



City of Newburgh Council Work Session  
*Sesion de trabajo del Concejal de la  
Ciudad de Newburgh*  
January 23, 2020  
6:00 PM

Work Session Presentations

1. Discussion on Drinking Watershed Scorecard Findings Prepared by Riverkeeper

A work session presentation and discussion on the joint work between Riverkeeper and the City of Newburgh to evaluate the City's drinking source watershed and prepare findings in the form of a Scorecard report.

*Una presentación en la sesión de trabajo y discusión sobre el trabajo en conjunto entre Riverkeeper y la Ciudad de Newburgh para evaluar la cuenca hidrográfica de la fuente de agua potable y preparar los hallazgos en forma de un informe vía tarjeta de puntuación.*

2. Recommendation from the Mayor's Strategic Economic Development Advisory Committee (SEDAC) for a Developer of 15 South Colden Street  
*Recomendación del Comité Consultivo de Desarrollo Económico Estratégico del Alcalde conocido por sus siglas en inglés (SEDAC) para el Desarrollo del 15 de la Calle South Colden.*
3. Presentation from Police Department  
*Presentación del Departamento de Policía*

Department of Public Works/ Departamento de Obras Públicas

4. Downing Park - ice skating  
Submitted at the request of Councilwoman Patty Sofokles

*Parque Downing – Patinaje sobre hielo - A pedido de la Concejal Patty Sofokles*

Planning and Economic Development/Planificación y Desarrollo Económico

5. Declaring Furniture and Related Items as Surplus  
Resolution declaring the furniture and contents of 318 North Montgomery Street as surplus and authorizing disposition pursuant to the City of Newburgh's Surplus Property Disposition Policy and Procedure. (Ali Church)

*Una resolución declarando los muebles y los contenidos de la 318 de la Calle North Montgomery como excedente y autorizando la disposición conforme a la Póliza y Procedimiento de Propiedad Excedente de la Ciudad de Newburgh. (Ali Church)*

Grants/Contracts/Agreements / Becas /Contratos/Convenios

6. SAM-DASNY \$50K Grant for Swat Vehicle for PD

Resolution authorizing the City Manager to apply for and accept a DASNY State and Municipal Facilities Program Grant in an amount not to exceed \$50,000.00 to purchase a rapid deployment vehicle for the City of Newburgh Police Department. (Chief Douglas Solomon)

*Una resolución autorizando al Gerente de la Ciudad a solicitar y aceptar una Subvención del Estado DASNY y Programa de Facilidades Municipales por un monto que no exceda \$50,000.00 para comprar un vehículo de despliegue rápido para el Departamento de Policía de la Ciudad de Newburgh. (Jefe Douglas Solomon)*

7. SAM--DASNY Grant \$50k for Cameras

Resolution authorizing the City Manager to apply for and accept a DASNY State and Municipal Facilities Program Grant in the amount of \$50,000.00 for camera purchase and installation. (Chief Douglas Solomon)

*Una resolución autorizando al Gerente de la Ciudad a solicitar y aceptar una Subvención del Estado DASNY y Programa de Facilidades Municipales por el monto de \$50,000.00 para la compra e instalación de cámaras. (Jefe Douglas Solomon)*

8. SAM-DASNY Grant for \$250,000 for Paving

Resolution authorizing the City Manager to apply for and accept a DASNY State and Municipal Facilities Program Grant in the amount of \$250,000.00 for road reconstruction and rehabilitation. (Jason Morris & Joseph Donat)

*Una resolución autorizando al Gerente de la Ciudad a solicitar y aceptar una Subvención del Estado DASNY y Programa de Facilidades Municipales por el monto de \$250,000.00 para reconstrucción de calles e rehabilitación. (Jason Morris & Joseph Donat)*

9. SAM-DASNY Grant \$300,000 for Cameras & Matching Funds for Pin#8761.20

Resolution authorizing the City Manager to apply for and accept a DASNY State and Municipal Facilities Program Grant in the amount of \$50,000.00 for camera purchase and installation and in the amount of \$250,000.00 for road reconstruction and rehabilitation. (Jason Morris & Chief Douglas Solomon)

*Una resolución autorizando al Gerente de la Ciudad para solicitar y aceptar una Subvención del Estado DASNY y Programa de Facilidades Municipales por el monto de \$50,000.00 para compras de cámaras e instalación y en el monto de \$250,000.00 para reconstrucción de calles y rehabilitación. (Jason Morris & Jefe Douglas Solomon)*

### Ordinances/ Decretos

10. Chapter 189 Hours of Operation

*Capítulo 189 Horas de Trabajo*

11. Chapter 72 Police Community Relations and Review Board

Ordinance amending Chapter 72 entitled “Police Community Relations and Review Board” of the Code of the City of Newburgh.

*Una Ordenanza enmendando el Capítulo 72 titulado “Concejo de Relaciones de la Policía con la Comunidad y Revisión” del Código de la Ciudad de Newburgh.*

### Discussion Items/Temas de Discusión

12. Council Rules and Order of Procedure

*Reglas y Orden de Procedimiento del Concejo*

### Executive Session/ Sesión Ejecutiva

13. Proposed, pending or current litigation

*Litigación actual, pendiente o propuesta*

**RESOLUTION TO ENDORSE THE DRINKING WATER SOURCE PROTECTION SCORECARD FINDINGS AND SUPPORT THE DEVELOPMENT OF DRAFT RECOMMENDATIONS TO IMPROVE SOURCE WATER PROTECTION**

**WHEREAS**, The City of Newburgh owns, operates, and maintains two water supply reservoirs, Washington Lake and Brown's Pond, which had until 2016 provided the City of Newburgh with drinking source water; and

**WHEREAS**, The City of Newburgh does not own or have control over the land in the contributing watershed areas or the land use regulations that govern the contributing runoff to these water supply reservoirs; and

**WHEREAS**, The City of Newburgh has been forced to switch drinking source water to the Catskill Aqueduct and uses Brown's Pond as an emergency backup supply due to contamination in the watershed; and

**WHEREAS**, The City of Newburgh wishes to eliminate the sources of past, present, and future contamination in the watershed to improve source water quality in its reservoirs; and

**WHEREAS**, Riverkeeper has developed a Drinking Water Source Protection Scorecard tool to be used by water providers to evaluate source water protection strategies as they pertain to specific drinking water supply watersheds; and

**WHEREAS**, The Drinking Water Source Protection Scorecard assesses several aspects of source water protection, including source water assessments, annual drinking water quality reports, watershed management, watershed rules and regulations, streams and wetlands and open space; and

**WHEREAS**, The City of Newburgh Water Superintendent and City Engineer recently completed the Drinking Water Source Protection Scorecard tool for the City of Newburgh's drinking water supply watershed with the assistance of Riverkeeper; and

**WHEREAS**, The City of Newburgh's Score was found to be 15% out of 100%, and the Drinking Water Source Protection Scorecard Findings document a logical outline of the watershed deficiencies to aid in the development of recommendations to improve protections of the watershed;

**NOW, THEREFORE, BE IT RESOLVED**, that The City Council of the City of Newburgh hereby endorses the Riverkeeper Drinking Water Source Protection Scorecard Findings dated January \_\_, 2020, and authorizes City staff to continue to collaborate with Riverkeeper to develop and refine recommendations to improve protection of the watershed and source water quality based on the Drinking Water Source Protection Scorecard Findings through an inclusive and transparent public process involving City of Newburgh drinking source water stakeholders.

**Date:**



City of Newburgh  
City Comptroller's Office

City Hall – 83 Broadway  
Newburgh, New York 12550

Tel. (845) 569-7322  
Fax (845) 569-7490

Todd Venning  
City Comptroller

**NOTICE**  
**REQUEST FOR PROPOSALS**  
**RFP #20.19**

for

**Request for Proposal (RFP) for the Purchase and Development of a City-  
Owned Parcel at  
15 South Colden Street, Newburgh, NY  
City of Newburgh, Orange County, New York**

The City of Newburgh, New York, requests the submission of proposals for the purchase and redevelopment of city-owned property located at 15 South Colden Street in the City of Newburgh, Orange County, New York.

Qualified and interested vendors shall submit their quotations by mail or in person to the City of Newburgh no later than 4:00 PM (local time) Friday, August 02, 2019.

Vendors are responsible for timely submission of their proposals. Proposals received after specified due date and time will not be accepted.

Specifications may be obtained by visiting the Empire State Purchasing Group website at: [www.bidnetdirect.com/new-york/city-of-newburgh](http://www.bidnetdirect.com/new-york/city-of-newburgh), selecting the "Open Bids" tab. Vendors may have to register if visiting this site for the first time.

Please ensure that "City of Newburgh-RFP 20-19" is clearly marked on the outside of the envelope submitted.

No proposal shall be withdrawn for a period of forty-five (45) days subsequent to the submission deadline without the consent of the City of Newburgh Comptroller.

Award of the contract may be subject to approval by City Council. The City reserves the right to reject any or all proposals, or to accept any part of the proposal without accepting the whole thereof, or to accept such proposal they deem to be in the best interest of the City.

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Todd Venning  
City Comptroller

Dated: June 11, 2019

**"AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER"**



## **RFP 20.19: Request for Proposal (RFP) for the Purchase and Development of a City-Owned Parcel at 15 South Colden Street, Newburgh, NY**

**Release Date: June 11, 2019**

**Due Date: August 2, 2019**

### **Purpose of the Proposal**

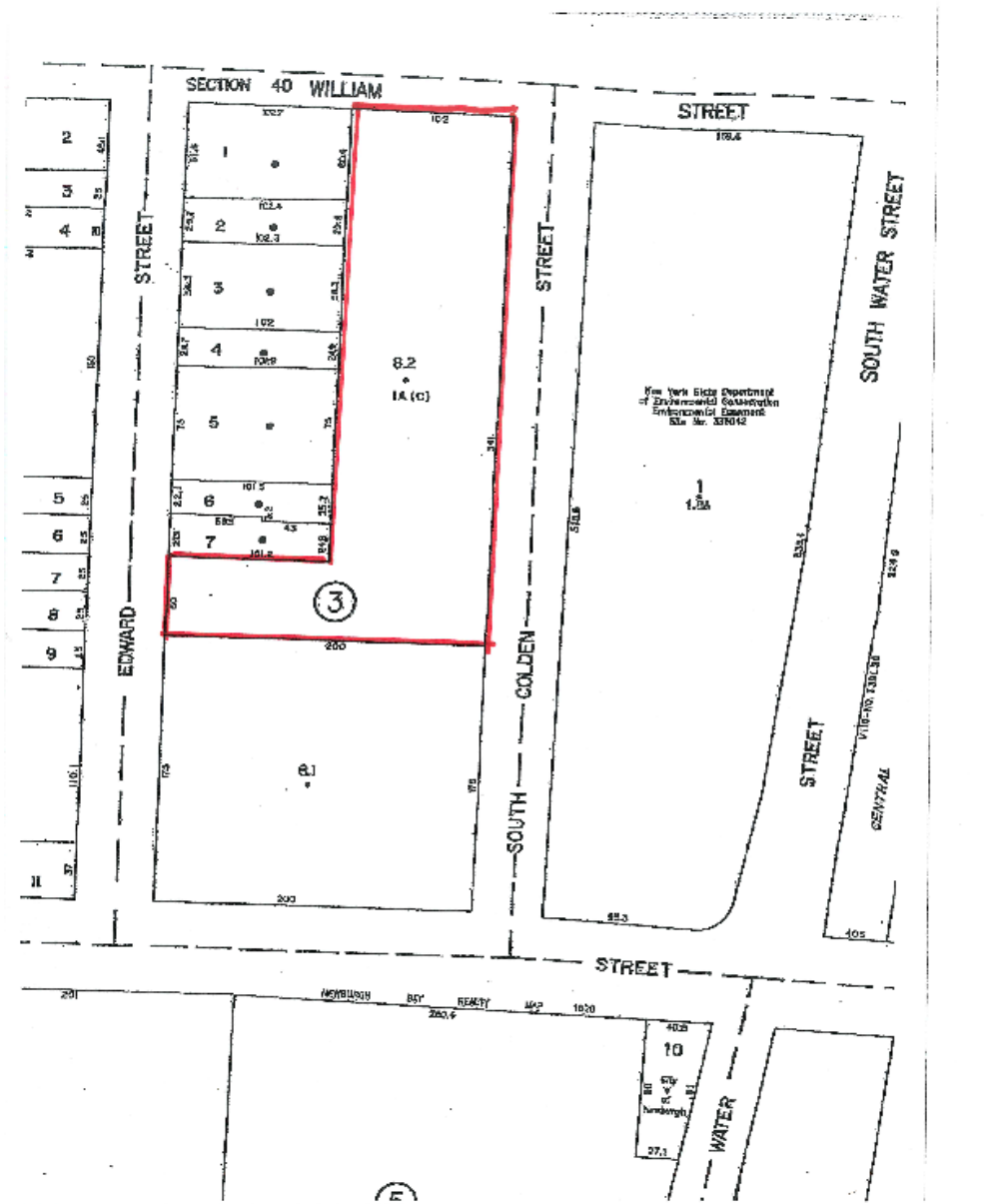
The City of Newburgh, New York, requests the submission of proposals for the purchase and development of a City-owned parcel located at 15 South Colden Street in the City of Newburgh, Orange County, New York.

The goal is to encourage a project that builds upon and complements the recent growth in the City of Newburgh, while maximizing the development potential of the site through new construction. Project proposal should maximize the highest and best use of the site, with appropriate commercial, residential or mixed-uses, and an inviting street presence on Colden Street. Projects without a substantial construction component, such as surface parking or similar, will not be considered.



## Property Description

15 South Colden Street (section 46, block 3, lot 8.2) was also formerly known as 15-41 South Colden Street.



The tax map lists the parcel size as 1 acre. It is an L-shaped parcel claiming 341 feet of frontage along South Colden Street, 102 feet of frontage along South William Street and 50 feet of frontage along Edward Street. The parcel is a hillside parcel. The parcel slopes upward – sometimes steeply - from South Colden to Edward Street. There is a relatively level portion along Edward Street.



An overgrown driveway access off South William Street side is still visible. There is also the remnants of a concrete foundation within the northern confines of the lot. Views of the Hudson River can be seen from most locations on the property.



*Hudson River views looking north*



*Hudson River views looking south*

A commercial building lies along the property's southern border; residential buildings line the western boundary along Edward Street. Across the street from 15 South Colden Street is a property owned by Central Hudson Gas & Electric. Across the street on the South William Street side is a vacant parcel owned by the Palisades Interstate Park Commission.



*Street view looking south*



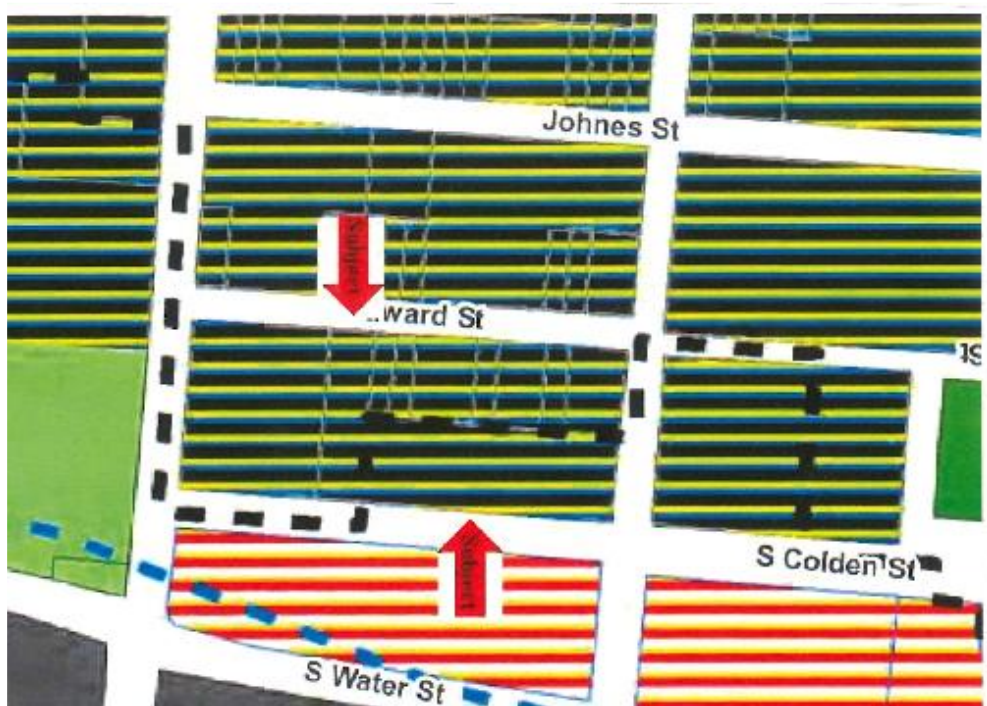
*Street view looking north*

15 South Colden Street has access to electricity, natural gas and municipal water and sewer.



## Property Location

15 South Colden Street is located in the southeastern section of the City of Newburgh. The property is a few blocks south from Washington's Headquarters, within walking distance to the Newburgh waterfront and the growing commercial district along Liberty Street.



The Liberty Street corridor – especially the section from Broadway south to Renwick Street – has been attracting renewed attention. New shops, businesses and restaurants have been leading the way. The former Liberty Street School, commanding the corner of Liberty Street and Renwick Street, is slated for a major redevelopment. In the surrounding neighborhood, Atlas Studios, Thornwillow Press and the Newburgh Brewery have each transformed former industrial buildings into models of successful entrepreneurial businesses.

15 South Colden Street is located in the Downtown Neighborhood zoning district where a wide range of uses is possible. Any proposal for this site should contribute to the neighborhood's unique mix of development by providing complementary commercial services or experiences, and/or residential housing units that will supplement existing housing types in the surrounding area. The goal is to achieve a use that supports and encourages additional development in the surrounding area.

Among the permitted uses are: two- or three-family dwellings, row or attached dwelling (townhome), professional office, restaurant, retail, neighborhood retail, etc. Among the permitted uses subject to site plan review are: apartment house, four-family dwelling, mixed use with residential, hotel, etc. It is expected that proposals for development will adhere to the zoning requirements without need for any substantial zoning variances.

The southern and western portion of the parcel is within the East End Historic District (EEHD); the majority of the parcel is outside the boundaries of the EEHD. The applicant should assume that review and approval by the City's Architectural Review Committee will be a required step in the development process.

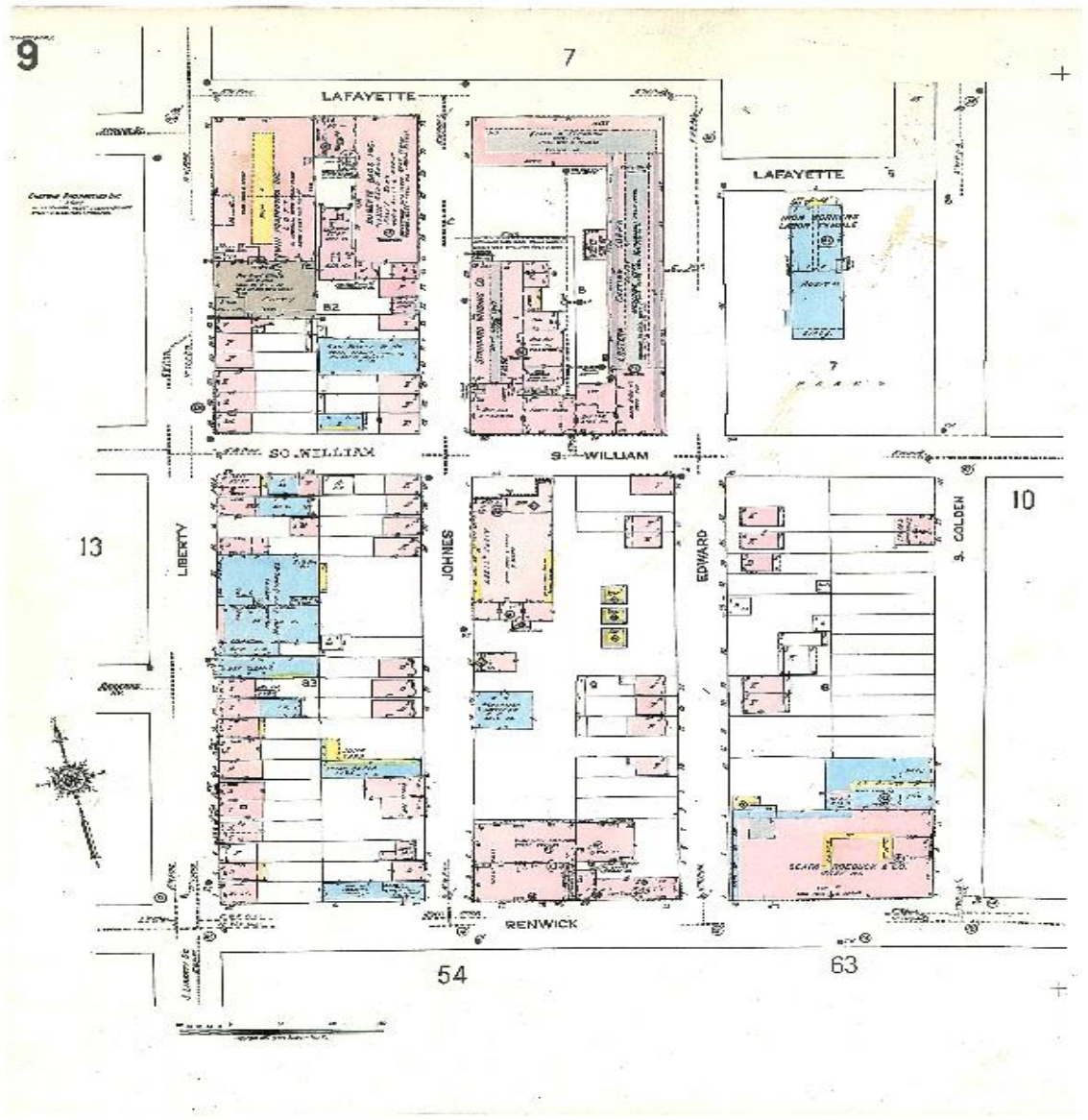
Interested developers are urged to consult the City of Newburgh's Zoning Ordinance at (<https://ecode360.com/10875666>) to review information on the all the use and area requirements within the Downtown Neighborhood District.

### **Property History**

The City of Newburgh has owned the property since March of 1999. It was acquired as part of an *In Rem* action. The other most recent transfer occurred in March of 1988 between private parties.

In 1987, this parcel was subdivided from a larger parcel. The original, large parcel stretched from Renwick Street to South William Street, all along that block of Edward Street.

A 1957 Sanborn Fire Insurance Map shows a structure – labeled as a “stove and appliance store” – toward the north end of the parcel. It has since been demolished. The map shows no other structures on the site.



## Overview of the City of Newburgh

The City of Newburgh is located 60 miles north of New York City on the west side of the Hudson River in Orange County, New York. Newburgh is a densely populated urban community of 3.8 square miles bounded by the Hudson River to the east, the Town of Newburgh to the north and west, and the Town of New Windsor to the south. The City has a population of approximately 30,000.

Newburgh has ferry access to the Metro North Train station in Beacon, NY; has direct bus service to Port Authority Bus Terminal in New York City; has interstate highway access to the New York State

Thruway, Rte. 87 and Interstate Rte. 84; is bisected by NYS 9W and NYS 17K; and is less than 2 miles from Stewart International Airport (SWF).

The East End Historic District in the City of Newburgh was listed on the National Register of Historic Places, under the provisions of the National Historic Preservation Act of 1966, on August 15, 1985, and was adopted as local historic district in September 1985. The 445-acre district includes over 2,400 contributing buildings - many designed by some of the most renowned architects of the 19th century. According to the New York State Historic Preservation Office (SHPO), at that time it was numerically the largest historic district in New York State and the ninth largest in the nation.

The City's progressive zoning code was adopted in 2015; simultaneously, the City streamlined its land use board review process. The staff of the Planning and Development Office, the Building Department, and the Engineer's Department are available to assist with the planning of the projects proposed.

### **Potential Tax Credits and Tax Exemptions**

The property is within Pattern for Progress/ Rhinebeck Bank's Newburgh Creative Neighborhood, making projects eligible for access to the bank's \$3,000,000 loan portfolio. Rhinebeck Bank offers to fund secured term loans including commercial express loans, equipment and vehicle purchases, leasehold improvements and real estate transactions under favorable pricing, advance rates and terms to the prospective borrowers in the Newburgh Creative Neighborhood.

New businesses, businesses that relocate to New York, or expand their operations may qualify for the STARTUP-NY program. Eligibility requires that a participant be a new business in New York State, or an existing New York business relocating to or expanding within the state; partner with a New York State college or university; and creating new jobs and contributing to the economic development of the local community. Eligible businesses receive an elimination of New York State Taxes for 10 years for the business and its employees.

Businesses may be eligible for sales tax exemptions on durable goods from the City of Newburgh Industrial Development Agency (IDA).

A commercial project could also qualify for the RP-485-b *Construction, Alteration or Improvement of Commercial Property Tax Exemption*: 10-year exemption applied to the increase in assessed value attributable to the new construction portion of the assessment. In the initial year, the increase in assessed value due to the construction is 50% exempt from city,

county and school taxes. The exemption continues for an additional nine years with the amount of the exemption declining by 5% each year (i.e., 45% in year 2, 40% in year 3, etc.).

## **Evaluation Criteria**

The City of Newburgh is seeking a purchaser to develop this parcel for a use that enhances other developments in the area and contributes to the overall revitalization of the City.

Proposals will be evaluated based on the following criteria, weighted accordingly:

- A proposed development that would benefit the City of Newburgh economically, improve quality of life, and provide a diversity of design – whether the use be residential, commercial or mixed-use construction. (30%)
- The principal developer should possess at least 5 years of similar project development experience. (10%)
- Demonstrated financial capacity and experience to complete the proposed development in a timely manner, and in a way that is compatible with the immediate neighborhood. (30%)
- Offer price. The minimum offer price is \$55,000. Offer prices will be weighted depending on the offers received. The highest offer price will receive the maximum percentage; lower offer prices will be discounted accordingly. (30%)

The City may, at its sole discretion, expand or reduce the criteria upon which it bases its final decisions regarding the selection of the developer for this parcel.

## **Submission Materials**

Any response to this RFP should include:

- A completed Private Owner Development Application (PODA). The principal or developer may also be asked, at the discretion of the Department of Planning and Development, to also submit a PathStone Credit Report Application.
- A letter of interest in the project which includes detailed information about the identified use. Preliminary conceptual plans or drawings are expected.
- A resume or Curriculum Vitae (CV) outlining the experience of the principal developer.



- A complete description of the applicant's entity (corporation, partnership, etc.) and identification of all parties, including disclosure of all persons or entities having a beneficial interest in this proposal.
- A list of any previously completed projects comparable in size and scope.
- A list of any previous or current City of Newburgh projects that the applicant or any member of their team is/was involved with, whether directly or indirectly.
- The demonstrated capacity of the developer to finance the purchase and develop the property. A projected budget, list of funding sources (account statements, lines of credit, lender commitments, etc.).
- Marketing strategy for the project.
- A proposed time schedule for the development. The schedule should consider the time needed for: obtaining financing, completing the project design, securing permits and board approvals, preparing the site, estimating start and completion dates of construction, and projecting sellout or lease-up dates.
- Any other information that would help to understand and evaluate the project.

### **Submission of Proposals**

Please submit, in a sealed envelope, one (1) original copy of the required submission materials listed above plus four (4) printed copies, and one (1) electronic copy, in PDF format on a USB drive, of the proposal's submission materials.

The information requested through this RFP is necessary for the City of Newburgh to adequately evaluate any proposal. Applicants are urged to submit proposals as complete as possible on their initial submission. Failure to supply the requested information may result in the rejection of a proposal.

All responses must be delivered on or before August 2, 2019. **Responses which do not meet this deadline may not be considered.** Faxed or electronic submission will not be considered. All proposals must be submitted either by mail or in person:

City of Newburgh  
Office of the Comptroller  
City Hall  
83 Broadway  
Newburgh, NY 12550

### **Review/Selection Process**

A review Committee, which will include City staff, community representatives and other stakeholders, will review all proposals received by the due date.

An evaluation of the submission materials contained in the previous section will serve as a basis of selection of the Purchaser/Developer best suited to meet the City's goals for the site. Those deemed "best-suited" then may be asked to submit a more detailed proposal.

The Committee may, at its option, interview Developers as part of this selection process. However, selection may take place without such interviews. The Committee may, at its option, request written answers to specific Committee questions.

The Committee will then make a recommendation of one or multiple purchaser(s)/developer(s) that best meets the evaluation criteria to the City Council for their review. The final approval of any disposition of City-owned property, including this parcel, rests with the City of Newburgh Council.

The proposal chosen will be one that represents the best value to the City of Newburgh. This may or may not be the highest offer.

### **Questions**

All questions regarding this RFP should be directed in writing, via email to the City of Newburgh's Department of Planning and Development at [planning@cityofnewburgh-ny.gov](mailto:planning@cityofnewburgh-ny.gov)

In addition, City staff may provide updates, addenda, or FAQs for this RFP. Any additional information will be posted on the City of Newburgh's website under the "RFQs & Property RFPs" section of the Planning and Development's departmental page at: <https://www.cityofnewburgh-ny.gov/planning-development/pages/rfq-property-rfps>

Potential respondents are encouraged to periodically check the City's website for any new information concerning this RFP.

## **Other Conditions**

The City of Newburgh may modify, waive, or otherwise vary the terms and conditions of this RFP at any time, including but not limited to, the submission date and proposal requirements.

The City of Newburgh may terminate the RFP process at any time for any reason. The City of Newburgh reserves the right to reject any and/or all proposals and to negotiate modifications of proposals submitted.

The issuance of the RFP does not obligate the City of Newburgh to select a proposal and/or enter into any agreement. Any submission does not constitute business terms under any eventual agreement.

This RFP does not in any way commit the City of Newburgh to reimburse respondents for any costs associated with the preparation and submission of this proposal.

Information contained in this RFP regarding the property is believed to be reliable; however, interested parties should rely on their own research and experts for counsel.

## DOWNING PARK ICE SKATING RULES

PLEASE BE ADVISED THAT ICE SKATING ON THE POLLY IN DOWNING PARK IS DEPENDENT ON WEATHER CONDITIONS FOR ICE QUALITY. AN EXTENDED FORECAST OF BELOW 32 DEGREE DAILY HIGH TEMPERATURES IS REQUIRED TO ESTABLISH A SAFE BASE FOR SKATING AND YOUR PATIENCE IS APPRECIATED.

1. The marked area of the Polly at Downing Park will be cleared for ice skating from January 1, 2020 to February 29, 2020, weather conditions permitting. Once cleared, quality and safety of the ice is determined daily. "GREEN FLAG" will be displayed when the Pond is deemed safe and useable. Check status by:
  - a. Phone: 845-569-7301 (Monday through Friday 8:30 am to 4:00 pm)
  - b. City of Newburgh website [www.cityofnewburgh-ny.gov](http://www.cityofnewburgh-ny.gov)
  - c. City of Newburgh Facebook
2. Ice Skating is not permitted in any other City of Newburgh park.
3. When ice conditions allow, skating hours in Downing Park are as follows
  - a. 8:30 am to 4:00 pm daily
4. Equipment is not available for rent in any park.
5. Only figure skates or hockey skates are permitted. No bikes, scooters or motorized vehicles are permitted.
6. Ice conditions will vary depending on the weather.
7. The Pond at Downing Park is a free, unsupervised and skate-at-your own risk facility. By using this facility, participants are acknowledging that there are inherent risks involved in the activity of ice skating and are voluntarily assuming those risks.
8. Children under the age of twelve (12) must be accompanied by an adult.
9. No food or drink is allowed on the ice.
10. Alcoholic beverages, smoking, offensive language, pets are prohibited.
11. Failure to adhere to these skating rules may result in a loss of skating privileges

### Ice Safety Guidelines

- Generally, avoid frozen waters outside of the designated and marked skating area.
- Do not go onto the Polly unless clearly marked with GREEN FLAG.
- Parents and caregivers should make sure children are never unattended near ice.
- If you hear cracking, lie down immediately to try to distribute your weight.
- If you witness someone falling through ice, never attempt to make a rescue by yourself. Call 911 and notify the proper authorities. Be sure to give the exact location and an account of the incident.

RESOLUTION NO.: \_\_\_\_\_ - 2020

OF

JANUARY 27, 2020

**A RESOLUTION DECLARING THE FURNITURE AND CONTENTS OF  
318 NORTH MONTGOMERY STREET AS SURPLUS AND  
AUTHORIZING DISPOSITION PURSUANT TO THE CITY OF NEWBURGH'S  
SURPLUS PROPERTY DISPOSITION POLICY AND PROCEDURE**

**WHEREAS**, the City of Newburgh acquired the property located at 318 North Montgomery Street through in rem tax foreclosure; and

**WHEREAS**, the City of Newburgh Department of Planning and Development has inventoried the contents of the building located at 318 North Montgomery Street as listed on the schedule of surplus items annexed hereto and made part hereof and finds the contents of no use by the City of Newburgh; and

**WHEREAS**, the Department of Planning and Development has requested that the contents of 318 North Montgomery Street be designated as surplus and sold; and

**WHEREAS**, the City Council has determined that declaring the contents of 318 North Montgomery Street as surplus is in the best interests of the City of Newburgh; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the contents of 318 North Montgomery Street identified on the schedule attached hereto and made part hereof are hereby declared to be surplus and of no further use or value to the City of Newburgh; and

**BE IT FURTHER RESOLVED**, that the City Manager and/or City Comptroller be and they are hereby authorized to execute any required documents and conduct all necessary transactions to dispose of said surplus property in accordance with the City of Newburgh's Surplus Property Disposition Policy and Procedure adopted by Resolution No. 174-2014 of July 14, 2014.



RESOLUTION NO.: \_\_\_\_\_ - 2020

OF

JANUARY 27, 2020

**RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT  
A DASNY STATE AND MUNICIPAL FACILITIES PROGRAM GRANT  
IN AN AMOUNT NOT TO EXCEED \$50,000.00 TO PURCHASE  
A RAPID DEPLOYMENT VEHICLE FOR  
THE CITY OF NEWBURGH POLICE DEPARTMENT**

**WHEREAS**, Senator James Skoufis has secured a State and Municipal Facilities Program Grant administered through the Dormitory Authority of the State of New York in the amount of \$50,000.00 to purchase a rapid deployment vehicle for the City of Newburgh Police Department; and

**WHEREAS**, the total cost of the vehicle is \$79,985.00 will be funded by the grant and a City match to be derived from auction funds; and

**WHEREAS**, City Council find it to be in the best interests of the City of Newburgh and its citizens to apply for and accept if awarded such grant;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to apply for and accept if awarded a State and Municipal Facilities Program Grant administered by the Dormitory Authority of the State of New York in the amount of \$50,000.00 to purchase a rapid deployment vehicle for the City of Newburgh Police Department; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager is authorized to execute all such contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the programs funded thereby.

RESOLUTION NO.: \_\_\_\_\_ - 2020

OF

JANUARY 27, 2020

**RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT  
A DASNY STATE AND MUNICIPAL FACILITIES PROGRAM GRANT  
IN THE AMOUNT OF \$50,000.00 FOR CAMERA PURCHASE AND INSTALLATION**

**WHEREAS**, Senator James Skoufis has secured a State and Municipal Facilities Program Grant administered through the Dormitory Authority of the State of New York in the amount of \$50,000.00 to fund video surveillance camera purchase and installation in the City of Newburgh; and

**WHEREAS**, there is no match required for the grant; and

**WHEREAS**, the City Council find it to be in the best interests of the City of Newburgh and its citizens to accept such grant;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to apply for and accept a State and Municipal Facilities Program Grant administered by the Dormitory Authority of the State of New York in the amount of \$50,000.00 to fund video surveillance camera purchase and installation in the City of Newburgh; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager is authorized to execute all such contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the programs funded thereby.

RESOLUTION NO.: \_\_\_\_\_ - 2020

OF

JANUARY 27, 2020

**RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT  
A DASNY STATE AND MUNICIPAL FACILITIES PROGRAM GRANT  
IN THE AMOUNT OF \$250,000.00  
FOR ROAD RECONSTRUCTION AND REHABILITATION**

**WHEREAS**, Senator James Skoufis has secured a State and Municipal Facilities Program Grant administered through the Dormitory Authority of the State of New York in the amount of \$250,000.00 to fund road reconstruction and rehabilitation in the City of Newburgh; and

**WHEREAS**, there is no match required for the grant which will be used to fund compliance with ADA roadway requirements and road paving activities; and

**WHEREAS**, the City Council find it to be in the best interests of the City of Newburgh and its citizens to accept such grant;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to apply for and accept a State and Municipal Facilities Program Grant administered by the Dormitory Authority of the State of New York in the amount of \$250,000.00 to fund road reconstruction and rehabilitation in the City of Newburgh; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager is authorized to execute all such contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the programs funded thereby.

RESOLUTION NO.: \_\_\_\_\_ - 2020

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JANUARY 27, 2020

**RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT  
A DASNY STATE AND MUNICIPAL FACILITIES PROGRAM GRANT  
IN THE AMOUNT OF \$50,000.00 FOR CAMERA PURCHASE AND INSTALLATION  
AND IN THE AMOUNT OF \$250,000.00  
FOR ROAD RECONSTRUCTION AND REHABILITATION**

**WHEREAS**, Senator Jonathan Jacobson has secured a State and Municipal Facilities Program Grant administered through the Dormitory Authority of the State of New York in the amount of \$50,000.00 to fund video surveillance camera purchase and installation and in the amount of \$250,000.00 to fund road reconstruction and rehabilitation in the east end of the City of Newburgh; and

**WHEREAS**, there is no match required for the grant which will be used to fund video surveillance camera purchase and installation; and

**WHEREAS**, the match for the east end road reconstruction and rehabilitation is secured in the OCTC Reserve Fund for Project Pin# 8761.20; and

**WHEREAS**, the City Council find it to be in the best interests of the City of Newburgh and its citizens to accept such grants;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to apply for and accept a State and Municipal Facilities Program Grant administered by the Dormitory Authority of the State of New York in the amount of \$50,000.00 to fund video surveillance camera purchase and installation in the City of Newburgh; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to apply for and accept a State and Municipal Facilities Program Grant administered by the Dormitory Authority of the State of New York in the amount of \$250,000.00 to fund road reconstruction and rehabilitation in the east end of the City of Newburgh; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager is authorized to execute all such contracts and documentation and take such further actions as may be appropriate and necessary to accept such grants and administer the programs funded thereby.

## **Chapter 189**

### **HOURS OF OPERATION**

#### **GENERAL REFERENCES**

**Coin-operated premises — See Ch. 136.**

**Noise — See Ch. 212.**

**Junkyards — See Ch. 198.**

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#### **§ 189-1. Legislative intent and findings.**

- A. Legislative intent. It is the purpose of this chapter to protect the health, safety and welfare of the residents of the City of Newburgh and those persons passing through as transients or visitors or who otherwise are within the jurisdiction of the City of Newburgh by regulating the hours of operation of certain retail business establishments. The City Council of the City of Newburgh has enacted this chapter to address the negative secondary effects of retail establishments open during the late evening hours and early morning hours, based upon police resources, the crime rate, the public order, public safety, public health, physical and mental health, property values, environmental noise, light and air pollution, littering, sanitation and local motor vehicle traffic. The provisions of this chapter have neither the purpose nor effect of restricting or denying access to merchandise or protected speech.
- B. Findings. The Mayor and members of the City Council of the City of Newburgh are all residents of the City and familiar with the locations of businesses which operate during the late evening and early morning hours. Many of such businesses are in close proximity to residences. The Mayor and Council are also cognizant of serious public safety concerns in the local community associated with the nighttime operations of such retail businesses. Based upon the Mayor's and Council's local knowledge and evidence concerning the impacts or "secondary effects" of nighttime retail establishment operations on the community, as presented in hearings and in studies and reports made available to the Council with respect to local business locations, it is hereby found that the operations of certain retail establishments during the late evening and early morning hours lend themselves to unlawful activities at and in nearby proximity to such premises, that are not within the proper control of the operators of the establishments. Such unlawful activities include the discharge of firearms, illegal handgun possessions, assaults, larcenies and narcotics crimes, as well as City Code violations. There are not adequate legal provisions making the owners of these establishments responsible for such activities. Such unlawful activities, coupled with the additional negative effects of late evening and early morning business hours of retail establishments, including noise and light pollution associated with motor vehicle traffic, littering and sanitation issues, and impacts on adjacent and nearby



property values constitute a menace to the public health, safety and welfare, which in the absence of corrective measures will result in a deterioration in social values, a curtailment of investment and tax revenues and an impairment of economic values. The imposition of limits on the late evening and early morning hours of operation of such businesses will serve as a deterrent to and reduce opportunities for illegal activities by, between or against customers, as well as mitigate other negative environmental, traffic and sanitary secondary effects. The hours of operation of such retail establishments should be reasonably regulated in order to protect the substantial governmental concerns raised by the various findings herein.

### **§ 189-2. Definitions.**

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

**BAR** — A premises where alcoholic beverages are sold for consumption on premises; or a premises operated as a place of assembly where alcoholic beverages are provided by the operator of the premises, his or her agents, servants or employees.

**ESTABLISHMENT** — Any store, shop, market or place of business in which goods, wares, food, beverages or merchandise of any type, nature or description are offered for sale to a purchaser.

**GASOLINE STATION** — Premises used for the sale of gasoline and any other motor vehicle fuel, oil and other lubricating substances to the public, including incidental sale of motor vehicle accessories, prepackaged food items and tangible consumer goods primarily for self-service by the customer. Related motor vehicle services may also be provided, including the repair, greasing, washing, servicing and adjusting of vehicles.

**PHARMACY** — Premises where prescription drugs are sold at retail, together with dry goods, foods or beverages.

**RESTAURANT** — Premises where food is sold and which provides seating at tables or counters for its patrons to consume the food on premises. This definition shall not include premises where a nonalcoholic beverage or snack is available but is incidental to the conduct of the business at the premises.

**RETAIL** — The sale or the offer for sale of goods, wares, food, beverages or merchandise of any description, type or nature on a direct basis to a purchaser to be consumed primarily off premises.

### **§ 189-3. Restrictions on hours of operation. [Amended 3-28-2011 by L.L. No. 2-2011]**

It shall be unlawful for any retail establishment, except those set forth in § 189-4 hereof, to operate and remain open to the public between the hours of 12:00 midnight and 5:00 a.m.

**§ 189-4. Exceptions.**

This chapter shall not apply to restaurants, bars, bowling alleys, billiard parlors, barber shops, beauty parlors, movie theaters and playhouses, hotels and motels, gasoline stations, pharmacies and pharmacy sections of any store which dispenses prescription drugs which must be physically separated from the other areas of the store; provided, however, that this chapter will apply to the remainder of said store, and further provided that said pharmacy and pharmacy section is under the immediate supervision of a licensed pharmacist. This chapter shall also not apply to any establishments whose hours of operation are otherwise regulated by state laws or regulations which preempt the regulation of hours of operation by the City.

**§ 189-5. Penalties for offenses.**

- A. Any violation, by a person, firm, partnership, corporation or other entity, of this chapter shall be deemed an offense punishable by a fine not to exceed \$500 or imprisonment for a period not to exceed six months, or both.
- B. Any person who takes part in or assists in any violation of this chapter shall also be subject to the penalties provided herein.
- C. Each day or part thereof that a violation of this chapter is committed or permitted to exist shall constitute a separate offense.

**§ 189-6. Enforcement and other remedies.**

- A. The Police Department shall enforce the provisions of this chapter against any person found to be violating the same.
- B. Nothing contained herein shall be deemed or construed so as to prevent the enforcement of any other remedy at law, concurrent or otherwise, available to the City Council or other law enforcement authority to avoid or prevent any violation or attempted violation of this chapter, such as but not limited to an injunction or restraining order.

**§ 189-7. Applicability of other laws.**

This chapter is in addition to any other law, ordinance or regulation affecting the subject matter herein and is not in limitation thereof.

ORDINANCE NO.: \_\_\_\_\_ - 2020

OF

\_\_\_\_\_, 2020

AN ORDINANCE AMENDING CHAPTER 72 ENTITLED  
“POLICE COMMUNITY RELATIONS AND REVIEW BOARD”  
OF THE CODE OF THE CITY OF NEWBURGH

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 72, entitled “Police Community Relations and Review Board,” of the Code of Ordinances of the City of Newburgh be and is hereby amended to read as follows:

SECTION 1. Amendment

§ 72-3 Composition, appointment, removal and vacancy.

A. There is hereby established a Police Community Relations and Review Board comprised of seven ~~nine~~ members.

B. Appointment to the PCRRB shall be made as follows:

1. One ~~Two~~ members from each of the four wards shall be appointed by the Council member elected from each ward.

2. Three ~~One~~ members shall be appointed by the City Council and the City Council shall designate one such member ~~shall be designated~~ as the Chair of the PCRRB.

3. If a Council member fails or refuses to appoint a member to the PCRRB under Section 72-3(B)(1) and a vacancy exists for more than sixty days from the date the notice of vacancy is provided to the City Council by the PCRRB Chair, then the City Council as a whole may make such appointment.

4. When a PCRRB vacancy has existed for at least 60 days from the date the notice of vacancy is provided to the City Council by PCRRB Chair and the City Council has not acted

~~Strikethrough~~ denotes deletions

Underlining denotes additions

to make an appointment to fill such vacancy, the PCRRB, by a simple majority, shall have the right to nominate person(s) for review and appointment by the City Council.

C. Terms.

1. Members shall be appointed for three ~~two~~ year terms; ~~provided, however that of the members initially appointed by the Council member representing a ward, one shall be for a term of one year and one shall be for a term of two years.~~
2. No member of the PCRRB shall serve for a period which exceeds two full consecutive terms; provided, however, that a member may be considered for reappointment after one year of non-membership.
3. Members shall continue to serve on the PCRRB until their successors are appointed.

**§ 72-5 Powers and duties.**

- A. Training. The PCRRB shall seek and participate in a broad and independent range of training necessary to pursue the duties and responsibilities of the PCRRB as approved and funded by the City Council.
- B. Meetings and administration.
  1. The PCRRB shall adopt and the City Council shall approve, rules and bylaws for the transaction of PCRRB affairs, including the manner of calling and giving notice of special meetings and the appointment and duties of any special committees.
  2. The PCRRB shall hold regular monthly business meetings.
  3. Four ~~Five~~ members of the PCRRB shall constitute a quorum. A quorum must be present to conduct business. Five votes shall be required for any action by the PCRRB.
  4. The PCRRB shall hold its initial meeting within sixty (60) days after the initial appointments are made. At its initial meeting, the PCRRB shall fix the time and place for its regularly scheduled meetings.

~~Strikethrough~~ denotes deletions

Underlining denotes additions

5. The PCRRB may conduct both public and closed meetings as allowed or required by the New York State Public Officers Law, Article 7, known as the Open Meetings Law.

## **SECTION 2. Severability.**

The provisions of this Ordinance are separable and if any provision, clause, sentence, section, subsection, word or part thereof is held to be illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Ordinance would have been adopted is such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Ordinance or part here of is held inapplicable had been specifically exempt therefrom.

## **SECTION 3. Codification.**

It is the intention of the City Council of the City of Newburgh and it is hereby enacted that the provisions of this Ordinance shall be included in the Code of Ordinances of the City of Newburgh; that the sections and subsections of this Ordinance may be re-numbered and/or re-lettered by the codifier to accomplish such intention; that the term "Ordinance" shall be changed to "Chapter", "Section", or other appropriate word as required for codification; and that any such rearranging of the numbering and/or lettering and editing shall not affect the validity of this Ordinance or the provisions of the Code of Ordinances affected thereby.

## **SECTION 4. Validity**

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

## **SECTION 5. This ordinance shall take effect immediately.**

~~Strikethrough~~ denotes deletions

Underlining denotes additions

## **Chapter 72**

### **POLICE COMMUNITY RELATIONS AND REVIEW BOARD**

#### **GENERAL REFERENCES**

**Police Department — See Ch. 80.**

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#### **§ 72-1. Findings and purpose.**

- A. The City Council of the City of Newburgh finds that it is in the public interest of the citizens of the City of Newburgh have an effective forum to improve the relationship between the community and the City of Newburgh Police Department through the exchange of ideas and discussion of problems within the City relating to crime and crime prevention and other law enforcement objectives.
- B. The City Council further finds that it is important to have a method by which City residents can make requests for law-enforcement-related services.
- C. The City Council further finds that an effective program to improve the relationship between the community and the City of Newburgh Police Department requires an independent authority to review the conduct of law enforcement officials.
- D. The purpose of Chapter 72 of the City Code of Ordinances is to create an independent, nonexclusive body to review complaints of misconduct by members of the City of Newburgh Police Department. The goals of this chapter are to improve the communication between the City of Newburgh Police Department and the community, to increase police accountability and credibility with the public and to create a fair and impartial complaint process.

#### **§ 72-2. Definitions.**

For purposes of this chapter, the following words and phrases shall have the meaning described in this section:

**CHIEF** — The Police Chief of the City of Newburgh Police Department.

**COMPLAINT** — A written statement concerning police conduct which is submitted to the Police Community Relations and Review Board or filed directly with the City of Newburgh Police Department.

**IMMEDIATE FAMILY** — Spouse, domestic partner, child, stepchild, mother, father, mother-in-law, father-in-law, grandparent.

**MEDIATION** — A structured dispute resolution process in which a neutral third party assists the disputants to reach a negotiated settlement of their differences.

OFFICER — Sworn member of the City of Newburgh Police Department.

PCRRB — Police Community Relations and Review Board.

PROFESSIONAL STANDARDS — Administrative Lieutenant of the City of Newburgh Police Department.

**§ 72-3. Composition, appointment, removal and vacancy.**

- A. There is hereby established a Police Community Relations and Review Board comprised of nine members.
- B. Appointment to the PCRRB shall be made as follows:
  - (1) Two members from each of the four wards shall be appointed by the Council member elected from each ward.
  - (2) One member shall be appointed by the City Council, and such member shall be designated as the Chair of the PCRRB.
  - (3) If a Council member fails or refuses to appoint a member to the PCRRB under § 72-3B(1) and a vacancy exists for more than 60 days from the date the notice of vacancy is provided to the City Council by the PCRRB Chair, then the City Council as a whole may make such appointment.
  - (4) When a PCRRB vacancy has existed for at least 60 days from the date the notice of vacancy is provided to the City Council by PCRRB Chair and the City Council has not acted to make an appointment to fill such vacancy, the PCRRB, by a simple majority, shall have the right to nominate person(s) for review and appointment by the City Council.
- C. Terms.
  - (1) Members shall be appointed for two-year terms; provided, however, that of the members initially appointed by the Council member representing a ward, one shall be for a term of one year and one shall be for a term of two years.
  - (2) No member of the PCRRB shall serve for a period which exceeds two full consecutive terms; provided, however, that a member may be considered for reappointment after one year of nonmembership.
  - (3) Members shall continue to serve on the PCRRB until their successors are appointed.
- D. Removal.
  - (1) The PCRRB, by a simple majority vote of the entire Board, may upon good cause request that the City Council remove a PCRRB member where appropriate.



- (2) The Mayor and/or a City Council member may upon good cause request that the City Council remove a PCRRB member.
  - (3) PCRRB members may be removed from the PCRRB by a majority plus one vote of the City Council.
- E. Vacancies. Any vacancy which occurs by resignation, death or removal of a PCRRB member shall be filled within 60 days in the same manner as the predecessor to fill the unexpired term.

**§ 72-4. Members.**

A. Qualifications of members:

- (1) Members of the PCRRB shall reside in the City of Newburgh and be at least 18 years old at the time of appointment.
- (2) Members of PCRRB shall possess a reputation for fairness, integrity and responsibility and have demonstrated an active interest in public affairs and service.
- (3) The City Council shall endeavor to reflect the City's diverse community with respect to age, disability, ethnicity, race, gender, sexual orientation, income level and experience in making their appointments.
- (4) Members of the PCRRB or members of their immediate family shall not be employed by the City of Newburgh Police Department or any local, state or federal law enforcement agency.
- (5) Members of the PCRRB shall not be members of the immediate family of any incumbent elected official of the City of Newburgh nor have any financial ties with either members of the City of Newburgh Police Department or any incumbent elected official of the City of Newburgh.
- (6) No practicing attorney or member of his or her firm, or the immediate family of an attorney or member of his or her family who represents a plaintiff or defendant in a police misconduct lawsuit initiated against the City of Newburgh Police Department, the Police Chief of the City of Newburgh or the Newburgh PBA or a plaintiff or any family member of a plaintiff in such case shall be a member of the PCRRB.

B. Member responsibilities: PCRRB members shall:

- (1) Obey all laws respecting individuals' rights of privacy and confidentiality of records.
- (2) Recuse themselves from participating in the review of any complaint in which they have a personal, professional or financial conflict of interest.

- (3) Conduct themselves at all times in a manner that will maintain public confidence in the fairness, impartiality, and integrity of the PCRRB and refrain from making any prejudicial comments with respect to the PCRRB, complainants or police officers.

**§ 72-5. Powers and duties.**

- A. Training. The PCRRB shall seek and participate in a broad and independent range of training necessary to pursue the duties and responsibilities of the PCRRB as approved and funded by the City Council.
- B. Meetings and administration.
  - (1) The PCRRB shall adopt and the City Council shall approve rules and bylaws for the transaction of PCRRB affairs, including the manner of calling and giving notice of special meetings and the appointment and duties of any special committees.
  - (2) The PCRRB shall hold regular monthly business meetings.
  - (3) Five members of the PCRRB shall constitute a quorum. A quorum must be present to conduct business. Five votes shall be required for any action by the PCRRB.
  - (4) The PCRRB shall hold its initial meeting within 60 days after the initial appointments are made. At its initial meeting, the PCRRB shall fix the time and place for its regularly scheduled meetings.
  - (5) The PCRRB may conduct both public and closed meetings as allowed or required by the New York State Public Officers Law, Article 7, known as the "Open Meetings Law."
- C. Recommendations; reports.
  - (1) The PCRRB may make recommendations to the City Council and the Police Department regarding law enforcement, crime, crime prevention and improved relations with the community.
  - (2) The PCRRB shall file annual reports with the City Council, City Manager and the Police Chief which contain statistics and summaries of citizen complaints, including a comparison of the PCRRB's findings with the final determination of the City of Newburgh Police Department.
- D. Community outreach and education. In addition to regular monthly business meetings, the PCRRB shall hold public meetings in each ward a minimum of once each year for the purposes of inviting and facilitating public discussion between the City of Newburgh Police Department and City residents regarding law enforcement and services, crime and crime prevention and community relations within the City of Newburgh.

- E. Filing of complaints. Complaints concerning police conduct shall be filed with the PCRRB and the City of Newburgh Police Department as provided in this subsection.
- (1) Complaints shall be lodged in writing on the City of Newburgh Citizen Complaint Form as reviewed and approved by the PCRRB for such purpose and shall be signed by the complainant. Complaints shall be filed with the PCRRB at the Executive Office, City Hall, 83 Broadway, Newburgh, NY, or with the City of Newburgh Police Department, 55 Broadway, Newburgh, NY. Complaint forms shall be printed in English and Spanish and shall be available at the City of Newburgh Police Department, the City Hall Executive Office and the City Clerk's Office.
  - (2) A copy of each complaint filed with the PCRRB shall be forwarded to the City of Newburgh Police Department within five working days of its receipt. A copy of each complaint filed with the City of Newburgh Police Department shall be provided to the PCRRB within five working days of receipt by the Police Department.
  - (3) Complaints shall be filed within six months of the date of the alleged incident giving rise to the complaint. Complaints filed after six months from the date of the alleged incident shall be returned or the PCRRB may accept and review such complaint upon an affirmative vote of five members of the PCRRB.
- F. Review of complaints. A review of a complaint shall proceed as provided in this subsection.
- (1) Investigation of complaints.
    - (a) The City of Newburgh Police Chief or his designee shall investigate every complaint filed with the City of Newburgh Police Department or the PCRRB. The Chief shall file with the PCRRB quarterly reports on the status of the investigation of each complaint.
    - (b) The Police Chief or his designee shall begin its investigation of each complaint immediately upon receipt of the complaint. If the Police Chief or his designee fails to conclude the investigation within 60 days of the receipt of the complaint, he shall advise the PCRRB in writing of the status of the investigation and the estimated time for the conclusion of the investigation. Thereafter, the Police Chief or his designee shall advise the PCRRB in writing of the status of the investigation every 30 days until the conclusion of the investigation.
    - (c) Within 10 working days of the conclusion of the Police Chief's investigation, he shall submit a preliminary report of his findings to the PCRRB.

- (d) After review and deliberation of the preliminary findings of the Police Chief, the PCRRB shall:
    - [1] Render its findings pursuant to § 72-5F(2); or
    - [2] Request that the Police Chief or his designee conduct further investigation of the complaint; or
    - [3] Obtain additional case-specific information from the Police Chief, including but not limited to written materials, audio- or videotapes and related documents; or
    - [4] Refer the complaint to mediation as provided in § 72-6.
  - (e) In the event that the PCRRB is dissatisfied with the extent and/or quality of the Chief's investigation, it shall promptly inform the City Council in writing of the specific deficiency of the investigation. In such event, the PCRRB may seek authorization from the City Council to conduct an investigation with the services of an outside independent investigator. The investigator shall be selected on a rotating basis from a panel of investigators comprised of certified investigators, attorneys, retired judges and similarly qualified individuals who are approved by the City Council. The use of an outside independent investigator shall be limited to complaints alleging use of excessive force or civil rights violations.
- (2) Findings of the PCRRB.
- (a) The PCRRB, after review and deliberation of an investigation, shall, by majority vote, make one of the following findings on the complaint:
    - [1] Sustained: where the review disclosed sufficient facts to prove the allegations made in the complaint.
    - [2] Not sustained: where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.
    - [3] Exonerated: where the acts which provide the basis for the complaint occurred but the review shows that such acts were proper.
    - [4] Unfounded: where the review shows that the act or acts complained of did not occur or were misconstrued.
    - [5] Ineffective policy or training: where the matter does not involve guilt or lack thereof but rather ineffective departmental policy or training to address the situation.
    - [6] No finding: where the complaint failed to produce information to further the investigation; where the

investigation revealed that another agency was responsible and the complaint or complainant has been referred to that agency; where the complainant withdrew the complaint; where the complainant is unable to clarify the complaint; or where the officer is no longer employed by the City.

[7] Mediated: where the complaint is resolved by mediation.

- (b) If the PCRRB fails to render any finding referenced above within 60 days of its receipt of the preliminary report of the Chief's findings, the complaint file shall be returned to the Chief for disposition of the matter, unless the PCRRB shall advise the Chief, the complainant and the affected officer(s) in writing of the reason for the delay in rendering its finding. In such case, the PCRRB shall provide the Chief, the complainant and the affected officer(s) with monthly updates on the status of the complaint. In any event, if the PCRRB fails to render a finding referenced above within 120 days of its receipt of the preliminary report of the Chief's findings, the complaint file shall be returned to the Chief for disposition of the matter.

#### **§ 72-6. Mediation.**

- A. A mediation process shall be established and coordinated by the PCRRB in accordance with this section.
- B. Mediation shall be conducted at no cost to the complainant or the officer by highly trained and experienced mediators selected from a list approved by the City Council. The list of mediators shall reflect community diversity. Mediators shall be required to complete an appropriate training curriculum and continuing education on issues related to the interaction between civilians and police officers from the perspective of both the citizen and police officer.
- C. After a complaint is filed under § 72-5 of this chapter, the complainant and the officer(s) may at any time in the review process utilize the mediation process herein to resolve the complaint by submitting a written request for mediation to the PCRRB. The mediation process also may be utilized after the complaint is referred to mediation by the PCRRB pursuant to § 72-5F(1)(d) of this chapter. In either case, the mediation shall proceed as promptly as possible after a request for mediation or a referral to mediation is made. Mediation may proceed only on the agreement of the officer with the approval of the Chief and the agreement of the complainant.
- D. Every reasonable effort shall be made to schedule mediation during an officer's normal working hours.
- E. Mediators shall conduct mediation sessions with officers and complainants at times and places agreed upon by the parties.

- F. In conducting the mediation sessions, the mediators may not impose an outcome on the parties.
- G. Mediation sessions shall be closed to the public. Matters discussed shall be confidential unless both parties agree otherwise as part of a written mediation settlement.
- H. Statements and records disclosed during mediation may not be disclosed or introduced in evidence during any judicial or administrative proceeding, and mediators may not be compelled by subpoena to give testimony or produce anything related to the mediation.
- I. The PCRRB and the Chief will be informed whether the mediation sessions result in a resolution of the dispute. If the mediation sessions do not result in a resolution of the dispute, the PCRRB review process referenced in this chapter shall continue to conclusion. If the mediation sessions do result in a resolution of the dispute, the PCRRB shall issue a finding of "mediated" and the allegations shall be deleted from the officer's PCRRB history.

#### **§ 72-7. Suspension of proceedings.**

Upon the written recommendation of the Corporation Counsel, the City Council may suspend the PCRRB review of any complaint where a separate criminal investigation is under way or where a civil action against the City is under way or pending. Upon the conclusion of such separate proceedings, the PCRRB may resume or undertake its review.

#### **§ 72-8. Construction of chapter.**

No report, finding or determination made pursuant to this chapter shall in any way conflict with or abridge the rights of complainants or officers guaranteed by the United States Constitution, the New York State Constitution or any federal or state law, rule, regulation or administrative order.

#### **§ 72-9. Severability.**

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid or otherwise unenforceable, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

RESOLUTION NO.: 310 - 2018

OF

OCTOBER 22, 2018

A RESOLUTION AMENDING RULES OF ORDER AND PROCEDURE  
FOR THE COUNCIL OF THE CITY OF NEWBURGH  
FOR THE YEAR 2018

WHEREAS, by Resolution No. 25-2018 of January 22, 2018, the City Council of the City of Newburgh adopted for use Rules of Order and Procedure for City Council meetings; and

WHEREAS, this Council finds that amending such Rules and Order of Procedure is in the best interests of the City of Newburgh;

NOW, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby amends the 2018 the Rules of Conduct and Procedure as set forth in the copy attached hereto and made a part of this Resolution; and

BE IT FURTHER RESOLVED, that this Resolution shall take effect at the next Council meeting subsequent to its adoption.

I, Lorene Vitak, City Clerk of the City of Newburgh,  
hereby certify that I have compared the foregoing with the  
original resolution adopted by the Council of the City of  
Newburgh at a regular meeting held Oct. 22, 2018  
and that it is a true and correct copy of such original.

Witness my hand and seal of the City of  
Newburgh this 22 day of Oct. 2018

  
City Clerk



City of Newburgh City Council  
Rules of Order and Procedure

**Rule I: General Rules of Procedure**

A. The presiding officer shall preserve order and decorum and shall decide questions of order, subject to an appeal by motion to the City Council; the appeal to be taken without debate. The presiding officer may, if (s)he so desires, present motions and resolutions to the City Council, and (s)he may debate on any question which is being considered by it.

B. When a question is under consideration, no motion shall be entertained except as herein specified, which shall have precedence in the following order:

1. Motion for clarification, or to request reversal of ruling of the presiding officer, or limiting or extending discussion;
2. Recess the session;
3. Lay on table;
4. Postpone to a meeting of a certain date;
5. Refer to work session;
6. Amend;
7. Call the previous question, to be asked as follows: "Shall the main question be put now?" If answered in the negative, the main question remains before the Council.

C. A motion to lay a question on the table shall be decided without amendment or debate, and a motion to postpone shall be decided without debate.

D. A motion to adjourn shall always be in order and shall be decided without debate.

E. Every member desiring to speak shall address the presiding officer. All council members shall confine him/herself to the question under debate and avoid personalities. A member once recognized shall not be interrupted when speaking.

F. No question or motion shall be debated or put, unless it is seconded. It shall then be stated by the presiding officer.

G. A motion to reconsider any action taken by the Council may be made on the day such action was taken, either immediately during the session or at a recessed or adjourned session. Such motion must be made by a member on the prevailing side, but may be seconded by any member. The motion is subject to debate. This rule shall not prevent any member of the Council from making or re-making the same or any other motion at a subsequent meeting of the Council.

H. No member of the Council shall by conversation or otherwise delay or interrupt the proceedings or the peace of the Council nor disturb any member while speaking or refuse to

comply with these rules, or the orders of its presiding officer. The Presiding Officer, subject to appeal by motion to the Council, may direct a member who is acting in violation of this section to leave the meeting or call for a recess or adjournment.

- I. As the sergeant-at-arms of the meetings, the Police Chief shall carry out all order and instructions given by the presiding officer, for the purpose of maintaining order and decorum at the meetings, subject to an appeal by motion, to the Council.
- J. Any motion may be withdrawn by the maker before it has been amended or voted upon, but in such case any other member may renew the motion at that time.

## **Rule II. Order of Business**

- A. The Order of Business shall be in conformity with section 20-3 of the Code of Ordinances. Further comments from the Council shall be limited to 3 minutes for each Council Member.
- B. The Order of Business may be departed from by majority vote of the members present.

## **Rule III. Voting**

- A. The order of voting shall be by alphabetical order of the last name of each Council member with the Mayor voting last.
- B. All votes shall be by roll call. It shall be the duty of the City Clerk to enter on the minutes the names of the members voting for or against the question. Once a question has been put and the vote is being taken, the members of the Council shall confine themselves to voting and shall not resume discussion or make further comments on the question.
- C. Every resolution or motion must be seconded before being put to a vote. An abstention, silence or absence shall be considered a negative vote for the purposes of determining the final vote on a matter.
- D. No resolution, ordinance or local law may be introduced at a meeting unless the resolution, ordinance or local law has been considered at a work session of the Council prior to the Council meeting or is listed on the written agenda for said meeting. No resolution, ordinance or local law may be introduced at a meeting if it will result in exceeding the maximum number of work session items set forth in Rule X. Notwithstanding the foregoing, by majority vote, an emergency item concerning the public health, safety or welfare not discussed at work session or appearing on the written agenda may be introduced, considered, and voted upon.

#### **Rule IV. Executive Session**

Whenever the Council shall determine to transact business in an executive session, it shall do so in accordance with the provisions of the New York State Open Meetings Law. All executive sessions shall be commenced at the public meeting. Proposals, discussions, statements and transactions in executive session are intended to be and shall be held and maintained in confidence and shall not be disclosed. The presiding officer shall direct all persons except members and designated officers and employees of the City to withdraw.

#### **Rule V. Participation of City Manager and Staff**

The City Manager shall be permitted to address the Council and participate in discussions. Heads of Departments shall be permitted to address the Council. Any other City officer or employee shall be permitted to address the Council with permission of the presiding officer, subject to an appeal by motion to the City Council, the appeal to be taken without debate.

#### **Rule VI. Suspension of the Rules**

In order to hear persons other than members of the City Council, the Mayor, and members of City staff, it shall be necessary to pass a motion suspending the rules of order. A motion to suspend the rules may be made at any time during the meeting and shall be decided without debate. Any such person speaking shall confine himself-herself to the subject and shall spend not longer than three (3) minutes, unless the time is extended by the presiding officer. This rule shall not apply to public hearings.

#### **Rule VII. Guidelines for Public Comment**

A. The public shall be allowed to speak only during the Public Comment period of the meeting or at such other time as the presiding officer may allow, subject to appeal by motion to the Council.

B. Speakers must adhere to the following guidelines:

1. Speakers must be recognized by the presiding officer.
2. Speakers must step to the front of the room.
3. Speakers must give their name, street name without number and organization, if any.
4. Speakers must limit their remarks to 3 minutes. The City Clerk shall keep a record of the time and shall inform the presiding officer when the 3 minutes has expired.
5. Speakers may not yield any remaining time they may have to another speaker.
6. Council members may, with the permission of the presiding officer, interrupt a speaker during their remarks, but only for the purpose of clarification or information.
7. All remarks shall be addressed to the Council as a body and not to any specific member or to staff. All speakers addressing the City Council at a public meeting shall speak from the public microphone with employees and agents of the City having the option

to speak from the head table using a microphone. In no circumstances shall any speaker sit in front of the head table with his or her back to the public.

8. Speakers shall observe the commonly accepted rules of courtesy, decorum, dignity and good taste. No profanities shall be used. No personal, slanderous, boisterous remarks shall be made. Council members, the Mayor and staff shall be treated with respect. The presiding officer, subject to appeal by motion to the Council, or the Council, may, by majority vote, request that the presiding officer direct that a speaker violating this provision or any other rule yield the floor and in the event the speaker fails to obey, (s)he may be escorted from the meeting by the sergeant-in-arms.
9. Interested parties or their representatives may address the Council by written communications. Written communications shall be delivered to the Clerk or their designee. Speakers may read written communications verbatim.

- C. Members of the public not speaking shall observe commonly accepted rules of courtesy and decorum. They shall not annoy or harass others or speak when another speaker is being heard by the Council.

#### **Rule VIII. Use of Recording Equipment**

All members of the public and all public officials are allowed to audio or video record public meetings. Recording is not allowed during executive sessions. The recording should be done in a manner which does not interfere with the meeting. The presiding officer, subject to appeal by motion to the Council, may make the determination that the recording is being done in an intrusive manner, taking into consideration, but not limited to, brightness of lights, distance from the deliberations of the Council, size of the equipment, and the ability of the public to still participate in the meeting. If the presiding officer makes the determination that the recording is intrusive and has the effect of interfering with the meeting, (s)he may request an accommodation to avoid the interference and if not complied with, may ask the individual to leave the meeting room.

#### **Rule IX. Rules for Public Hearings**

The following rules shall apply to a legally required public hearing held before the City Council:

- (a) The Presiding Officer shall recognize each speaker when the hearing is commenced. Speakers shall identify themselves, their street name and organization, if any, prior to the remarks.
- (b) Speakers must limit their remarks to five (5) minutes. Remarks shall be addressed only to the hearing issues. Speakers may not yield any remaining time they may have to another speaker. The City Clerk shall time speakers and advise the presiding officer when the time has expired.

(c) All remarks shall be addressed to the Council as a body and not to any individual member thereof.

(d) Speakers shall observe the commonly accepted rules of courtesy, decency, dignity and good taste. Any loud, boisterous individual shall be asked to leave by the Presiding Officer and may be removed at the request of the Presiding Officer, subject to appeal by motion to the Council. Speakers addressing issues outside the scope of the hearing shall be asked to cease their comments.

(e) Interested parties may address the Council by written communication. The statements may be read at the hearing, but shall be provided to all Council members and entered in the minutes of the hearing by the City Clerk.

(f) The City Clerk shall include in the minutes of the hearing the name, address and organization, if any, of each speaker, a summary of the remarks, and written statements submitted to the Council.

#### **Rule X. Work Sessions**

There shall be regular work sessions of the Council to be held each Thursday preceding a Monday evening Council meeting. The work sessions shall be held at 6:00 p.m. in City Hall, 83 Broadway, Third Floor Council Chambers, unless the Council by majority vote cancels or changes the time or place of such session. The Rules IV, V, VI, and VIII of the Rules of Order of the Council shall apply to all work sessions. Work Session items requiring the preparation of a resolution, ordinance or local law shall be submitted to the City Manager's office no later than close of business on Wednesday in the week before the work session. Discussion items for work sessions shall be submitted to the City Manager's office no later than noon on the Friday immediately preceding the work session. The number of work session items and presentations shall be limited to 20. Presentations shall be limited to 10 minutes. Priority shall be given to those items which require the action of the City Council before the next regularly scheduled work session. Items considered in Executive Session shall be excluded from the maximum number of work session items.

#### **Rule XI. Robert's Rules of Order**

In the event any question in procedure shall arise that is not provided for by these rules, then, in that event, Robert's Rules of Order, Newly Revised, 10<sup>th</sup> Edition, shall be followed.

#### **Rule XII. Adoption of Ordinances**

Provided the proposed adoption of an ordinance has been placed on an agenda for a meeting of the Council at which the public is afforded the opportunity to comment on agenda items before Council action, a formal public hearing will not be conducted prior to the adoption of such ordinance, unless otherwise required by federal, state, or local law, ordinance, rule or regulation.

This rule shall not be construed to prevent the Council from holding a public hearing on any ordinance at its discretion, provided a majority of the members of the Council in attendance at a meeting, upon a motion or resolution duly introduced, vote to conduct such public hearing.

Date Adopted: May 14, 2001

Amended: February 25, 2002 (Rule XII added)

January 10, 2014 (Rule IV)

February 22, 2016

April 24, 2017 (Rule VII(B) amended)

January 22, 2018 (Rule II, Rule VII(B), Rule IX amended)

October 22, 2018 (Rule III(D) and Rule X amended)