENT” and adding a new Section 245-20-2 entitled “GARBAGE AND REFUSE COMPACTORS.”

Proposed Local Laws:

Enactment of New Article XXXI of Chapter 300 entitled Inclusion of Additional Housing Units

A LOCAL LAW to repeal Chapter 300-39 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING” and enact a new Chapter 300 Article XXXI entitled “INCLUSION OF ADDITIONAL HOUSING UNITS” of the Code of the Town of Yorktown

Be it enacted by the Town Board of the
Town of Yorktown as follows:

Section I. Statement of Authority.

This Local Law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the provisions of the Statute of Local Governments, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Yorktown and the general police power vested with the Town of Yorktown to promote the health, safety and welfare of all residents and property owners in the Town.

Section II.

Chapter 300-39 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING” is hereby repealed in its entirety.

Section III.

Chapter 300 Article XXXI of the Code of the Town of Yorktown entitled INCLUSION OF ADDITIONAL HOUSING UNITS is hereby enacted.

§ 300-248. Purpose.

Any new residential development may propose to the Planning Board inclusion of additional housing units above the unit count allowed by the zoning code. The additional units shall be a combination of Below Market Rate Housing Units (BMRHUs) and Market Rate units (MRUs) as defined in Section §102-4 and according to the following standards.

§ 300-249. Density calculations.

A. Density Bonus:

For all housing proposals in which at least 10% of the unit count, rounded up to the nearest whole number, is devoted to Below Market Rate Housing Units, a Density Bonus shall be granted equal to the number of Below Market Rate Housing Units being proposed and approved by the Planning Board.

Example: An applicant has an as of right 20 lot subdivision or 20 unit multi-family residential site plan. The applicant offers to construct 2 of the lots or units as BMRHUs. Since the applicant has proposed at least 10% BMRHUs in the development, a Density Bonus is granted equal to the number of BMRHUs proposed. Therefore, the applicant can develop 22 lots or 22 units within their project.

20 MRs
+2 BMRHUs (Density Bonus)
22 Total Lots or Units

B. Additional Density Bonus

Nothing contained herein shall limit the number of BMRHUs a developer may propose. At the discretion of the Town Board, in consultation with the Planning Board, an Additional Density Bonus may be available to a developer for those developments that exceed the standards for a Density Bonus as a means to incentivize additional BMRHU construction. The following may be offered to incentivize additional BMRHU development:

- (1) An additional 1.5 market-rate units for each BMRHU unit provided over 10% of the market rate unit count rounded up to the nearest whole number.
- (2) Reduction in number of parking spaces required onsite.
- (3) Reduction of other code requirements as may be appropriate and determined by the Town Board.
- (4) Up to a 10% reduction in the application fee required under Chapter 168.
- (5) Technical and logistical assistance to the developer to obtain any needed variances, waivers or approvals from local, State or Federal agencies.

Example: An applicant has an as of right 20 lot subdivision or 20 unit multi-family residential site plan. The applicant offers to construct 3 of the lots or units as BMRHUs. Since the applicant has proposed at least 10% BMRHUs in the development, a Density Bonus is granted equal to the number of BMRHUs proposed. Therefore, the applicant can develop 23 lots or 23 units within their project.

In addition, the applicant may be granted an Additional Density Bonus equal to 1.5 units per BMRHUs over the 10% proposed rounded up to the nearest whole number, or 2 units. Therefore, the applicant can develop a total of 25 units.

20 MRUs
3 BMRHUs (Density Bonus)
+2 MRUs (Additional Density Bonus = 1 x 1.5)
25 Total Lots or Units

- C. The addition of Density Bonus or Additional Density Bonus units involved in subdivision of single-family dwelling shall not be permitted to increase the building height or lot coverage as defined in Appendix A of Chapter 300, Zoning. With authorization from the Town Board, the Planning Board shall use Section §300-22 Flexibility Standards or Chapter 300 Article XXV Clustering and Flexibility Standards to vary other bulk requirements in order to design a plan of development that best suits the development property.
- D. Below Market Rate Housing Units shall only be re-rented or re-sold to individuals or families who qualify for such housing at the time of such re-rental or re-sale, and the rent or purchase price for such re-rental or re-sale shall not exceed the rent price or purchase price as described in the Restrictive Covenant.

§ 300-250. Minimum floor area. The minimum gross floor area per BMRHU shall be determined by Section §102-5(D).

Section IV. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section V. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section VI. Effective Date.

This Local Law shall become effective upon filing in the office of the Secretary of State in accordance with the provisions of the Municipal Home Rule Law.

Repeal of Affordable Housing Chapter and enactment of New 102 entitled BELOW MARKET HOUSING INCENTIVES

A LOCAL LAW to repeal in its entirety Chapter 102 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING” and enact a new Chapter 102 of the Code of the Town of Yorktown entitled “BELOW MARKET HOUSING INCENTIVES”

Be it enacted by the Town Board of the
Town of Yorktown as follows:

Section II. Statement of Authority.

This Local Law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the provisions of the Statute of Local Governments, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Yorktown and the general police power vested with the Town of Yorktown to promote the health, safety and welfare of all residents and property owners in the Town.

Section III.

Chapter 102 of the Code of the Town of Yorktown entitled AFFORDABLE HOUSING is hereby repealed in its entirety.

Section III.

Chapter 102 of the Code of the Town of Yorktown entitled BELOW MARKET HOUSING INCENTIVES is hereby enacted.

§ 102-1. Findings; policy.

The Town Board of the Town of Yorktown finds that:

- A. There is a regional demand and need for Below Market Rate Housing Units (BMRHUs).
- B. In order for the Town of Yorktown and the region to have long term prosperity and diversity in housing, options should be encouraged.
- C. New development projects present the best opportunities to create a diverse regional housing stock.
- D. The Town’s Comprehensive Plan supports incentivizing the creation of a diverse housing stock with the creation of Below Market Rate Housing.

- E. Presently, the Yorktown Community Housing Board administers the Town's hereto before established affordable housing program and establishes guidelines for pricing based upon regional averaged incomes.
- F. It is the policy of the Town to provide builders incentives to create the Below Market Rate Housing within their development proposals.

§ 102-2. Applicability.

This chapter shall apply to any new site plans or residential subdivisions of land that propose to include BMRHUs as part of their residential development.

§ 102-3. Purpose.

The purpose of this chapter is to encourage and incentivize new residential developments in the Town to include a supply of below market rate housing.

§ 102-4. Definitions.

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

ADDITIONAL DENSITY BONUS – Those additional units created pursuant to Section §300-249(B).

AGGREGATE INCOME - The gross annual income of all members of a household, including but not limited to taxable income, nontaxable income, investment income, accident and health plan benefits, insurance policy proceeds, distributions from trust funds, social security payments, unemployment compensation and alimony payments, excluding the earnings of working minors and/or full-time students, alimony paid and taxable tuition benefits. The annual term shall be such as fixed by the Yorktown Community Housing Board.

BELOW MARKET RATE HOUSING UNIT (BMRHU) – Below Market Rate rental units created pursuant to this Chapter shall be marketed to households which meet the criteria of 80% or less of the Westchester County median income as determined by HUD annually and whose combined annual rental cost and tenant-paid utilities do not exceed 30% of said income.

Below Market Rate homeownership units (single-family, residential condominium, or residential cooperative apartment) created pursuant to this Chapter shall be marketed to households which meet the criteria of 80% or less of the Westchester County median income as determined by HUD annually, and whose annual total sum of secured loan principal and interest, private mortgage insurance, property taxes, home insurance, common charges, and homeowner-paid utilities do not exceed 30% of said household income.

DENSITY BONUS – the unit count of additional density permitted in a residential development, which shall equal 10% of the maximum market rate unit count in such residential development which proposes to include 10% Below Market Rate Housing Units. See Section §300-248(A).

HIGH HOME RENT – A rent limit updated annually by HUD and published by Westchester County for use in affordable housing programs that calculate maximum rent based on 60% of area median income.

HUD – U.S. Department of Housing and Urban Development.

INDEX – Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers in the new York-Northern New Jersey Area, as published by the United States Bureau of Labor Statistics.

LOW HOME RENT – A rent limit updated annually by HUD and published by Westchester County for use in affordable housing programs that calculate minimum rent based on 50% of area median income.

MARKET RATE UNIT (MRU) – Dwelling units in single-family, residential condominium, and residential cooperative apartment buildings which are purchased or rented for residency by the owner thereof at market-rate purchase prices, without governmental or other subsidy to such owner.

MEDIAN INCOME – annual household income which does not exceed 100% of the Westchester County median annual income for its household size (based on U.S. Census and as updated by HUD).

TENANT – Individual or individuals named as tenant in a lease of a rental BMRHU.

YCHB – Yorktown Community Housing Board.

§ 102-5. General provisions applicable to below market rate housing units.

- A. Any new residential development may propose to the Planning Board inclusion of Below Market Rate Housing Units (BMRHUs). The proposed density of the development shall be as calculated in Chapter 300 Article XXXI, Section §300-249.
- B. Siting of BMRHUs. All BMRHUs constructed under this section shall be situated within the proposed subdivision or development and be no less accessible to public amenities, such as open space, than the market rate units.
- C. Minimum design and construction standards for BMRHUs. BMRHUs within single-family market-rate developments shall be integrated with the rest of the development, shall be similar in appearance, siting and exterior design to the furthest extent practical, and shall be distributed among various unit sizes consistent with the other units in the development. BMRHUs within multifamily developments shall be physically integrated into the design of the development and shall be distributed among various sizes (efficiency, one-, two-, three-, and four-bedroom units) consistent with the other units in the development. From the outside or building exteriors, the BMRHUs shall be similar in appearance to the market-rate units.

- D. Minimum floor area. The minimum gross floor area per BMRHU shall be no less than the following:

Dwelling Unit Size	Minimum Gross Floor Area (square feet)	
	Rental Unit	Homeownership Unit
Efficiency	450	N/A
1-bedroom	675	700
2-bedroom	800	950
3-bedroom	1,000	1,200
4-bedroom (including at least 1.5 baths)	1,200	1,400

- E. Occupancy Standards. For the initial sale or rental of BMRHUs, the following occupancy schedule shall apply:

Dwelling Unit Size	Number of Persons	
	Minimum	Maximum
Efficiency	1	1
1-bedroom	1	3
2-bedroom	2	4
3-bedroom	3	6
4-bedroom	4	8

- F. Timing of construction or provision of BMRHUs. The construction of BMRHUs shall occur proportionately with the construction of the market-rate units in the subdivision or development. Additional Density Bonus units shall not receive Certificates of Occupancy until all building permits have been issued for construction of the Below Market Rate Housing Units.

§ 102-6. Eligibility.

- A. Eligibility of purchaser. To be eligible to purchase affordable housing, a household's aggregate income shall not exceed 80% of the area median income (AMI) for Westchester County as calculated annually by the HUD and published by the County of Westchester. In the event that there are no eligible purchasers for an affordable housing unit whose income does not exceed 80% of AMI, the YCHB may allow applicants whose income exceeds 80% but does not exceed 90% of AMI to apply to purchase the unit.
- B. Eligibility of renter. To be eligible to rent affordable housing, a household's aggregate income shall not exceed 60% of the area median income (AMI) for Westchester County

as calculated annually by the U.S. Department of Housing and Urban Development and published by the County of Westchester.

- C. Inclusion of assets in determining income. To ensure that the affordable housing units herein will, in fact, be purchased or rented by those persons with the need for the same, income from nonretirement net assets will be considered in calculating a household's aggregate income. If no such income is reported or verified, annual income equivalent to 2% of the nonretirement assets shall be imputed.

§ 102-7. Occupant selection standard.

When affordable housing is sold or rented, the following standards shall be used to determine occupancy:

- A. A household must be income-eligible.
- B. The number of persons in the household must fall within the occupancy standards for the size of the unit as listed in Section 102-6(D).
- C. Among income-eligible households which meet the occupancy standards, below market rate units will be offered in the order of applicants with the earliest date of receipt of the pre-application. If there is a tie due to identical dates of receipt of pre-applications, a lottery will be used to determine the order of those applications on the list.
- D. For below market rate homeownership units, the eligible purchaser must provide a refundable, good faith binder of 1% of the sales price of the affordable unit.

§ 102-8. Initial sale or rental price.

- A. The YCHB shall establish the initial maximum gross sales price or maximum rental price for BMRHUs. The YCHB shall be guided by the definitions of rental BMRHUs and homeownership BMRHUs as indicated in §102-4 above, as well as by the guidelines of HUD in the most recent edition of the Westchester County Area Median Income (AMI) Sales and Rental Limits, published by Westchester County.
- B. The YCHB shall establish the initial maximum gross sales price for a homeownership BMRHU. The maximum initial sales price shall be determined such that monthly housing costs shall not exceed 33% of 80% AMI, as adjusted based on unit size using 1.5 persons per bedroom, and calculating the mortgage based on 95% of the sales price utilizing an average of prevailing mortgage rates for thirty-year, fixed-rate mortgages. To calculate housing costs for establishment of affordability of homeownership BMRHUs, the YCHB shall include the estimated principal and interest on the mortgage loan, estimated property taxes and homeowners' insurance (otherwise known as PITI), as well as any

estimated common charges, homeowners' association fees, and/or common maintenance fees.

- C. The YCHB shall establish the initial maximum monthly rent for a rental BMRHU. To calculate initial rent, the YCHB will use the HOME rents based on unit size, as set forth in the most recent edition of the Westchester County Area Median Income (AMI) Sales and Rent Limits. The maximum rents shall be the Low HOME rents, if the unit size is less than 120% of the minimum floor area as specified in §102-5(C) herein. If the floor area of the unit is 120% or more of the minimum floor area, the maximum rental shall be the High HOME rent.
- D. Where development funding agreements from Westchester County, New York State, or United States government agencies specify another methodology for determining rent or sales price, the provisions of such agreements shall supersede the methodology provision of this chapter.

§ 102-9. Perpetuating affordability.

- A. Homeownership units designated as BMRHUs shall remain affordable in perpetuity. The owner or occupant of below market rate housing may not lease or sublet the unit without the prior authorization of the Community Housing Board. The Community Housing Board shall not permit affordable housing to be leased or sublet unless the following conditions are met:
 - (1) The lessee or sublessee meets the conditions established herein for initial occupancy of affordable housing.
 - (2) The rent charged is in accordance with the provisions and intent of this section.
 - (3) The lease or sublease shall not exceed one year.
- B. Rental units designated as BMRHUs shall remain permanently affordable.
- C. A property containing any BMRHUs shall be restricted using a mechanism such as a declaration of restrictive covenants in recordable form acceptable to Town Attorney and to the YCHB which shall ensure that the BMRHUs shall remain subject to affordable regulations for the period of affordability as set forth herein. Among other provisions, the covenants shall require that the unit be the primary residence of the resident household selected to occupy the unit. Upon approval, such declaration shall be recorded against the property containing the BMRHUs prior to the issuance of a certificate of occupancy for the development.

D. In the case of owner-occupied BMRHUs, the title to said property shall be restricted so that in the event of any resale by the home buyer or any successor, the maximum resale price shall be the lower of D(1) or D(2) below:

- (1) The net purchase price (i.e. gross sales prices minus subsidies) paid for the unit by the selling owner, increased by the percentage increase, if any, in the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers in the New York-Northern New Jersey Area, as published by the U.S. Bureau of Labor Statistics (Index) on the dates between the month the seller acquired the unit and the month that the unit is offered for resale, plus the cost of major capital improvements made by the seller of the unit while said seller of the unit owned the unit, as previously approved by the YCHB and evidenced by paid receipts presented to the YCHB no later than the time the seller of the unit has placed it for sale. Approval for any increase to the potential resale price due to major capital improvements shall be at the sole discretion of the YCHB. In reviewing such requests, the primary consideration shall be maintenance of the affordability of the BMRHU. If the Index referenced above ceases to be published by the U.S. Bureau of Labor Statistics and a successor index has not been designated, the YCHB shall recommend to the Town Board a comparable substitute index or methodology for proposed adoption by amendment of this chapter by local law. The last published edition of the Index shall continue to be used until enactment of a successor index.
- (2) The price affordable to a household at 80% of AMI at the time the unit is offered for resale. This price shall be determined such that monthly housing costs shall not exceed 30% of 80% AMI, as adjusted based on unit size using 1.5 persons per bedroom, and calculating the mortgage based on 95% of the sales price utilizing an average of prevailing mortgage rates for thirty-year, fixed rate mortgages. Monthly housing costs shall include the estimated principal and interest on the mortgage loan, estimated property taxes and homeowners' insurance (otherwise known as PITI), as well as any estimated common charges, homeowners' association fees, and/or common maintenance fees.

§ 102-10. Sale price.

The price established by the YCHB in accordance with the foregoing shall be the maximum resale price. Should no buyer eligible under the terms herein contract for and close on the purchase of the BMRHU as this maximum price, the homeowner may, at his sole discretion, reduce the price or withdraw the unit from the market. The Town shall not be deemed to guarantee the resale price of the unit, which may be affected by factors such as the housing

market and condition of the unit. A buyer of a BMRHU shall be deemed to have fully assumed the risks associated with the future value of the unit. The deed restrictions are for the sole purpose of ensuring that the unit is sold to an income-eligible buyer at no more than the maximum resale price as determined above and marketed in accordance with the Westchester County Fair and Affordable Housing Affirmative Marketing Plan.

§ 102-11. Rents, leases and lease renewals of rental BMRHUs.

A. Initial leases and renewal of leases offered under the provisions of this chapter shall contain the following provision in twelve-point or larger type font:

“This unit is a below market rate housing unit governed by Chapter 102 of the Code of the Town of Yorktown. Initial and continuing eligibility for leasing the unit requires submission of names of, and income documentation for, all occupants of the unit, and use of the unit as the primary residence of the tenant. Such income and residency documentation will be requested and must be submitted prior to each renewal of the lease. Failure to submit income documentation and proof of residency will result in nonrenewal and/or termination of the lease. If upon lease renewal tenant’s annual gross income exceeds by more than 40% the maximum income for eligibility then allowable, then the tenant may complete the current lease term. If a non-restricted rental unit is available in the development at the termination of such lease term, and if the resident meets the credit and/or financial qualification that the owner or manager requires of other applicants for non-restricted rental units, the owner or manager shall offer the tenant a lease for such non-restricted rental unit. If no such dwelling unit shall be available at said time and accepted by the tenant, the owner shall offer the tenant a one-year lease for the BMRHU the tenant occupies, but shall not offer the tenant a renewal of the lease beyond the expiration of said term.”

B. A tenant of a rental BMRHU shall be required to submit the names all occupants of the BMRHU along with income documentation of each occupant to the owner or manager of the BMRHU within 30 days of receipt of written request by the owner or manager as described in §102.10(C) herein, for the purpose of verifying the tenant’s continued eligibility to lease the unit. Intentional submission of inaccurate or misleading income information shall be grounds for denial of a renewal lease and may cause the tenant to be subject to criminal prosecution.

C. One hundred and fifty days prior to the expiration of the lease, the owner or manager shall request income documentation from the tenant. The owner or manager shall review eligibility based on the rent and income guidelines provided by the YCHB and in effect at the time. If the tenant remains eligible, the owner or manager shall offer the tenant a renewal lease at a rent no greater than the Low HOME rent for the unit size occupied, or

the High HOME rent if applicable as described in Section §102-7(C). If the tenant fails to submit income documentation for all occupants of a rental BMRHU as provided in Subsection B above, the owner shall not offer the tenant a renewal lease and shall terminate the tenant's lease.

- D. Applicants for rental BMRHUs shall, if income eligible and if selected for occupancy in accordance with the Westchester County Fair and Affordable Housing Affirmative Marketing Plan, sign leases for a term of no more than two years. As long as a resident remains eligible and has complied with the terms of the lease, said resident shall be offered renewal leases for a term of no more than two years each.
- E. Renewal of a lease shall be subject to the provisions that may be imposed by Westchester County, New York State or United States agencies in accordance with the terms of the original development funding agreements for the development or the provisions of other applicable law.
- F. If the tenant's income documentation establishes that the tenant's annual gross income exceeds by more than 40% the maximum income for eligibility then allowable, as defined herein, then the tenant may complete the tenant's current lease term. If a non-restricted rental unit is available in the development at the termination of such lease term, and if the resident meets the credit and/or financial qualifications that the owner or manager requires of other applicants for non-restricted rental units, the owner or manager shall offer the tenant a lease for such non-restricted rental unit. If no such dwelling unit shall be available at said time and accepted by the tenant, the owner shall offer the tenant a one-year lease for the BMRHU the tenant occupies, but shall not offer the tenant a renewal of the lease beyond the expiration of said term.
- G. Nothing herein shall preclude the owner or manager from following standard industry practices in evaluating the background or credit history of prospective tenants and making reasonable business judgements regarding the acceptability of applicants. If an applicant is rejected for good cause, another applicant shall be selected.
- H. Nothing herein shall preclude the owner or manager from enforcing the terms of the lease and rules and regulations, including initiating an action in a court having jurisdiction over landlord-tenant matters for nonpayment of rent or for holdover in a BMRHU for cause or ineligibility hereunder.
- I. Security deposit requirements of eligible rental BMRHUs shall be limited to one month's rent deposit.

- J. Improvements restriction. An owner of a below market rate housing unit shall not make any structural improvements and/or changes to a BMRHU without the approval of the Yorktown Community Housing Board.
- K. The Town of Yorktown is committed to equal housing opportunity and fair housing, as further described in the Town's Housing Non-Discrimination Policy.

§102-12. Administration.

- A. At the time of the issuance of a building permit, the Building Inspector shall send a copy of such permit to the YCHB, which shall establish the maximum rental or sales price for affordable housing units in such subdivision and the maximum annual gross family income for eligibility for occupancy of said units, unless such price and eligibility is determined by another government agency or its designee in accordance with the terms of original development funding agreements for the development or the provisions of other applicable law.
- B. With respect to rental units, on or before April 30 of each year, the YCHB shall notify the owner or manager of each BMRHU of the rent and income eligibility requirements for such unit based upon the provisions herein. With respect to ownership units, the YCHB shall provide sales criteria for the sale of a BMRHU at the time of offering the unit for sale. The owner or manager of each multifamily rental development with BMRHUs shall annually certify to the satisfaction of the YCHB that the requisite number of BMRHUs have been assigned to income-eligible households in accordance with the guidelines herein. The annual certification shall include unit designations and tenant names and shall be signed by the owner or his or her designated representative. The YCHB shall have the right to review the underlying documentation for each BMRHU.
- C. BMRHUs shall not be resold for more than the amount that, at the then-prevailing interest rates, will result in the unit cost meeting affordable standards set by the YCHB as per the guidelines herein. All resales shall be made to income-eligible and qualified buyers who meet the requirements established by the YCHB according to the guidelines set forth herein.
- D. Notwithstanding the above, where development funding agreements from Westchester County, New York State, or United States government agencies specify another methodology for determining eligibility, rent and/or sales price, or for administration of the fair and affordable housing units created in accordance with this chapter, the provisions of such agreements shall supersede the methodology provisions of this chapter.

§102-13. Expedited project review process.

- A. Pre-application meeting: Upon written request to the Planning Department, the applicant for a development including BMRHUs shall be afforded a pre-application meeting with representatives from each municipal department likely to have a role in the review and approval of the development application and construction to discuss the early identification of issues, concerns, code compliance and coordination matters that may arise during the review and approval process, with respect to subdivision approvals, in accordance with §195-21 of the Town Code. For purposes of the review of residential site plans under this chapter, the procedures set forth in §195-21 shall apply.

- B. Meetings and timeline: Municipal departments shall work with the applicant to extend submission deadlines when circumstances warrant. This subsection shall not be construed to limit the number of multiagency meetings with the applicant throughout the approval process. Additional such meetings may be requested by the applicant and held on an as-needed basis.

- C. Calendar/agenda priority: Municipal departments, agencies, authorities, boards, commissions, councils or committees with review or approval authority over applications for developments including BMRHUs shall place such applications first on meeting and work session calendars and agendas, when feasible based on the ability to conduct required reviews and public notice, with the intent of shortening minimum advance submission deadlines to the extent practicable.

Section IV. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section V. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section VI. Effective Date.

This Local Law shall become effective upon filing in the office of the Secretary of State in accordance with the provisions of the Municipal Home Rule Law.

Enactment of New Article X of Chapter 10 entitled Yorktown Community Housing Board

A LOCAL LAW to enact a new Article X entitled “YORKTOWN COMMUNITY HOUSING BOARD” of Chapter 10 of the Code of the Town of Yorktown

Be it enacted by the Town Board of the
Town of Yorktown as follows:

Section IV. Statement of Authority.

This Local Law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the provisions of the Statute of Local Governments, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Yorktown and the general police power vested with the Town of Yorktown to promote the health, safety and welfare of all residents and property owners in the Town.

Section II.

Chapter 10 Article X of the Code of the Town of Yorktown entitled **YORKTOWN COMMUNITY HOUSING BOARD** is hereby enacted.

10-40. Purpose.

The Yorktown Community Housing Board (YCHB) shall administer the provisions of Chapter 102 Below Market Rate Housing Incentives, so that its purpose and intent are realized. The YCHB shall consist of seven members, each a resident of the Town of Yorktown. A majority of the members of the Yorktown Community Housing Board shall constitute a quorum for the purposes of holding official meetings and voting on business.

10-41. Powers and duties.

The Yorktown Community Housing Board shall be responsible for the following:

- (1) The annual review of the implementation of Chapter 102 Below Market Rate Housing Incentives, and the recommendation of changes to these provisions where necessary.
- (2) The calculation of eligible incomes and resale prices.
- (3) The certification of the eligibility of all households applying for the purchase or rental of affordable housing and the annual recertification of each applicant.
- (4) The maintenance of a list of eligible households for each size and type of affordable housing.
- (5) The promulgation of such rules and regulations necessary to implement the requirements, intent and purpose of this section.
- (6) The authority to take any other actions necessary to effectuate the purpose and intent of this chapter.
- (7) Making recommendations to the Town Board for expenditures from the Affordable Housing Trust Fund.